



## **environmental affairs**

Department:  
Environmental Affairs  
REPUBLIC OF SOUTH AFRICA

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Ref: ETIS reporting  
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Attention: Johannes Stahl

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Dear Johannes

### **CONSULTATION WITH PARTIES TO BE CONSIDERED FOR INCLUSION IN THE NATIONAL IVORY ACTION PLAN (NIAP) PROCESS: SOUTH AFRICA**

I refer to a letter from the Secretary General dated 28 January 2019 regarding the possible inclusion of South Africa in the NIAP process. Thank you for the opportunity to provide the Secretariat with additional information to inform you what South Africa is doing to implement Resolution Conf 10.10 (Rev CoP17), in particular paragraph 6.

I will not include particulars about South Africa's domestic legislation for the implementation of the Convention or the Threatened and Protected Species Regulations under the National Environmental Management Biodiversity Act as this was reported in detail in our letter to the Secretariat dated 20 January 2017 in which we gave additional information to The Elephant Trade Information System (ETIS) report for CITES CoP17 to motivate why South Africa should not be included in the NIAP process. We also gave additional information in a report on measures taken by South Africa to combat illegal trade in ivory in 2016 and 2017 which was attached to a letter to the Secretariat dated 17 April 2018 on measures taken by South Africa to combat illegal trade in ivory for the 70<sup>th</sup> Standing Committee meeting (SC70).

South Africa has thus been considered for the NIAP process by CoP17 and at SC70 in October 2018, the Standing Committee decided that South Africa will not be included in the NIAP process as is indicated in CoP18 Doc 69.1 paragraph 25.

As indicated in the Annex to the letter we received from the Secretariat, the ETIS report submitted to CoP18, clusters South Africa together with Benin, the Democratic Republic of the Congo, Congo, Japan



and Zambia, in a group of countries, representing mid-range variables in terms of the mean number of seizures and the mean weight value.

It seems that the most important reason for South Africa to be in this cluster is that the report highlights "that considerable quantities of ivory have entered international trade from South Africa, including one large-scale shipment of 2,478 kg to Viet Nam in 2017, the fifth largest seizure in the time period analysed in the report. The report notes that, although the proportion of illegally killed elephants (PIKE) has increased for South Africa's largest elephant population in Kruger National Park (CITES, 2018c), most of the ivory in the Vietnamese seizure from South Africa is believed to originate from outside of South Africa".

The CITES Management Authority in South Africa had not been notified of this seizure by VietNam at the time of the seizure and we could thus not investigate the origin of the shipment. We tried to get additional information about this seizure but we have not received any feedback to date. We agree with the statement that most of the ivory, if not the entire shipment, does not originate from South Africa. We would like to request that DNA samples are taken of the seized ivory for analysis to establish the origin of the tusks as recommended in Resolution Conf. 10.10 (Ref CoP17) paragraphs 21 to 24. South Africa has not lost any large scale stockpiles of ivory nor have we had any large scale illegal killing of elephants in the last two decades. The most animals that were illegally killed to date in one year was the 71 animals killed in Kruger National Park in 2018. It is believed, but not proven, that most of the ivory from these killings have ended up in neighbouring countries as there was no increase of ivory tusks or products observed in legal or illegal markets in South Africa to date.

The loss of the animals in Kruger National Park have not contributed to a decline in South Africa's elephant population. The national elephant population in South Africa is increasing and estimated at approximately 30 000 individuals of which an estimated 24 000 individuals occur within national and provincial reserves in seven of the nine provinces of South Africa. The Kruger National Park elephant population is estimated at 19 005 individuals and is the largest elephant population in South Africa growing at approximately 3.5% per annum. South Africa is in the process of developing a National Elephant Strategy that will provide a high-level vision together with strategic objectives for the management and long term conservation of elephants in South Africa, while contributing to the well-being of our people. The strategy will further assist in the future revision of the current National Elephant Norms and Standards. The Elephant Norms and Standards provide the legislative tool through which the vision and objectives will be achieved.

The South African National Parks (SANParks) recently launched Project Ivory in the northern part of the Kruger National Park to ensure technical and ranger support for operations in the area. Most of the elephant poaching in the Kruger National Park occurs in the northern parts of the Park. SANParks received donations from various organizations in the form of equipment and resources such as tracker dogs, the first-ever horse unit which consists of seven horses, and a Cessna airplane. The demand for aerial support has increased exponentially in the northern parts of the Park and the Cessna will thus enable SANParks to create a greater presence in the sky in the targeted areas. This will also ensure a speedy response to crime scenes in the area which is important to apprehend offenders and for successful prosecutions.

The ETIS report also observes that "other seizure records show that small quantities of raw ivory from Botswana, Malawi, Mozambique and Zimbabwe are entering South Africa on occasion", and concludes "that there is some concern that consolidation of ivory from neighbouring countries for future illegal export is a factor". South Africa does not refute that small quantities of ivory occasionally enter the country from neighbouring countries, but we do not agree with the conclusion of this statement that

there is consolidation of ivory from neighbouring countries for future illegal export, As stated before, South Africa and its neighbouring countries work hand in hand to address the illegal trade in wildlife in the region and is currently implementing the Southern African Development Community's (SADC) Law Enforcement and Anti-Poaching Strategy (LEAP) which is aimed at strengthening our anti-poaching capabilities while combating illegal trade in wildlife. The LEAP Strategy is implemented by individual SADC Member States, and the countries are integrating activities of the LEAP strategy into their national action plans to combat wildlife trafficking. Although the National Integrated Strategy to Combat Wildlife Trafficking (NISCWT) in South Africa has not been formally approved, most aspects of the Strategy are already being implemented, including aspects of the LEAP strategy.

The capacity of the South African Police Service (SAPS) to address the illegal trade in endangered species has also increased since the SAPS included the combatting of illegal trade in endangered species into the mandate of their Stock Theft Detective Unit which is now known as the Stock Theft and Endangered Species Unit with members stationed in each of the nine provinces in South Africa. Members of this Unit, members of the Directorate for Priority Crime Investigations Wildlife Trafficking Unit (the Hawks) and Environmental Management Inspectors (EMIs) from the Department of Environmental Affairs, the SANParks and provincial conservation agencies dealing with Biodiversity Crimes, work side by side on all cases dealing with biodiversity enforcement. The National Biodiversity Investigators Forum (NBIF) consisting of officials which are members of the aforementioned units, meet twice a year to discuss issues pertaining to the illegal trade in wildlife. Joint operations and investigations between these units takes place regularly to address the illegal wildlife trade and these are co-ordinated through the various Provincial Joints Structures which prioritise wildlife crime.

A regional consultative workshop on the development of a Trade in Wildlife Information eXchange System (TWIX) was held from 4-5 September 2018, in Johannesburg. The workshop discussed and agreed on a road-map for establishment and implementation of a SADC-TWIX to facilitate exchange of information and international cooperation between wildlife law enforcement agencies in Southern Africa as part of the implementation of the LEAP Strategy. TRAFFIC who was responsible for developing the EU-TWIX and AFRICA-TWIX is responsible for administering and managing the systems on behalf of relevant Government partners and law enforcement agencies and in providing technical backstopping. TRAFFIC experts are currently undertaking scoping missions to all SADC Member States to demonstrate the use of the TWIX tool to greater numbers of officers from relevant enforcement agencies and to identify TWIX participants in collaboration with Member States. Implementing the SADC-TWIX will help enforcement agencies in the region to among others, monitor trends in illegal wildlife trade, carry out threat assessments, trigger investigations in certain instances, and determine the value of wildlife products.


