Regulations Concerning the Private Possession of Big Cats

Austria • Brazil • Canada • China • Costa Rica • Denmark • England • Greece
India • Israel • Japan • Lebanon • Malaysia • Mexico • Norway
Russian Federation • South Africa • Spain
Thailand • Turkey • Vietnam

European Union

June 2013

The Law Library of Congress, Global Legal Research Center
(202) 707-6462 (phone) • (866) 550-0442 (fax) • law@loc.gov • http://www.loc.gov/law

This report is provided for reference purposes only.
It does not constitute legal advice and does not represent the official opinion of the United States Government. The information provided reflects research undertaken as of the date of writing.
It has not been updated.

Contents

Comparative Analysis 1

Austria 6

Brazil 11

Canada 18

China 25

Costa Rica 29

Denmark 34

England 35

Greece 39

India 42

Israel 45

Japan 52

Lebanon 54

Malaysia 55

Mexico 62

Norway 65

Russian Federation 69

South Africa 75

Spain 84

Thailand 88

Turkey 90

Vietnam 98

European Union 100

Bibliography 105

Comparative Analysis

Laney Zhang
Foreign Law Specialist

I. Introduction

This report surveys the different legal approaches taken by twenty-one countries[*] and the European Union in regulating the private possession of big cats. All the countries surveyed are members of the Convention on International Trade in Endangered Wild Fauna and Flora (CITES). Among them, China, India, Malaysia, Russia, Thailand, and Vietnam are tiger range countries where tigers still exist in the wild. China, India, and Russia were found to designate wild tigers as state property.

The individual country surveys describe the legal provisions regarding keeping big cats in captivity, the requirements for licenses, and permission for breeding. Many surveys also discuss the procedures for accreditation of zoos keeping such animals, trade in wild animals, and penalties for violations.

II. Private Possession of Big Cats

Among the twenty-one countries surveyed, twelve were found to have legislation at the national level specifically prohibiting or restricting the private possession of big cats, by regulating certain species of big cats; a family or subfamily that big cats belong to; predators; or rare or endangered species, with species of big cats living in the country being listed. In most cases, the prohibition or restriction on keeping big cats in captivity comes from each country's wildlife protection or animal welfare laws. The provisions of England and Denmark were found to be contained in a single piece of legislation regulating dangerous animals.

- In Austria, big cats cannot be kept anywhere except in qualified zoos. This restriction applies to all members of the *Pantherinae* subfamily as well as to cheetahs and smaller wild cats, except for native wild cats (*felis sylverstris*) and lynx. These zoos are most likely to be owned at the municipal level, which would hardly qualify for private ownership.

- In Brazil, the law requires that keepers of exotic fauna pertaining to the *panthera felidae* family, which includes lions, tigers, and jaguars, to register with the Brazilian Institute for the Environment and Natural Renewable Resources and meet certain requirements.

- In China, four species of big cats are listed under the top state-protected wildlife category: tigers, lions, clouded leopards, and snow leopards. In order to keep these animals in captivity or breed them, licenses from the state wildlife management authority are required.

[*] The countries surveyed are: Austria, Brazil, Canada, China, Costa Rica, Denmark, Greece, India, Israel, Japan, Lebanon, Malaysia, Mexico, Norway, the Russian Federation, South Africa, Spain, Thailand, Turkey, the United Kingdom, and Vietnam.

- In Denmark, no animal species that may present a danger or that are particularly difficult to keep in an animal-welfare friendly manner, including all species of predators (with certain exceptions that do not include big cats), may be kept by a private person.

- In Greece, the possession of wildlife, including wild cats, without a permit is prohibited. The law prohibits holding and keeping wild animals within Greece as personal or household pets.

- In England, the ownership of dangerous wild animals is permitted, but the owner must obtain a license for each animal held. All cats, including the bobcat, caracal, cheetah, jaguar, leopard, lion, lynx, ocelot, puma, serval, and tiger, are subject to the ownership restrictions. The wild cat, pallas cat, little spotted cat, Geoffroy's cat, kodkod, bay cat, sand cat, black-footed cat, rusty-spotted cat, and domestic cat are excepted.

- In India, the private possession of endangered cats, including cheetahs, clouded leopards, fishing cats, golden cats, Indian lions, leopards, panthers, marbled cats, snow leopards, and tigers, is prohibited unless the person has a certificate of ownership for a wild animal he or she possessed at the commencement of the wildlife protection law, which was enacted in 1972.

- In Japan, big cats, including tigers, are listed as dangerous animals that may cause harm to the life, body, or property of humans under the animal welfare law. Those who care for them must first obtain a permit from the prefectural governor.

- In Malaysia, tigers and other species of large cats are listed as "totally protected" wildlife under the law. Special permits are required to keep such animals, including in a zoo or for the purposes of breeding.

- In Russia, keeping species listed as rare or endangered in captivity and their release back into the wild requires the permission of federal authorities in charge of environmental protection. All subspecies of big cats that live in Russia are included in a government-approved list of animals and plants recognized as rare or endangered.

- In South Africa, three animals in the cat family, namely, the cheetah, lion, and leopard, are categorized by the national biodiversity law as "vulnerable species." As a result, their possession in private homes is restricted and permits are required.

- In Thailand, private persons are prohibited from possessing protected wildlife, including big cats such as tigers, except where the person owned such animal before the current wildlife protection law became effective in 1992.

Table:
National Laws and Regulations of Countries Prohibiting/Restricting Private Possession of Big Cats

	Country	Legislation/Regulation	Enacted/ Adopted
1	Austria	Regulation on the Keeping of Wild Animals	2004
2	Brazil	Administrative Act (*Portaria*) No. 108	1994
3	China	Wildlife Protection Law	1989
4	Denmark	Statutory Order on Private Persons Keeping of Certain Animals	2002
5	England	Dangerous Wild Animals Act	1976
6	Greece	Joint Decision of the Ministers of Finance and Economy and Rural Development and Food on Trade of Species in Wild Fauna and Indigenous Flora	2006
7	India	Wildlife (Protection) Act	1972
8	Japan	Act on Welfare and Management of Animals	1973
9	Malaysia	Wildlife Conservation Act	2010
10	Russia	Federal Law on Wildlife	1995
11	South Africa	National Environmental Management: Biodiversity Act	2004
12	Thailand	Wildlife Preservation and Protection Act	1992

Source: Based on information provided in the individual country surveys included in this report.

Mexico has published guidelines applicable to keeping big cats in captivity. The private possession of big cats is allowed, but owners must register with Mexico's environmental authorities and are subject to guidelines applicable to keeping big cats in captivity.

In Canada, the provinces and territories have the primary responsibility for protecting the welfare of animals, including exotic wildlife. The possession of exotic wildlife as a pet in a private home is restricted in every province except Ontario.

In the following countries where regulations specifically addressing big cats were not found, keeping big cats in captivity may be subject to certain restrictions generally applicable to keeping wild animals or dangerous animals:

- Under Costa Rican law, all wildlife that is in the possession of zoos, breeding farms, rescue centers, and public or private institutions, or in private hands must be registered. Keeping wildlife in captivity is prohibited unless it comes from a wildlife management site legally established for reproduction with the goals of conservation, reintroduction, or commerce.

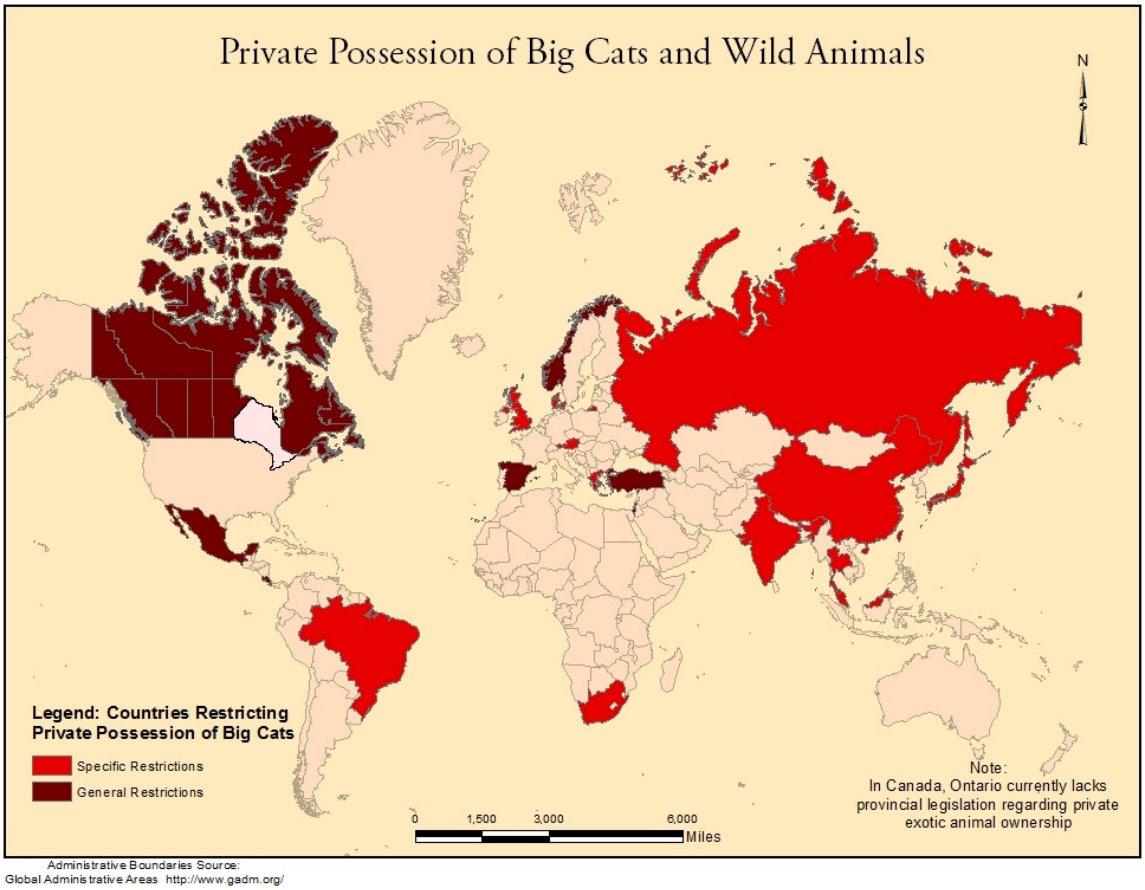
- Israeli law requires an owner or a person who controls or cares for animals to inform the city veterinarian of the local authority of the types of animals and the location of their captivity.

