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HUMANE SOCIETY  
LEGISLATIVE FUND™

March 1, 2022

***Via Electronic Mail***

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Re: Request to Deny Elephant Trophy Imports from Namibia and Zimbabwe

Dear Director Williams, Chief Cogliano, and Chief Gnam,

To our knowledge, the U.S. Fish and Wildlife Service has not granted any new elephant trophy import permits since around the beginning of 2018. In response to a settlement with the Dallas Safari Club, the Service must grant or deny several pending applications to import elephant trophies from Namibia and Zimbabwe by mid-March. On behalf of Center for Biological Diversity (Center), Humane Society International (HSI), the Humane Society of the United States (HSUS), and Humane Society Legislative Fund (HSLF), we urge you to deny these and all other pending permit applications for elephant trophy imports.

First, importing elephant trophies does not “enhance” elephant survival. As you know, Section 10 of the Endangered Species Act provides that “[t]he Secretary may permit . . . *any act otherwise prohibited* by section 1538 of this title . . . to enhance the propagation or survival of the affected species.”<sup>1</sup> Congress intended that the activity being permitted would itself actually enhance the species’ survival. Unfortunately, with regard to elephant trophy imports, the Service has essentially flipped the system allowing income generation alone—i.e., payment of trophy and hunting fees—to justify enhancement permits. A “net benefit” standard allowing permittees to “pay to play” or pay to import is unlawful under the plain language and intent of Section 10 of the ESA. Moreover, the Section 10 exception for activities that enhance the species’ survival was intended “to *limit substantially the number of exemptions that may be*

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<sup>1</sup> 16 U.S.C. § 1539(a) (emphasis added).

granted under the act.”<sup>2</sup> Yet, the Service issues hundreds of enhancement permits every year.<sup>3</sup> Payment is not enhancement. For these reasons, the Service should not legally be granting trophy import permits for elephants.

Second, the Service should not be permitting trophy imports of elephants because they are imperiled. We are in the midst of a biodiversity crisis in which we stand to lose one million species in the coming years unless we change business as usual.<sup>4</sup> African elephants were recently recognized as two species by IUCN – African savanna and forest elephants.<sup>5</sup> African savanna elephants were assessed as endangered by IUCN and their range includes Zimbabwe and Namibia.<sup>6</sup> This assessment relied upon the most recent African Elephant Status Report from 2016, which estimated a continental population of 415,428 (+/- 95% C.I. 20,111) for both savanna and forest elephants,<sup>7</sup> and the Great Elephant Census results documenting a 30% decline in savanna elephants in the 90% of their range that was surveyed.<sup>8</sup> In comparison, when first assessed by the African Elephant Specialist Group (AfESG) in 1976, the continent-wide census estimated there were 1.34 million elephants ranging over 7.3 million km<sup>2</sup> while also documenting then serious declines in most countries in Africa.<sup>9</sup> Even when un-surveyed elephant populations are included to generate a high-end continental estimate of approximately 550,812 savannah and forest elephants, that estimate is under half the 1976 estimate. Given the on-going extinction crisis and the imperiled status of savanna elephants, the Service should not be authorizing imports of elephant trophies into the United States.

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<sup>2</sup> H. R. Rep. No. 93-412 p. 17 (1973) (emphasis added).

<sup>3</sup> Our tracking of ESA enhancement permits issued for trophy imports of threatened and endangered species alone demonstrates that the Service has traditionally issued hundreds of permits each year for species such as leopards, elephants, and lions. However, elephant and lion permitting ground to a near halt in early 2018 with a few exceptions.

<sup>4</sup> IPBES (2019): Summary for policymakers of the global assessment report on biodiversity and ecosystem services of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services. S. Díaz, J. Settele, E. S. Brondizio, H. T. Ngo, M. Guèze, J. Agard, A. Arneth, P. Balvanera, K. A. Brauman, S. H. M. Butchart, K. M. A. Chan, L. A. Garibaldi, K. Ichii, J. Liu, S. M. Subramanian, G. F. Midgley, P. Miloslavich, Z. Molnár, D. Obura, A. Pfaff, S. Polasky, A. Purvis, J. Razzaque, B. Reyers, R. Roy Chowdhury, Y. J. Shin, I. J. Visseren-Hamakers, K. J. Willis, and C. N. Zayas (eds.). IPBES secretariat, Bonn, Germany. 56 pages. <https://doi.org/10.5281/zenodo.3553579>

<sup>5</sup> Gobush, K.S., Edwards, C.T.T, Balfour, D., Wittemyer, G., Maisels, F. & Taylor, R.D. 2021. *Loxodonta africana* (amended version of 2021 assessment). The IUCN Red List of Threatened Species 2021: e.T181008073A204401095. <https://dx.doi.org/10.2305/IUCN.UK.2021-2.RLTS.T181008073A204401095.en>.

<sup>6</sup> Ibid.

<sup>7</sup> C.R. Thouless, H.T. Dublin, J.J. Blanc, D.P. Skinner, T.E. Daniel, R.D. Taylor, F. Maisels, H. L. Frederick and P. Bouché (2016). African Elephant Status Report 2016: an update from the African Elephant Database. Occasional Paper Series of the IUCN Species Survival Commission, No. 60 IUCN / SSC Africa Elephant Specialist Group. IUCN, Gland, Switzerland. vi + 309pp. [https://portals.iucn.org/library/sites/library/files/documents/SSC-OP-060\\_A.pdf](https://portals.iucn.org/library/sites/library/files/documents/SSC-OP-060_A.pdf); SC69 Doc. 51.1 (<https://cites.org/sites/default/files/eng/com/sc/69/E-SC69-51-01.pdf>).

<sup>8</sup> Gobush, K.S., Edwards, C.T.T, Balfour, D., Wittemyer, G., Maisels, F. & Taylor, R.D. 2021. *Loxodonta africana* (amended version of 2021 assessment). The IUCN Red List of Threatened Species 2021: e.T181008073A204401095. <https://dx.doi.org/10.2305/IUCN.UK.2021-2.RLTS.T181008073A204401095.en>.

<sup>9</sup> Douglas-Hamilton, I. (1979) The African elephant survey and conservation programme. Final report to WWF/NYZS/IUCN, Nairobi, Kenya.

Third, research on the effects of trophy hunting on elephants also documents several negative consequences for elephants that should not be allowed to continue through the authorization of trophy imports. These consequences range from loss of genetically important males;<sup>10</sup> harmful impacts to family groups and social stability that negatively impact elephant survival;<sup>11</sup> and declines in trophy tusk sizes,<sup>12</sup> to name a few. Given the recent assessment of savanna elephants as Endangered by IUCN, the myriad threats elephants face, and the lack of improvement of the species' conservation status across its range, a precautionary approach is necessary. That approach should not enable killing elephants for trophies.<sup>13</sup>

Fourth, the country-specific annexes to this letter detail the numerous concerns with authorizing imports from these two countries and why imports should be denied.

For Namibia, the following overarching concerns warrant denial of imports (Annex 1):

- Namibia does not have an up-to-date elephant management plan (most recent plan is from 2007).
- Namibia allows trophy hunting of elephants in populations where trophy quotas were not recommended in the 2007 Plan.
- Namibia's CITES export quota for elephant trophies is 10 elephants more than that recommended in the 2007 Plan.
- Namibia exceeded its voluntary CITES export quota for elephant trophies in two of the last 10 years.
- Namibia offered 170 elephants from wild populations for sale in 2021, including females.
- Settlement-related permit applications do not demonstrate enhancement.

For Zimbabwe, the following overarching concerns warrant denial of imports (Annex 2):

- Concerns remain regarding Zimbabwe's resources, capacity, and willingness to implement the 2021-2025 Elephant Management Plan. The new plan fails to estimate overall elephant mortality and relies upon dated population targets.
- Corruption and governance concerns remain in Zimbabwe as it ranked again in the bottom 50% of Transparency International's 2021 Corruption Perceptions Index.

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<sup>10</sup> The authors noted that "[a]t current rates of hunting, under average ecological conditions, trophy bulls will disappear from the population in less than 10 years." Selier, S. A. J., Page, B. R., Vanak, A. T., & Slotow, R. (2014). Sustainability of elephant hunting across international borders in southern Africa: A case study of the greater Mapungubwe Transfrontier Conservation Area. *The Journal of Wildlife Management*, 78(1), 122-132.

<sup>11</sup> Milner, J. M., Nilsen, E. B., & Andreassen, H. P. (2007). Demographic side effects of selective hunting in ungulates and carnivores. *Conservation biology*, 21(1), 36-47.

<sup>12</sup> Muposhi, V. K., Gandiwa, E., Bartels, P., Makuza, S. M., & Madiri, T. H. (2016). Trophy hunting and sustainability: Temporal dynamics in trophy quality and harvesting patterns of wild herbivores in a tropical semi-arid savanna ecosystem. *PloS one*, 11(10), e0164429.

<sup>13</sup> Batavia, C., Nelson, M. P., Darimont, C. T., Paquet, P. C., Ripple, W. J., & Wallach, A. D. (2019). The elephant (head) in the room: A critical look at trophy hunting. *Conservation Letters*, 12(1), e12565.