The ETIS report further states that clandestine ivory processing for export is also occurring in South Africa, with some 116 worked ivory seizures reported [representing 364 kg of ivory] in the period analysed, including seven cases where between 125 and 852 worked ivory products were found. South Africa does not agree with this statement. We say this because law enforcement officials in South Africa have only exposed one, small scale processing room in the last 10 years while many operations to disrupt the illegal trade in wildlife specimens in the country have taken place. It is believed that most of the finished ivory products in South Africa originate from neighbouring countries as stated elsewhere in the report.

As observed in the report, Johannesburg's O.R. Tambo International Airport (ORTIA) is a regional air transport hub, with direct flight connections to some Asian countries, and more indirect connections by transiting the United Arab Emirates (Dubai and Abu Dhabi), Qatar (Doha) and Turkey (Istanbul) for onward travel to Asia. Therefore, it is an important port and South Africa has established a Joint

Operations Committee consisting of all Departments involved at ORTIA namely the South Africa Police Force, Customs, State Security Agency, the Department of Environmental Affairs, the Department of International Relations and Cooperation, Department of Home Affairs, Department of Agriculture, Forestry and Fisheries and Department of Health, to address security issues at ORTIA which includes addressing the illegal trade in wildlife, The Airports Company of South Africa is also part of the Committee and is cooperating fully with all Departments. The Department of Environmental Affairs has compliance and enforcement officials based at ORTIA to detect illegal shipments and monitor compliance with current CITES provisions. Regular joint operations between the Departments responsible for security at the airport are held and intelligence gathered for future operations. The report further highlights that "the synergistic involvement of transnational criminal groups that shift between illegally trafficking in abalone, rhino horn and elephant ivory remains a well-established law enforcement challenge in South Africa (Rademeyer, 2016 a, b)". This statement is indeed correct but the Directorate for Priority Crime Investigations has a team of investigators concentrating on these crimes in particular and in the last 3 years many syndicates dealing in Abalone and rhino horn, have been exposed and prosecuted. The various law enforcement agencies in South Africa co-operate with one another to minimize the illegal trade, not only in ivory, but in all species listed in the CITES Appendices as well as species listed as Threatened or Protected in terms of the National Environmental Management: Biodiversity Act, 2004 (NEMBA).

South Africa is confident that we fully implement the requirements of Resolution Conf 10.10 (Rev CoP17), in particular paragraph 6 and being part of the NIAP process will thus not add any value to the survival of the species in the wild in South Africa.

Yours sincerely

  
**Ms Nosipho Ngcaba**  
**Director-General**  
**Department of Environmental Affairs**  
**Letter signed by: Frances Cralgle**  
**Designation: Chief Director: Enforcement**  
**Date: 26/2/19**



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Ref No. CITES Letter 19 Dec 2017

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### **FEEDBACK ON MEASURES TAKEN BY SOUTH AFRICA TO COMBAT ILLEGAL TRADE IN IVORY FOR THE 70<sup>TH</sup> STANDING COMMITTEE MEETING**

With reference to your letter dated 19 December 2017 requesting South Africa to give feedback on measure taken to combat illegal trade in ivory, please find attached a report.

Yours sincerely

Ms. Nosipho Ngcaba  
Director-General  
Department of Environmental Affairs  
Letter signed by: Frances Craigie  
Designation: Chief Director: Enforcement  
Date: 2018/06/15

## **MEASURES TAKEN BY SOUTH AFRICA TO COMBAT ILLEGAL TRADE IN IVORY IN 2016 AND 2017**

1. Approval of the National Integrated Strategy to Combat Wildlife Trafficking (NISCWT) by all government stakeholders (security cluster)

Officials from the Department of Environmental Affairs and the South African Police Service met with officials from the Department of Planning Monitoring and Evaluation (DPME) to finalise the required Socio Economic Impact Assessment (SEIAS) which has to accompany the NISCWT for approval to understand the full costs and the impact of the implementation of the strategy on the economy of the country. DPME granted permission on 14 March 2018 for the Strategy and the SEIAS to be taken to Cabinet for approval.

As required the NISCWT was then taken to the National Development Committee under the Justice, Crime Prevention and Security Cluster (JCPS) and then to the JCPS Cluster on 8 May 2018. The Cluster recommended that the NISCWT and the SEIAS can be taken to the Cabinet Committee for final approval.

Certain aspects / elements of the strategy aligned to the Integrated Strategic Management Approach to rhino management, approved by Cabinet in 2014, are being implemented already.

2. Continued efforts to address domestic illegal trade in ivory, in particular any targeted operations in the Johannesburg area, identified as the area most affected by this illegal trade, including information on any arrests, prosecutions and penalties imposed in the period since CoP17;

### **Finalized ivory cases for 2016 and 2017**

**2016:**

#### **S v Trust Mangwisa Mukeke (Bellville CAS 678/10/2016)**

Charge: Section 42(1) of the Nature Conservation Ordinance 19 of 1974 for the illegal possession of one African elephant tusk with a mass of 11.32kg. Charges: Section 57(1) of NEMBA. Sentence: R 75 000,00 / 3 years imprisonment.

#### **State vs Tianghoa Yang**

Found in possession of Ivory blocks. Charges: Section 57(1) of NEMBA. Sentence: R 6,000,00 or 3 years imprisonment suspended for 5 years.

#### **State versus TW Mukwevho; Park Road CAS 125/07/2014**

Raw Ivory Tusk with weight of 2,8kg. 105A Plea Agreement on one count of contravening Section 57(1) of NEM:BA 10 of 2004. Sentence: R10 000 or 12 months imprisonment and a further 3 years imprisonment suspended for 5 years.

**State versus TI Mosekwane; Winburg CAS 17/5/2016**

Raw Ivory Tusk with weight of 1,6kg. The accused wanted to sell the ivory. Accused was sentenced to 5 years imprisonment of which 3 years were suspended for 4 years. PP: A Ferreira

**S v Mohammed Ali and 2 others; Cape Town CAS 706/01/16**

Police received information on the 13 January 2016 that Accused 1 and 2 had an elephant tusk in their possession. None of the Accused had permits for the Ivory. The Charges: Possession of elephant Ivory without documentation - contravention of section 42(1)(b) of Ordinance 19 of 1974. Accused 3 pleaded guilty in terms of S112 on the main count. He was sentenced to a fine of R4000 or 12 months imprisonment and a further 3 years direct imprisonment wholly suspended for 5 years. Charges withdrawn against Accused 1 and 2. Prosecutor: Ms A Heeramun.

