

COMMITTEE OF INQUIRY SUMMARY REPORT

Summary report of the Committee of Inquiry (CoI) appointed by the Minister of Environmental Affairs to advise on the possibility of proposing legal international trade in rhino horn to the 17TH Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), or not.



REPUBLIC OF SOUTH AFRICA

1. SUMMARY

The Committee of Inquiry assessed the current situation and the interventions implemented by Government to date. Then, through a process of stakeholder consultation, scenario planning, analysis of case studies and various work stream documents as well as a decision-tree analysis process, the Committee identified five key areas that require interventions. These interventions are needed to address wildlife crime and enhance government's ability to conserve rhino in their natural habitat, and increase the opportunities to realise benefits associated with successful conservation. The Committee was strongly of the view that these interventions are essential for an effective response to rhino poaching irrespective of whether (or not) South Africa seeks to trade in rhino horn.

The five key areas that require interventions are: Security; community empowerment; biological management; responsive legislative provisions that are effectively implemented and enforced; and demand management. Minimum requirements for the implementation and effectiveness of different interventions covering each area were identified as well as indicators to measure progress. The roles and responsibilities of various government departments were identified. There is a need for the respective departments to absorb activities relevant to their mandates in their respective strategic plans.

Through interactions with the Inter-Ministerial Committee, the Committee of Inquiry was advised to provide various options relating to trade to be considered by government. The Col proceeded on the premise that addressing the five governance challenges (above) forms the cornerstone of all available options for addressing the poaching crisis and was the primary recommendation from the Committee.

This left two outstanding challenges: First, how to deal with the demand from consumer countries; and, second, how to provide sustainable funding for ongoing efforts to reduce poaching and illegal wildlife trade. The proposed solutions to these issues are the most contentious ones in the rhino conservation context and are also the areas where the evidence base is weak and there is considerable uncertainty regarding the likely success of any of the proposed solutions. The Committee of Inquiry identified four possible options based on different solutions to challenges of demand (demand reduction versus trade) and funding (donor funds, tourism levies, trade). The Committee did a SWOT analysis (strengths, weaknesses, opportunities, threats) of the different options. The Committee also considered a number of possible trade mechanisms. These represent the trade models that were identified as options if a trade proposal was going to be considered. A SWOT analysis of these mechanisms was also conducted although there was recognition that it would not be possible to finalise the institutional design of trade mechanisms without engaging with, and obtaining agreement from, potential trade partners, and on obtaining agreement from government and various stakeholders on their respective roles in the management and control of any trade mechanism.

2. COMMITTEE OF INQUIRY

The Committee of Inquiry identified key areas of work based on its Terms of Reference from the Minister of Environmental Affairs and its deliberations were further informed by feedback from the Technical Advisory Committee (an inter-departmental committee) and the Inter-Ministerial Committee established by Cabinet to provide guidance on this matter. The Committee of Inquiry initiated work-streams and studies to cover key areas of work and to follow up on ideas and options submitted during the public hearings where the public had an opportunity to submit information to the Committee for its consideration. The Committee furthermore identified the need to approach the complexities and uncertainties relating to trade and demand management in a structured way and this was achieved through scenario planning, a decision tree process and a SWOT analysis.

2.1 KEY AREAS OF WORK AND REPORTS

The Committee of Inquiry identified key areas of work where information needed to be obtained or collated to inform decision-making relating to rhino conservation and trade and comprehensive reports were developed for each area of work or studies initiated where adequate information was not available:

- i) *Rhino history and the impact of management decisions on the conservation of species;*
- ii) *The current South African rhino status: contemporary and supplementary interventions;*
- iii) *Understanding socio-economic conditions and impacts of conservation areas on adjacent communities as a means to supporting rhino conservation;*
- iv) *A shift in relationships: From stakeholder engagement to developing reciprocal partnerships between conservation agencies and communities to benefit rhino conservation;*
- v) *Addressing wildlife crime and disrupting criminal networks;*
- vi) *Regulatory regime and controls;*
- vii) *Implications of decisions for other range States, transit & consumer States (implications associated with decisions whether those decisions include trade or not);*
- viii) *Supply and demand* and potential models for trade (including assumptions, risks and mitigation); and*
- ix) *The sustainable use approach to wildlife management.*

2.2 TRENDS

The Committee of Inquiry also considered important trends in terms of the changing situation as it relates to, among others, poaching, rhino population growth, law enforcement and security costs. These trends also indicate the need to further strengthen interventions to create an environment conducive for effective rhino conservation.