- New population data are lacking, and the last survey estimated a 6% overall population reduction since 2001 and found a “carcass ratio” of 8%, meaning the survey recorded one dead elephant for every eight live elephants.
- When all threats to elephants are considered, including poaching and trafficking, additional mortalities should not be authorized.

Fifth, the Service cannot continue to deny that U.S. trophy hunters play an outsized role in killing African wildlife for trophies and that curtailing U.S. trophy imports would therefore benefit species. For example, Zimbabwe found that historically U.S. hunters consumed over half the wildlife-hunting market in that country. Halting imports of elephant trophies would deter many trophy hunters from engaging in elephant trophy hunts abroad and send a consistent message that the United States does not support killing these intelligent and imperiled animals for trophies.

### CONCLUSION

We urge you to deny elephant trophy import permits. Elephants have long captured our hearts and imaginations and it is beyond time that we end their killing for pleasure and decor. We stand ready to answer any questions you may have regarding this letter and its recommendations, and we thank you for your attention to this matter.

Sincerely,



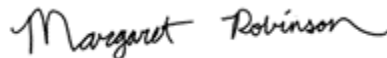
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## Annex 1

### Namibia Imports

#### ESA Requirements for Elephant Trophy Imports

Section 10 provides that “[t]he Secretary may permit . . . *any act otherwise prohibited* by section 1538 of this title . . . to enhance the propagation or survival of the affected species.”<sup>14</sup> Congress intended that the act being permitted would itself actually enhance the species’ survival. The Service has essentially flipped the system allowing income generation alone—i.e., payment of trophy and hunting fees—to justify enhancement permits. A “net benefit” standard allowing permittees to “pay to play” or pay to import is unlawful under the plain language and intent of Section 10 of the ESA. Moreover, the Section 10 exception for activities that enhance the species’ survival was intended “to *limit substantially the number of exemptions that may be granted* under the act.” H. R. Rep. No. 93-412 p. 17 (1973) (emphasis added). Yet, the Service issues hundreds of enhancement permits every year.<sup>15</sup>

However, recognizing that the Service will likely maintain its current interpretation of the ESA, we offer the following points.

Since the African elephant special rule amendment (50 C.F.R. § 17.40(e)) went into effect in June 2016, every import of an African elephant trophy is required to comply with ESA permitting requirements. Pursuant to the ESA (16 U.S.C. § 1538) and implementing regulations (50 C.F.R. § 17.40(e)), before the Service can authorize the import of an African elephant trophy it must be able to make a finding that the take and import of the animal enhances the survival of the species. According to the plain language of this statutory term (16 U.S.C. § 1539(a)(1)), “enhancement” permits may only be issued for activities that themselves *positively benefit* the species in the wild. *See also* FWS, *Ensuring the Future of the Black Rhino* (Nov. 25, 2014)<sup>16</sup>, (acknowledging that the ESA enhancement standard is more stringent than the CITES non-detriment standard); U.S. Fish and Wildlife Service Handbook for Endangered and Threatened Species Permits (1996) (making clear that an enhancement activity “must go beyond having a neutral effect and actually have a positive effect”). We agree with the Service that the IUCN provides relevant standards for determining whether elephant trophy hunting meets this goal. *See* 81 Fed. Reg. 36388, 36394 (June 6, 2016). We strongly encourage FWS to conduct this enhancement analysis consistent with how the Service conducts its analysis for determining whether African lion hunting meets the enhancement standard. 80 Fed. Reg. 79,999, 80,045 (Dec. 23, 2015). Specifically,

when making a determination of whether an otherwise prohibited activity enhances the propagation or survival[], the Service will examine the *overall conservation and management of the subspecies in the country where the specimen*

<sup>14</sup> 16 U.S.C. § 1539(a) (emphasis added).

<sup>15</sup> Our tracking of ESA enhancement permits issued for trophy imports of threatened and endangered species alone demonstrates that the Service issues hundreds of permits each year for species such as leopards, elephants, and lions.

<sup>16</sup> <http://www.fws.gov/news/blog/index.cfm/2014/11/25/Ensuring-the-Future-of-the-Black-Rhino>

*originated* and whether that management of the subspecies addresses the threats to the subspecies (i.e., that it is *based on sound scientific principles* and that the management program is actively addressing the current and longer term threats to the subspecies). In that review, we will evaluate whether the import contributes to the overall conservation of the species by considering whether the biological, social, and economic aspects of a program from which the specimen was obtained provide a net *benefit* to the subspecies and its ecosystem (emphasis added).

We also agree that the Service must consider the following factors when making an enhancement finding for importation of sport-hunted trophies of Savanna elephants, as it does for African lions:

(a) Biological Sustainability: The hunting program cannot contribute to the long-term decline of the hunted species. It should not alter natural selection and ecological function of the hunted species or any other species that share the habitat. The program should not inadvertently facilitate poaching or illegal trade in wildlife by acting as a cover for such illegal activities. The hunting program should also not manipulate the ecosystem or its component elements in a way that alters the native biodiversity.

(b) Net Conservation Benefit: The biologically sustainable hunting program should be based on laws, regulations, and scientifically based quotas, established with local input, that are transparent and periodically reviewed. The program should produce income, employment, and other benefits to create incentives for reducing the pressure on the target species. The program should create benefits for local residents to co-exist with the target species and other species. It is also imperative that the program is part of a legally recognized governance system that supports conservation.

(c) Socio-Economic-Cultural Benefit: A well-managed hunting program can serve as a conservation tool when it respects the local cultural values and practices. It should be accepted by most members of the community, involving and benefiting local residents in an equitable manner. The program should also adopt business practices that promote long-term economic sustainability.

(d) Adaptive Management: Planning, Monitoring, and Reporting: Hunting can enhance the species when it is based on appropriate resource assessments and monitoring (e.g., population counts, trend data), upon which specific science-based quotas and hunting programs can be established. Resource assessments should be objective, well documented, and use the best science available. Adaptive management of quotas and programs based on the results of resource assessments and monitoring is essential. The program should monitor hunting activities to ensure that quotas and sex/age restrictions of harvested animals are met. The program should also generate reliable documentation of its biological sustainability and conservation benefits.

(e) Accountable and Effective Governance: A biologically sustainable trophy-hunting program should be subject to a governance structure that clearly allocates management responsibilities. The program should account for revenues in a transparent manner and distribute net revenues to conservation and community beneficiaries according to properly agreed decisions. All necessary steps to eliminate corruption should be taken and to ensure compliance with all relevant national and international requirements and regulations by relevant bodies such as administrators, regulators and hunters.

Further, the Service's regulations provide that "[n]o more than two African elephant sport-hunted trophies [can be] imported by any hunter in a calendar year." 50 C.F.R. § 17.40(e)(6)(E). Strict scrutiny of elephant trophy imports is especially imperative, given that the Service has found that uplisting the species to endangered may be warranted. 81 Fed. Reg. 14,058 (March 16, 2016).

## Namibia

### 1. Namibia Does Not Have a Current Elephant Management Plan.

Shortly after independence in 1990, Namibia's Ministry of Wildlife, Conservation & Tourism issued an Elephant Conservation and Management Plan in October 1991.<sup>17</sup> The plan states, "the estimate of the national elephant population from aerial surveys in 1990 is 5,196 ± 483, but a more realistic figure is c. 4,500 – 6,500, the latter reflecting changes in abundance due to elephant movements in and out of census zones, protected areas and movements in and out of Namibia, Angola, Botswana and Zambia" (p. 8). The Plan indicates that elephants were distributed only in the northern part of Namibia in 1990, a much smaller range than the historic distribution of elephants in Namibia.

The 1991 Plan is not a plan at all, but rather a proposal. The Plan states, "Much of the information necessary to develop a national elephant conservation plan still needs to be collected, and the outlines and proposals should be considered provisional only" (p. 22). The Plan provides a national elephant population target of approximately 10,000 elephants, noting "several thousand of these are expected to be seasonal visitors only" (p. 25).

Sixteen years later, Namibia issued a Species Management Plan for elephants in December 2007.<sup>18</sup> This 2007 Plan, which apparently remains in effect today, states, "In 2004 the total population was estimated at over 16,000 animals and, allowing for underestimates on aerial surveys, the true number in 2007 is likely to be closer to 20,000" (p. iv).

Namibia has six elephant populations: the north-west, Etosha National Park, Mangetti National Park, northern Kavango, Khaudum National Park/Nyae Nyae Conservancy and Zambezi

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<sup>17</sup> <http://the-eis.com/elibrary/sites/default/files/downloads/literature/ELEPHANT%20CONSERVATION%20AND%20MANAGEMENT%20PLAN%20NAMIBIA.pdf>

<sup>18</sup> [https://www.iucn.org/sites/dev/files/import/downloads/namibia\\_elephant\\_management\\_plan\\_dec\\_2007.pdf](https://www.iucn.org/sites/dev/files/import/downloads/namibia_elephant_management_plan_dec_2007.pdf)

Region.<sup>19</sup> The 2007 Plan includes reference to trophy hunting, but limits this to two of the six elephant populations: Caprivi (now Zambezi Region), and Khaudum National Park/Nyae Nyae Conservancy. The 2007 Plan states, “In the absence of any other management (including PAC<sup>20</sup>), the proportion of an elephant population that can be hunted for trophies is about 0.5%. These trophies would all be males over 30 years old. If the north-eastern population is about 16,000 animals, the maximum trophy quota would be about 80 animals of which 50 could come from the Caprivi and 30 from the Khaudum / Nyae Nyae area. These might be the quotas set from 2007 onwards” (p. 15). Critically, the 2007 Plan does not include trophy quotas for other elephant populations in Namibia, although elephant trophy hunting occurs in other populations.