**2017:**

**S v JJ Chauque & 1 other; Giyani CAS 120/07/16**

Charge: contravening section 31(1)(a) of the Limpopo Environmental Management Act 7 of 2003; possession of unlicensed firearm and ammunitions under Act 60 of 2000 (firearm control Act). Upon receiving information the accused was arrested at his house in possession of a rifle and ammunition. The accused pointed out an elephant carcass as well as 2 hidden tusks. Through DNA analysis blood on his clothes and an axe was linked to the carcass which the accused pointed out. Sentence: R100 000.00 or 6 years imprisonment of which half was suspended for five years on conditions. SA: N Makhuvele

**S v A Maluleque; Seselanani CAS 18/07/16**

Charge: Contravening the provisions of section 43(2)(a) of the Limpopo Environmental Management Act 7 of 2003, possession of two elephant tusks. The accused tried to smuggle the tusks cross-border from the Republic to Mozambique, at the border crossing the tusks was found in his motor vehicle. Sentence: R30 000.00 fine or 5 years imprisonment, and the said vehicle was forfeited to the State. SA: N Makhuvele

**State v Lucas Neshunzi and Ndishavelafhi John Musethso; Zamdela CAS 227/07/17**

The accused were in possession of a piece of ivory with a weight of 4.304kg. Both accused pleaded guilty and were sentenced to R15 000 or 5 years imprisonment. SA: A Ferreira

**S v Qinghua Chen; Seepunt CAS 466/10/16**

Charge: Possession of ivory without documentation. Accused pleaded guilty. Sentence: Count 1: Five (5) years direct imprisonment wholly suspended. Count 2: Five (5) years direct imprisonment wholly suspended . AFU Section 18 order R 81 1538.00 paid into CARA fund. SA: Blane Lazarus

**State versus TI Mosekwane; Winburg CAS 17/05/2016**

The accused sold the ivory tusk with a weight of 1,6kg. The accused pleaded guilty and was sentenced to 5 years imprisonment of which 3 years imprisonment was suspended for 4 years.

**State versus Charles Kenny; Park Road CAS 457/03/2014**

Amongst other charges the accused was convicted on one count of contravening Regulation 16(1)(b) of the CITES Regulations in terms of NEM:BA 10 of 2004 for offering elephant fat for sale in his herbal shop. The bottle indicated on the label that it was elephant fat but it was not proved that it was indeed elephant fat therefore the accused was convicted (after trial) on the Regulation that prohibits the offering for sale of any species on the CITES list. On this count the accused was sentenced to R20 000 or 2 years imprisonment suspended for 4 years. The accused was also convicted on Section 57(1) of NEM:BA 10 of 2004 for the possession of TOPS species in his shop and was sentenced to 36 months correctional supervision and a fine of R100 000 of which half was suspended for 4 years.

**State versus Neshunzi and Zamdela CAS 227/07/2017**

The accused pleaded guilty on c/s 57(1) of NEM:BA 10 of 2004 – possession of tusk. The weight was 4.304kg.

**Ivory seizures for 2016 and 2017 in the Johannesburg area**

Cleveland	CAS 257/11/2016	Illegal possession of Rhino horn, Ivory, Lion tooth, Lion Claws, Lion Bones, Sea Cucumber, Sea Horses, Leopard Shin, Abalone, Pangolin scales and Illegal Pharmaceutical Products	Shi Jialiang / Yang Yungdu
Cleveland	CAS 112/12/2016	Illegal possession of Rhino horn and Ivory	Yu Yang
Cleveland	CAS 208/03/2016	Illegal possession of Rhino horn, Ivory and Drugs	Yangwei Feng / Yan Zhang
Cleveland	CAS 185/11/2016	Illegal possession of Rhino horn, Ivory and Drugs	Wu Baiquan / Feng X
Cleveland	CAS 186/11/2016	Illegal possession of Rhino horn and Ivory	Farisia Todha Bvumbi
Cleveland	CAS 243/11/2016	Illegal possession of Rhino horn and Ivory	Li Giangani
Cleveland	CAS 101/03/2016	Illegal possession of Rhino horn and Ivory	Jianpeng WU
Cleveland	CAS 192/03/2016	Illegal dealing of Ivory and Illegal possession of Rhino horn and Drugs	Wang Zhang / Lian Chen / Chaun Iwu
Edenvale	CAS 182/03/2016	Illegal possession of Rhino horn, Ivory and Drugs	Xihohua Wu / Xiaoqing Yang



Cleveland	CAS 204/03/2016	Illegal possession of Rhino horn, Ivory and Drugs	Mei Li / Zhiqiang Wang / Jianghao Zhang / Guotai Zhong
Cleveland	CAS 205/03/2016	Illegal possession of Rhino horn, Ivory and Drugs	Mei Li
Cleveland	CAS 06/02/2017	Illegal possession of Pangolin Scales, Rhino Horns, Ivory, Sea Cucumber and Drugs	Feng Dongqin F
Cleveland	CAS 318/07/2017	Illegal possession of Ivory and Pangolin Scales	Nhlenyama Samson / Nxumalo Emozi Innocent / Dlamini Bongani Lindokuhle
Cleveland	CAS 209/02/2017	Illegal possession and dealing of Rhino horn, Ivory and Lion Claws/Teeth	Vincent Watuka
Cleveland	CAS 30/03/2017	Illegal possession of Ivory	Norman Dume / Alain Tsungo

### 3. Establishment of a new Border Management Authority (BMA) in South Africa

The BMA, as envisaged, will take over all border management functions at entry and exit points nationally. The Border Management Authority Bill was passed by the National Assembly on 9 June 2017 and the Bill is currently in the Parliamentary process for approval.

Once the legislative process is completed and the legislation is approved the BMA will be fully established and will play an important role at the frontline of South Africa's borders. It will facilitate legitimate movement of people and goods in line with the country's socio-economic objectives.

The BMA Bill is underpinned by imperatives ranging from giving South Africa a new policy paradigm of integrated border management to a determination to facilitate legal and secure movement of people and goods across SA borders. The BMA will assist in preventing, among others, drug-related crimes, human trafficking, illegitimate movement of goods, including wildlife and wildlife products and unauthorised movement of persons. This will close the chapter on porous borders bedevilling the country over the years, and will in great measure roll back the frontiers of corruption hitherto fuelled by fragmented border management.

Implementation will be done in phases and the three proposed BMA pilot Ports of Entry for 2018/19 are OR Tambo International Airport (ORTIA), Oshoek land Port of Entry and the Port of Entry Control Centre (PECC) in the Cape Town Harbour.

### 4. Reporting to ETIS

The Director General of the Department of Environmental Affairs sent a letter to the Acting Commissioner of the South African Police Service (SAPS) in August 2017 to request the SAPS to report every ivory seizure on the ETIS reporting form to the Department within 60 days of the occurrence of the seizure in order for the Department to send the information to TRAFFIC. We have also requested provincial conservation enforcement officials, South Africa National Parks

officials and Environmental Management Inspectors to report all ivory seizures to the Department immediately. Departmental officials remind investigators at each meeting of the National Biodiversity Investigators Forum to send ETIS reports to the Department when ivory seizures were made. We will follow up with investigators once we are aware of any ivory seizures to ensure that reports are done and sent to the ETIS Office in Zimbabwe.

5. Poaching of elephants in South Africa in 2016 and 2017.

Interventions being implemented to counter rhinoceros poaching, especially in Kruger National Park where all but one of the elephant deaths have occurred, are also used to respond to the elephant poaching.

Our counter efforts in the Kruger National Park involve the following:

- Implementation of KNP anti-poaching strategy which focuses on both rhino and elephant poaching activities in the KNP;
- Joint SANParks, SAPS & SANDF planning and execution of operations both in the park and in the region – focused on both rhino & elephant poaching;
- Sustained deployment of additional Rangers into specific elephant & rhino poaching “hot spots”;
- Rapid reaction capability of air and K9 support in support of both rhino and elephant poaching incidents;
- Improved access control technologies being implemented in the KNP at Important Protection Zone gates and to be rolled out at all KNP gates in due course;
- Sustained joint operations conducted externally by the SANParks Environmental Crime Investigation (ECI) unit and SAPS units;
- There are continued arrests of suspected poachers and the recovery of a significant amount of firearms in internal counter operations in the KNP as well as outside the Park;
- Good cooperation and support from alliance partners (Government authorities, Provincial authorities, Private land owners) both along the western and eastern (Mozambique) boundaries of the park;

We have received funding for Elephant Crime Scene management training and for producing associated materials such as electronic training materials and DVD's for first responders and investigators. Plans are also in place to improve the Operations Room in Phalaborwa, which is used for enforcement operations in the northern part of the Kruger National Park where currently most of the elephant poaching takes place.

