

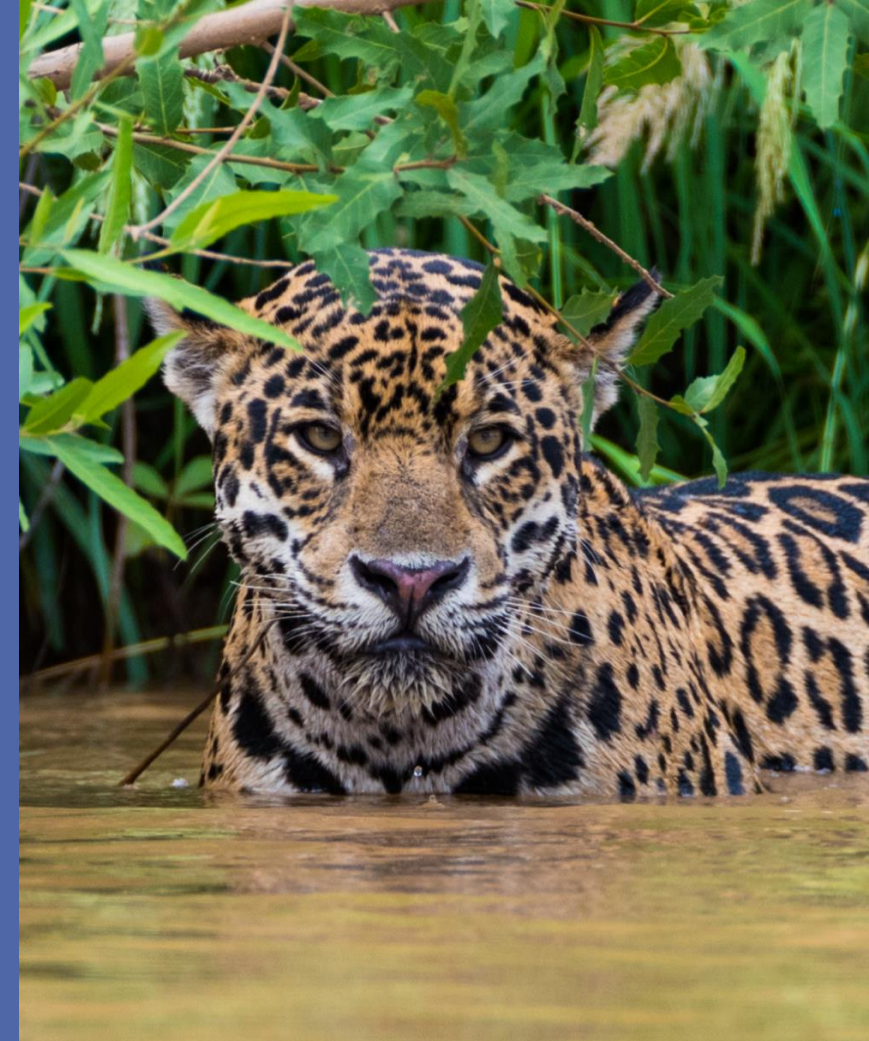


Global Workshop on CMS Legislation

Exceptions to the prohibition on
taking of Appendix-I species
under Art. III.5

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The European Union was recognized as Champion Plus for its generous support and commitment towards strengthening national legislation for migratory species for the period 2020 - 2025. This activity has been funded with the contribution granted by the European Commission under the Migratory Species Champion Programme and through the Global Public Goods and Challenges (GPGC Programme) Cooperation Agreements with UNEP.



The Article III.5 Exceptions

1. Scientific purposes
2. Enhancing the propagation or survival of the affected species
3. To accommodate the needs of traditional subsistence users
4. Extraordinary circumstances



Scientific Purposes: Art. III.5(a)

"if the taking is for scientific purposes"

Potentially Relevant Factors:

- The qualifications of the individual or entity
- Affiliation with an accredited scientific institute
- The likely contribution to scientific inquiry
- Any commercial aspects
- The necessity of the take in light of the objectives



Enhancing the propagation or survival: Art. III.5(b)

"if the taking is for the purpose of enhancing the propagation or survival of the affected species"

Propagation: 1) the breeding success, 2) increasing the recruitment, or 3) increasing the range of a migratory species

Survival: the probability of an individual to live from one phase of its annual cycle to the next