While the 2007 Plan recommended trophies from 80 elephants as the “maximum trophy quota”, inexplicably, Namibia has had a CITES export quota for hunting trophies of 90 elephants since 2005, and this continues today, despite the 2007 Plan.<sup>21</sup> Furthermore, management offtakes of elephants have occurred and continue to occur (such as for problem animal control and capture for live trade), which calls into question the validity of applying the 0.5% offtake rule in any case, as this percentage was predicated on cases where there is no other management offtake.

In October 2021, Environment Minister Pohamba Shifeta announced the “launch” of a National Elephant Conservation and Management Plan.<sup>22</sup> The Plan has not been finalized or publicly released. During the launch of the Plan, the Minister also announced that Namibia’s elephant population size was 23,736, having increased from a population of 7,000 at independence, and said that the elephant’s range was expanding, and that elephant now occur in places in Namibia where once they were locally extinct.

In summary:

- Namibia does not have a current elephant management plan.
- Namibia allows trophy hunting of elephants in populations where trophy quotas were not recommended in 2007 Plan.
- Namibia’s CITES export quota for elephant trophies is ten elephants more than that recommended in 2007 Plan.

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<sup>19</sup> Craig, G.C., D. St. C Gibson and K.H. Uiseb. 2021. Namibia’s elephants – population, distribution and trends. *Pachyderm* No. 62 (July 2020-June 2021): 35-52.

<sup>20</sup> Problem Animal Control

<sup>21</sup> [https://cites.org/eng/resources/quotas/export\\_quotas](https://cites.org/eng/resources/quotas/export_quotas)

<sup>22</sup> <https://allafrica.com/stories/202110250617.html>



## 2. Namibia Exceeded its Voluntary CITES Export Quota for Elephant Trophies in 2 of the Last 10 Years.

Despite having established an export quota for elephant trophies of 180 tusks from 90 elephants, Namibia exceeded that quota in 2015 and 2016, by 41 and 25 elephants, respectively (see table below).

**Number of elephant trophies and tusks imported from Namibia, 2011-2020 (Source: analysis of data extracted from CITES Trade Database).**

Year/Term:	Trophies				Tusks			Estimated No. Elephants*	Exceeded Export Quota?
	H	P	T	Total	H	P	Total		
2011	32	7	1	40	21	1	22	51	No
2012	36	0	0	36	41	4	45	59	No
2013	45	2	0	47	29	4	33	64	No
2014	24	2	0	26	40	7	47	50	No
2015	100	3	0	103	54	2	56	131	Yes
2016	94	5	0	99	32	0	32	115	Yes
2017	74	9	0	83	14	0	14	90	No
2018	60	4	0	64	21	4	25	77	No
2019	25	2	0	27	18	0	18	36	No
2020	4	1	0	5	4	0	4	7	No

\*Assuming one trophy, or two tusks, equals one elephant.

The purpose of setting elephant trophy export quotas is to assure other Parties that this level of export has been deemed by Namibia to be not detrimental to the survival of the species. Exceeding the self-determined export quota is an admission that the exports are detrimental. Namibia's lack of compliance with its self-established export quota is recognized in a document that will be discussed at the March 2022 meeting of the CITES Standing Committee.<sup>23</sup>

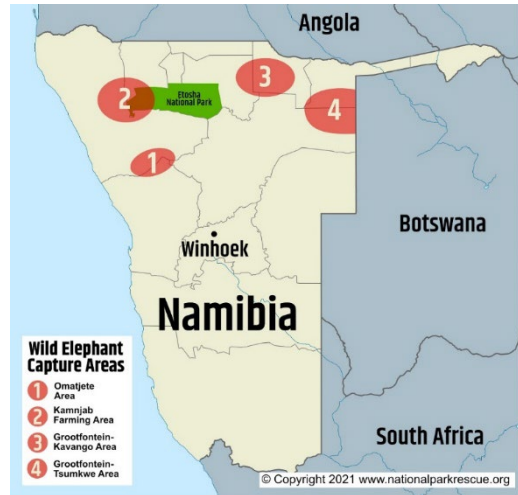
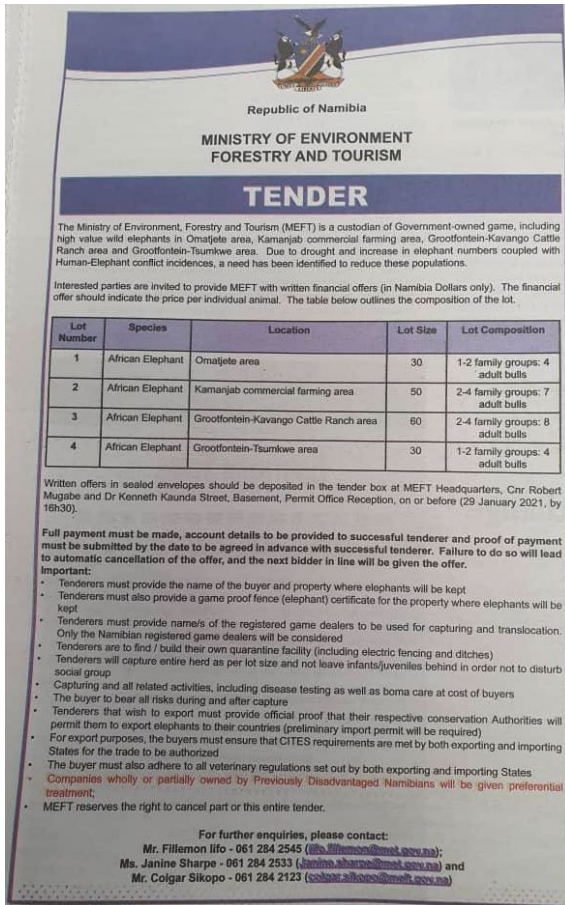
## 3. Namibia Offered 170 Elephants from Wild Populations for Sale in 2021, Including Breeding-age Females.

In January 2021, Namibia's Ministry of Environment, Forestry and Tourism put 170 elephants up for tender (see announcement below and a map<sup>24</sup> of the approximate locations of the elephants in Namibia). The Ministry's announcement states, "due to drought and increase in elephant numbers coupled with Human-Elephant conflict incidences, a need has been identified to reduce these populations."

<sup>23</sup> <https://cites.org/sites/default/files/eng/com/sc/74/E-SC74-68.pdf>

<sup>24</sup> Pinnock, D. Namibia selling 170 wild elephants despite outcry. Daily Maverick, January 28, 2021.

[HTTPS://WWW.DAILYMAVERICK.CO.ZA/ARTICLE/2021-01-28-NAMIBIA-SELLING-170-WILD-ELEPHANTS-DESPITE-OUTCRY/](https://www.dailymaverick.co.za/article/2021-01-28-namibia-selling-170-wild-elephants-despite-outcry/)



The affected populations and number of elephants offered for sale are in the table below.

Lot	Number of elephants	Composition	Area	Affected elephant population	Current Population Size <sup>25</sup>
1	30	1-2 family groups and 4 adult bulls	Omatjete	North West	1,200
2	60	2-4 family groups and 7 adult bulls	Kamanjab commercial farming		
3	60	2-4 family groups and 8 adult bulls	Grootfontein-Kavango Cattle Ranch	Mangetti National Park area	90

<sup>25</sup> Craig, G.C., D. St. C Gibson and K.H. Uiseb. 2021. Namibia’s elephants – population, distribution and trends. Pachyderm No. 62 (July 2020-June 2021): 35-52. Table 1, p. 49.

Lot	Number of elephants	Composition	Area	Affected elephant population	Current Population Size <sup>25</sup>
4	30	1-2 family groups and 4 adult bulls	Grootfontein-Tsumkwe	Khaudum National Park and Nyae Nyae	8,000

The 90 elephants, including breeding-age females, slated to be removed from the North West Population is very concerning. The most recently published paper about a survey of this area is Craig and Gibson (2016)<sup>26</sup> who surveyed northwestern Namibia between 16 September and 8 October 2016. The population estimate for the entire surveyed area of 63,431 km<sup>2</sup> was 1,716 (95% range of 416 – 3,015). Only an estimated 59 bulls occur in the entire area (22 – 107). The authors state, “The precision of the elephant estimate (1716) is very poor because of a group of 38 animals seen together in a single block (see 4. Discussion, below). Where management decisions are required, a more conservative estimate of 1173 elephants should be used. This is calculated by excluding the outlying group from the sample. *Where a management strategy with minimum risk to the population is desired, the lower confidence limit, 416, which is the minimum likely population size, should be used*” (p. 9, emphasis added).

