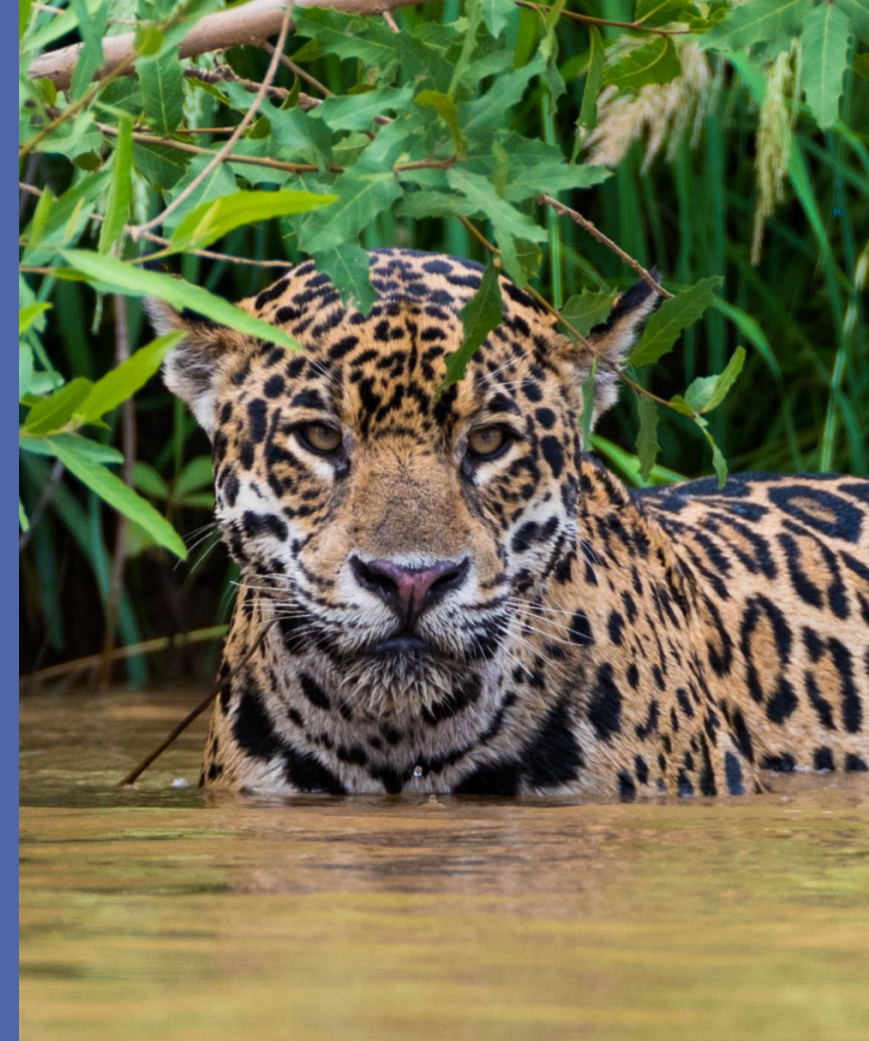




Global Workshop on CMS Legislation

Limitations on the Use of the Article III.5 Exceptions

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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.



Three Cumulative Elements for Use of Exceptions to the Take Prohibition

1. An exception must be consistent with one of the four enumerated situations
2. The exception must be
 - Precise as to content
 - Limited in space and time, and
 - Not operate to the disadvantage of the species;
3. The party authorizing the exception must report the exception to the Secretariat.



Assessing the Three Overarching Conditions



Precise as to content

Purpose

- Eliminate ambiguity
- Create enforceable permit conditions

Conditions

- Reason for the take exception
- Common and scientific name of species
- Sex and age of individuals to be taken (e.g., larval, egg, juvenile, adult)
- Number of individuals to be taken
- Methods for taking (e.g., gun, trap, net)

Limited in space and time

Purpose

- Ensure exceptions are narrowly applied
- Create enforceable permit conditions

Conditions

- Where will take occur?
- When will take occur?