The Committee of Inquiry considered the available information, the reports on key areas of work referred to above, information from studies initiated, and information obtained through a stakeholder engagement session. The

* "Demand" represents the quantity of rhino horn that consumers would be willing and able to purchase at every possible price at a point in time. There are three principle categories of demand for rhino horn: for medicinal and health purposes, for decorative purposes; and as a wealth asset.

Committee furthermore considered the outcomes of a scenario planning exercise and a decision tree analysis; and conducted a SWOT analysis relating to options for addressing demand and funding as well as for possible models for trade

3. COMMITTEE OF INQUIRY RECOMMENDATIONS RELATING TO KEY AREAS THAT REQUIRE ACTION

The following recommendations were made relating to minimum requirements that must be met to create an environment conducive for rhino conservation in South Africa, to effectively address rhino poaching and the illegal trade in rhino horn, and to reach a point where any potential trade in rhino horn would contribute to conservation outcomes. The Committee included indicators that should be achieved to address challenges in the following key areas.

3.1 SECURITY (LAW ENFORCEMENT)

The Committee of Inquiry agreed that there is a need to significantly enhance the country's law enforcement capacity to counter transnational organised crime (including wildlife trafficking), irrespective of whether trade will be legalised or not.

Requirements

- i) Integrated national law enforcement strategy, led by the SAPS, adopted, funded and included in the strategic plans of all relevant departments / entities.
- ii) Significantly enhanced law enforcement capacity to counter transnational organised crime, including wildlife trafficking.
- iii) Review of existing Memoranda of Understanding (MoUs) with other countries to ensure they provide for enhanced law enforcement cooperation and joint investigations by the relevant authorities.

3.2 COMMUNITY EMPOWERMENT

The Committee of Inquiry agreed there was an urgent need to improve both socio-economic conditions of rural communities neighbouring protected areas and their relationships with agencies managing protected areas, to develop a conducive environment for strong mutual partnerships around natural resource management and beneficiation.

The following minimum requirements must be met in order to effectively address community empowerment:

Requirements

- i) Functional municipalities around key protected areas to provide water, waste, sanitation, energy, roads, transport, education and health services through joint engagement by communities and conservation agencies with all relevant government departments;

- ii) A Champion to be appointed to oversee Community Empowerment, in a permanent position with multi-departmental influence and funding, to develop and implement a Community Empowerment plan addressing these requirements which acknowledges past errors associated with protected area policies;
- iii) Effective two-way channels of engagement to operate between communities and protected area management structures, including the private sector and government agencies, with community involvement at management and Board level;
- iv) Increased access to education and capacity building opportunities in these communities, specifically through a targeted Mentorship Programme to provide qualifications and develop advanced skills in conservation and protected area management for community members and entry into protected area management opportunities;
- v) Opportunities for alternative economic development are supported in these communities in parallel with capacity building in financial management and business development skills;
- vi) Sound financial management policies and practices are established within communities and municipalities to enable equitable fund distribution methods are implemented to disperse income from protected areas;
- vii) Effective governance structures are developed within communities so they are empowered to hold structures accountable and prevent corruption and elite capture of benefits, including proven mechanism(s) for resolving conflicts between Traditional Authorities (TAs) and Community Property Associations (CPAs);
- viii) A National review is undertaken within the Community Empowerment Plan to ensure better alignment and implementation of community empowerment policies and projects between National, Provincial, Municipal, local and community levels;
- ix) Communities have ownership of conservation initiatives with decision-making powers and authority to equitably access benefits as part of sustainable livelihood initiatives.

3.3 BIOLOGICAL MANAGEMENT

The minimum requirements below are aimed at ensuring that there is a low extinction probability for rhino in South Africa; that rhino populations continue to persist in their natural habitat in situations where their vital rates are not manipulated; and that South Africa therefore has the potential to act as a source of rhino for reintroduction purposes.

Requirements

- i) Approved biodiversity management plans for black and white rhino published in government gazette for implementation.
- ii) Range States action plan aimed at facilitating cooperation and collaboration to conserve rhino within its natural range (collective plan).
- iii) Bilateral engagements with key range States relating to rhino management.
- iv) Resources to implement management plan/s.
- v) Implementation of management plans.
- vi) Ongoing monitoring and evaluation of the implementation of management plans.

3.4 RESPONSIVE LEGISLATIVE PROVISIONS AND EFFECTIVE IMPLEMENTATION

Although the existing legislative provisions have been used successfully in that they have resulted in the successful conviction of offenders, there is a need for government to pro-actively identify gaps and implement amendments to address these gaps. The effective implementation of provisions, compliance monitoring and enforcement must also be strengthened to ensure the use of the legislative tools is optimized.