Following this advice, the offtake of 90 elephants from a population of 416 elephants, which is 21.6% of the population, is detrimental to the population considering that, according to Craig and Gibson (2021),<sup>27</sup> this population’s growth rate is 3.86% per annum. Moreover, the 2007 Species Management Plan for Elephants, the only elephant management plan that seems to be in existence today in Namibia, states that, for population reduction purposes, a 3% offtake would stabilize numbers (p. 16); Namibia’s offtake of 21.6% of this population is inconsistent with the 2007 Plan. Furthermore, the 2007 Species Management Plan for Elephants, elephant population reduction was considered only for populations in north-eastern Namibia, including Caprivi (now Zambezi), Khaudum National Park and Nyae Nyae Conservancy, and not for the North West population. Unfortunately, according to a February 15, 2021, press release from the Namibia Ministry of Environment and Tourism,<sup>28</sup> 57 elephants have been sold and the Ministry is capturing them; 37 elephants have been captured from the North West population to date: 15 in the Omatjete area, and 22 from Kamanjab area.

Also of concern is the planned removal of 60 elephants, including breeding-age females, from the Kavango Cattle Ranch area, which is located about 10 miles from the Mangetti National Park, which has an elephant population of only 90 elephants. Clearly, removal of 66.6% of an elephant population, including breeding-age females, is going to cause a detriment to that population.

<sup>26</sup> Craig, G.C. and D. St.C. Gibson 2016. Aerial Survey of Elephants and Other Animals in North Western Namibia. Ministry of Environment & Tourism, Namibia

<sup>27</sup> Craig, G.C., D. St. C Gibson and K.H. Uiseb. 2021. Namibia’s elephants – population, distribution and trends. Pachyderm No. 62 (July 2020-June 2021): 35-52. Page 42.

<sup>28</sup> <https://www.documentcloud.org/documents/21211115-namibia-elephant-auction-statement>

Even the removal of 30 elephants, including breeding-age females, from Namibia's second largest elephant population, Kahudum National Park / Nyae Nyae Conservancy, with a population size of 8,000, is of concern.

The Service must take the negative impact of these planned removals into account when considering elephant trophy import permit applications for elephants from these areas.

#### **4. Settlement-related Permit Applications Do Not Demonstrate Enhancement.**

The settlement requires the Service to make decisions on three elephant trophy import applications pertaining to Namibian elephants. As these applications for hunting and importing elephant trophies do not enhance the survival of the species, they should be denied.

As an initial matter, the three applicants pertaining to imports of elephant trophies from Namibia cannot be said to have a valid justification or provided material information to justify removing the relevant elephants from the wild.<sup>29</sup> They are individuals whose primary interest is securing a trophy for personal enjoyment and aesthetic purposes, not to contribute to elephant conservation. The Service cannot issue authorization to conduct otherwise prohibited activities to an applicant who has no intention, let alone expertise, to contribute in a meaningful way to conservation of the species.

Furthermore, the application materials provide insufficient information for the Service to make an enhancement finding. By and large, the documentation attached to or referred to in the applications characterizes trophy hunting as having an important economic benefit. But it is irrelevant that some people consider trophy hunting in general, or Namibia's elephant trophy hunting program, in particular, to be of economic value – the ESA requires the Service to deny an import permit application unless the applicant clearly demonstrates that the proposed activity would enhance the survival of the species. The information provided in the applications is insufficient for the Service to make a finding that importing trophies of the particular elephant hunted or that would be hunted would enhance the survival of the species, as required by law.

Payment is not enhancement. The ESA requires a direct link between the authorized action (the take or commerce) and the required effect (enhancement).<sup>30</sup> The plain language of the ESA only allows FWS to permit an "otherwise prohibited action" if that action enhances the species' survival.<sup>31</sup> Here, the "otherwise prohibited" action that the Service would be permitting – import of a hunting trophy – is not carried out for the purpose of enhancing the species; rather,

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<sup>29</sup> A threatened species permit cannot be issued where "[t]he applicant has failed to demonstrate a valid justification for the permit," 50 C.F.R. § 13.21(b)(3), or "[t]he applicant has failed to disclose material information required," 50 C.F.R. § 13.21(b)(2). And the Service must consider "[w]hether the purpose for which the permit is required is adequate to justify removing from the wild or otherwise changing the status of the wildlife sought to be covered by the permit." 50 C.F.R. § 17.21(a)(2)(i).

<sup>30</sup> See 58 Fed. Reg. 32,632 (June 11, 1993) (questioning "whether there is a direct cause and effect relationship between education through exhibition of living wildlife and enhancement of survival in the wild of the species exhibited").

<sup>31</sup> 16 U.S.C. § 1539(a)(1)(A).

the action is undertaken solely for the personal benefit of the applicants. Thus, payment for trophy hunts is insufficient grounds for an enhancement finding.

The African savanna elephant is classified by IUCN as Endangered.<sup>32</sup> We object to the notion that trophy hunting of an endangered species provides a net benefit to species survival. Indeed, there is abundant evidence that the existence of legal markets for endangered species can both encourage and facilitate poaching of those species.<sup>33</sup> For trophy hunters, the rarer the trophy, the more valuable and expensive it is, and the greater is the prestige.<sup>34</sup> The Service cannot sanction such actions that are anathema to the letter and intent of the ESA, the purpose of which is to “provide a program for the conservation of such endangered species.”<sup>35</sup>

All three applications failed to meet both the procedural and substantive requirements for issuance of the requested import permits; therefore, the Service must deny these applications.

**a) Mark Arnold Saulsbury (PRT 83103C)**

Mr. Saulsbury applied to import a trophy of an elephant he hunted on August 8, 2017, in Nyae Nyae Conservancy, Namibia. At the time of the hunt, the most recent aerial population survey in Nyae Nyae had been conducted by Craig and Gibson in September 2013.<sup>36</sup> This survey, of

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<sup>32</sup> Gobush, K.S., Edwards, C.T.T, Balfour, D., Wittemyer, G., Maisels, F. & Taylor, R.D. 2021. *Loxodonta africana* (amended version of 2021 assessment). The IUCN Red List of Threatened Species 2021: e.T181008073A204401095. <https://dx.doi.org/10.2305/IUCN.UK.2021-2.RLTS.T181008073A204401095.en>. Accessed on 16 February 2022.

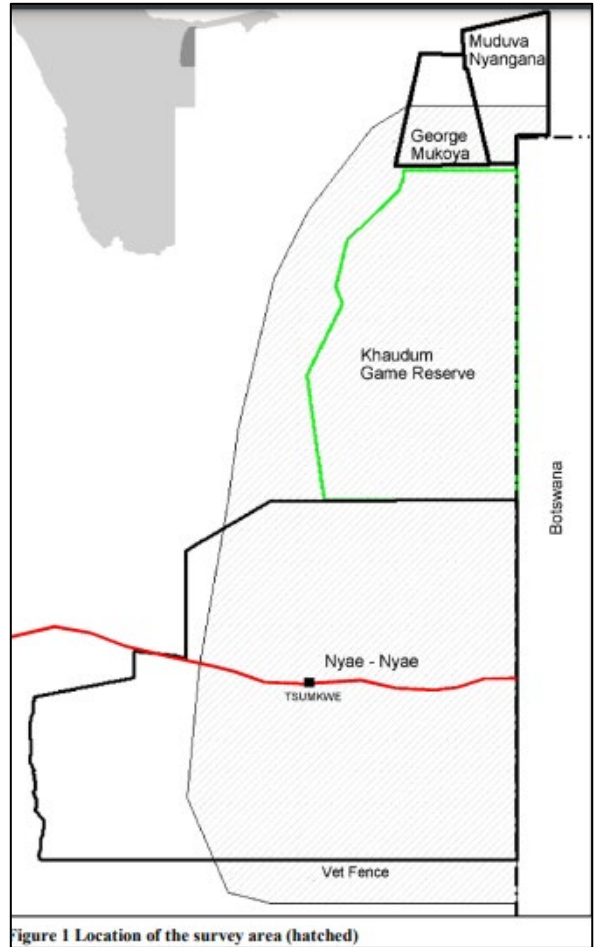
<sup>33</sup> See Valerius Geist, *How Markets in Wildlife Meat and Parts, and the Sale of Hunting Privileges, Jeopardize Wildlife Conservation*, CONSERVATION BIOLOGY, Vol. 2, Issue 1 at 16 (Mar. 1988) (U.S. wildlife conservation has been “based on three primary policies ... 1) the absence of market in the meat, parts, and products of [wildlife,] 2) the allocation of the material benefits of wildlife by law, not by the market place . . . , 3) the prohibition on frivolous killing of wildlife”); David M. Lavigne, et al., *Sustainable utilization: the lessons of history*, THE EXPLOITATION OF MAMMAL POPULATIONS 251, 260 (Victoria J. Taylor et al. eds., 1996) (establishment of “legal markets for valuable wildlife product . . . provide[s] incentives for poaching [because] when the prices of wildlife products are sufficiently high, they also attract criminal elements into poaching, making wildlife protection not only increasingly difficult but also dangerous”); Lavigne, et al., at 258-260 (“Generally, putting a price on dead wildlife almost invariably leads to over-exploitation and increases the ‘extinction potential’ of target species”); Hunter, et. al, *INTERNATIONAL ENVIRONMENTAL LAW & POLICY* at 1035 (Foundation Press 1998) (Excerpt) (“Trade is responsible for an estimated 40% of vertebrate species facing extinction. Ironically, market forces can exacerbate the threats from illegal trade, for as species become rarer their value on the market increases to reflect this scarcity, increasing the incentive for further poaching”); see also Valerius Geist, *North American Policies of Wildlife Conservation*, WILDLIFE CONSERVATION POLICY (Geist and McTaggart-Cowan eds 1995).