- Norway's regulations on exotic animals make it illegal to keep alien (exotic) mammals in captivity as livestock, pets, or otherwise, although an exemption from this ban may be granted in order to exhibit animals in zoos if certain requirements are met.

- Spain enacted a law on potentially dangerous animals in 1999 as a response to the increasing number of attacks by animals in the 1990s. In order to possess any animal considered potentially dangerous under the law, an administrative license must be obtained from the municipality with jurisdiction over the applicant's residence. The law, however, does not include any specific provision on big cats.

- The animal protection law of Turkey stipulates that persons who take ownership of or look after an animal are liable for sheltering the animal and for meeting the animal's needs, and for "taking care of their health and taking all necessary precautions with regard to the health and safety of people, animals and the environment."

Map: Private Possession of Big Cats and Wild Animals



Source: Map created by Law Library of Congress intern Andrew Walz.

III. Licensing Requirements

Wherever licenses or other forms of permits are required for the private possession of big cats, keepers must satisfy the requirements prescribed by law. Public safety is specifically emphasized in the law of England, where the following findings are required: (1) the ownership of the animal is not contrary to public safety; (2) the applicant is a suitable person to hold a license; (3) the accommodation the animal is held in is secure and suitable for the number of animals it holds; and (4) measures are in place to secure the animal in case of fire or other emergencies and that the animal will be adequately exercised. Japanese law also requires the structure of the facility be strong enough to prevent the animal from escaping, with the specific requirements in this regard depending on the animal.

Austrian law prescribes detailed specifications for the living conditions of big cats in zoos, which address the size of living spaces, temperatures, access to exterior space, landscaping, etc. For most big cats, the exterior space for a male and a female or for a female with young must measure 500 square meters with an additional 10% of space required for each additional adult animal. For tigers and jaguars, bathing basins are required. China's requirements, on the contrary, appear to be general: determined premises, necessary equipment, sufficient funds, personnel, and technology, and secured sources of food.

The length of the licenses varies in the countries surveyed. In England the licenses are provided on an annual basis and expire on December 31 of the year in which they are issued, while in South Africa the permit to possess a big cat in a private home may be issued for a period of fifty years.

IV. Breeding of Big Cats

The breeding of big cats in private possession is possible in a few of the countries surveyed, including China, Malaysia, South Africa, Russia, and Vietnam, subject to licenses or other permission.

Three countries that have been accused of operating tiger farms where stocks of tigers are bred for human utilization were surveyed: China, Thailand, and Vietnam. In China and Vietnam, it is legal to keep and breed tigers in facilities that are licensed or otherwise permitted by government. As of 2010, China had as many as six thousand tigers kept in about two hundred facilities licensed by the government to domesticate and breed tigers. In Vietnam, as of 2012, it appears that there were eleven registered tiger farms, including public facilities and zoos. A regulation sets conditions for farms that breed and rear animals, including tigers. The wildlife protection law of Thailand allows breeding of protected wildlife to be undertaken by the government for educational or academic research purposes, or for the operation of a zoo.

Austria

Edith Palmer
Chief, Foreign, Comparative, and
International Law Division II

SUMMARY Under Austrian law, big cats may not be kept in private properties or homes, and this prohibition also applies to many other exotic species. To the extent that other wild or dangerous animals are kept in private properties or homes, laws protecting the welfare of the animals must be observed as well as police laws protecting public safety. Big cats may only be kept in Category A zoos (the best qualified zoos) and these must live up to the regulatory requirements of providing properly trained staff as well as living conditions that are in keeping with the nature of the animals. These zoos also must benefit the public interest through research, education, and species preservation. Austria lives up to the requirements of the Washington Endangered Species Convention, which is implemented through European Union regulations that have in turn been transposed by Austrian legislation.

I. Introduction

Austria has no native populations of big cats. The European lynx, which is classified as a small cat in Austria,[1] may be making a come-back after having been extinct. The lynx is strictly protected in Austria, yet conditions for recovery are not optimal due to the decrease in contiguous forest lands.[2]

In Austria, the keeping of big cats and other dangerous or wild animals is addressed in legislation that serves the purposes of

- animal welfare,
- species conservation and protection,

[1] Verordnung der Bundesministerin für Gesundheit, Familie und Jugend über die Haltung von Wirbeltieren, die nicht unter die erste Tierhaltungsverordnung fallen, über Wildtiere, die besondere Anforderungen an die Haltung stellen und über Wildtierarten, deren Haltung aus Gründen des Tierschutzes verboten ist (2. Tierhaltungsverordnung) [Regulation of the Federal Minister for Health, Family and Youth on the Keeping of Vertebrate Animals that do not Fall within the Scope of the First Regulation on the Keeping of Animals, on Wild Animals for which Special Requirements Must Be Met, and for Wild Animals that May Not Be Kept for Animal Welfare Reasons (Second Animal Keeping Regulation)], BUNDESGESETZBLATT [BGBL.] II 486/2004, *as amended*, § 9 no. 10, up-to-date version *available at* Bundeskanzleramt/Rechtsinformationssystem [RIS], http://www.ris.bka.gv.at/Dokumente/Bundesnormen/NOR40061194/NOR40061194.pdf.

[2] *Bär, Luchs und Wolf kehren heim nach Österreich*, DER STANDARD.AT (Aug. 10, 2012), http://derstandard.at/1343744469158/Baer-Luchs-und-Wolf-kehren-heim-nach-Oesterreich.

- veterinary law, and
- public safety.[3]

The laws that protect these public interests are issued at different levels. Species conservation and protection is governed primarily by international agreements to which Austria is a party. With respect to big cats, the most significant of these is the Washington Endangered Species Agreement,[4] its implementation regimes at the EU level,[5] and their transposition in Austrian federal law.[6] Animal welfare is addressed in a federal Animal Welfare Act[7] that applies to all animals and that is further implemented through regulations dealing with specific activities, including regulations on zoos.[8] Veterinary law (not further discussed in this report) is also governed by federal legislation.[9] The protection of the public from dangerous animals that individuals may want to keep falls within the police power of the states and is governed by state legislation.[10] The laws that protect the public and the welfare of animals are enforced at the local level.

II. Private Possession of Big Cats

In Austria, big cats cannot be kept anywhere except in qualified zoos. This restriction is expressed in section 9 of the Regulation on the Keeping of Wild Animals,[11] and it applies to all members of the Pantherinae subfamily[12] as well as to cheetahs[13] and smaller wild cats, except for native wild cats (*felis sylverstris*) and lynx.[14] Limiting the keeping of big cats to big zoos

[3] Martina Dörflinger, *Voraussetzungen für die Haltung gefährlicher Tiere*, RECHT UND FINANZEN FÜR GEMEINDEN 22 (2009), *available at* http://www.rdb.at (by subscription).

[4] Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), Mar. 3, 1973, 27 U.S.T. 1087, T.I.A.S. 8249, 993 U.N.T.S. 243, http://www.cites.org/eng/disc/text.php, *as amended*, June 1, 1979, T.I.A.S. 11079, *and* Apr. 30, 1983, http://www.cites. org/eng/disc/gaborone.php (Gaborone Amendment). Austria first ratified the Agreement in the version of the 1979 amendment on April, 27, 1982, BGBL. No. 1982/188, and promulgated the latest version of Appendices 1, 2, and 3 in BGBL. III No. 2012/69.

[5] Council Regulation (EC) No. 338/97 on the protection of species of wild fauna and flora by regulating trade therein, 1997 O.J. (L 61) 1, *as amended*, consolidated version *at* http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1997R0338:20121215:EN:PDF.

[6] Artenhandelsgesetz [Species Trading Act], BGBL. I No. 16/2009.

[7] Tierschutzgesetz [Animal Welfare Act], BGBL. I No. 118/2004, *as amended*, up-to-date version *available at* RIS, http://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20003541.

[8] Zoo-Verordnung [Zoo Regulation], BGBL. II No. 491/2004, *as amended*.

[9] Tierärztegesetz [Veterinary Act], Dec. 13, 1974, BGBL. No. 16/1975, *as amended*.

[10] Dörflinger, *supra* note 3.

[11] Second Animal Keeping Regulation, *supra* note 1, § 9.

[12] *Id.* § 9, no. 9.

[13] *Id.* § 9, no. 11.