Not operate to the disadvantage of the species

Purpose

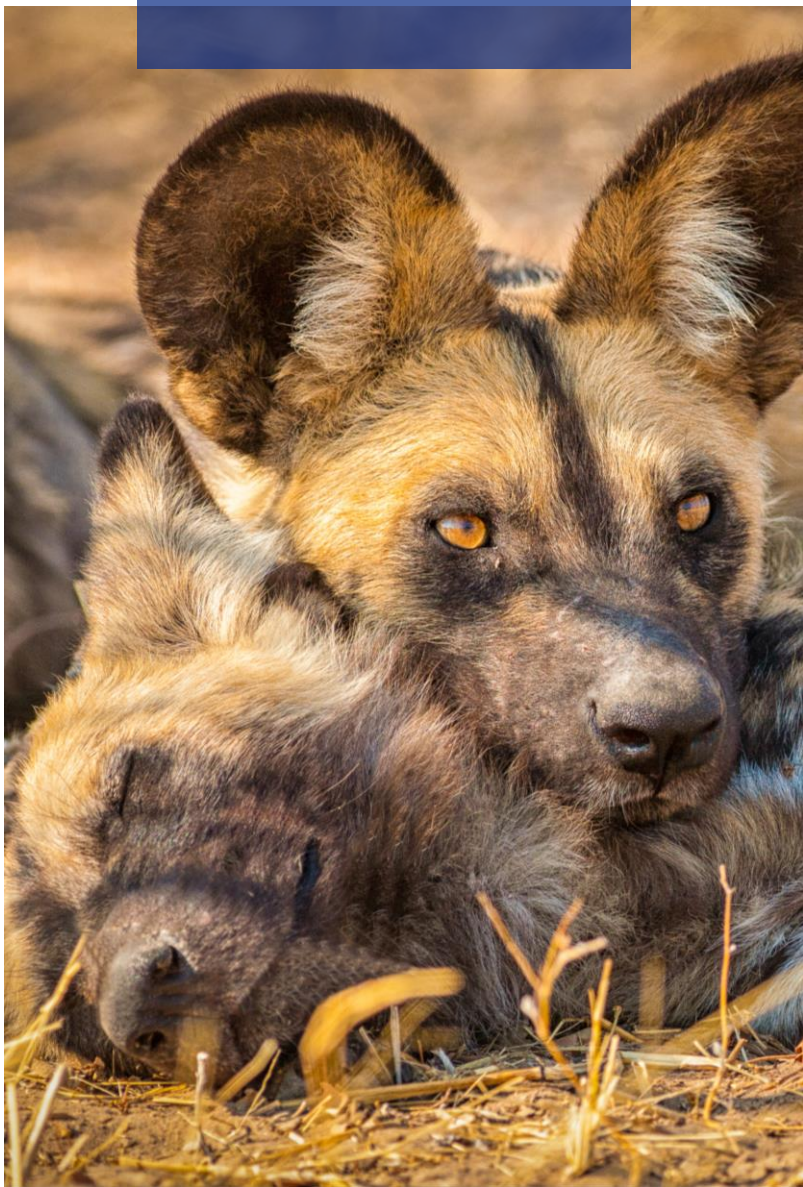
- Return species to non-endangered status

Implementation Strategies

- Numerical caps
- Prohibit use of the exceptions to take breeding, nesting, pregnant individuals
- Limit exceptions to non-commercial purposes
- Limit exceptions to non-lethal means wherever possible



Possible Legislative Text



Affirmative Duties: Competent Authority

The **competent authority** shall, prior to issuing any permit, explain **in writing** why the issuance of the permit is

- a) precise as to content;
- b) limited in space;
- c) limited in time; and
- d) does not operate to the disadvantage of the species.

Affirmative Duties: Applicant

No permit may be issued ... unless the applicant submits to the competent authority an application that specifies

- a) the species to be taken;
- b) the purpose for which the animal will be taken;
- c) the number of animals to be taken;
- d) the method for taking the animal;

Precise as to content



Affirmative Duties: Applicant

No permit may be issued ... unless the applicant submits to the competent authority an application that specifies

- e) Where applicant intends to take the species;
- f) When the applicant intends to take the species;