6) Other initiatives – In general for enforcement and anti-poaching

The Department of Environmental Affairs (DEA) undertook the following initiatives:

- Increased capacity for Environmental Management Inspectors on Grade 5 level (field guides in parks and reserves) - advanced training was rolled out to 1273 officials employed within state

reserves across South Africa. The course covered topics relating to \* lawful arrest \* conducting vehicle and person searches \* seizure and processing evidence supporting admissibility to court \* testifying in court. This project was part of the DEA GEF project and the Endangered Wildlife Trust / US Department of State Bureau of International Narcotics & Law Enforcement Affairs (INL) collaborative project. Additional material is currently being developed to further support training and to be translated into different South African languages. The eLearning platform for all Environmental Management Inspectors (EMI's) has been developed and undergoing testing, after which the curriculum will be loaded on the DEA system. All designated Environmental Management Inspectors will have access to the training material.

- DEA as part of the GEF project, hosted the first ever Field Ranger Conference in early 2018 with 200 rangers from across South Africa in attendance. The reason for the event was to engage directly with rangers in furthering strategic goals derived from the Rhino Lab, EMI strategy as well as other projects currently underway. The outcomes from the conference set the scene for detailed implementation and already resulted in a new project to look at increasing the capacity of field rangers employed outside government.
- Actively targeted training for ports of entry and exit and supply materials and equipment to two pilot ports and then implement at other ports. Training supported with operational work has been on-going with a total number of 2132 officials trained at South African ports, including members of the Defence Force responsible for patrolling border lines between ports. In addition commodity identification manuals have also been developed through a collaborative project between DEA and the World Wildlife Fund South Africa Office from US INL funds. These manuals and associated posters will be distributed as part of the on-going port and border line training programme.
- Awareness for prosecutors / investigators / judiciary with a focus on areas with courts where the majority of wildlife cases are being heard. Plans are to introduce new engaging materials, practical scenarios, models, and multi-media tools. Presentation skills will be improved and potential for exchange visits with colleagues from Mozambique. Judicial Colloquium was hosted in collaboration with SAJEI (South African Judicial Education Institute) and DEA, for judicial officers from South Africa, Mozambique and Namibia. Going forward, SAJEI, due to judicial independence and sensitivities, need to internalise the training and are now rolling it out to different regions.
- Development of crime scene responder knowledge and curriculum for roll out to detector dog units as examples of best practise. There is a need to invest in handlers and dogs.
- Development of curricula on best practise for first responders for incidents at roadblocks. As already mentioned above under vehicle searches and process around seizure of exhibits under chain of custody.
- Development of multi-media Muthi Traders awareness raising material in the form of a 31 Page information booklet, an awareness video linked to the content of the booklet (translated in to seven South African Languages and all containing critical information relating to regulations around collection and trade within the traditional healers sector

Going forward four separate projects are being initiated to address:

- Crime scene management and investigations in so far wildlife trafficking through ports;

- Next level of crime scene management for field rangers;
- The collection of human touch DNA from carcasses; and
- Development of a secure, mobile, multimedia communication based platform, for roll-out to port enforcement agencies, in order for the EMI to lend quick direction and enforcement support relating to any suspicious biodiversity related commodities detected at ports.

All of the above will be converted into eLearning courses in order to support practical training interventions.

DEA is also looking into the development of a national database for DNA sequencing to support the SAPS in the analysis of seized material at crime scenes



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**Ref No.** CITES ZA NIAP

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Dear Johannes

### **CONSULTATION ON POSSIBLE NEW PARTIES FOR THE NATIONAL IVORY ACTION PLANS (NIAPs) PROCESS: SOUTH AFRICA**

Your letter dated, 19 December 2016, regarding consultation on possible new Parties for the NIAPs process refers.

As stated in your letter, the Elephant Trade Information System (ETIS) report to the 17<sup>th</sup> Meeting of the Conference of Parties stated that South Africa had no large-scale ivory seizures since 2012. The various law enforcement agencies in South Africa co-operate with one another to minimize the illegal trade, not only in ivory, but in all species listed in the CITES Appendices as well as species listed as Threatened or Protected in terms of the National Environmental Management: Biodiversity Act, 2004 (NEMBA).

The following information relates to the measures implemented by South Africa as recommended in paragraph 6 of Resolution Conf. 10.10 (Rev. CoP17).

#### **A. Internal legislative regulatory, enforcement and other measures:**

*Loxodonta africana* (African elephant) is listed as a protected species in terms of NEMBA and restricted activities involving specimens of the species must be authorized through permits issued in terms of NEMBA and the Threatened or Protected Species (TOPS) Regulations.

The definition of "restricted activity" is as follows:

- (a) in relation to a specimen of a listed threatened or protected species, means-

- (i) hunting, catching, capturing or killing any living specimen of a listed threatened or protected species by any means, method or device whatsoever, including searching, pursuing, driving, lying in wait, luring, alluring, discharging a missile or injuring with intent to hunt, catch, capture or kill any such specimen;
- (ii) gathering, collecting or plucking any specimen of a listed threatened or protected species;
- (iii) picking parts of, or cutting, chopping off, uprooting, damaging or destroying, any specimen of a listed threatened or protected species;
- (iv) importing into the Republic, including introducing from the sea, any specimen of a listed threatened or protected species;
- (v) exporting from the Republic, including re-exporting from the Republic, any specimen of a listed threatened or protected species;
- (vi) having in possession or exercising physical control over any specimen of a listed threatened or protected species;
- (vii) growing, breeding or in any other way propagating any specimen of a listed threatened or protected species, or causing it to multiply;
- (viii) conveying, moving or otherwise translocating any specimen of a listed threatened or protected species;
- (ix) selling or otherwise trading in, buying, receiving, giving, donating or accepting as a gift, or in any way acquiring or disposing of any specimen of a listed threatened or protected species; or
- (x) any other prescribed activity which involves a specimen of a listed threatened or protected species.

The terms "specimen" is defined in NEMBA as follows:

- (a) any living or dead animal, plant or other organism;
- (b) a seed, egg, gamete or propagule or part of an animal, plant or other organism capable of propagation or reproduction or in any way transferring genetic traits;
- (c) any derivative of any animal, plant or other organism; or
- (d) any goods which-
  - (i) contain a derivative of an animal, plant or other organism; or
  - (ii) from an accompanying document, from the packaging or mark or label, or from any other indications, appear to be or to contain a derivative of an animal, plant or other organism.

In addition to the aforementioned, permits are also required in terms of the National CITES Regulations, promulgated in terms of NEMBA, for the import, export and re-export of specimens of species listed in the CITES Appendices. The nine Provincial Conservation Authorities in South Africa also regulate elephant specimens in terms of provincial legislation. The management of African elephant is further regulated through the National Norms and Standards for the management of elephants in South Africa. These norms and standards were developed and published in terms of NEMBA.

Furthermore, the TOPS Regulations include a compulsory registration requirement for wildlife traders, which means that a person is not allowed to trade in any specimens of TOPS listed species (African elephant is a TOPS listed species) without being registered as a wildlife trader. All persons / companies that trade in ivory and ivory products within South Africa must be registered in terms of these provisions.