[14] *Id.* § 9, no. 10.

aims at protecting the welfare of these animals, in adherence to the purposes of the Austrian Animal Welfare Act.[15]

III. Keeping Big Wild Animals at Private Homes

Due to the above-described provisions, big cats cannot be kept in private homes, and many other wild animals fall under the same prohibition.[16] To the extent that big wild animals are not subject to this prohibition,[17] they can be kept in private homes only if they live up to the laws that protect animal welfare and to those that protect public safety (for the latter, see below, Part VI).[18]

IV. Private Zoos

Big cats may only be kept in Category A zoos,[19] and these are the most highly qualified zoos and are most likely to be owned at the municipal level. Category B and C zoos are intended for animals that are less difficult to keep; their licensing requirements are less restrictive,[20] and it is more likely that some of them may be privately owned. Category A zoos must be headed by an experienced biologist or veterinarian and have a sufficient well-trained staff. Category A zoos serve the public interest by providing education, conducting research, and participating in species preservation efforts.[21]

V. Requirements for Keeping Big Cats in Captivity

Detailed specifications are prescribed for the living conditions of big cats living in zoos. The enclosures in which big cats are kept must provide sufficient interior and exterior space that must be suitably equipped and be kept at appropriate temperatures for each species. For most big cats, the exterior space for a male and a female or for a female with young must measure 500 square meters with an additional 10% of space required for each additional adult animal. This space requirement applies to tigers, lions, and pumas. For clouded leopards, only 200 square meters are required, whereas 800 square meters are required for cheetahs. Depending on the species, the interior space must measure either ten or fifty square meters, and for some species a protection against inclement weather and litter on the floor must be provided. The height of the enclosure for most big cats must be at least 3.5 meter, yet four meters are required for cloudy leopards and 2.5 meters for cheetahs. [22]

---

[15] Animal Welfare Act §§ 24–25.

[16] Second Animal Keeping Regulation, *supra* note 1, § 9.

[17] The brown bear, for instance, does not need to be kept in a zoo. *Id.* § 9, no. 12.

[18] Dörflinger, *supra* note 3.

[19] Second Animal Keeping Regulation § 9.

[20] Zoo Regulation §§ 5–8.

[21] *Id.* § 4.

[22] Second Animal Keeping Regulation, *supra* note 1, App. 1, ¶ 7.10.7.2.

Access to the exterior space must be provided throughout the year. The exterior space must be landscaped with vegetation and sand. It must also be enhanced with opportunities for climbing and scratching, and raised platforms to serve as look-out posts must be provided, as well as places for lying down that are protected from the weather. For tigers and jaguars, bathing basins are required. Lions are to be kept in prides (groups) whereas other cats are to be kept in pairs, yet females giving birth and raising their young must be kept separated at least part of the time. For fodder, whole carcasses, muscle meat attached to the bone and enriched by mineral supplements, and, occasionally, organ meats must be offered.[23]

In addition to these specific requirements, the overall provisions of the Austrian Animal Welfare Act must be observed. The most important restrictions result from section 5 of the Act, which contains a long list of actions that constitute cruelty and are therefore prohibited. Among them are breeding practices (see below, Part VII); training that makes animals more aggressive; requiring performances by an animal that cause it pain and suffering, injury, or fear; subjecting an animal to unsuitable temperatures or unsuitably small enclosures; force-feeding or other feeding practices that induce fear; and neglect of an animal and its living conditions in a manner that causes the animal pain, suffering, injury, or fear. Also prohibited are surgical interventions except for those needed for therapeutic or diagnostic purposes. Exceptions from this prohibition are narrowly worded yet they include the castration of animals. In any event, all necessary surgical interventions must be carried out by a veterinarian who must administer anesthesia when appropriate as well as post-operative pain medication.[24]

VI. Procedures for Licensing Facilities that Keep Ferocious Animals

All zoos must be licensed in accordance with the Zoo Regulation of 2004.[25] Circuses also must be licensed and they must live up to stringent requirements for the animals kept by them.[26] Circuses, however, are not authorized to keep wild animals.[27] Regulations also exist for the keeping of animals for sale, yet big cats cannot be traded by pet shops and similar institutions.[28]

A license is also required for individuals who want to keep a ferocious animal in their homes or in other properties.[29] On the basis of various police laws of the Austrian states, keepers of wild mammals (except for hoofed animals) that in principle may be kept in private homes or other properties must obtain a license, which will be granted only if the local authorities are satisfied

[23] Id.

[24] Animal Welfare Act § 6.

[25] *Id.* § 26; Zoo Regulation, *supra* note 8, § 2.

[26] Tierschutz-Zirkusverordnung [Circus Animal Welfare Regulation], BGBL. II No. 489/2004.

[27] Animal Welfare Act § 27.

[28] Tierhaltungs-Gewerbeverordnung [Commercial Animal Keeping Regulation], BGBL. II No. 487/2004, *as amended*.

[29] Dörflinger, *supra* note 3.

that the animal will be kept in a manner that protects public safety and private property and that lives up to the statutory and regulatory animal welfare provisions.[30]

VII. Permission for Breeding

Since the private keeping of big cats is not possible, there are no legal frameworks that would require permission for their breeding. In category A zoos, where big cats may be kept, breeding may be part of a planned species preservation effort and it would be carried out under appropriate veterinary guidance. Breeding is also addressed in section 5 of the Animal Welfare Act, which prohibits cruelty against animals. This provision prohibits breeding that could cause the animal or its descendants pain, suffering, injury, or fear, and could lead to genetic mutations that impair the animal's health or physiological condition by causing the animal to suffer from a variety of conditions including shortness of breath, lameness, inflammations, blindness, deafness, hair loss, neurological symptoms, and various bodily abnormalities including those that would make natural childbirth difficult.

VIII. Trade in Wild Animals

Austria is a member of the 1973 Washington Convention on International Trade in Endangered Species of Wild Fauna and Flora and has implemented the Convention through a Species Trade Act of 2009[31] that also transposes the relevant European Union Legislation.[32] The latter distinctly refers to big cats as being subject to stringent export/import controls.[33] In Austria, implementation and enforcement of the endangered species regime are handled at the federal level, in part by the Ministry for Agriculture and Forestry, and in part by the Ministry for Finance.[34]

IX. Penalties and Enforcement

Violations of animal welfare provisions are administrative offenses, punishable by fines that in serious cases may amount to €15,000 (US$19,500). Violations of trade in endangered animals restrictions are also administrative offenses, and penalties may range up to €20,000 (US$26,000).

[30] In Upper Austria, for instance. Polizeistrafgesetz, LANDESGESETZBLATT FÜR OBERÖSTERREICH No. 36/1979, *as amended*.

[31] Artenhandelsgesetz [Species Trading Act], BGBL. I No. 16/2009.

[32] Council Regulation (EC) No. 338/97 on the Protection of Species of Wild Fauna and Flora by Regulating Trade Therein, 1997 O.J. (L 61) 1, *as amended*, consolidated version *at* http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1997R0338:20121215:EN:PDF.

[33] *Id.* App. A.

[34] Species Trading Act § 14.

Brazil

Eduardo Soares
Senior Foreign Law Specialist

SUMMARY Federal law governs public and private zoos in Brazil. A federal agency is in charge of licensing such establishments and enforcing regulations pertaining to them. Several norms issued by the agency also regulate the private possession of big cats and trade in wild animals, among other things. Noncompliance with the regulations can result in fines, license suspension, closure of a private enterprise, and even prison time for the offender.

I. Private Zoos

In Brazil, zoos are regulated by Law No. 7,173 of December 14, 1983. Under this law, a zoo is defined as any collection of wild animals kept alive in captivity or semiliberty and exhibited to the public.[1]

To meet social, cultural, and scientific objectives, the federal government may maintain or authorize the installation and operation of zoos.[2] The governments of the states, municipalities, and the Federal District may install and maintain zoos, provided that they comply with the requirements of Law No. 7,173.[3] Exceptionally, zoos belonging to companies and individuals may be allowed to operate once the requirements of Law No. 7,173 and supplementary regulations are met.[4]

Pursuant to the terms of Law No. 7,173, on March 4, 2002, the Brazilian Institute for the Environment and Natural Renewable Resources (*Instituto Brasileiro do Meio Ambiente e Recursos Naturais Renováveis*—IBAMA)[5] issued Normative Instruction No. 04, which further regulates the registration of public or private zoos.[6]

---

[1] Lei No. 7,173, de 14 de Dezembro de 1983, art. 1, http://www.planalto.gov.br/ccivil_03/Leis/1980-1988/L7173.htm.

[2] *Id.* art. 2.

[3] *Id.* art. 2(§1).

[4] *Id.* art. 2(§2).

[5] IBAMA was created by Law No. 7,735 of February 22, 1989, as modified by Law No. 11.516 of August 28, 2007 (*Lei No. 7,735, de 22 de Fevereiro de 1989*, http://www.planalto.gov.br/ccivil_03/Leis/L7735.htm, modificada pela Lei No. 11,516, de 28 de Agosto de 2007, http://www.planalto.gov.br/ccivil_03/_Ato2007-2010/2007/Lei/L11516.htm#art5), as a federal agency subordinated to the Ministry of Environment, for the purpose of exercising environmental police power (art. 2(1)), and for executing actions in connection with national policies for the environment that are related to environmental licensing, environmental quality control, authorization for the use of natural resources, and the inspection, monitoring, and control of the environment, in accordance with the directives issued by the Ministry of the Environment (art. 2(II)).

[6] Instrução Normativa No. 4, de 04 de Março de 2002, art. 1, LEGISLAÇÃO, IBAMA, http://www.ibama.gov.br/documentos-fauna-silvestre/legislacao.

The Normative Instruction provides for three different categories of zoos[7] and the requirements for obtaining registration for each.[8] The requirements include the minimum number of professional personnel on call, areas that must be dedicated for specific purposes, the measurement of cages for housing each category of species and the materials to be used, the nature of the water source for each species, the percentage of shade or sunlight to which the cages are exposed, security measures and procedures that must be adopted, and the establishment of escape routes.

Any accommodation that, while meeting the requirements of Normative Instruction No. 4, does not demonstrably provide for the physical and psychological well-being of one or more animals being housed may be closed by IBAMA, which entails the removal of the animal(s) from the enclosure.[9]

Noncompliance with the dispositions of Normative Instruction No. 4 may result in a warning, a fine, or the closing of the zoo.[10]

II. Trade in Wild Animals

Article 11 of Law No. 7,173[11] states that the acquisition or collection of animals coming from native fauna for zoos requires a previous license issued by IBAMA and compliance with the laws in force.