<sup>34</sup> See Courchamp F, Angulo E, Rivalan P, Hall RJ, Signoret L, et al. (2006) *Rarity Value and Species Extinction: The Anthropogenic Allee Effect*. *PLoS Biol* 4(12): e415. doi:10.1371/journal.pbio.0040415.

<sup>35</sup> 16 U.S.C. § 1531(b); see also *Humane Society v. Kempthorne*, 481 F. Supp. 2d 53, 62 (D.D.C. 2006) (enjoining an FWS program allowing lethal take of endangered gray wolves, holding that: “[t]he language ‘propagation or survival of the affected species,’ is on its face, antithetical to the killing of 43 members of an endangered species barring some direct and immediate danger imposed by the individual animals killed to other members of the species.”) (vacated as moot); *Fund for Animals v. Turner*, 1991 WL 206232, at \*7 (D.D.C. Sept. 27, 1991) (rejecting FWS’s argument that hunting threatened grizzly bears promotes conservation by creating wariness of humans).

<sup>36</sup> Craig, G.C. and D.St.C. Gibson 2013 Aerial Survey of Elephants and other Wildlife in Khaudum National Park and Nyae Nyae September 2013. WWF in Namibia, Windhoek. [http://the-eis.com/elibrary/sites/default/files/downloads/literature/Aerial%20survey%20of%20elephants%20and%20other%20wildlife%20in%20Khaudum%20National%20Park%20and%20Nyae%20Nyae\\_September%202013.pdf](http://the-eis.com/elibrary/sites/default/files/downloads/literature/Aerial%20survey%20of%20elephants%20and%20other%20wildlife%20in%20Khaudum%20National%20Park%20and%20Nyae%20Nyae_September%202013.pdf)

Khaudum National Park and surrounding conservancies (see map below, from Craig and Gibson 2013), provided an elephant population estimate of 3,638 (95% confidence range, 2,490 – 4,786) for the surveyed area of 15,200 km<sup>2</sup>. Of this, 1,063 (610 – 1,517) were identified as elephants in bull groups; the remainder were elephants in family groups. Craig and Gibson (2013) considered the population to be stable, based on comparisons to previous survey results. The survey provided an elephant population estimate for Nyae Nyae of 505 (151 – 904), based on 26 elephants seen. No elephant family groups were seen in Nyae Nyae or, indeed, any areas outside of Khaudum National Park. All elephants seen in Nyae Nyae were in bull groups. The survey provided an estimated number of elephant carcasses of 107 (19 – 194), for a carcass ratio of 2.86% for the entire area surveyed, a ratio Craig and Gibson (2013) said would be expected from natural mortality. However, the carcass ratio for Nyae Nyae was 12.93; there were an estimated 75 (5 – 149) carcasses in Nyae Nyae; Craig and Gibson (2013) said this high ratio may be a



consequence of trophy hunting, problem animal control or illegal hunting. A carcass ratio of 13 would mean the population is declining and would decline by an estimated 21% in a four-year period;<sup>37</sup> however, since Nyae Nyae is part of the larger elephant population surveyed, which has a carcass ratio of 2.86%, Craig and Gibson (2013) said there is no evidence of any serious impact caused by illegal hunting.

The most recent survey of this area was conducted by Craig and Gibson in September 2019.<sup>38</sup> This survey resulted in a much larger population estimate than the 2013 survey: 7,999 elephants (4,971 – 11,028), comprised of an estimated 1,582 bulls (1,120 – 2,045), and the remainder were elephants in family groups. Craig and Gibson (2019) said that the increase in estimated numbers of elephants was greater than expected from natural reproduction, and

<sup>37</sup> Douglas-Hamilton, I. and A. Burrill. 1991. Using elephant carcass ratios to determine population trends. *African Wildlife: Research and Management* 1991: 98-105.

[https://www.iucn.org/sites/dev/files/import/downloads/laebra1991\\_005\\_1.pdf](https://www.iucn.org/sites/dev/files/import/downloads/laebra1991_005_1.pdf)

<sup>38</sup> Craig GC & D St C Gibson 2019 Aerial Survey of North-East Namibia - Elephants and Other Wildlife in Khaudum National Park & Neighbouring Areas September 2019. KfW. Ministry of Environment & Tourism, Windhoek, Namibia. [http://the-eis.com/elibrary/sites/default/files/downloads/literature/Aerial%20survey%20of%20north\\_eastern%20Namibia\\_Elephants%20and%20other%20wildlife%20in%20Khaudum%20National%20Park%20and%20neighbouring%20areas\\_%20September%202019.pdf](http://the-eis.com/elibrary/sites/default/files/downloads/literature/Aerial%20survey%20of%20north_eastern%20Namibia_Elephants%20and%20other%20wildlife%20in%20Khaudum%20National%20Park%20and%20neighbouring%20areas_%20September%202019.pdf)



that immigration could not be ruled out. The authors considered the carcass ratio of the surveyed area, 1.70%, was not a concern. The 2019 survey estimated the Nyae Nyae elephant population to number 3,678 (922 – 6,434), of which an estimated 703 (353 – 1,054) were bulls, and the remainder were elephants in family groups. The Nyae Nyae carcass ratio was 3.13%, which Craig and Gibson (2019) said is normal for a growing or stable population.

As noted above, this population is slated for capture of 30 elephants including breeding-age females, which is highly relevant for the Service when considering future import permit applications pertaining to elephants hunted in this area. However, Mr. Saulsbury's hunt took place many years ago and so the planned capture is not relevant to his permit application.

Mr. Saulsbury's permit application does not provide evidence that the import of the elephant he killed will enhance the survival of the species. The application includes a paper by Naidoo et al. (2016)<sup>39</sup> that studied the revenue generated by tourism and hunting in Namibia. However, this paper does not demonstrate a conservation benefit from hunting. That hunting results in revenue is not disputed; however, that the hunting results in *conservation benefit* is not demonstrated.

The application also includes pages from the African Elephant Status Report 2016<sup>40</sup> pertaining to Namibia, in which it is claimed that elephant hunting generates income to community conservancies. However, as noted in the previous paragraph, providing income is not evidence that elephant hunting benefits the survival of the species.

Finally, the application includes a brochure on the Nyae Nyae Conservancy that addresses many revenue generating activities pursued in the Conservancy, including trophy hunting, but does not elephant trophy hunting at all, nor does it assert that elephant trophy hunting benefits the conservation of the species.

Therefore, the Service should not issue a permit to Mr. Saulsbury to import a trophy of an elephant killed in Nyae Nyae Conservancy, Namibia, because he has not demonstrated enhancement as required under the ESA.

**b) Mark W. Pirkle (PRT 51200D)**

Mr. Pirkle applied to import a trophy of an elephant he planned to hunt between September 14 and October 14, 2019, in the Shamakuve Concession which, according to information contained in the application, is on the northern border of Khaudum National Park, located in the George Mukoya Conservancy and the Muduva Nyangana Conservancy, Namibia (see map from application below, with the "hunting area" colored in yellowish green).

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<sup>39</sup> Naidoo, R., Weaver, L. C., Diggle, R. W., Matongo, G., Stuart-Hill, G., & Thouless, C. (2016). Complementary benefits of tourism and hunting to communal conservancies in Namibia. *Conservation Biology*, 30(3), 628-638.

<sup>40</sup> C.R. Thouless, H.T. Dublin, J.J. Blanc, D.P. Skinner, T.E. Daniel, R.D. Taylor, F. Maisels, H. L. Frederick and P. Bouché (2016). African Elephant Status Report 2016: an update from the African Elephant Database. Occasional Paper Series of the IUCN Species Survival Commission, No. 60 IUCN / SSC Africa Elephant Specialist Group. IUCN, Gland, Switzerland. vi + 309pp.





and meat, provides books for classrooms and funds a soccer team. However, none of this information demonstrates that Mr. Pirkle’s killing of an elephant will enhance the survival of the species as required under the ESA.

Therefore, the Service should not issue a permit to Mr. Pirkle to import a trophy of an elephant killed in the Shamakuve Concession, Namibia, because he has not demonstrated enhancement as required under the ESA.

**c) Ernest John Lindo (PRT MA46999D)**

Mr. Lindo applied to import a trophy of an elephant he hunted on April 3, 2019, in Ozondundu Conservancy, Namibia. The most recent published paper about a survey of this area at the time of the hunt was Craig and Gibson (2016) who surveyed northwestern Namibia between 16 September and 8 October 2016. The population estimate for the entire surveyed area of 63,431 km<sup>2</sup> was 1,716 (95% range of 416 – 3,015). Only an estimated 59 bulls occur in the entire area (22 – 107). The authors stated, “The precision of the elephant estimate (1716) is very poor because of a group of 38 animals seen together in a single block (see 4. Discussion, below). Where management decisions are required, a more conservative estimate of 1173 elephants should be used. This is calculated by excluding the outlying group from the sample. *Where a management strategy with minimum risk to the population is desired, the lower confidence limit, 416, which is the minimum likely population size, should be used.*” (p. 9, emphasis added) Applying this “minimum risk” strategy to the bulls, a minimum population of 28 bulls should be used for management purposes.