Non-compliance with a provision in NEMBA (carrying out a restricted activity without a permit, e.g. possess or sell ivory without a permit); the TOPS Regulations (e.g. ivory not marked as prescribed in the regulations or a trader is not registered as prescribed) and the CITES Regulations, constitutes an offence and the penalties upon conviction are specified below:

- Penalties specified in NEMBA: A person convicted of an offence is liable to a fine not exceeding R10 million, or an imprisonment for a period not exceeding ten years, or to both such a fine and such

imprisonment. In addition, a person convicted of an offence involving a specimen of a listed threatened or protected species, a fine may be determined, either in terms of the aforementioned provision or equal to three times the commercial value of the specimen in respect of which the offence was committed, whichever is the greater.

- Penalties specified in TOPS Regulations: A person convicted of an offence in terms of the TOPS regulations is liable to-
  - (a) imprisonment for a period not exceeding five years;
  - (b) a fine not exceeding R5 million, and in the case of a second or subsequent conviction, to a fine not exceeding R10 million or imprisonment for a period not exceeding 10 years or in both instances to both a fine and such imprisonment; or
  - (c) both a fine and such imprisonment.
- Penalties specified in the CITES Regulations: A person convicted of an offence in terms of the CITES Regulations is liable to-
  - (a) a fine not exceeding five million rand or imprisonment for a period not exceeding five years, and in the case of a second or subsequent conviction, to a fine not exceeding R10 million or imprisonment for a period not exceeding 10 years;
  - (b) both such fine and imprisonment; or
  - (c) in case of repeated offenders, a fine or imprisonment or both a fine and imprisonment and being banned from ever applying for a permit to trade in CITES listed species again.

The Department of Environmental Affairs and the nine provincial conservation authorities implement the above-mentioned legislation. Compliance monitoring and enforcement are also the responsibility of the Environmental Management Inspectors (EMIs) in these departments, but other enforcement departments and agencies, including among others, the South African Police Service (SAPS), the South African Revenue Services (SARS – Customs) and the National Prosecuting Authority are also actively involved in assisting to detect, investigate and prosecute non-compliance with the legal provisions.

With regard to stockpile management, the marking of ivory is prescribed in the TOPS Regulations and the National CITES Management Authority maintains an inventory of government-held stockpiles and the provincial CITES Management Authorities maintain inventory of both provincial and privately owned stockpiles. South Africa informs the CITES Secretariat of the ivory stocks on an annual basis.

## **B. ETIS Report to the 17<sup>th</sup> CoP to CITES:**

The ETIS report raised concerns about the illegal flows of ivory from Africa and the complexities associated with this form of wildlife trafficking. It should be noted that South Africa implements a whole-of-government approach (assisted by civil society) under the leadership of the South African Police Service to address wildlife trafficking. In the latter part of 2015 and 2016 the National Integrated Strategy to Combat Wildlife Trafficking (NISCWT) was developed. This strategy encompasses actions to address the entire illicit value chain in an organized manner. This Strategy is currently being discussed for approval by all government structures that will be affected by the implementation of the Strategy.

Fundamental to the new strategic approach is the acceptance that wildlife crime can no longer be viewed as an environmental concern only, as it has evolved into a serious organized crime and national security threat in South Africa, which requires focused law enforcement. This notion is supported by the following factors and trends related to wildlife trafficking in South Africa:

- Wildlife trafficking is a threat to human and environmental security in South Africa;
- Wildlife trafficking in South Africa has become a threat to state security;
- Intensity and impact of wildlife trafficking in South Africa; and



- Previous initiatives have not reduced the proliferation of wildlife trafficking in South Africa.

The Vision of the NISCWT is a well-resourced and implemented integrated, multidisciplinary and consolidated law enforcement approach to break the illicit value chain of wildlife trafficking in South Africa and beyond.

The Mission of the Strategy is to focus and direct law enforcement's ability, supported by the whole of government and society, to address the threat wildlife trafficking poses to national security and biodiversity. The following objectives have been identified to significantly increase the South African government's ability to address the security threat wildlife trafficking currently poses to the country:

- Improving law enforcement, supported by the whole of government and society, to effectively investigate, prosecute and adjudicate wildlife trafficking as a form of transnational organized crime;
- Increasing the government's ability to detect, prevent and combat wildlife trafficking in South Africa and beyond; and
- Increasing national, regional and international law enforcement collaboration and cooperation on combating wildlife trafficking.

The effective implementation of the NISCWT will ensure that South Africa will significantly increase its ability to detect, investigate, arrest, prosecute and prevent wildlife trafficking in South Africa and beyond. It will also reduce corruption related to this form of transnational organized crime.

The African elephant is one of the four priority species identified by the South African government in the NISCWT as being exploited by organized crime groups. The other 3 species are rhinoceros, cycads (*Encephalartos* species) and abalone.

Although the South African population of African elephant is increasing and standing at approximately 17 500 individuals, an increase in illegal killing of elephants in the northern part of Kruger National Park has taken place in the last 2 years. South Africa is actively involved in law enforcement efforts to minimize the illegal killing.

Although South Africa has a legal domestic market for ivory which allows vendors, registered under TOPS, to sell ivory with the necessary TOPS permits, there is no information or evidence that this trade contributes to poaching or illegal trade. There are only a few registered vendors who mainly sell a limited amount of knives with ivory handles and jewelry. The legal domestic trade in ivory is regulated in terms of national legislation as described above and we also comply with Resolution Conference 10.10 (Rev CoP17) paragraph 6. a) to e) in the regulation of our domestic trade.

There is limited illegal trade of ivory within South Africa, mainly in the Johannesburg area, where there is an active oriental community. However, enforcement agencies regularly target the area and people involved in the illegal trade. For example South African Police Service (SAPS) officials have in the last two months apprehended people of Asian origin for the illegal possession of ivory. Please find attached, as Annexure A, information relating to convictions for 2016 that relate to elephant ivory. The fact that the South African law enforcement authorities are taking perpetrators to court shows that we are serious about curbing the illegal trade in wildlife, including ivory.

Attached as Annexure B is a list of court cases for ivory related offences from 2010 to 2015. The Department will send this list to TRAFFIC to ensure that the information is captured on the ETIS database.

South Africa further complies with paragraphs 12, 13, 14, 19 and 20 of Resolution Conf 10.10 (Rev CoP17) and participates in the Monitoring of Illegal Killing of Elephants (MIKE) and the Elephant Trade Information System (ETIS). As stated in the ETIS report, South Africa experienced challenges in terms of reporting of all




cases of confiscation of ivory due to the fact that wildlife law enforcement is not a national competence but is shared by the national Department of Environmental Affairs (DEA), the nine provincial conservation authorities, South African National Parks, the South African Police Service (SAPS) and the South African Revenue Service (SARS), which includes Customs. This presented a coordination challenge, especially to ensure that the ETIS forms are completed in addition to the documentation that must be completed in terms of existing confiscation processes of the various authorities. This challenge will be addressed through the implementation of the NISCWT once approved as well as the process that is currently underway to roll out the new Border Management Agency that will be responsible for border management in South Africa. This function is currently being performed by various national departments, including Home Affairs, SAPS, SARS, Agriculture, Forestry and Fisheries and Health. To ensure this challenge is addressed in the interim (until the Border Management Agency is operational), the SAPS will issue a national instruction that all ivory confiscations must be reported to DEA, to enable DEA to submit the ETIS forms to TRAFFIC.

South Africa remains committed to elephant conservation and management in range States. In this regard, South Africa participates in the implementation of the African Elephant Action Plan and has in the past contributed to the African Elephant Fund.