The importation of animals coming from foreign fauna to a zoo requires[12]

a) compliance with article 4 of Law No. 5,197, of January 3, 1967;

b) evidence of a health certificate provided by an accredited body in the country of origin;

c) compliance with the quarantine requirements established by IBAMA;

d) compliance with the legislation in force and the existing international commitments.

Article 4 of Law No. 5,197 of January 3, 1967 determines that no species can be introduced into the country without a favorable official technical opinion and a license issued in accordance with the law.[13]

---

[7] *Id.* art. 2.

[8] *Id.* arts. 3–5.

[9] *Id.* art. 25.

[10] *Id.* art. 26.

[11] Article 11 of Law No. 7,173 determines that the license for the acquisition or collection of animals coming from native fauna for zoos should be issued by the Brazilian Institute of Forest Development (*Instituto Brasileiro de Desenvolvimento Florestal—IBDF*). However, on February 14, 1989, IBDF was closed by Law No. 7,732 of February 14, 1989 (*Lei No. 7,732 de 14 de Fevereiro de 1989*, art. 2, http://www.planalto.gov.br/ccivil_03/Leis/L7732.htm), and on February 22, 1989, Law No. 7,735 of February 22, 1989 created the IBAMA (art. 2), and the IBDF functions and personnel were transferred to the Institute (art. 4). For the purpose of this report, the author uses IBAMA every time IBDF is mentioned in Law No. 7,173.

[12] Lei No. 7,173, art. 12.

[13] Lei No. 5,197, de 3 de Janeiro de 1967, art. 4, http://www.planalto.gov.br/ccivil_03/leis/L5197compilado.htm.

Zoos must have a logbook for their faunal collection, fully endorsed by IBAMA and available to the public authorities for inspection, that includes all acquisitions, births, transfers, and deaths of animals, with annotation of origin and destination.[14]

Zoos are allowed to sell their duplicates of foreign fauna. However, all transactions involving native species are prohibited.[15] Exceptionally, and always subject to prior approval of IBAMA, surplus animals belonging to native fauna that have demonstrably been born in captivity, on the zoo premises, may be offered for sale.[16]

Pursuant to the terms of article 16(§1) of Law No. 7,173, surplus animals belonging to native fauna that have demonstrably been born in captivity, on the zoo premises may be exchanged for surplus animals from similar institutions in the country and abroad.[17]

Additionally, Administrative Act (*Portaria*) No. 93, issued by IBAMA on July 7, 1998, regulates the import and export of live specimens, products and byproducts of native and exotic fauna.[18] Any violation of the norms of the Act may result in administrative penalties, cancelation of the registration, license suspension, seizure of the products, and all other penalties foreseen in Laws No. 5,197 of January 3, 1967, 6,938 of August 31, 1981, and 9,605 of February 12, 1998.[19]

III. Keeping Large Wild Animals in Private Homes

The keeping of lions, tigers, bears, and primates, among other species, in captivity, by individuals, is regulated by Administrative Act (*Portaria*) No. 108, which was issued by IBAMA on October 6, 1994. The act requires that a person register with IBAMA as a keeper of exotic fauna (*Mantenedor de Fauna Silvestre Exótica*).[20]

To obtain the registration as a keeper of exotic fauna, a person must submit the following to IBAMA:[21]

a) an authorization to keep such animals issued by the state or municipal authority;

b) an IBAMA registration form;

c) the address where the animals will be kept;

---

[14] Lei No. 7,173, art. 14.

[15] *Id.* art. 16.

[16] *Id.* art. 16(§1).

[17] *Id.* art. 16(§2).

[18] Portaria No. 93, de 6 de Julho de 1998, art. 1, LEGISLAÇÃO, IBAMA, http://www.ibama.gov.br/documentos-fauna-silvestre/legislacao.

[19] *Id.* art. 35.

[20] Portaria No. 108, de 6 de Outubro de 1994, art. 1, LEGISLAÇÃO, IBAMA, http://www.ibama.gov.br/documentos-fauna-silvestre/legislacao.

[21] *Id.* art. 1 (sole para.).

d) the registration of the animals (as provided for on Annex I of the Administrative Act); and

e) sketches of the area and details of nurseries/enclosures that must comply with Normative Instruction No. 001/89-P of October 19, 1989 (Annex II).

IV. Requirements for Keeping Big Cats in Captivity

A keeper of exotic fauna must have the permanent assistance of at least one veterinarian, identify the sex, mark all the animals, perform an autopsy on animals that die, and record the autopsy information in the animal's individual records. The death must also be reported within ten days to the state office of IBAMA where the keeper is located.[22]

Renewal of the registration as a keeper of exotic fauna is dependent on the presentation of an annual report, which must be filed with the IBAMA Superintendent, according to the model in Annex III of the Act.[23]

The government may inspect a keeper of exotic fauna at any time, and any violation of the Act immediately cancels his or her registration.[24]

V. Permission for Breeding

Normative Instruction No. 175, issued by IBAMA on June 11, 2008, prohibits the breeding of big exotic cats.[25] Population control of big exotic cats must be maintained by means of vasectomy.[26] If vasectomy is not viable for any reason, the keeper must submit to the Superintendent of IBAMA the appropriate records and a justification signed by a qualified professional.[27]

A zoo that wants to keep specimens of exotic big cats capable of reproducing must request authorization from IBAMA, presenting a justification containing the description of suitable premises to house the cubs when they reach adulthood.[28]

The trade in big exotic cats is restricted to transactions between zoos only;[29] the importation of big exotic cats is prohibited.[30]

---

[22] *Id.* art. 2.

[23] *Id.* art. 4.

[24] *Id.* art. 5.

[25] Instrução Normativa No. 175, de 11 de Junho de 2008, art. 1, LEGISLAÇÃO, IBAMA, http://www.ibama.gov.br/supes-es/legislacao.

[26] *Id.* art. 1(§1).

[27] *Id.* art. 1(§2).

[28] *Id.* art. 1(§3).

[29] *Id.* art. 4.

[30] *Id.* art. 5.

VI. Licensing and Accreditation

On April 15, 1999, IBAMA issued Normative Instruction No. 1, which establishes the criteria for the environmental licensing of projects and activities involving the handling of exotic and native fauna in captivity.[31]

Under the Instruction, native fauna is defined as all animals belonging to native, migratory species, and any other animal, aquatic or terrestrial, all or part of whose life cycle occurs within the boundaries of the national territory or in Brazilian waters, with the exception of species subject to fishing.[32]

Exotic fauna is defined as all animals belonging to species or subspecies whose geographic distribution does not include the national territory, and species or subspecies introduced naturally or by man, across the borders, including domestic animals in a wild state.[33]

Breeding is defined as the act that, under controlled conditions, promotes the reproduction in captivity of specimens belonging to native and exotic fauna that have their origin in nature or captivity.[34] Rearing is defined as the act that, under controlled conditions of captivity, fosters growth, fattening, and finishing of specimens of native and exotic fauna that have their origin in nature or captivity.[35]

The criteria for environmental licensing of projects and activities involving the handling of exotic and native fauna in captivity is set according to different levels of risk or impact that the projects and activities pose to ecosystems, locally or regionally, in case the animals escape back to nature.[36]

The risk levels are defined as follows:[37]

> I) low-risk—breeding and/or rearing activities of species of Brazilian fauna in their natural geographical distribution;
>
> II) medium-risk—breeding and/or rearing activities of species of Brazilian fauna outside their natural geographic distribution;
>
> III) high-risk activities—breeding and/or rearing activities of species of exotic fauna in the country, including by the keepers of exotic fauna who are regulated by Administrative Act No. 108, of October 6, 1994, and by circuses (see "Keeping Large Wild Animals in Private Homes" above).

[31] Instrução Normativa No. 1, de 15 de Abril de 1999 (later renumbered Instrução Normativa 003/99), art. 1, LEGISLAÇÃO, IBAMA, http://www.ibama.gov.br/documentos-fauna-silvestre/legislacao.

[32] *Id.* art. 2(I).

[33] *Id.* art. 2(II).

[34] *Id.* art. 2(III).

[35] *Id.* art. 2(IV).

[36] *Id.* art. 3.

[37] *Id.* art. 4.

Articles 6 and 7 of Normative Instruction No. 1 provides the documentation, procedures, and sketches that must be presented to IBAMA to obtain the licensing of projects and activities involving the handling of exotic and native fauna in captivity.

VII. Regulations and Penalties for Small Private Zoos

In addition to Law No. 7,173 of December 14, 1983, which regulates zoos in the country, Brazilian fauna is protected by Law No. 5,197 of January 3, 1967, which determines that animals of any species, in any phase of their development, that live naturally free and out of captivity and constitute native fauna, as well as their nests, shelters, and natural breeding habitats are government property. It further prohibits their use, chase, destruction, hunting, or capture.[38] Violation of the Brazilian Fauna Law constitutes a crime punishable by up to five years in prison.[39]

Law No. 9,605 (issued on February 12, 1998) defines crimes against the environment and their corresponding punishments. Article 29 determines that to kill, chase, hunt, catch, or use native or migrating wildlife species without obtaining the proper permission, license, or authorization from the competent authority or in contradiction to it is punishable by up to one year in prison and a fine.[40]

The law also punishes an authority that becomes aware of criminal conduct in progress and does nothing to stop it.[41] Such persons will be charged administratively and criminally according to the law.[42]

Decree No. 6,514 of July 22, 2008 defines violations against fauna, the respective administrative sanctions, and the corresponding federal administrative procedures.