The Ozondundu Conservancy is included in surveyed areas labelled HL1 and FL3 (see map at right) from Craig and Gibson 2016). The population estimate for HL1 was 581 (28 – 1,704). All the elephants seen in HL1 were in families; no bulls were reported.

Given that no bulls were observed in this area during the 2016 survey and that the entire population spread over a huge area of 63,431 km<sup>2</sup> may have had only 28 bulls in 2016, the killing of this bull must be considered by the detrimental to survival of the population.

Furthermore, Mr. Lindo’s permit application does not provide evidence that the import of the elephant he plans to kill will enhance the survival of the species. Mr. Pirkle states that he paid \$34,850 for the hunt but paying for a hunt does not demonstrate how the hunt enhances the survival of the species. Regarding the question in the application about of conservation benefit,

Mr. Lindo refers to the Operator Enhancement Report included in his application. According to this report, completed by the area operator, the operator provides cloths and supplies to a local school, and uniforms for game scouts; they also generate power, drill and maintain a borehole and pump that supplies water to the community. The operator employs five locals as staff, and provides meat (gemsbuk, zebra, springbuk and kudu; not elephant) to a local community. The company paid the community US\$15,000 in 2017 to pay for damage caused by the elephant shot by Mr. Lindo. However, none of these activities demonstrate that the elephant shot by Mr. Lindo enhanced the survival of the species.

Therefore, the Service should not issue a permit to Mr. Lindo to import a trophy of an elephant killed in the Ozondundu Conservancy, Namibia, because he has not demonstrated enhancement as required under the ESA.

## **CONCLUSION**

The Service must deny import permit applications from Namibia because:

- Namibia does not have a up-to-date elephant management plan (most recent plan is from 2007).
- Namibia allows trophy hunting of elephants in populations where trophy quotas were not recommended in 2007 Plan.
- Namibia's CITES export quota for elephant trophies is 10 elephants more than that recommended in 2007 Plan.
- Namibia exceeded its voluntary CITES export quota for elephant trophies in 2 of the last 10 years.
- Namibia offered 170 elephants from wild populations for sale in 2021, including females.
- Settlement-related permit applications do not demonstrate enhancement.

## Annex 2

### Zimbabwe Imports

#### ESA Requirements for Elephant Trophy Imports

Section 10 provides that “[t]he Secretary may permit . . . *any act otherwise prohibited by section 1538 of this title . . . to enhance the propagation or survival of the affected species.*”<sup>41</sup> Congress intended that the act being permitted would itself actually enhance the species’ survival. The Service has essentially flipped the system allowing income generation alone—i.e., payment of trophy and hunting fees—to justify enhancement permits. A “net benefit” standard allowing permittees to “pay to play” or pay to import is unlawful under the plain language and intent of Section 10 of the ESA. Moreover, the Section 10 exception for activities that enhance the species’ survival was intended “to *limit substantially the number of exemptions that may be granted* under the act.” H. R. Rep. No. 93-412 p. 17 (1973) (emphasis added). Yet, the Service issues hundreds of enhancement permits every year.<sup>42</sup>

However, recognizing that the Service will likely maintain its current interpretation of the ESA, we offer the following points.

Since the African elephant special rule amendment (50 C.F.R. § 17.40(e)) went into effect in June 2016, every import of an African elephant trophy is required to comply with ESA permitting requirements. Pursuant to the ESA (16 U.S.C. § 1538) and implementing regulations (50 C.F.R. § 17.40(e)), before the Service can authorize the import of an African elephant trophy it must be able to make a finding that the take and import of the animal enhances the survival of the species. According to the plain language of this statutory term (16 U.S.C. § 1539(a)(1)), “enhancement” permits may only be issued for activities that themselves *positively benefit* the species in the wild. *See also* FWS, *Ensuring the Future of the Black Rhino* (Nov. 25, 2014)<sup>43</sup>, (acknowledging that the ESA enhancement standard is more stringent than the CITES non-detriment standard); U.S. Fish and Wildlife Service Handbook for Endangered and Threatened Species Permits (1996) (making clear that an enhancement activity “must go beyond having a neutral effect and actually have a positive effect”). We agree with the Service that the IUCN provides relevant standards for determining whether elephant trophy hunting meets this goal. *See* 81 Fed. Reg. 36388, 36394 (June 6, 2016). We strongly encourage FWS to conduct this enhancement analysis consistent with how the Service conducts its analysis for determining whether African lion hunting meets the enhancement standard. 80 Fed. Reg. 79,999, 80,045 (Dec. 23, 2015). Specifically,

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<sup>41</sup> 16 U.S.C. § 1539(a) (emphasis added).

<sup>42</sup> Our tracking of ESA enhancement permits issued for trophy imports of threatened and endangered species alone demonstrates that the Service issues hundreds of permits each year for species such as leopards, elephants, and lions.

<sup>43</sup> <http://www.fws.gov/news/blog/index.cfm/2014/11/25/Ensuring-the-Future-of-the-Black-Rhino>

when making a determination of whether an otherwise prohibited activity enhances the propagation or survival[], the Service will examine the *overall conservation and management of the subspecies in the country where the specimen originated* and whether that management of the subspecies addresses the threats to the subspecies (i.e., that it is *based on sound scientific principles* and that the management program is actively addressing the current and longer term threats to the subspecies). In that review, we will evaluate whether the import contributes to the overall conservation of the species by considering whether the biological, social, and economic aspects of a program from which the specimen was obtained provide a net *benefit* to the subspecies and its ecosystem (emphasis added).

We also agree that the Service must consider the following factors when making an enhancement finding for importation of sport-hunted trophies of Savanna elephants, as it does for African lions:

(a) Biological Sustainability: The hunting program cannot contribute to the long-term decline of the hunted species. It should not alter natural selection and ecological function of the hunted species or any other species that share the habitat. The program should not inadvertently facilitate poaching or illegal trade in wildlife by acting as a cover for such illegal activities. The hunting program should also not manipulate the ecosystem or its component elements in a way that alters the native biodiversity.

(b) Net Conservation Benefit: The biologically sustainable hunting program should be based on laws, regulations, and scientifically based quotas, established with local input, that are transparent and periodically reviewed. The program should produce income, employment, and other benefits to create incentives for reducing the pressure on the target species. The program should create benefits for local residents to co-exist with the target species and other species. It is also imperative that the program is part of a legally recognized governance system that supports conservation.

(c) Socio-Economic-Cultural Benefit: A well-managed hunting program can serve as a conservation tool when it respects the local cultural values and practices. It should be accepted by most members of the community, involving and benefiting local residents in an equitable manner. The program should also adopt business practices that promote long-term economic sustainability.

(d) Adaptive Management: Planning, Monitoring, and Reporting: Hunting can enhance the species when it is based on appropriate resource assessments and monitoring (e.g., population counts, trend data), upon which specific science-based quotas and hunting programs can be established. Resource assessments should be objective, well documented, and use the best science available. Adaptive management of quotas and programs based on the results of resource assessments

and monitoring is essential. The program should monitor hunting activities to ensure that quotas and sex/age restrictions of harvested animals are met. The program should also generate reliable documentation of its biological sustainability and conservation benefits.

(e) **Accountable and Effective Governance:** A biologically sustainable trophy-hunting program should be subject to a governance structure that clearly allocates management responsibilities. The program should account for revenues in a transparent manner and distribute net revenues to conservation and community beneficiaries according to properly agreed decisions. All necessary steps to eliminate corruption should be taken and to ensure compliance with all relevant national and international requirements and regulations by relevant bodies such as administrators, regulators and hunters.

Further, the Service’s regulations provide that “[n]o more than two African elephant sport-hunted trophies [can be] imported by any hunter in a calendar year.” 50 C.F.R. § 17.40(e)(6)(E). Strict scrutiny of elephant trophy imports is especially imperative, given that the Service has found that uplisting the species to endangered may be warranted. 81 Fed. Reg. 14,058 (March 16, 2016).

## **Zimbabwe**

In 2014 and 2015, the Service was unable to make the requisite finding that hunting elephants in Zimbabwe enhances the survival of the species. *See* 79 Fed. Reg. 44,459 (July 31, 2014).<sup>44</sup> Numerous problems with Zimbabwe’s elephant management, capacity, population, and threats remain unresolved to date and should warrant denial of applications to import elephant trophies from Zimbabwe.

### **1. Management Concerns Persist Under the Revised Elephant Management Plan**

The Service requires a sound management program for a species be in place and implemented before trophy imports can be authorized. Serious questions surround whether the resources, capacity, and will exist to implement the 2021-2025 Elephant Management Plan in Zimbabwe.<sup>45</sup>

Chief among these questions is whether the resources to implement the Plan exist. The previous plan required a “budget of \$12 million for approximately 60,000 km<sup>2</sup> of elephant range in the country” or \$200 per km<sup>2</sup> but the New Plan notes that the resources Zimbabwe devoted “averaged approximately \$5.6 million per year or about \$90.00 per km<sup>2</sup>” (pg. 14). The Plan goes on to note that even more resources may be required now, but the Plan fails to detail

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<sup>44</sup> *See also* <https://www.fws.gov/international/pdf/enhancement-finding-March-2015-elephant-Zimbabwe.pdf>.

