



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

Ref:02/1/5/2

MINISTER

QUESTION NO. 430 FOR WRITTEN REPLY: NATIONAL ASSEMBLY

A draft reply to Mr T Z Hadebe (DA) to the above-mentioned question is enclosed for your consideration.

MS NOSIPHO NGCABA

DIRECTOR-GENERAL

DATE:

DRAFT REPLY APPROVED/AMENDED

MRS B E E MOLEWA, MP

MINISTER OF ENVIRONMENTAL AFFAIRS

DATE:

NATIONAL ASSEMBLY

(For written reply)

QUESTION NO. 430 {NW485E}

INTERNAL QUESTION PAPER NO. 7 of 2017

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Mr T Z Hadebe (DA) to ask the Minister of Environmental Affairs:

(1) With reference to her department's draft regulations for the domestic trade in rhinoceros horn, or a part, product or derivative of rhinoceros horn, published in Notice 74 in Government Gazette 40601 on 8 February 2017, how (a) do the references to non-commercial purposes tie in with the Convention on International Trade in Endangered Species resolution regarding rhinoceros, (b) will she ascertain that any person importing rhinoceros horn will not sell the horn commercially, (c) will she ensure that the freight agents are authorised to import and export rhinoceros horn and (d) will the freight agents attain authorisation;

(2) whether persons residing in South Africa but who are not South African citizens will be able to own (a) live or (b) dead rhinoceros; if so, what are the relevant details in each case;

(3) (a) who may export rhinoceros horn, (b) how will the Environmental Management Inspectorate and any other authorised officials verify the authenticity of permits and (c) what training will they receive in this regard? NW485E

430. THE MINISTER OF ENVIRONMENTAL AFFAIRS REPLIES:

1.(a)In terms of Article III 3. (c) of the text of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) a Management Authority of the State of import can grant an import permit if it is satisfied that the specimen is not to be used for primarily commercial purposes. The permit issued then reflects that it's for personal purposes. Further guidance on the interpretation of the term "primarily commercial purposes" is provided in a Resolution, i.e. Resolution Conf. 5.10 (Rev. CoP15) – Definition of 'primarily commercial purposes'. The following strict provisions in the text of the Convention are important to note in this regard:

A CITES **import permit** must be issued first by the CITES Management Authority of the importing country (import permit is required before an export permit can be issued). Before an import permit can be issued:

- a) a Scientific Authority of the country of import must have advised that the import of the rhino horn will be for purposes which are not detrimental to the survival of the species involved; and
- b) the Management Authority of the country of import must be satisfied that the rhino horn is not to be used for primarily commercial purposes.

When satisfied that such a CITES import permit has been issued, the exporting country (South Africa) can then issue an **export permit** in terms of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004) (NEMBA), provided that:

- c) a Scientific Authority of South Africa has advised that such export will not be detrimental to the survival of that species; and
- d) the Management Authority of South Africa is satisfied that the rhino horn was not obtained in contravention of South Africa's biodiversity legislation.

It should be noted that the above provisions are legally binding on all Parties to the Convention and non-compliance with provisions result in a Party being subjected to compliance procedures, which could lead to trade suspensions. These provisions are included in the provisions of the CITES Regulations promulgated in terms of the National Environmental Management: Biodiversity Act, 2004 (Act No 10 of 2004) and the proposed regulations

introduce further restrictions provided for in terms of Article XIV 1. (a) of the Convention that gives Parties the right to adopt stricter domestic measures.

(b) The draft regulations propose that, before a CITES export permit will be issued, the CITES Management Authority of the importing country must first confirm in writing that it has adequate domestic legislation in place to ensure that the rhino horn, once imported, will not be used in a manner that would be in contravention with the provisions of CITES as far as it relates to the importation of Appendix I specimens.

(c) Yes. A person is required to obtain a permit in terms of NEMBA to import or export a specimen of a listed threatened or protected species. These draft regulations pertaining to the domestic trade in rhino horns require that all export permits must be endorsed at the port of exit (this is already a requirement in terms of the CITES Regulations, 2010). The draft regulations further propose that rhino horns may only be exported via OR Tambo International Airport, and only by a freight agent who is authorised to do so in terms of an export permit. The endorsement of the permit at OR Tambo International Airport upon exportation of the rhino horn is the means to ensure that the freight agent is duly authorised to export the rhino horns. This restriction will ensure that all exports are directed through a specific process and will facilitate monitoring and enforcement without disrupting detection activities at OR Tambo and all other ports of entry and exit.

(d) Yes. Black rhino is listed as an endangered species in terms of section 56 of NEMBA, and white rhino is listed as a protected species and therefore permits area required in terms of section 57 of NEMBA to carry out restricted activities (including export) involving rhino specimens. The procedure to obtain permits in terms of NEMBA, is prescribed in the Threatened or Protected Species Regulations, 2007; this procedure also applies for the application of a permit to export rhino horn. Freight agents must follow this procedure to submit their applications for the exportation of rhino horn to the relevant issuing authority. The latter is determined in terms of section 87A of NEMBA.

2.(a)Yes. The NEMBA does not prevent a person who is not a citizen of the Republic of South Africa (RSA) or a permanent resident within the RSA, to own a live rhino, provided that such a person has a permit issued in terms of NEMBA, for the possession of live rhino. However, to

obtain a possession permit, such person must prove legal acquisition of the live rhino; e.g. provide a copy of a permit to purchase/ receive live rhino.

(b) Yes. A person referred to in Paragraph (2)(a) will be legally in possession of a dead rhino, if the live rhino he/ she has purchased/ received legally, dies, whether the mortality is due to natural causes or as a result of poaching.

3. (a) The provisions of CITES do not impose a restriction as to who may export rhino horn, provided that the appropriate permit procedure referred to in Paragraph (1)(a) is followed. The draft regulations do not intend to impose a restriction in this regard, and clarifies that persons who are not citizens of the Republic of South Africa or permanent residents within the RSA, and who legally own rhino or who have obtained rhino horn legally within the RSA, may also export rhino horn, provided that the CITES provisions referred to above and the requirements contained in the draft regulations are met.

(b) & (c) The need for a CITES import or export permit is not a new requirement in terms of these draft regulations; this permit requirement has previously been in place in terms of provincial conservation legislation, and since 2010 in terms of the national CITES Regulations. As a result, Environmental Management Inspectors have already been trained in the ability to verify the authenticity of CITES permits. Additional training will be provided prior to the implementation of the final set of regulations to ensure EMI's are aware of the restrictions relating to export. It should also be borne in mind that these trained EMI's are already deployed and are working at OR Tambo, endorsing permits, monitoring exports and imports and undertaking detection.

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