Violations against fauna include, among other things, killing, pursuing, hunting, catching, collecting, or using wild life species, native or migratory, without obtaining the proper permission, license, or authorization from the competent authority, or acting in a manner that is contrary to the authorization obtained.[43]

Also considered violators against fauna are unauthorized breeders who, without obtaining the proper permission, license, or authorization from the competent authority, or acting in a manner that is contrary to the authorization obtained, sell, offer for sale, export or acquire, keep in captivity or storage, use or transport eggs, larvae, or specimens of wildlife species, native or migratory, as well as products and objects derived from them.

---

[38] Lei No. 5,197, de 3 de Janeiro de 1967, arts. 1–3, 10.

[39] *Id.* art. 27.

[40] Lei No. 9,605 de 12 de Fevereiro de 1998, art. 29, http://www.planalto.gov.br/ccivil_03/Leis/L9605.htm.

[41] *Id.* art. 2.

[42] *Id.* art. 3.

[43] Decreto No. 6,514, de 22 de Julho de 2008, art. 24, http://www.planalto.gov.br/ccivil_03/_Ato2007-2010/2008/Decreto/D6514.htm.

The fines for such violations vary from R$500,00 (US$250.00) to R$5.000,00 (US$2,500.00),[44] and are doubled if the offense is committed for the purpose of obtaining pecuniary advantage.[45]

[44] *Id.* art. 24(I) & (II).

[45] *Id.* art. 24(§1).

Canada

Tariq Ahmad
Legal Research Analyst[*]

SUMMARY Canadian provinces and territories have primary responsibility for protecting the welfare of animals, including exotic wildlife. All provinces and territories have laws in respect to the private possession of animals. The possession of exotic wildlife as a pet in a private home is restricted in every province except Ontario. In each province, all zoological institutions that hold a valid permit may possess exotic species with the exception of Ontario, which does not require a permit. Each province has a process for the specific penalties that are to be imposed upon contravention of their enacted legislation as well as for any individual who commits an offense of animal cruelty under the Criminal Code of Canada.

I. Introduction

Under the Canadian Constitution Act, personal property is the exclusive jurisdiction of the provincial legislatures.[1] The development and implementation of animal welfare laws concerning the private possession of animals in Canada is therefore within the jurisdiction of the government of each province and territory. The Parliament of Canada has jurisdiction over all matters relating to the regulation of trade and commerce and thus it is competent only in matters regarding the commercial trade of animals.[2]

Canada is a member of the Convention on International Trade in Endangered Species (CITES), the international treaty which regulates the international trade of endangered and threatened species of animals.[3] Environment Canada (EC) is the federal government department responsible for implementing CITES. EC regulates the international trade of CITES-listed species through the Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act (WAPPRIITA).[4] However, some provinces and territories impose stricter legislation.[5]

---

[*] This report was prepared with the assistance of Law Library intern Ashley Munro.

[1] Constitution Act, 1867, 30 & 31 Victoria, c. 3 (U.K.), *reprinted in* R.S.C. 1985, app. II, no. 5, § 92 (13), http://laws-lois.justice.gc.ca/eng/Const/FullText.html.

[2] *Id*, § 91 (2).

[3] Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), Mar. 3, 1973, 27 U.S.T. 1087, T.I.A.S. 8249, 993 U.N.T.S. 243, http://www.cites.org/eng/disc/text.php, *as amended*, June 1, 1979, T.I.A.S. 11079, *and* Apr. 30, 1983, http://www.cites.org/eng/disc/gaborone.php (Gaborone Amendment). Canada was the tenth country to ratify the Convention, which came into effect in July 1975.

[4] S.C, 1992, c. 52, http://laws-lois.justice.gc.ca/PDF/W-8.5.pdf.

[5] *CITES: Stricter Measures*, EC, http://www.ec.gc.ca/cites/default.asp?lang=En&n=037516DE-1 (last updated Oct. 6, 2010).

In addition to provincial legislation for the private possession of animals, many municipalities have bylaws to control exotic animal ownership. The problem, however, is that there is no standard bylaw among the various cities as to how to define "exotic animal" or how to deal with the many exceptions to ownership restrictions such as for universities, labs, animal school-related displays, etc.[6]

II. Federal Protection of Big Cats

There are two main types of big cats that are native to Canada: the cougar (*Puma concolor)* and the lynx (*Lynx canadensis, Lynx rufus*).[7] Under the federally enacted Species at Risk Act (SARA)[8] the cougar has been designated as endangered since 1978.[9] As of May 2011, the lynx was designated "not at risk." The purpose of this Act is to provide special legal protection for Canadian at-risk wildlife species and ecosystems. Since the lynx is not considered to be a species at risk under SARA it does not have any special protection under the Act.[10] The cougar, however, is listed as endangered and therefore individuals are generally prohibited from possessing cougars.[11]

The majority of big cats are on the CITES endangered species list. In Canada, importers of these species are subject to specific import requirements such as permits, licenses, and supporting documents.[12]

Lastly, the Criminal Code of Canada prohibits anyone from "wilfully causing animals to suffer from neglect, pain or injury."[13] Thus, cruelty to big cats would be an indictable offence and the person would be "liable to imprisonment for a term of not more than five years" or on summary conviction "liable to a fine not exceeding ten thousand dollars or to imprisonment for a term of not more than eighteen months or to both."[14] Provisions on animal cruelty in the Criminal Code are enforced by police services, provincial and territorial Societies for the Prevention of Cruelty to Animals (SPCA), and/or provincial and territorial ministries of agriculture.[15]

---

[6] *Exotic Animals in Canada*, ANIMAL LAW IN CANADA, http://www.animallaw.ca/index.php/wildlife (last modified Oct. 21, 2011).

[7] *Big Cats*, TRAIL CANADA, http://www.trailcanada.com/wildlife/big_cats/ (last visited June 11, 2013).

[8] Species at Risk Act, S.C. 2002, c. 29, http://laws-lois.justice.gc.ca/eng/acts/S-15.3/FullText.html.

[9] *Wildlife Species Assessment*, COSEWIC, http://www.cosewic.gc.ca/eng/sct0/index_e.cfm (last updated Apr. 5, 2013).

[10] *Id*.

[11] Species at Risk Act § 32 (2).

[12] *CITES*, EC, http://www.ec.gc.ca/cites/default.asp?lang=En&n=7E56589B-1 (last updated Mar. 22, 2013).

[13] Criminal Code, R.S.C. 1985, c. C-46, § 445.1, http://www.canlii.org/en/ca/laws/stat/rsc-1985-c-c-46/latest/rsc-1985-c-c-46.html.

[14] *Id.* § 445.1 (2)(a)(b).

[15] *Federal Legislation: Criminal Code of Canada – Cruelty to Animals*, ONTARIO SPCA, http://www.ontariospca.ca/what-we-do/investigations/animal-cruelty-resources/animal-cruelty-laws/federal.html (quoting Criminal Code § 445.1(1)) (last visited June 11, 2013); *Provincial and Territorial Legislation Concerning Farm Animal Welfare*,

III. Keeping Exotic Species in Private Homes

The regulation of the keeping of exotic big cats (i.e., big cats that are not native to Canada) falls under the specific provincial laws governing the possession of exotic species. The Canadian Society for the Prevention of Cruelty to Animals (SPCA) is an animal welfare organization in Canada that seeks to prevent cruelty to animals. Each province has a separate SPCA that is mandated to enforce each jurisdiction's relevant animal legislation.[16] The inspectors of the SPCA respond to all complaints of animal cruelty and neglect. In all provinces the SPCA is responsible for the application and enforcement of both the Criminal Code provisions on animal cruelty and the specific legislation enacted with regard to exotic wildlife.[17]

All provinces besides Ontario either require a permit to own exotic species or completely ban them as pets; however, zoos are often exempt from this restriction. This also varies from province to province. For example, Alberta and Prince Edward Island (PEI) only ban the private possession of animals considered "dangerous." Quebec and Saskatchewan specify which species do and do not require permits.[18] The enacted legislation on the possession of exotic animals is analyzed in more detail below with regards to the provinces of British Columbia, Quebec and Ontario.

A. British Columbia

The province of British Columbia took the lead in preventing the sale and ownership of exotic species by promulgating the Controlled Alien Species Regulation under the BC Wildlife Act on March 17, 2009.[19] The Regulation, which is based on recommendations submitted by the BC SPCA to the BC Ministry of the Environment in 2007, legally designates over 1,000 previously unregulated non-native species as Controlled Alien Species (CAS). This list was based solely on potential public safety issues and not animal welfare or environmental concerns.[20] Section 3 of the Controlled Alien Species Regulation specifies that a person must be in possession of a permit if he or she wishes to possess a big cat.

CFIA, http://www.inspection.gc.ca/animals/terrestrial-animals/humane-transport/provincial-and-territorial-legislation/eng/1358482954113/1358483058784 (last visited June 11, 2013).

[16] *Inspection*, SPCA, http://www.spca.com/?page_id=595&lang=en (last visited June 11, 2013).

[17] *Id.*

[18] For examples of exotic wildlife legislation in Alberta and Saskatchewan, *see* The Animal Control Bylaw, 1999, City of Saskatoon, Bylaw No. 7860, http://www.saskatoon.ca/DEPARTMENTS/City%20Clerks%20Office/Documents/bylaws/7860.pdf; The Municipalities Act, Part XII – Legal Actions, Division 5 – Dangerous Animals, S.S. 2005, c. M-36.1, §§ 374–380, http://www.animallaw.info/nonus/statutes/stcass2005_c_M_36_1_374.htm; The Wildlife Act, S.S., c. W-13.12, http://www.qp.gov.sk.ca/documents/English/Statutes/Statutes/W13-12.pdf; Wildlife Regulation, Wildlife Act, A. Reg. 143/1997, http://www.qp.alberta.ca/1266.cfm?page=1997_143.cfm&leg_type=Regs&isbncln=9780779749782.