<sup>45</sup> ZPWMA (2021). ZIMBABWE NATIONAL ELEPHANT MANAGEMENT PLAN (2021 – 2025) (available at: [https://issuu.com/mentpublications/docs/elephant\\_management\\_plan\\_2021-2026](https://issuu.com/mentpublications/docs/elephant_management_plan_2021-2026)).

the government's commitments to dedicating the resources necessary to fully implement the Plan.

Likewise, the Plan is slim on mortality data. Loss of elephants from poaching, human-elephant conflict, natural mortality, poisoning, and other causes are not quantified or summarized. Instead, the Plan simply asserts a target of “[i]llegal losses of elephant from at least 90% of elephant populations reduced to less than 5% by 2025” (pg. 21). Without new population information and overall mortality data, it is hard to analyze the effect of additional elephant losses from trophy hunting let alone condone such imports. This is particularly important in a country such as Zimbabwe that has a very high CITES annual export quota for elephant trophies (1000 tusks as part of hunting trophies from 500 elephants).<sup>46</sup>

The scientific basis for the establishment of elephant hunting and export quotas in Zimbabwe still remains unknown. Supposedly, quota setting for wildlife in Zimbabwe is a consultative process involving workshops with wildlife farmers, hunters, local authorities, tour operators and photographers and a scientific review that looks at poaching, trophy quality and size, natural mortality, and problem animal control in surrounding communities.<sup>47</sup> However, the reality is something quite different. A 2016 paper by Muposhi et al.<sup>48</sup> on the impact of trophy hunting on large herbivores, including elephants, in the Matetsi Safari Area near Hwange National Park found that trophy tusk sizes of hunted African elephants declined significantly from 2004-2015. According to the researchers, this decline possibly indicated that elephant trophy hunting in the area is not sustainable. The authors note the obvious conflict of interest that exists when the ZPWMA, which relies on trophy hunting as income for its operations, is also in charge of setting quotas, posing the question “who will police the regulator”, noting that it may cause problems when “economic benefits to take precedence over regulatory policy framework”. In other words, the scientific component of quota setting is lacking. Likewise, Selier et al. (2014)<sup>49</sup> found that elephant hunting in the Greater Mapungubwe Transfrontier Conservation Area, which includes Zimbabwe as well as Botswana and South Africa, was unsustainable and predicted that “trophy bulls will disappear from the population in less than 10 years.”

We recognize the EU, GEF, the United States, and others have provided millions of dollars to Zimbabwe since 1989 to improve wildlife management but are concerned that the fruits of these efforts have yet to be realized. Until significant policy changes have been made and

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<sup>46</sup> [https://cites.org/eng/resources/export\\_quotas](https://cites.org/eng/resources/export_quotas)

<sup>47</sup> <http://www.chronicle.co.zw/elephants-hunting-quota-set-at-500/> (viewed 3 August 2017).

<sup>48</sup> Muposhi, V. K., Gandiwa, E., Bartels, P., Makuza, S. M., & Madiri, T. H. (2016). Trophy hunting and sustainability: Temporal dynamics in trophy quality and harvesting patterns of wild herbivores in a tropical semi-arid savanna ecosystem. *PLoS one*, 11(10), e0164429.

<http://journals.plos.org/plosone/article/file?id=10.1371/journal.pone.0164429&type=printable>

<sup>49</sup> Selier, S. A. J., Page, B. R., Vanak, A. T., & Slotow, R. (2014). Sustainability of elephant hunting across international borders in southern Africa: A case study of the greater Mapungubwe Transfrontier Conservation Area. *The Journal of Wildlife Management*, 78(1), 122-132.

actually implemented to the benefit of wildlife, the Service must adopt a precautionary approach to authorizing elephant trophy imports from Zimbabwe.

## **2. Corruption and Governance Remain Concerns in Zimbabwe**

Above all else, corruption remains a significant concern in Zimbabwe. The country received a 23 out of 100 on the Corruption Perceptions Index for 2021 having decreased from the previous 24 score in 2020 and 2019.<sup>50</sup> Given the government's previous heavy reliance upon trophy fees for funding and its on-going desire to get to "yes" when it comes to trophy permitting, significant concerns remain regarding management and implementation in Zimbabwe.

According to the 2017 Elephant Trade Information System (ETIS) report at "Zimbabwe is the country that pulls the rule of law score down, indicating far greater governance challenges exist in that country."<sup>51</sup> The 2017 ETIS report also found that Zimbabwe had the tenth largest ivory market of any country in the analysis and stated that there is "increasing evidence of direct Chinese involvement in Africa-based ivory processing operations" in Zimbabwe "with production (primarily bangles, name seals and chopsticks) being shipped to Asia using courier companies as well as individuals who sometimes carry contraband on their bodies using purposefully built clothing."<sup>52</sup>

Indeed, instead of effectively implementing and enforcing wildlife laws and regulations, ZPWMA personnel have been implicated in the illegal ivory trade. In 2015, three ZPWMA staff members were arrested for involvement in the theft of ivory from a government stockpile held at Hwange National Park.<sup>53</sup> The arrests came after a shipment of 62 tusks on its way to China was seized at the international airport in Harare. Serial numbers on the tusks were traced to the Hwange government stockpile. An alleged Chinese smuggler, who claimed he represented the Chinese government, had obtained export permit signed by the most senior of the three ZPWMA people arrested. All three were released from custody, the senior ZPWMA person after paying a \$600 bail; none appeared in court again. Allegedly, the investigation was stopped after senior ZPWMA officials in Harare intervened in order to cover the involvement of other ZPWMA officials in the smuggling. The investigation seems to implicate senior parks and Ministry of Environment, Water and Climate officials. Allegedly, the ZPWMA trio had been exporting ivory from the stockpile since 2012. They had the assistance of ZPWMA security personnel and police units who guarded the trucks carrying the ivory over the 880 km from Hwange to the airport.

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<sup>50</sup> Zimbabwe scored 23 (ranked 157). <https://www.transparency.org/en/cpi/2021>

<sup>51</sup> CITES CoP17 Doc. 57.6 (Rev. 1) (<https://cites.org/sites/default/files/eng/cop/17/WorkingDocs/E-CoP17-57-06-R1.pdf>).

<sup>52</sup> Ibid.

<sup>53</sup> <https://oxpeckers.org/2016/04/how-to-steal-an-ivory-stockpile/>

Corruption has been a concern with government officials as well as some have allegedly been involved in both poaching of elephants and illegal export of ivory tusks, and involvement in a transnational syndicate.<sup>54</sup>

Thus, the concern stated in the Service's 2015 finding, that Zimbabwe's wildlife laws and regulatory mechanisms are inadequately implemented and enforced, remains valid.

### **3. Information on the Elephant Population in Zimbabwe Does Not Support Authorizing Trophy Imports**

Without updated population information, trophy imports should not be authorized. The Service's 2015 finding noted that preliminary findings from the Great Elephant Census expressing concern that poaching had significantly increased. The last surveys were part of the Great Elephant Census, which estimated that Zimbabwe's elephant population was 82,304 ±4,382 with a "carcass ratio" of 8%, meaning the survey recorded one dead elephant for every eight live elephants.<sup>55</sup> The Census found that Zimbabwe's elephant population had declined by 6% overall since 2001, and that there were serious population declines in two of the four main Zimbabwe elephant populations.<sup>56</sup> The Service noted the need for evidence that this information has been incorporated into management activities in a scientifically sound manner.

Since that time, a new countrywide arial or other similar survey of elephants in Zimbabwe has not been conducted or released publicly. Nevertheless, Zimbabwe has claimed an elephant population of 100,000 elephants and alleged it has an elephant over population issue.<sup>57</sup> However, this messaging is flawed for several reasons. First, it does not appear to be based on new population information, certainly not a new country-wide census. For example, Zimbabwe's 2021-2025 Elephant Management Plan is based upon 2014 data gathered for the Great Elephant Census.<sup>58</sup> The Plan details intent to conduct new surveys,<sup>59</sup> and mentions new

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<sup>54</sup> <http://globaljournalist.org/2017/02/zimbabwe-journalist-fights-charges-poaching-report/> (viewed 10 August 2017); <https://cites.org/sites/default/files/eng/com/ac/22/E22-05-01.pdf>;

<https://www.courtlistener.com/docket/4212662/safari-club-international-v-jewell/>;

<http://www.thezimbabwean.co/2017/05/zim-wildlife-boss-fired-3m-rhino-horn-goes-missing-report/>

<sup>55</sup> Chase, M.J., Schlossberg, S., Griffin, C.R., Bouché, P.J., Djene, S.W., Elkan, P.W., Ferreira, S., Grossman, F., Kohi, E.M., Landen, K. and Omondi, P., 2016. Continent-wide survey reveals massive decline in African savannah elephants. *PeerJ*, 4, p.e2354; <https://elephantswithoutborders.org/projects/great-elephant-census/>

<sup>56</sup> *Ibid.* In Sebungwe, the elephant population decreased by 75%, from about 11,000 to 4,000. And in Middle Zambezi, the population decreased by 40%, from about 18,000 to 11,500. Regarding the other two Zimbabwe elephant populations, the Census found that Hwange's population had increased by 10% from about 49,000 to 54,000, and the population of Gonarezhou had increased by 134% from about 5,000 to 11,000.