Requirements

- i) Existing legislation used optimally to address all aspects of illegal trade (e.g. poaching, organized crime, trafficking, illegal possession of weapons, money laundering).
- ii) Legislation (environmental legislation and others) reviewed and revised to address gaps / emerging issues – this should include appropriate offences, bail aspects, penalties, enabling provisions and matters relating to foreign nationals involved in poaching and illegal trade (including gaps associated with possible trade models, if trade is an option).
- iii) Incentives for rhino conservation / ownership explored and developed.
- iv) Legislative mandates relating to intensive breeding of rhino clarified and legislative measures developed and implemented to effectively regulate all aspects relating to the activity (applicable to other species as well).
- v) International engagements with range, transit and consumer States regarding legislative provisions to address illegal wildlife trade.
- vi) Integrated regulatory framework, including a permit system that facilitates monitoring of legal activities involving rhino and rhino horn or other products.
- vii) Rhino horn stockpiles managed and audited as required in terms of legislative provisions.
- viii) Review of international law and relevant multilateral agreements to determine whether there are any mechanisms that can be used to support actions against illegal rhino trade from South Africa.

3.5 DEMAND MANAGEMENT / REDUCTION

To intervene effectively in terms of both demand management and/or demand reduction, more information is required on consumer's needs, attitudes and behaviour and on the prices currently paid for rhino horn in the illegal market. One tool considered by the Committee was the ongoing collection and analysis of the price paid to poachers and the quantity of horn traded, which could provide a useful and accessible proxy indicator of developments along the illicit supply chain for rhino horn.

The following requirements relate to the need to increase information on demand management and the system to be put in place to enable government to observe changes in trends relating to demand:

Requirements

- i) Continued interactions with consumers and information-gathering mechanisms within known consumer and range states to better understand consumer patterns, attitudes and behaviour. (The institutional arrangements underpinning different trade models can make it easier for some models to provide insights into consumer behaviour than others. In the absence of legal trade models that facilitate information gathering, the understanding

of consumer attitudes and behavior will require regular, well-constructed and executed studies in consumer markets and remain difficult given the illegal nature of the banned trade.)

- ii) Monitoring system to be developed and implemented to gather information relating to prices paid to poachers and the quantity of horn traded.

4. OPTIONS FOR ADDRESSING DEMAND FOR HORN AND SUSTAINABLE FUNDING FOR CONSERVATION: IRRESPECTIVE OF ANY DECISION ON TRADE LEGALISATION

The primary recommendation from the Committee is that Government should do everything possible to address the key issues contained in section 3 above. These issues, if not addressed, could enable wildlife crime to grow, impede government's ability to conserve rhino in its natural habitat, and limit opportunities to realise benefits associated with successful conservation.

Given this as a starting point, the key remaining issues relate to:

a. The potential role of demand reduction and / or legal trade to address demand pressures

There are two actions that have consistently been put forward as possible solutions to the problem of demand that currently drives illegal trade. These actions are not mutually exclusive.

- i. The first focuses on the demand side in consumer states based on the premise that changing consumer behaviour through campaigns and the introduction of legislative restrictions and enforcement can reduce or eliminate demand for rhino horns in consumer countries.
- ii. The second is based on the premise that by facilitating a legal and well-regulated trade it will be possible to supply some of the demand from legal sources and generate funds for conservation of rhino.

b. How to finance rhino protection in South Africa.

The available evidence suggests that continued and even escalating investment in rhino protection is not sustainable. The costs of sustaining a high protection level for rhino, variously estimated at between R700 million and R2 billion per annum, will impact on other conservation actions and possibly even other social investments. Even if demand reduction actions in consumer states start to be effective, it is difficult to predict when pressure from poaching will be reduced. As a result, the alternatives for financing rhino protection in the short to medium term become critically important and several alternative solutions have been considered.

- i. A concerted campaign with the international and national donor community to raise the necessary capital to contribute to the costs of protection – development of an international financing mechanism;
- ii. A levy or voluntary contribution by tourism to support investment in rhino protection;
- iii. Environmental off-set funding;
- iv. Trade in rhino horn (and possibly other rhino products), which can be managed in such a way that income is generated to contribute to funding protection in public, private and communal reserves.

Several of the options outlined above are not necessarily mutually compatible and could even work against each other. The effectiveness of different actions may also depend on whether they occur in concurrence with other actions, e.g. a strong commitment to demand reduction is likely to be more effective if there is a clear policy that does not support trade as a mechanism to fund rhino protection. As a result, the proposed actions can be grouped as a suite of options that Government needs to consider.