[19] Controlled Alien Species Regulation, B.C. Reg. 94/2009, http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/94_2009.

[20] *Exotic Animal Legislation*, BC SPCA, http://www.spca.bc.ca/welfare/wildlife/exotic/exotics-legislation.html (last visited June 11, 2013).

Species on the CAS list can no longer be bought, sold, bred, or kept in BC for private ownership. Under Schedule I of the Regulation, all species of the subfamily *Pantherinae* (defined as "big cats such as lions, tigers and panthers") are listed as CAS. According to the Regulation, individuals are prohibited from possessing or breeding such animals unless the animal was in BC prior to March 16, 2009 (the date of the adoption of the Regulation). Individuals who had one of these animals before March 16, 2009, must apply for a permit and comply with care standards in order to keep the animal for the rest of its life. A permit is required in order to own all animals on this list.[21] Different permits exist for pet owners, researchers, and the entertainment industry.[22] Over time, the adoption of the Regulation will lead to the phasing out of private possession of such exotic animals as tigers, lions, caimans, and primates in BC.[23]

Under section 6 of this Regulation, any person in contravention of the Regulation commits an offense and is liable to the fines and penalties outlined in the BC Wildlife Act. Section 84(2) of the Wildlife Act specifies that on first conviction, an individual in contravention of the Act is liable to a fine of not more than Can$250,000 and not less than Can$2,500 (approximately US$244,800 to US$2,400), to a term of imprisonment not exceeding two years, or to both.[24]

B. Quebec

The Regulation Respecting Animals in Captivity[25] is the main piece of Quebec legislation that applies to the keeping of animals in captivity, the capture of animals for the purpose of keeping them in captivity and, where applicable, the disposal of animals. This Act provides general obligations for the keeping of animals in captivity and the standard of care that they need. In the Act, certain species of animals are exempt from the requirement of obtaining a license prior to acquiring the animals. However, no big cats are listed as an exception and therefore any individual wishing to privately own a big cat in Quebec must obtain a license.

Division II of the Regulation outlines the basic obligations of any person who keeps an animal in captivity, such as providing the animal with drinking water and preventing the unnecessary suffering of the animal. Any person who contravenes one of these sections commits an offense.[26]

---

[21] *Id*.

[22] *Controlled Alien Species Regulation*, *Wildlife Act Review*, MINISTRY OF FORESTS, LANDS AND NATURAL RESOURCE OPERATIONS, BRITISH COLUMBIA, http://www.env.gov.bc.ca/fw/wildlifeactreview/cas/ (last visited June 11, 2013).

[23] *Exotic Animal Ownership Restrictions*, BC SPCA (2013), http://www.spca.bc.ca/welfare/wildlife/exotic/exotics-ownership-restrictions.html.

[24] Wildlife Act, RSBC 1996, c. 488, http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_96488_01#section84.

[25] Regulation Respecting Animals in Captivity, R.R.Q., c. C-61.1, r 5, http://www.canlii.org/en/qc/laws/regu/rrq-c-c-61.1-r-5/latest/rrq-c-c-61.1-r-5.html.

[26] *Id*. § 86.

The Animal Health Protection Act (generally known by its statutory chapter designation, P-42)[27] imposes basic standards of care for all animals. Division IV of the Act deals specifically with the "Safety and Welfare of Animals kept in captivity."

In Quebec, inspectors of the SPCA are responsible for enforcing provincial legislation regarding the Animal Health Protection Act[28] and the provisions of the Criminal Code of Canada regarding animal cruelty.

C. Ontario

The province of Ontario is the only province currently lacking any form of provincial legislation regarding private exotic animal ownership. The 2003 Ontario Municipal Act[29] did, however, give municipalities the power to enact exotic animal bylaws, which are not standardized and vary between municipalities.

In Ontario, the main piece of legislation concerning wild animals is the Fish and Wildlife Conservation Act.[30] This Act regulates which animals may and may not be taken into captivity and under which conditions this may occur. Section 40 of the Act provides that live game wildlife or live specially protected wildlife shall not be kept in captivity except under the authority of a license and in accordance with the regulations. Neither the Canadian lynx nor the cougar appear on the schedule under live game wildlife or live specially protected wildlife.

In regards to exotic wildlife, Ontario is in the process of trying to pass a private member's bill to oversee exotic wildlife in captivity—Bill 125.[31] Until this Bill is passed, the only provincial authority is the Ontario Society for the Prevention of Cruelty to Animals (OSPCA), which intervenes only in animal cruelty investigations.[32]

The Ontario Society for the Prevention of Cruelty to Animals Act[33] outlines the basic standards of care for all animals. The Ontario SPCA supervises the enforcement of the Act. Inspectors and agents of the SPCA are given the powers of a police officer for the enforcement of the Act.[34]

---

[27] Animal Health Protection Act, c. P-42, http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/P_42/P42_A.html.

[28] *Id*.

[29] Municipal Act, S.O. 2001, c. 25, http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_01m25_e.htm.

[30] Fish and Wildlife Conservation Act, S.O. 1997, c. 41, http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_97f41_e.htm.

[31] Bill 125, Exotic Wildlife in Captivity Act, 2010, Legislative Assembly of Ontario, http://www.ontla.on.ca/web/bills/bills_detail.do?locale=en&BillID=2423.

[32] *Canadian Laws*, STORY BOOK FARM PRIMATE SANCTUARY, http://www.storybookmonkeys.org/canadian_laws.htm (last visited June 11, 2013).

[33] Ontario Society for the Prevention of Cruelty to Animals Act, R.S.O. 1990, c. O.36, http://www.canlii.org/en/on/laws/stat/rso-1990-c-o36/latest/rso-1990-c-o36.html#BK15.

[34] *Id*. § 11.

Under the Ontario SPCA Act, any person who is in contravention of certain sections of the Act is punishable "on conviction to a fine of not more than $1,000 or to imprisonment for a term of not more than 30 days, or to both".[35]

IV. Commercial Zoological Institutions

Regulation of private zoos falls under provincial and territorial jurisdiction. Regulations for private exotic animal farms vary from province to province.

A. British Columbia

As of April 1, 2010, all commercial zoos in British Columbia are required to have permits for the possession, breeding, or shipping/transporting of a Controlled Alien Species. Permits must also be obtained, to bring new Controlled Alien Species into British Columbia.[36]

Commercial zoos that hold a valid permit issued by the Ministry of Environment will be able to possess CAS, ship and transport CAS, as well as breed CAS (with an approved collection management plan).[37]

B. Quebec

The Regulation Respecting Animals in Captivity[38] indicates the requirement for a zoological garden to obtain a license. Section 20 of the regulation specifies that the holder of a zoological garden license "authorizes its holder to keep animals of native or exotic species in captivity for conservation, research, educational, exhibition and recreational purposes. It also authorizes its holder to capture an animal of a native species listed in Schedule I for the purpose of keeping it in captivity." Section 21 of the regulation specifies the specific requirements necessary to obtain a zoological license.

[35] *Id.* § 18.1.

[36] *Controlled Alien Species Regulation – Information for Commercial Zoos Possessing Controlled Alien Species*, MINISTRY OF FORESTS, LANDS AND NATURAL RESOURCE OPERATIONS, BRITISH COLUMBIA, http://www.env.gov.bc.ca/fw/wildlifeactreview/cas/commercial.html# (last visited June 11, 2013).

[37] *Id.*; *see also* CANADA'S ACCREDITED ZOOS AND AQUARIUMS, http://www.caza.ca/ (last visited June 11, 2013).

[38] Regulation Respecting Animals in Captivity, R.R.Q., c. C-61.1, r 5, http://www.canlii.org/en/qc/laws/regu/rrq-c-c-61.1-r-5/latest/rrq-c-c-61.1-r-5.html.

C. Ontario

The Ontario Fish and Wildlife Conservation Act (1997)[39] is an important piece of legislation regulating which animals native to Canada may and may not be kept in captivity and the conditions under which this may occur. All species in this Act are "Scheduled Wildlife Species." Among the circumstances for which these species may be kept in captivity is that of a licensed zoo that keeps scheduled wildlife for educational and public display purposes. As part of the Fish and Wildlife Conservation Act, Ontario Regulation 668/98 – Wildlife in Captivity specifically regulates zoos. As a result of this Regulation any person who owns or operates a zoo must apply to the Minister of Natural Resources (MNR) for a license.[40] However, as noted above, no specific legislation addressing exotic animals has been enacted in the Province of Ontario.[41]

[39] Fish and Wildlife Conservation Act, S.O. 1997, c. 41, http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_97f41_e.htm.

[40] Wildlife in Captivity, O. Reg. 668/98, § 2.

[41] *Ontario Roadside Zoos*, WSPA, http://www.wspa.ca/wspaswork/roadsidezoos/ (last visited June 11, 2013).

China

Laney Zhang
Foreign Law Specialist

SUMMARY Four species of big cats are listed under the first of two classes of state-protected wildlife in China—tigers, lions, clouded leopards, and snow leopards. In order to keep these animals in captivity or breed them, licenses from the state wildlife management authority are required. The license holders must keep and breed animals belonging to the same species, while the number of animals they may have does not seem to be limited. If wild animals are found to be kept without a proper license as required by law, the animals may be confiscated.