Please note that Ms Sonja Meintjes, Director: Biodiversity Enforcement will be the NIAP Focal Point for South Africa. Her email address is: [smeintjes@environment.gov.za](mailto:smeintjes@environment.gov.za) and telephone number +27 12 399 9597 or +27 82 655 4711.

Yours sincerely



Ms Nosipho Ngcaba  
Director-General  
Department of Environmental Affairs  
Letter signed by: Frances Craigie  
Designation: Chief Director: Enforcement  
Date: 2017/01/20

**1. S v Richard Nevhulaudzi**

Makhado CAS 377/08/09; Case number RC 136/09; Louis Trichardt, Prosecutor: H van Rensburg.

Charge: contravention of section 41(1) (a) of Act 7 of 2003(the Limpopo Environmental Management Act). A member of SANPARKS received information that suspects were trying to sell elephant tusks. An application in terms of section 252(A) was made to conduct a trap. Authority was granted from the Director of Public Prosecutions, North Gauteng. Therefore on 25/08/2009 the accused met with the undercover agent. The accused tried to sell 4 pieces of elephant tusk. Initially the accused requested R100 000.00 for the tusks. After negotiations the deal was clinched at R17 000.00. Thereafter the accused was arrested. The incident was recorded on video and audio. The tusk weighed 8.748 kilogram. The value was established at R 8177.62. Accused pleaded guilty. He was sentenced to 4 years imprisonment without the option of a fine on the 25/10/2010.

**2. S v J Sithole**

Richardsbay CAS 607/8/09, Case nu: RCR 28/10

The accused was convicted of Sec 37(1) if the Nature conservation act 15/74, for being in possession of elephant tusk, and sentenced to R 2000/6months imprisonment.

**2011**

**3. S v M Fokazi**

Botshabelo CAS 47/6/10; Prosecutor A Ferreira.

The accused was charged in terms of Sec 57(1) of NEMBA, for being in possession of one elephant tusk and was sentenced to R 9000/6months imprisonment on the 1/3/2011.

**4. S v T Mkize**

Botshabelo 20/2/11; Prosecutor: L Loots

The accused was charged in terms of Sec 57(1) of NEMBA, for being in possession of ivory which weighed 940g to the value of R 1128. He was sentenced to R 6000/8months imprisonment on the 11/8/11.

**5. Lulu Tian ( Chinese National)**

OR Tambo 99/6/2011; Case number: 1SH 121/11; Prosecutor: Adv M van Heerden

The accused was arrested at OR Tambo International Airport on his way to Port Elizabeth in possession of 18 pieces of jewellery made out of elephant ivory. He was convicted on the 20/7/2011 in terms of Section 57(1) of Act 10 of 2004: Possession of elephant ivory, and sentenced to R 15 000/ 3 years of imprisonment.

**6. S v Billy van Wyk ( South African Citizen)**

Krugersdorp 848/08/2010; Case nu: RC 35/2011; Prosecutor: Bernadette Hatting

The accused was arrested during a routine search by the South African Police Service in Krugersdorp for being in possession of an elephant tusk weighing approximately 21 kilogram. Convicted in terms of section 57(1) of Act 10 of 2004: Possession of elephant ivory and on 16/3/2011 sentenced to R5000 or 2 years imprisonment. A further 2 years imprisonment is suspended for 5 years on certain conditions.

**7. S v Jiaxiang Xu ( Chinese National)**

OR Tambo CAS 203 /12/2010; Case nu: 1SH 241 /2010, Prosecutor: Adv M van Heerden.

The accused was arrested at OR Tambo International Airport with 4 small elephant ivory blocks in his possession. He was on his way to Hong Kong. Convicted on 17/1/2011 in terms of section 57(1) of Act 10 of 2004 and in terms of section 83(b) of Act 91 of 1964 and sentenced to R 15 000 or 3 years imprisonment. A further 3 years imprisonment suspended for 5 years on certain conditions

**8. S v Wensi Teng ( Chinese National)**

OR Tambo CAS 206/1/2011; Case nu: 1SH 13/2010, Prosecutor: Adv A Barnard

The accused was arrested at OR Tambo International Airport in possession of jewellery made out elephant ivory. He was on his way to Hong Kong. Total weight of the said items was 7.5kg. He was convicted in terms of sec 57(1) Of Act 10 of 2004: possession of elephant ivory and in terms of sec 83(b) of Act 91 of 1964 and sentenced on 10/2/2011 R60 000 or 4 years imprisonment of which R30 000 or 2 years imprisonment were suspended for 5 years on certain conditions.

**9. S v Lin Wenzhu ( Chinese National)**

OR Tambo CAS 210/1/2011; Case nu: 1SH14/2010,

The accused was arrested at OR Tambo International Airport in possession of elephant ivory artefacts. He was convicted on a charge of fraud and in terms of sec 57(1) of Act 10 of 2004 and sentenced on 14/3/11 to R10 000 or 3 years imprisonment. A further 4 years imprisonment is suspended for 5 years on certain conditions

**2012**

**1. S v Keith Randall; Lichtenburg 252/02/2011**

The accused was charged with: Contravening Section 57(1) of the National Environmental Management: Biodiversity Act 10 of 2004, read with Sections 1, 56(1), Chapter 7 and Section 102(1) and (2) of the said Act, also read with the Government Notice R150, R151 and R152 in Government Gazette 29657 of 23 February 2007 (listing of threatened or protected species, as amended) and further read with Section 250 of the Criminal Procedure Act 51 of 1977 - Possession of ivory. The accused received information that a certain Mr. Fouchè, who is well known to the accused, was in possession of two elephant tusks which he wanted to be evaluated and priced. The accused visited Mr. Fouchè who informed him that he inherited the said elephant tusks and that he has the necessary permits to possess the said elephant tusks. On the 28<sup>th</sup> of February 2011 the accused collected the

said elephant tusks from Mr. Fouchè, hid it under a blanket and took it to a lady, Joey Slabbert, who would have evaluated and priced the said tusks. Within approximately five minutes after the accused entered the house of Joey Slabbert, four policemen entered the house and arrested the accused for the possession of the said elephant tusks. The accused immediately realized that Joey Slabbert acted as an informant of the police and that the accused had been caught in a trap. Mr. Fouchè never showed the accused any permits and when the accused received and possessed the said two elephant tusks he was not in possession of a permit issued in terms of Chapter 7 of Act 10 of 2004. The accused pleaded guilty and was sentenced to A fine of R5 000.00 (five thousand rand) or 12 (twelve) months imprisonment of which R2 500.00 (two thousand five hundred rand) or 6 (six) months imprisonment is suspended for a period of 5 (five) years on condition that the accused is not found guilty of contravening Section 57(1), 57(2), 65(1), 67(2), 69(2), 71(1), 73(3), 81(1) or 101 of the National Environmental Management Biodiversity Act 10 of 2004, committed during the period of suspension.

**2. Nkosinathi Mbele; Molopo B228/11; Mmabatho 140/07/2011**

Possession of elephant ivory; Guilty as charged R3000.00 or 6 months imprisonment suspended for 5 years

**3. S v Mahn Thuong Tran, OR Tambo CAS 37/12/2011, 2SH 291/2011.**

The accused was arrested with 2 rhino horn and various ivory items in this possession whilst transiting RSA from Mozambique to Vietnam. He was charged on two counts of contravening Sec 57(1) of NEMBA and on 18/05/2012 was sentenced to R 200 000 or 3 years imprisonment and a further 4 years were suspended for 5 years.