4.1 OPTIONS RELATING TO TRADE *VERSUS* ALTERNATIVE SOLUTIONS

Four options were subjected to SWOT analysis:

OPTION 1

No trade in rhino specimens (including termination of hunting and stockpile destruction), backed by a policy change that bans international trade in key affected species and strongly supports demand reduction

SUMMARY OF SWOT ANALYSIS OF OPTION 1

Option 1 provides a clear message that international trade is banned and it is aligned to similar global initiatives. Enforcement is simplified. It is dependent on a sustainable financing mechanism to assist South Africa to maintain its anti-poaching interventions. It is furthermore critically dependent on significantly reducing demand for rhino horn. This option limits sustainable use options to non-consumptive use and, due to the destruction of stockpiles, means that it will be difficult or impossible to consider trade as an option in future. The required change in policy may face legal challenges in terms of section 24 and 25 of the Constitution of the Republic of South Africa, 1996, especially relating to destruction of stockpiles and restrictions on private sector ownership. Opportunities relating to sustainable utilization that involves international trade of the species are removed.

OPTION 2

Application of current policy (limited international trade in hunting trophies and live rhino to appropriate and acceptable destinations), with no consideration of commercial trade; destruction of stockpiles, and investment in demand reduction

SUMMARY OF SWOT ANALYSIS OF OPTION 2

Option 2 provides a clear message that trade in rhino horn is illegal while other forms of sustainable utilization could continue in terms of the existing legislative provisions. It is relatively simple to enforce. It is dependent on a sustainable financing mechanism to assist South Africa to maintain its anti-poaching interventions. It is furthermore critically dependent on significantly reducing demand for rhino horn. Due to the destruction of stockpiles, the exercise of this option limits future trade considerations. There are possible implications in terms of Sections 24 and 25 of the Constitution of the Republic of South Africa, 1996, especially in terms of destruction of stockpiles and restrictions on the private sector. Opportunities relating to the sustainable utilization of rhino horn are limited.

OPTION 3

Application of current policy (limited international trade in hunting trophies and live rhino to appropriate and acceptable destinations), with no immediate intention to trade in rhino horn, but maintaining the option to re-consider regulated legal international trade in rhino horn when requirements are met

SUMMARY OF SWOT ANALYSIS OF OPTION 3

Option 3 confirms the current status that commercial international trade in rhino horn is illegal and will only be re-considered when minimum requirements are met. The steps to improve enforcement are mostly within South Africa's control. It is, however, dependent on a sustainable financing mechanism to assist South Africa to maintain its anti-poaching interventions. It is furthermore dependent on significantly reducing demand for rhino horn. Although it does recognize the full economic value of rhino, there is no immediate financial benefit that can be derived from rhino horn that can contribute to mitigating increasing security costs. A tourism levy could be executed in this option to provide additional funding mechanism. One of the risks is there is no clear message regarding the final position on trade, creating some uncertainty in the market and possibly resulting in confusing messaging for demand reduction initiatives.

OPTION 4

Promote regulated, legal international trade as soon as the necessary governance conditions are met

SUMMARY OF SWOT ANALYSIS OF OPTION 4

Option 4 supports a regulated, legal international trade in rhino horn once the minimum requirements are met. The option provides additional opportunities and incentives to all rhino owners and potential rhino owners (communities). It could reduce the financial burden on those that currently carry the costs of anti-poaching interventions and provides transparency relating to the legal supply chain. However, the final decision to approve international trade is not within South Africa's control and must be approved by two-thirds majority of CITES Parties. This option will meet strong resistance from animal right groups and organisations working to reduce demand for rhino horn. A risk associated with this option relates to misalignment with international sentiment relating to use of rhino horn and specific and directed lobby actions will be required to solicit support. There is currently no clear trading partner and some consumer states have prohibitions in place. Legislative amendments will be required in consumer states (trade partners) to provide for a regulated, legal international trade. Possible trade models will require buy-in from, and effective implementation by, range and consumer states. It may result in intensification of rhino populations with possible conservation and welfare implications. Because of the elimination of the "stigma- effect", there is uncertainty about how the demand in consumer states will respond to a legal trade. The evidence from studies conducted to date in consumer states in this regard is contradictory.