I. Introduction

A historic tiger range country, China now has only fifty to sixty tigers in the wild.[1] Under Chinese law, these tigers are state property.[2] Many more tigers, with the numbers ranging from hundreds to as many as six thousand, are in captivity.[3] According to the government's official statistics, about two hundred facilities, including zoos, wildlife parks, and other "wildlife domestication and breeding centers," have been licensed to domesticate and breed tigers.[4]

When it was enacted in the 1980s, China's Wildlife Protection Law encouraged domestication and breeding of wildlife species for various purposes, including human utilization.[5] Tiger body parts have been used in traditional Chinese medicine. In 1993, the State Council issued the Circular on Banning the Trade of Rhinoceros Horn and Tiger Bone (hereinafter "the Circular"). The Circular banned the trade of tiger bone and its use in traditional Chinese medicine.[6] Since then, tiger bone has been removed from the list of ingredients in the traditional Chinese pharmacopoeia, and manufacturing or trading traditional Chinese medicine containing tiger bone has become illegal.[7]

---

[1] Interview with the Deputy Director of the State Forestry Administration (SFA) published on the SFA official website (hereinafter "SFA Interview") (Feb. 12, 2010), http://www.forestry.gov.cn/gzsl/2744/content-439881.html (in Chinese).

[2] Dongwu Baohu Fa [Wildlife Protection Law] (adopted by the Standing Committee on Nov. 8, 1988, amended Aug. 28, 2004), art. 3, THE LAWS OF THE PEOPLE'S REPUBLIC OF CHINA (2004), 341–49.

[3] INTERNATIONAL FUND FOR ANIMAL WELFARE, MADE IN CHINA: THE ILLICIT TRADE IN TIGER BONE IN CHINA (Sept. 2006) (hereinafter IFAW Report) at 3, http://www.tigrisfoundation.nl/cms/publish/content/download document.asp?document_id=50; SFA Interview, *supra* note 1.

[4] SFA Interview, *supra* note 1.

[5] Wildlife Protection Law art. 17.

[6] Guowuyuan Guanyu Jinzhi Xiniu Jiao he Hugu Maoyi de Tongzhi [State Council Notice on Banning Trade of Rhino Horn and Tiger Bone] (Guo Fa [1993] No. 39, May 29, 1993), http://www.china.com.cn/zhuanti2005/txt/2003-04/15/content_5313829.htm.

[7] IFAW Report, *supra* note 3, at 2.

Nevertheless, international observers have found that some of the tiger domestication and breeding facilities openly market products containing tiger parts. Many of the facilities stockpile tiger carcasses in the hope that a legalized tiger trade will one day be reopened.[8]

II. Big Cats Under the Wildlife Protection Law

The Wildlife Protection Law was promulgated in 1988 and took effect in 1989. In the ensuing twenty-four years the Law has not been substantively amended.[9] The State Forestry Administration (SFA) and its subnational counterparts are authorized by the Wildlife Protection Law to manage the terrestrial wildlife species within China's border.[10]

The Wildlife Protection Law groups China's rare and endangered wildlife species into two classes for state protection.[11] Four species of big cats are listed under the first class of state protected wildlife—tigers, lions, clouded leopards, and snow leopards.[12] Catching, trading, and using wildlife in the first class of state-protected wildlife species must be approved by the state wildlife management authority, namely the SFA itself.[13] The Law further requires a wildlife domestication and breeding license to be obtained for keeping the state-protected wildlife species in captivity and breeding them.

III. Wildlife Domestication and Breeding License

China's Wildlife Protection Law generally encourages domestication and breeding of wildlife species. In order to keep or breed state-protected wildlife species, a wildlife domestication and breeding license must be obtained from the government wildlife management authorities.[14] In 1991, the Ministry of Forestry, then the state wildlife management authority, formulated the licensing rules in accordance with the Wildlife Protection Law.[15]

According to the licensing rules, any organizations and individuals may apply for a license to domesticate and breed wildlife species. Eligible purposes include wildlife protection, research, exhibition, and other commercial purposes.[16] Private zoos are not excluded or specially

---

[8] *Id.* at 3.

[9] Wildlife Protection Law, in general.

[10] *Id.* art. 7.

[11] *Id.* art. 9.

[12] Guojia Zhongdian Baohu Yesheng Dongwu Minglu [List of Wildlife Species Under State Protection] (Ministry of Forestry and Agriculture Ministry of the People's Republic of China, Jan. 14, 1989, amended by the SFA on Feb. 21, 2003), WESTLAWCHINA (by subscription).

[13] Wildlife Protection Law arts. 16 & 22.

[14] *Id*. art. 17.

[15] Guojia Zhongdian Baohu Yesheng Dongwu Xunyang Fanzhi Xukezheng Guanli Banfa [Administrative Measures on Domestication and Breeding Licenses for Wildlife Species Under State Protection] (Ministry of Forestry, Apr. 1, 1991), http://www.forestry.gov.cn/portal/main/s/26/content-204774.html.

[16] *Id.* art. 2.

regulated by the Wildlife Protection Law and the licensing rules, and therefore licenses should be required for them to keep the animals as well as for public facilities.

A. Procedure for Licensing

Domestication and breeding of animals listed under the first class of state-protected wildlife species, including the four big cats mentioned above, must be approved by the SFA itself. The application is filed through the provincial-level authorities.[17]

In reviewing applications for licenses, the SFA must consider whether there are

- determined premises and the necessary equipment for the domestication and breeding of wild animals;
- sufficient funds, personnel, and technology for the types and number of wild animals to be domesticated and bred; and
- secured sources of food for the wild animals.[18]

The application may be rejected if

- the source of the wild animals is not clear;
- the wildlife species has not been successfully domesticated or bred; or
- the body of the animal in the wild is too small to satisfy the demand of domestication and breeding.[19]

The license holders are required to keep and breed animals belonging to the same species, while the number of animals they may have is not limited by the licensing rules.[20]

B. Penalties

The licensing rules require wildlife management authorities above the county level to examine the wildlife domestication and breeding licenses periodically. If wild animals are found to be kept without a proper license as required by law, the animals may be confiscated.[21]

If any of the following is found, the wildlife domestication and breeding licenses may be revoked:

[17] *Id.* art. 5.

[18] *Id.* art. 3.

[19] *Id.* art. 4.

[20] *Id.* art. 8.

[21] *Id.* art. 11.

- domestication and breeding of wildlife species outside the scope of the species identified in the license
- the license was obtained illegally
- the license was forged, altered, transferred, or sold
- the illegal sale or utilization of wild animals and their products
- the holder failed to engage in domestication and breeding after one year from obtaining the license

When the license is revoked, the animals in captivity may also be confiscated, according to the licensing rules.[22]

[22] *Id.* art. 12.

Costa Rica

Norma C. Gutiérrez
Senior Foreign Law Specialist

SUMMARY Costa Rican law prohibits the possession of wildlife in captivity if the animals do not come from a wildlife management site that has been legally established and approved by the National System of Conservation Areas (SINAC) and registered in SINAC's National Registry of Wildlife. Big cats may be kept in captivity only in zoos and rescue centers. Wildlife-possession permit holders must meet some requirements before the permit is granted and must have an approved management plan. Wildlife reproduction and commerce are regulated by the state and are under the control of SINAC.

I. General Overview of Wildlife in Captivity

Wildlife is governed in Costa Rica by the Law on Conservation of Wildlife[1] and the Law of Conservation of Wildlife Regulation.[2] The National System of Conservation Areas (Sistema Nacional de Areas de Conservación) (SINAC) of the Ministry of Environment and Energy is the administrative authority that enforces the applicable legislation.[3] Costa Rica is a party to the 1973 Washington Convention on International Trade in Endangered Species of Wildlife Fauna and Flora.[4]

The Law creates the National Registry of Wildlife at SINAC's headquarters.[5] All wildlife that is in the possession of zoos, breeding farms, rescue centers, and public or private institutions, or in private hands must be registered.[6]

Keeping wildlife in captivity is prohibited unless it comes from a wildlife management site that has been legally established for wildlife reproduction with the goals of wildlife conservation, reintroduction, or commerce.[7]

---

[1] Ley de Conservación de la Vida Silvestre, Ley, No. 7317, LA GACETA [L.G.], Dec. 12, 1992, available *as amended* at http://www.pgr.go.cr/SCIJ/Busqueda/Normativa/Normas/nrm_repartidor.asp?param1=NRTC&nValor1=1&nValor2=12648&nValor3=92418&param2=1&strTipM=TC&lResultado=2&strSim=simp.

[2] Reglamento de la Ley de Conservación de la Vida Silvestre, L.G., Sep. 20, 2005, available *as amended* at http://www.pgr.go.cr/SCIJ/Busqueda/Normativa/Normas/nrm_repartidor.asp?param1=NRTC&nValor1=1&nValor2=55518&nValor3=79941&param2=1&strTipM=TC&lResultado=2&strSim=simp.

[3] Ley de Conservación de la Vida Silvestre art. 11.

[4] Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), Mar. 3, 1973, 27 U.S.T. 1087, T.I.A.S. 8249, 993 U.N.T.S. 243, http://www.cites.org/eng/disc/text.php, *as amended*, June 1, 1979, TIAS 11079, *and* April 30, 1983, http://www.cites.org/eng/disc/gaborone.php (Gaborone Amendment). Costa Rica ratified the Convention on June 30, 1975, and it entered into force for Costa Rica on September 28, 1975.

[5] Ley de Conservación de la Vida Silvestre art. 19.

[6] *Id*.

[7] *Id*. art. 14(d).