**4. S v Liu Zihou ( Chinese Citizen); Bedfordview CAS 324/5/2012; 4SH 217/2012, Germiston Court.**

The accused was arrested at number 26A Florence Road in Bedfordview in possession of 2 rhino horns (sold to the accused in an undercover operation),

3 pieces of elephant ivory and 2 leopard skins. He was convicted on the 16/7/2012 on the following charges: Count 1: Contravention of section 57(1) of Act 10 of 2004, possession of two rhino horns. Count 2: Contravention of section 57(1) of Act 10 of 2004: possession of 3 pieces of elephant ivory. Count 3: Contravention of section 57(1) of Act 10 of 2004-Possession of two leopard skins and was sentenced on the 17/7/2012 as follows: Count 1: 3 years imprisonment; Count 2: 3 years imprisonment. Count 3: 2 years imprisonment; Effective term of imprisonment: 8 years imprisonment.

**Prosecutor Adv. van Heerden.**

**5. Hu Zhao (Chinese); OR Tambo CAS 56/08/2012; Case number: 1 SH 165/201**

The accused was arrested at OR Tambo International in possession of 14 pieces of ivory and 3 lion teeth. He was convicted as follows on the 13/8/2012: Count 1: Contravention of section 57(1) of Act 10 of 2004: possession of 14 pieces of ivory. Count 2: Contravention of section 57(1) of Act 10 of 2004: possession of 3 lion teeth and was sentenced on the on 13/8/2012 to R20 000 or 3 years imprisonment. **Prosecutor: Mrs Ninette Lamden**

**6. S v Vengani Nhema and Siphosenkosi Mhaka; Randburg Regional Court, Douglasdale 918/8/2101**

The accused was arrested in an undercover operation in possession of two pieces of elephant ivory tusk with a total weight of 4.48kg and a total length of 79cm. He was convicted on 30/11/2012 on a contravention of section 57(1) of Act 10 of 2004, and sentenced on the same day to 10 years imprisonment.

**Prosecutor: E Mdau**

**7. S v QIMING CHEN AND YOUPING LIN; Ventersbrug CAS 51/03/12 & 52/03/12,**

The State entered into a Section 105A Plea-and-Sentence agreement with both the accused, due to the fact that the 204 witness, which the police arranged, without consultation, disappeared. Accused 1: Qiming Chen,

was convicted as follows: Count 1: Contravening Section 57(1) of NEMBA, Possession of 8,337kg of ivory and sentenced on 15/11/12 to Sentence: R70 000 or 3 years imprisonment and a further 3 years imprisonment suspended for 5 years on conditions. Count 2: Contravening Section 4(1)(b)(i)(aa) of the Prevention and Combating Corrupt Activities Act, No. 12 of 2004 – Giving a benefit (Public officers) Sentence: 6 months imprisonment suspended for 5 years. Accused 2: Youping Lin was convicted as follows: Count 1: Contravening Section 57(1) of NEMBA, Possession of 8,337kg of ivory and sentenced on 15/11/12 to Sentence: R50 000 or 1 years imprisonment and a further 3 years imprisonment suspended for 5 years on conditions. Further to abovementioned court fines and sentences imposed the AFU seized the following items that were forfeited to CARA: the 8,337kg of ivory to the value of R175 985, 56; One Toyota Corolla Verso (CA 769 672) to the value of R100 000, R900 cash offered as a corrupt benefit; R4300 cash and US \$7289 (Total amount of R58 300); Total revenue relating to AFU: R335, 185.56; Total revenue relating to court fines: R120, 000.00: R 455,185.56.

**Prosecutor: Adv. A Ferreira**

**8. S v M Tambuue, (Congolese citizen) Philedelphia Cas 113/09/2012**

The police received information that the accused is possession of ivory in a vehicle. The police found the accused in possession of 21 African tusks, which weighed 312 kilograms. The accused pleaded guilty and was sentenced in December 2012 to 10 years imprisonment of which 3 years was suspended. **Prosecutor: Adv. A. Heeramun**

**9. S v A Thiam (DRC) Milnerton CAS 107/06/2011**

The accused is the owner of a curio shop. He was informed that two Chinese nationals want to sell ivory. The police was informed and the accused was arrested of being possession of 7 African tusks, 98 kilograms. He was sentenced in terms of Section 105(A) to a fine of R 100 000, and 3 years imprisonment suspended for 5 years, during December 2012. **Prosecutor: Adv. A. Heeramun**

## 2013

### 1. S v Abdulha Ali; Cleveland

The accused was arrested for being in possession of elephant ivory from the species *Loxodonta Africana*. Convicted in terms of section 57(1) of the National Environmental Management Act, Act 10 of 2004 and sentenced in February 2013: 3 years imprisonment of which 1 year is suspended for 5 years on certain conditions. **Prosecutor: Coleen Ryan**

### 2. S v Siquan Zhang and Peter Cela; Florida CAS 29/05/2013, SH 258/2013

Accused were found in possession of 49 pieces of ivory with a value of approximately R25 000. Convicted on 3/10/13 on a charge of contravention of section 57(1) of the National Environmental Management Act, Act 10 of 2004 and sentenced to : R 20 000 or 3 years imprisonment. **Prosecutor W Coetzee**

### 3. S v J Nyirenda

The accused was arrested at Beitbridge border post whilst crossing the border from Zimbabwe in a Citi liner bus to RSA. Four tusks, 2kg of ivory, was found hidden underneath some luggage, valued at R 1600.00. He was convicted and sentenced to R 8000/4years imprisonment.

### 4. S v Tebbs Mahotomabe. Kuruman CAS 106/06/2012

Convicted on 12 February 2013 for the possession of elephant tusk (ivory) in terms of the Northern Cape Conservation Act, and sentenced on 12/2/13 to: R50 000 or 3 years imprisonment half of which is suspended for 3 years.

## 2014

### S v Cheng Jie Liang (Table view CAS 316/09/2012 ( counts 1 and 2); Table view CAS 463/09/2012 (count 3)

Police received information that abalone was being processed, moved, stored at a storage facility. MCM kept observation. On 14/9/12 the accused, Mr Cheng Jie Liang a Chinese National was arrested. The accused was observed MCM, at the storage



facility and was apprehended, the vehicle was searched and keys were found in the car. The vehicle, white Audi is registered to Mr Mingshu Wu. He was taken back to the storage facility and Ms Kapp confirmed that the Accused was there and was one of the person who regularly visited the storage facility. The keys opened units 12 and 349. According to Kapp, Units 12 is registered in the name of Mr Mingshu Wu and 349 is registered in the name of Mr Chih-Fung Lu. It was discovered that it was not abalone, but ivory which was confiscated. Photo's was taken and both units were searched and ivory and pieces of tusks were found in boxes and some items hidden in big drying ovens in the Unit. The ivory was identified as African Elephant (*Loxodonta africana*) ivory and the estimated value is R 21 150 353.60. The accused was unable to produce documentation for the possession of the ivory. The accused was arrested. The accused cell phone was confiscated and analysed. The Accused's fingerprints have been found on the boxes, containing the Ivory. His cell phone had images/photos of Ivory tusk, which appear to be the same as the seized items. A few days later, the police was tasked to remove the dryers from the units and discovered more ivory. Count 3: On the 20/9/12 the police received information that ivory was stored at a residential property in Table view. They obtained search warrants for flat A1101 and garages 29/28, 32 and 33. Mr Moi-Wing Ng aka Tom arrived whilst the police were present. According to him, the flat was his fathers. He had keys to the flat, nothing was found. In a garage 32, the police recovered shark fins. The flat A1101 and garage 32 are linked to Mr NG Wang Hong. In garage 29/28, police discovered a VW Kombi, in that vehicle the police recovered abalone. The vehicle is registered in the accused's name. This garage is linked to flat B903, registered to Ms Liu Haiying. Nothing was found in garage 33. MCM seized the abalone. He was charged for the possession of the abalone. The abalone was found in a vehicle registered to the accused and his fingerprints were found on the boxes. The movement control system indicated that Mr Wu left the country a few weeks prior to Mr Liang's arrest. Mr Liang had Mr. Wu's vehicle and Mr. Liang's vehicle was parked in a garage that is linked to Mr Ng. Count 1 & 2: Possession of elephant ivory without documentation; contravention of section 42(1)(b) of Ordinance 19 of 1974, being in possession respectively of 995.027kg and 6.933kg of ivory. Count 3: possession of abalone in terms of Section 44(2) of the MLRA, 1138 dried abalone with a weight of 116.5 kg. On 5/9/14 he was sentenced to: count 1 and 2 for Ivory, 10 years direct imprisonment, 3 years of which is suspended on condition that he pay R5million to