4.2 TRADE MODELS – OPTIONS

If Cabinet decides on the option relating to a legalised international trade in rhino horn, the mechanism or model in terms of which legal trade should take place is an important consideration. The Committee of Inquiry recommends that such a mechanism should result in the following outcomes:

- a) A reduction in the number of rhino illegally killed and a reduced extinction risk.
- b) Benefits that lead to increased conservation of free-ranging rhino populations within their natural distribution range.
- c) Sustainable financial resources for conservation that leads to expansion of rhino range, with benefits for

biodiversity.

- d) Marginalised communities neighbouring conservation areas receiving tangible and sustainable direct (through employment, returns on ownership, land rental etc.) and indirect (indirect and induced economic opportunities, skills transfer, positive land value spillovers, diversion of resources etc.) benefits that enhance interest in and protection of live rhino and conservation areas.
- e) Rhino populations in other range states do not experience additional poaching threats due to the adoption of the legal trade model. Other range states with healthy populations are not automatically precluded from participating in trade. Resources are generated to assist in addressing serious threats in other range states. Most other range States perceive benefits in the trade model and support it.
- f) Effective and transparent institutional arrangements and governance systems that reduce opportunities relating to corruption, that facilitate monitoring and that do not increase compliance costs excessively.
- g) Consumer states acknowledge that rhino horn is consumed in their countries and are prepared to adopt policy and regulatory regimes to ensure that legal trade is supported, that objectives are aligned with range states, and that illegal trade is addressed through effective law enforcement.

Legal trade in rhino horn is not without risks. The different legislative and institutional arrangements associated with various legal trade models can materially impact on the extent to which the risks identified can be mitigated or negated. The models considered by the Committee are all highly regulated forms of legal trade, but they envisage differing roles for government and the private sector, and have different inherent abilities to adapt to changing market dynamics rapidly and effectively, and to gather information about the market as it evolves. Some design features – such as the fund to assist other range states that experience additional negative effects on their rhino populations as a consequence of trade legalisation, and the basis for quota allocation to horn producers – could be replicated across all of the regulated models considered.

The following three trade models aimed at long term sustainable trade in raw horn were reviewed by the Committee and was subjected to a SWOT analysis:

MODEL 1

All legal sales are channeled through a Central Selling Organisation established by the South African government

SUMMARY OF SWOT ANALYSIS OF MODEL 1

Model 1 could create a legal supply. The buyer cartel has significant power. However, the profit maximizing behaviour of the monopoly could result in a comparatively high retail price and encourage ongoing illegal supply. It does not necessarily cater for new sources of demand and could attract competition authority attention due to perceived collusion or abuse of dominance.

MODEL 2

All legal sales are channeled through a government agency that allocates quotas to public and private agencies and sells these to equivalent government-controlled agencies in consumer countries

SUMMARY OF SWOT ANALYSIS OF MODEL 2

Model 2 presents a simple model of trade between governments. The risks are that the buyer country (government) could be tempted to withhold supply to cause retail price increase, thereby attracting further illegal trade. It does not necessarily cater to new sources of demand. The buying country will have significant power and its objectives may not be aligned with those of range states. Some private rhino owners may feel that government is not serving their interest. It is open to corruption and has limited incentives for some private rhino owners / communities to participate.

MODEL 3

Centralised collection, storage and certification with allocation of quotas to participating suppliers

(Coordinating Agency – Public-private partnership)

SUMMARY OF SWOT ANALYSIS OF MODEL 3

Model 3 aims to maximize the wholesale price while minimizing the retail price. The risk is that it could lead to some consolidation of rhino populations in the private sector. Security of centralized stocks is a risk. It requires foreign governments in consumer states to give up some control of the rhino horn market to allow a coordinating agency to operate. It could attract competition authority attention due to quota setting. It generates greater resources for rhino conservation, government, private rhino owners and potentially communities. It provides incentives to develop sustainable populations. Model can adapt to new sources of demand relatively quickly.

CONCLUSION

The primary recommendation from the Committee was that Government should do everything possible to address the five key areas that must be addressed to create an environment conducive for rhino conservation in South Africa, to effectively address rhino poaching and the illegal trade in rhino horn, and to reach a point where any potential trade in rhino horn would contribute to conservation outcomes. The Committee of Inquiry submitted its report that included the recommendations relating to the five key areas that require further interventions and the options relating to trade for consideration by the inter-departmental Technical Advisory Committee (TAC) and the Inter-Ministerial Committee (IMC). The inter-departmental TAC was mandated to evaluate the reports and recommendations of the Committee, and to make recommendations to the IMC. The IMC evaluated the reports of the Committee and the TAC and formulated recommendations to Cabinet.