Limited in space and time

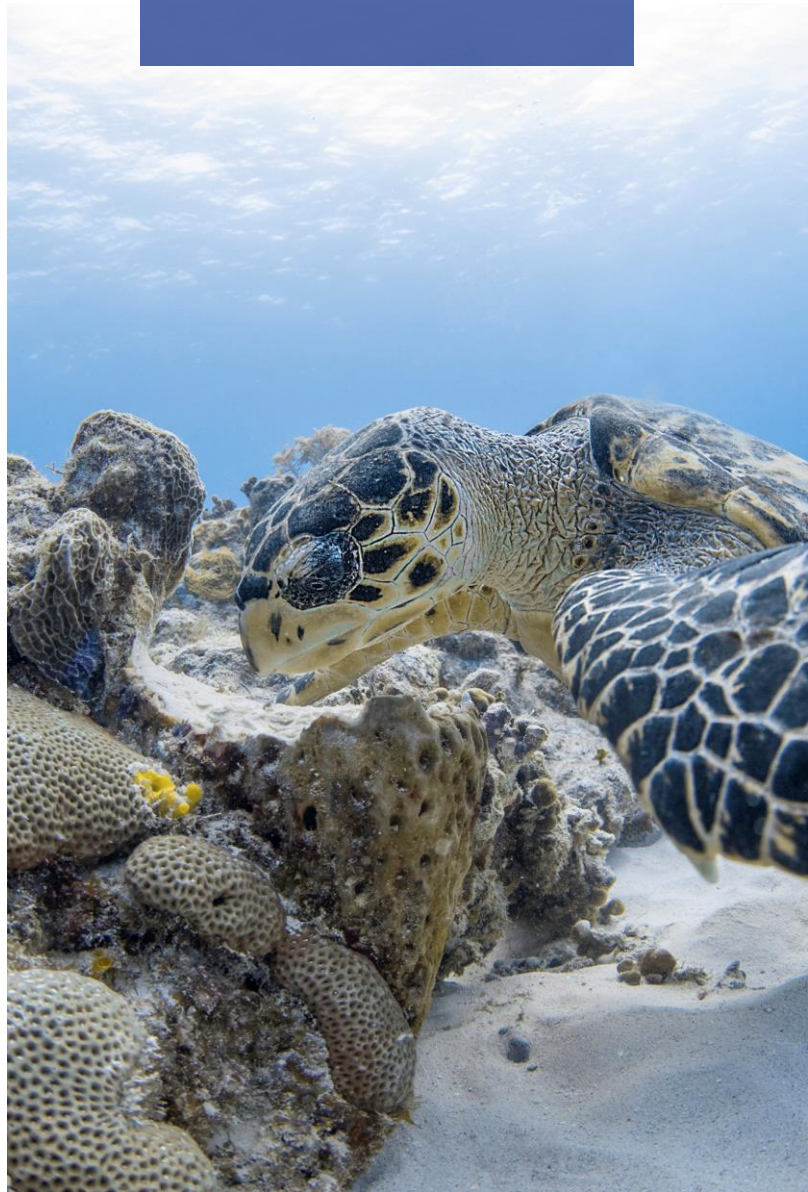


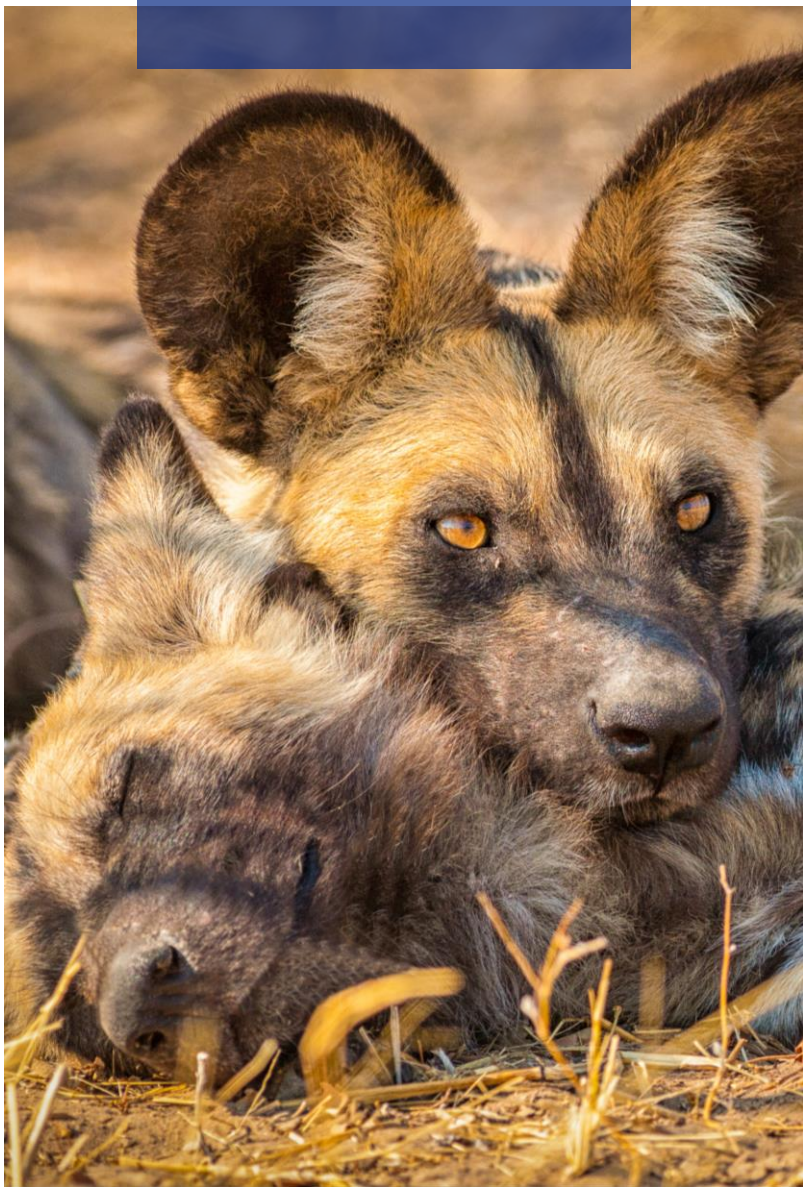
Affirmative Duties: Applicant

No permit may be issued ... unless the applicant submits to the competent authority an application that specifies

- g) the impact that will likely result from such taking;
- h) the actions that the applicant will take to minimize and mitigate such impacts, and the funding that will be available to implement those actions;
- i) alternative actions to such taking that the applicant considered and the reasons why such alternatives are not being undertaken; and
- j) any other measures that the competent authority may require as being necessary or appropriate.

Does not disadvantage the species





Additional Authority

The competent authority shall revoke the permit if

- a) the permittee is not complying with the terms and conditions of the permit
- b) the taking is disadvantaging the species.

Additional Limitation

- Non-transferability of permit



THANK YOU!



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