CARA and Cape Nature in equal proportion. On count 3 for abalone, 2 years direct imprisonment, sentences not to run concurrently. (The accused was convicted in 2004 in Germiston. He was sentenced to a R80 000 fine or 12 months imprisonment and a further 12 months suspended for 5 years.) **Adv. A. Heeramun**

**S. v - Lazarus Chinyanganya and Zacheous Sibanda TRC 378/14 Tembisa cas 326.07.14.**

On 3/4/14 sentenced to R15 000.00 or 6 years imprisonment of which half is suspended for a period of 3 years.

**2015**

**S v Faizal Fortune and Thabit Chilwan; Bishop Lavis CAS 264/07/12**

During a routine inspection at U Store Airport Industria on the 10 July 2012, customs official discovered ivory wrapped in black plastic, cardboard and bubble wrap, there was 46 whole tusks found, representing at least 23 slain African elephants. The ivory was behind boxes of wine. These items were in a container. Police and Cape Nature officials were called in and it was confirmed that it was ivory. The accused were at the scene. Both Accused was present and arrested. The accused failed to produce documentation regarding the ivory. There are 3 units registered in Thabit Chilwan's name, B8, A 21 and B17. Ivory was found in A21. Nothing was found in B17. Accused 2 said that he works for Harry, a Chinese national, and that he imports clothing, shoes etc from China and exports wine and oranges to China. He was told by Harry that the ivory were curios. Harry was never traced and is believed to be in China. The value of the Ivory is approximately R800 000 according National Park Prices. The charges were withdrawn against Accused 1. Accused 2: Thabit Chilwan (39), pleaded guilty on the illegal possession of ivory and sentenced on 18/2/15 to: a fine of R1m and 10 years imprisonment suspended for five years. R830 000 of the R1m fine was to be paid in cash into the state attorney's account, and the remainder to be paid as set out in the order. This would accrue to the Criminal Assets Recovery Fund. **Adv. A Heeramun**

**State vs Tianghoa Yang**

Found in possession of Ivory blocks. Charges: Section 57(1) of NEMBA. Sentence: R 75 000 / 3 years imprisonment.

**State vs Tianghoa Yang**

Found in possession of Ivory blocks. Charges: Section 57(1) of NEMBA. Sentence: R 6 000 or 3 years imprisonment suspended for 5 years.

**State versus TW Mukwevho; Park Road CAS 125/07/2014**

Raw Ivory Tusk with weight of 2,8kg – valued at R2617,44. 105A Plea Agreement on one count of contravening Section 57(1) of NEM:BA 10 of 2004. Sentence: R10 000 or 12 months imprisonment and a further 3 years imprisonment suspended for 5 years.

**State versus V Maquvha; Park Road CAS 125/07/2014**

Raw Ivory Tusk with weight of 2,8kg – valued at R2617,44. 105A Plea Agreement on one count of contravening Section 57(1) of NEM:BA 10 of 2004. Sentence: R10 000 or 12 months imprisonment and a further 3 years imprisonment suspended for 5 years.

**State versus TI Mosekwane; Winburg CAS 17/5/2016**

Raw Ivory Tusk with weight of 1,6kg. The accused sold the ivory together with a leopard skin in an undercover trap operation in terms of Section 252A. Accused was sentenced to 5 years imprisonment of which 3 years were suspended for 4 years.

**PP: A Ferreira**

**S v Mohammed Ali and 2 others;** Cape Town CAS 706/01/16 (ivory)

Police received information on the 13 January 2016 that Accused 1 and 2 had an elephant tusk in their possession. On arrival at Cash for Gold in Long Street Cape Town, Accused 1 and 2 were arrested. Accused 2 informed the police that she was selling it for Accused 3. A S252A operation was set up and Accused 3 was arrested. None of the Accused has permits for the Ivory. The Charges: Possession of elephant Ivory without documentation - contravention of section 42(1)(b) of Ordinance 19 of 1974. Accused 3 pleaded guilty in terms of S112 on the main count. He was sentenced to a fine of R4000 or 12 months imprisonment and a further 3 years direct imprisonment wholly suspended for 5 years. Charges withdrawn against Accused 1 and 2. Prosecutor: Ms A Heeramun.

**State vs Tianghoa Yang:** Found in possession of Ivory blocks. Charges: Section 57(1) of NEMBA. Sentence: R 6,000,00 or 3 years imprisonment suspended for 5 years.

**State versus TW Mukwevho;** Park Road CAS 125/07/2014: Raw Ivory Tusk with weight of 2,8kg – valued at R2617,44. 105A Plea Agreement on one count of contravening Section 57(1) of NEM:BA 10 of 2004. Sentence: R10 000 or 12 months imprisonment and a further 3 years imprisonment suspended for 5 years.

**State versus V Maquvha;** Park Road CAS 125/07/2014: Raw Ivory Tusk with weight of 2,8kg – valued at R2617,44. 105A Plea Agreement on one count of contravening Section 57(1) of NEM:BA 10 of 2004. Sentence: R10 000 or 12 months imprisonment and a further 3 years imprisonment suspended for 5 years.

State versus TI Mosekwane; Winburg CAS 17/5/2016: Raw Ivory Tusk with weight of 1,6kg. The accused sold the ivory together with a leopard skin in an undercover trap operation in terms of Section 252A. Accused was sentenced to 5 years imprisonment of which 3 years were suspended for 4 years. PP: A Ferreira

**S v Mohammed Ali and 2 others;** Cape Town CAS 706/01/16 : Police received information on the 13 January 2016 that Accused 1 and 2 had an elephant tusk in their possession. On arrival at Cash for Gold in Long Street Cape Town, Accused 1 and 2 were arrested. Accused 2 informed the police that she was selling it for Accused 3. A S252A operation was set up and Accused 3 was arrested. None of the

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Cases currently on the court roll in Kempton Park:

**State vs Gianshvi Yang** (Kempton Park 1RC 120/2016)

15 x Ivory carvings.

Postponed till 13 February 2017 for plea.

**State vs Swaratlhe** (Germiston D5385/16)

1 x Elephant Tusk

Postponed till 26 February 2017 for further investigation.

**State vs Deshent Zhang** (Kempton Park 1RC 107/2016)

41 x Ivory Bangles

84 x Ivory Chop Sticks

On role for plea, 13 February 2017.

**State v Jinfang Xu**

Ortia CAS 186/12/16

Found in possession of ivory bangles and blocks, appeared in Kempton Park court 1, postponed to 27/01/17. She was on her way to board a flight to Hong Kong.