<sup>57</sup> *E.g.*, [http://www.news.cn/english/2021-11/11/c\\_1310304662.htm#:~:text=Zimbabwe's%20elephant%20population%20is%20estimated,in%20the%20world%20after%20Botswana](http://www.news.cn/english/2021-11/11/c_1310304662.htm#:~:text=Zimbabwe's%20elephant%20population%20is%20estimated,in%20the%20world%20after%20Botswana);

<https://www.aljazeera.com/features/2021/6/5/zimbabwe-elephant-culling-plan-stirs-debate>

<sup>58</sup> Even the foreword explains "[t]he last countrywide census of our elephant population in 2014 estimated between 76,000 and 93,000 elephants" (ZPWMA 2021 at ii).

<sup>59</sup> ZPWMA 2021 at 24, 33.



surveys but does not disclose all the data.<sup>60</sup> The IUCN African Elephant Specialist Group (AfESG) report to SC74 also utilizes 2014 data but indicates that new population data are being collected. However, with respect to Zimbabwe, the report denotes one completed survey and either “no new surveys” or waiting for updates – i.e., with no new population information discussed.<sup>61</sup> Taken all together, Zimbabwe appears to be claiming an “over population” problem without a sound factual basis.

Second, if the overpopulation claims are based upon the 2021-2025 Elephant Management Plan that is a concern as the elephant population targets were set in the 1980s and carried forward from the original plan in the 1990s.<sup>62</sup> The 1970s-80s saw a poaching crisis in Africa that led to the CITES Appendix I listing of African elephants. Using population estimates and goals for that time-period is not a sound basis for recovering let alone managing the species and raises serious concerns about the backbone for the revised Elephant Management Plan. New population data and targets are needed to ensure management plans comport with the species’ needs on the ground particularly given the biodiversity and climate crises.

Third, several elephant populations in Zimbabwe occur in transboundary areas with connected protected areas managed by other countries. These populations must be surveyed and managed holistically across their range. Decisions regarding acceptable population size and tolerable mortality levels cannot be made unilaterally.

Fourth, the recent and dramatic elephant population decreases in Sebungwe and mid-Zambezi as documented in the Great Elephant census need to be accounted for. Despite the population declines in these regions, elephant trophy hunting is still occurring in both areas,<sup>63</sup> calling into question whether or not the scientific evidence of significant elephant population declines in these areas have been taken into account in setting hunting quotas. In Sebungwe, there is also evidence of on-going trophy hunting.<sup>64</sup> There are five Safari Areas in the mid-Zambezi area: Sapi, Chewore, Hurungwe, Dande, and Doma.<sup>65</sup> Together, Mana Pools National Park, and Sapi and Chewore Safari Areas are a World Heritage Site and the World Heritage Committee has expressed concerns previously about population declines and management.<sup>66</sup> Additionally, elephant trophy hunting is continuing in the Safari Areas in the mid-Zambezi, calling into question whether or not the significant elephant population decline in this area has been taken

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<sup>60</sup> ZPWMA 2021 at 4. The Plan states: “The results of the 2016 and 2018 surveys of Gonarezhou NP are reflected in Fig. 6 below. Aerial surveys were conducted in Chizarira in 2017, and in Bubyeye and Save Valley conservancies in 2019.”

<sup>61</sup> SC74 Doc 68 at 26 (<https://cites.org/sites/default/files/eng/com/sc/74/E-SC74-68.pdf>).

<sup>62</sup> ZPWMA 2021 at 1, 9, 10.

<sup>63</sup> [http://www.zamsoc.org/wp-content/uploads/2016/04/Sebungwe\\_Elephant\\_Mgmt\\_Proceedings\\_29May\\_Compressed.pdf](http://www.zamsoc.org/wp-content/uploads/2016/04/Sebungwe_Elephant_Mgmt_Proceedings_29May_Compressed.pdf) and <https://www.bookyourhunt.com/elephant-hunting-in-zimbabwe> (viewed 3 August 2017)

<sup>64</sup> <http://www.sitatungazimbabwe.com/elephant-hunting/> (viewed 3 August 2017);

<http://www.sitatungazimbabwe.com/elephant-hunting/> (viewed 3 August 2017);

<http://www.zingelasafaris.com/zimbabwe/area/> (viewed 3 August 2017).

<sup>65</sup> <http://whc.unesco.org/en/list/302/>

<sup>66</sup> 24-26 October 2016, adopted Decision 40 COM 7B.84.

into account in setting hunting quotas. Charlton McCallum Safaris continues to conduct elephant hunt safaris in the Dande Safari Area of the mid-Zambezi.<sup>67</sup>

As evidenced, far more information is needed regarding the status of elephants and their populations in Zimbabwe and without such information trophy imports should not be authorized.

#### **4. Poaching, Ivory Trafficking, and Other Threats to Elephants in Zimbabwe Do Not Support Finding that Killing Elephants and Importing the Trophies to the U.S. Enhances Their Survival**

Given the on-going and numerous threats African savannah elephants are facing in Zimbabwe, the Service should not be contributing to elephant mortality by approving trophy imports from this country. In Zimbabwe, poaching continues to be a threat particularly in Sebungwe and middle Zambezi.<sup>68</sup> Zimbabwe's Elephant Management Plan reports success in reducing poaching in 2019, but it is unclear whether this trend continued in 2020 with the onset of the Covid-19 pandemic. While it is unclear whether the pandemic resulted in increased poaching due to a lack of anti-poaching staffing or decreased poaching due to lock downs coupled with diminished travel and shipping (i.e., supply chain routes), concerns have been raised that as supply chains and travel re-open so too will poaching.<sup>69</sup>

Moreover, Zimbabwe has been identified as a concern in terms of trafficking in ivory. The 2019 ETIS Report identified Zimbabwe as a Category C country of concern and as one of the most important countries of origin of illegal commercial shipments of worked ivory.<sup>70</sup> IUCN and TRAFFIC (2019) highlighted the significant exports of illegal ivory from Zimbabwe as a result of problems with enforcement and compliance including export of ca. 29,000 kg of tusks and almost 11,500 kg of worked ivory during 2013-2017.<sup>71</sup> Zimbabwe consistently does not file annual illegal trade reports as required under CITES reporting obligations.

Additionally, numerous other threats to elephants persist. As human populations continue to grow, human-elephant conflicts are increasing along with related elephant mortalities. Furthermore, elephants in Zimbabwe and Botswana have also succumbed to mysterious deaths with poisoning and disease targeted as potential causes.<sup>72</sup> In sum, without far more

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<sup>67</sup> <http://www.cmsafaris.com/zimbabwe-dande-hunt-trophy-gallery/gallery.htm> (viewed 3 August 2017); PRT 93406C for a 2018 elephant hunt in the Dande hunting concession.

<sup>68</sup> Chase, M.J., Schlossberg, S., Griffin, C.R., Bouché, P.J., Djene, S.W., Elkan, P.W., Ferreira, S., Grossman, F., Kohi, E.M., Landen, K. and Omondi, P., 2016. Continent-wide survey reveals massive decline in African savannah elephants. *PeerJ*, 4, p.e2354.

<sup>69</sup> SC74 Doc 68, Annex 1 at 28-29 (<https://cites.org/sites/default/files/eng/com/sc/74/E-SC74-68.pdf>).

<sup>70</sup> CoP18 Doc. 69.3 (<https://cites.org/sites/default/files/eng/cop/18/doc/E-CoP18-069-03-R1.pdf>).

<sup>71</sup> IUCN/TRAFFIC analysis of Proposal 11, submitted by Botswana, Namibia and Zimbabwe to CoP18; T. Milliken, F.M. Underwood, R.W. Burn and L. Sangalakula, The Elephant Trade Information System (ETIS) and the Illicit Trade in Ivory: A report to the 18th meeting of the Conference of the Parties to CITES, CoP18 Doc. 69.3.

<sup>72</sup> SC74 Doc 68 (<https://cites.org/sites/default/files/eng/com/sc/74/E-SC74-68.pdf>).

information on the on-going threats to elephants in Zimbabwe and current levels of mortality, trophy imports from this country cannot be authorized.

## **CONCLUSION**

The Service must deny the permit applications from Zimbabwe because:

- Concerns remain regarding Zimbabwe’s resources, capacity, and willingness to implement the 2021-2025 Elephant Management Plan. The new plan fails to estimate overall elephant mortality and relies upon dated population targets.
- Corruption and governance concerns remain in Zimbabwe as it ranked again in the bottom 50% of Transparency International’s 2021 Corruption Perceptions Index.
- New population data are lacking, and the last survey estimated a 6% overall population reduction since 2001 and found a “carcass ratio” of 8%, meaning the survey recorded one dead elephant for every eight live elephants.
- When all threats to elephants are considered, including poaching and trafficking, additional mortalities should not be authorized.