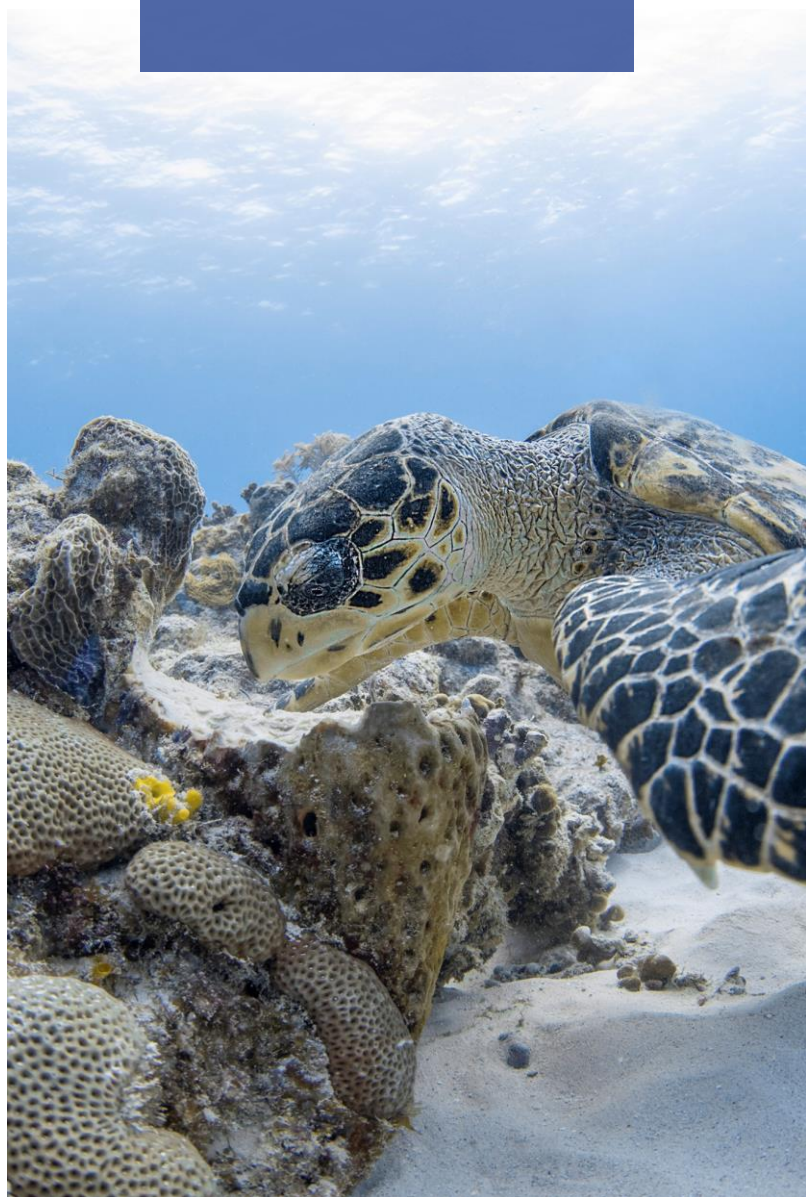
- Must benefit the species
- E.g., captive breeding designed to produce offspring to release into the wild

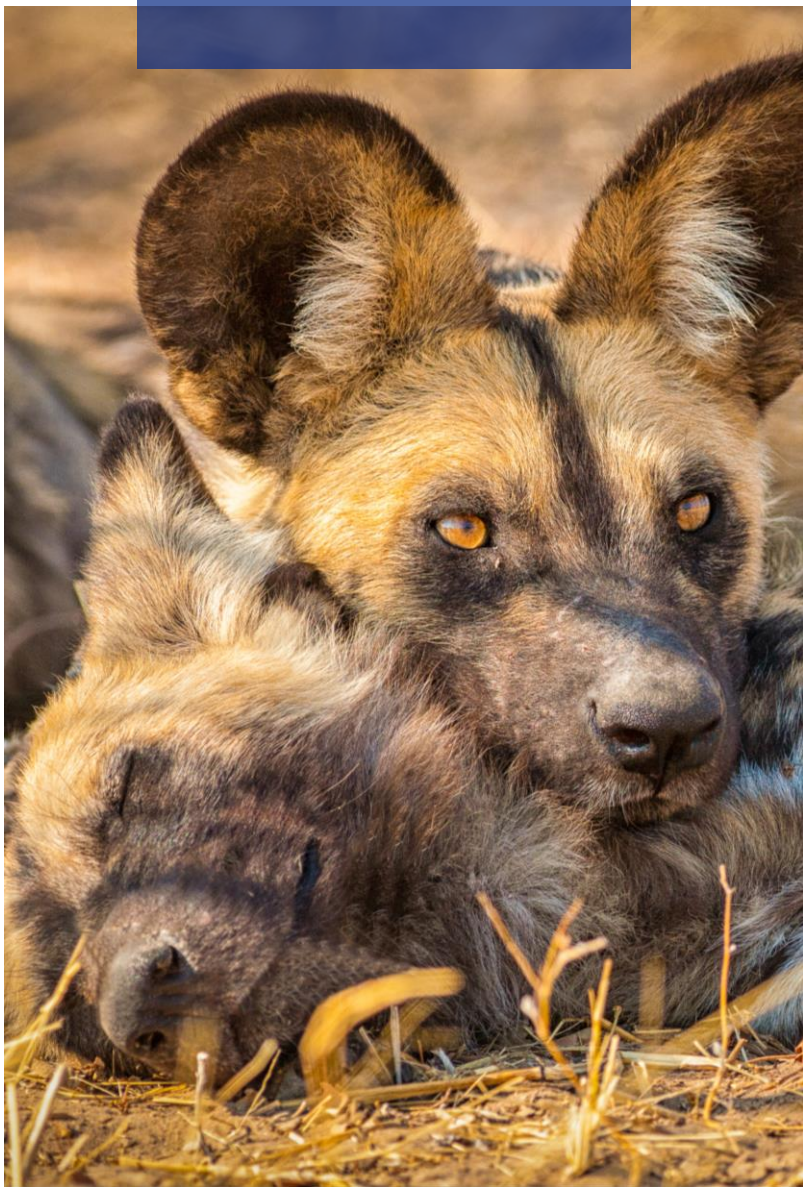


Traditional Subsistence Users: Art. III.5(c)

"if the taking is to accommodate the needs of traditional subsistence users"

- Must qualify as both traditional and subsistence
- Identifying the types of uses and types of supply chains can add precision and clarity





Extraordinary Circumstances: Art. III.5(d)

“if extraordinary circumstances so require.”

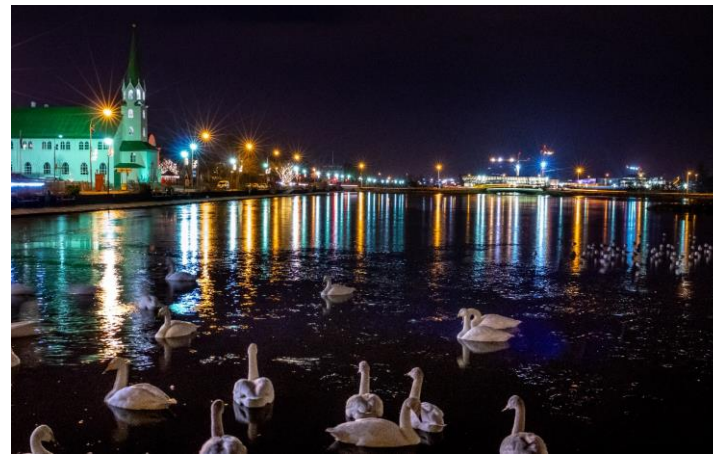
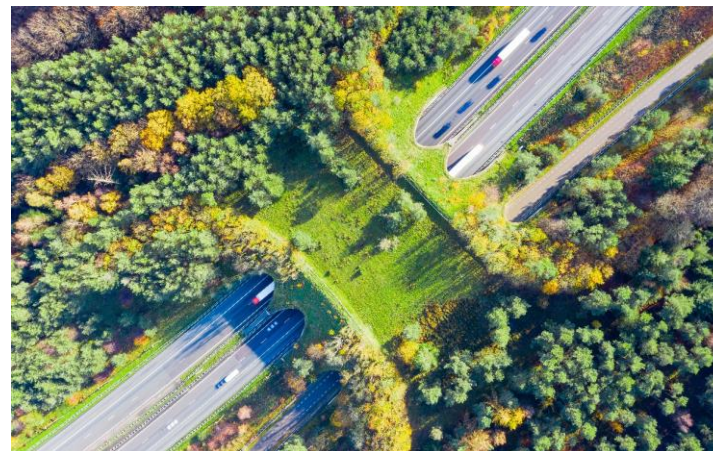
Examples:

- Self-defense
- Avoiding harm to human life
- Invasive species
- Pathogen control
- Aviation accidents

- Concerns human life, not property interests
- Not a broad catch-all

Summary of Drafting Tips

- 1) Consider including a definition of “scientific purposes.” National legislation could require that the take and subsequent science be carried out only by recognized or registered scientific institutions, that there be necessity and inevitability of the proposed take in light of the objectives of the contemplated scientific endeavor, and could inquire whether the activity in question also has a commercial or revenue-generating aspect.
- 2) Consider defining with precision the take and use of specimens that qualify as “enhancing the propagation or survival of the affected species.”
- 3) Consider defining the terms “traditional” and “subsistence” for purposes of implementing the exception to “accommodate the needs of traditional subsistence users.”
- 4) Consider qualifying language that defines what would constitute “extraordinary circumstances,” e.g. the urgency, immediacy, necessity, and/or rarity of the situations that should result in such a take.
- 5) Consider that when human life being at immediate risk is more likely to meet the “extraordinary circumstances” exception than circumstances involving property.





THANK YOU!



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