Private commercial or nonprofit wildlife management sites that are dedicated to conservation, education, research, reproduction, restoration, and reintroduction of wildlife must be registered with SINAC and have an approved management plan.[8]

Under the Regulation of the Law on Conservation and Wildlife, SINAC may grant a permit for the possession of wildlife species in captivity to individuals as legal custodians when prior inspection determines that the place of captivity meets the standards for adequate health conditions and minimum space. The inspection and administration costs will be covered by the permit holder.[9] Article 78 of the Regulation provides a list of wildlife species that need to be in a cage, as well as the size of the cage required for each species. Big cats are listed with two asterisks indicating that they can be kept only in zoos and rescue centers.[10]

The permit holder must allow duly authorized SINAC officials to the site where animals are in captivity to inspect the site's physical condition, marking system, records, facilities, and quarantine enclosures, and to corroborate animal deaths and inventories. These inspections are required at least twice a year and are mandatory when the operating license of the institution has to be renewed.[11]

SINAC may coordinate with the owners of rescue centers, breeding farms, zoos, and reproduction programs to have animals placed in those establishments when the population status of one or more species so requires, or when it is intended either to develop reproduction and captive-breeding programs for the purpose of reintroducing animals into their natural habitat or to encourage captive-breeding programs for commercial purposes.[12]

Private commercial or nonprofit wildlife management sites that are dedicated to the preservation, research, reproduction, restoration, exhibition, and reintroduction of wildlife must be registered with SINAC and have an approved management plan.[13]

A. Permit Requirements to Operate Zoos, Breeding Farms, and Aquariums

Under the Regulation of the Law, anyone who applies for registration and a permit for operating zoos, breeding farms, and aquariums must provide to the subregional office of the corresponding conservation area

- a written request that includes the owner's name, address, and telephone number;
- a copy of the owner's ID card, including a copy of the incorporation documents if the applicant is a legal entity;

[8] *Id*. art. 20.

[9] Reglamento de la Ley de Conservación de la Vida Silvestre art. 65.

[10] *Id.* art. 78.

[11] *Id*. art. 72.

[12] *Id*. arts. 68, 86.

[13] Ley de Conservación de la Vida Silvestre art. 20.

- the regent's registration record in the Book of Regencies at SINAC headquarters;
- the ownership certificate, issued by an attorney or the Public Registry of Realty, and a copy of the plan of the premises where the project will be located;
- a letter from the property owner indicating that he or she agrees to the establishment being located on his or her property when he or she is not the operator of the establishment;
- four copies of the Management Plan (*Plan de Manejo*) (to be updated every five years), which has been duly signed by the regent;
- a certified copy of the employment contract of the regent and the zoo veterinarian;
- a logbook in which are recorded all the activities related to the wildlife management of the establishment, as well as the inspections by SINAC officers with their stipulations;
- a certified copy of the document showing the legal capacity of the appropriate officer;
- a copy of the municipal building permits or Housing and Urban Development permits when it is necessary to build a complex infrastructure to develop a project;
- the inspection certificate of a competent professional expert verifying that the facilities are suitable for the operation of the establishment;
- a design of the sewage and waste treatment system;
- a prefeasibility study when it is required because of the magnitude and complexity of the project; and
- cage and enclosure designs and a list of measures providing for the safety of the animals, staff, and visitors, including a contingency plan for those cases where preventive measures were not sufficient to ensure safety.[14]

The Regulation also provides that, in the case of herpetarium-type zoos containing species of venomous snakes, the infrastructure should consider risk situations, such as natural catastrophe, fire, and theft, to ensure that the animals cannot escape or harm humans and wild and domestic animals. The infrastructure designs and materials used in the zoo's construction should consider the ethological requirements of each species. Three security barriers must be constructed between snakes and visitors.[15]

Additionally, in the case of species included on the list of depleted animals, endangered animals, or animals that are included in the Appendices of the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES), the permit will be issued for experimental and or scientific purposes until the permit holder has demonstrated technical mastery of the techniques of reproduction and management of animals in captivity and has produced a second generation of animals in captivity from the captive-breeding specimens of the first generation.[16]

[14] Reglamento de la Ley de Conservación de la Vida Silvestre art. 45.

[15] *Id*.

[16] *Id*.

SINAC has a month to resolve an application. If the application is rejected, the requested technical recommendations must be completed within fifteen days, after which the file is closed. Appeals must be lodged with the Regional Directorate of Conservation Area. If the appeal is not successful, the applicant may appeal to SINAC, and if this appeal is not successful, the applicant may appeal to the head of the Ministry of Environment and Energy (MINAE).[17]

Once the Management Plan is approved by the SINAC sub-regional office, the licensee must publish an edict in a newspaper of wide distribution announcing the intention to install a zoo, breeding farm, or aquarium, giving eight working days to hear objections.[18]

B. Trade in Wildlife

The State regulates the trade and trafficking of wildlife through SINAC.[19] The exportation, importation, and trafficking of any wildlife species designated on SINAC lists as being in danger of extinction or reduced is prohibited, unless the animal comes from an authorized wildlife management site.[20] SINAC is the administrative authority whose main function is to meet the objectives of the Convention and grant or deny wildlife export and import permits.[21] The maximum marketing quotas for wildlife are established by the appropriate regional offices of SINAC where the enterprise is registered, taking into account technical criteria, existing inventories, and inspection reports.[22]

In granting permission to export, the following must be previously verified:

1) The animals were not purchased or hunted in violation of the Law and its Regulation;
2) There is an appropriate scientific report;
3) The transport and handling of the animals is appropriate as stipulated by the Directorate of Health and Livestock Production of the Ministry of Agriculture and Livestock;
4) The administrative authority of the importing country has authorized the importation of the animals . . . and their products or byproducts.[23]

Native and exotic wildlife extracted or traded in violation of the Law and its Regulation will be seized and relocated promptly to their natural habitat; if this is not possible, they will be relocated to wildlife management sites in accordance with the technical criteria of the appropriate authorities.[24]

---

[17] Id.

[18] *Id*.

[19] Ley de Conservación de la Vida Silvestre arts. 18, 25.

[20] *Id*. art. 18.

[21] *Id*. art. 71.

[22] Reglamento de la Ley de Conservación de la Vida Silvestre art. 87.

[23] Ley de Conservación de la Vida Silvestre art. 72.

[24] *Id*. art. 18(bis).

C. Circuses and Shops

The Law prohibits the temporary or permanent exhibition of native or exotic wildlife in circus entertainments throughout the national territory. The Law also prohibits the importation of wildlife that is part of circuses, traveling public entertainment, and the like into the country for the purpose of public display.[25]

The Regulation of the Law prohibits the possession of captive wildlife on the premises of commercial establishments, such as hotels, bars, restaurants, shops, factories, and any other place with similar activities.[26]

D. Penalties

Trading and trafficking in wildlife without the authorization of SINAC is punishable with a fine or imprisonment. In the case of species whose populations have been declared to be reduced or at risk of extinction, the fine is ten to forty times the violator's minimum salary, and the prison term is from one to three years, along with the confiscation of the animals. In the case of species that are not endangered, the fine is one to five times the violator's minimum salary, and the prison term is from four to six months, along with confiscation of the animals.[27]

Importing or exporting wildlife without the appropriate SINAC permit is also punishable with a fine or imprisonment. In the case of species whose populations have been declared to be reduced or at risk of extinction, the fine is ten to forty times the violator's minimum salary, and the prison term is from one to three years, along with the confiscation of the animals. In the case of species that are not endangered, the fine is one to five times the violator's minimum salary, and the prison term is from four to eight months, along with confiscation of the animals.[28]

[25] *Id*. art. 27.

[26] Reglamento de la Ley de Conservación de la Vida Silvestre art. 23.

[27] Ley de Conservación de la Vida Silvestre art. 95.

[28] *Id*. art. 96.

Denmark

Wendy Zeldin
Senior Legal Research Analyst

According to Denmark's Statutory Order on Private Persons Keeping of Certain Animals, etc., no animal species that may present a danger or that is particularly difficult to keep in a manner conducive to animal welfare, and that is on the list provided in Annex 1 of the notice, may be kept by a private person.[1] According to that list, all species of predators are banned from private ownership, with certain exceptions that do not include big cats.[2]

.

[1] Bekendtgørelse om privates hold af særlige dyr m.v. [Statutory Order on Private Persons Keeping of Certain Animals, etc.] (Dec. 12, 2002, in force Jan. 1, 2003), Statutory Order No. 1021, ch. 2, § 3, RETSINFORMATION.DK, https://www.rets information.dk/Forms/R0710.aspx?id=1447. Statutory Order No. 1021 was last amended by Statutory Order No. 1498 (Dec. 20, 2004, in force Feb. 1, 2005), RETSINFORMATION.DK, https://www.retsinformation.dk/Forms/R0710.aspx?id=1909.

[2] *Id.*, Annex 1. For a list in English of Danish regulations related to fauna and flora, *see Regulation Relevant to Alien Species - Denmark (DK*), NOBANIS (European Network on Invasive Alien Species), http://www.nobanis.org/Regulations_DK.asp (last visited June 4, 2013).

England

Clare Feikert-Ahalt
Senior Foreign Law Specialist

SUMMARY England is renowned as a nation of animal lovers. There is a large body of legislation that attests to this and regulates the ownership and care of a variety of animals. The Dangerous Wild Animals Act 1976 prohibits the ownership of certain species of wild animals without a license. Licenses are granted by the local authority of the area in which the resident who wishes to own the animal resides, and a relatively expensive application fee must be paid in order to obtain a license that range in price from £75 (approximately US$120) to several hundred pounds, depending on which local authority district the applicant resides in. Certain criteria must be met before a license is granted, and the applicant must be over the age of eighteen, must not be disqualified under the Act, or must not have been convicted of any offense contained in the Act.

I. Introduction

Ownership of dangerous wild animals is permitted in England, but is subject to obtaining a license for each animal held. There are an extensive number of animals that are subject to the licensing requirements under the Dangerous Wild Animals Act 1976, as amended. The common name of wild cats that are subject to ownership restrictions are stated as follows:

> All cats including the bobcat, caracal, cheetah, jaguar, leopard, lion, lynx, ocelot, puma, serval, tiger. The wild cat, the pallas cat, the little spotted cat, the Geoffroy's cat, the kodkod, the bay cat, the sand cat, the black-footed cat, the rusty-spotted cat and domestic cat are excepted. [1]

This list is kept under review and has been updated on a number of occasions, with the most recent amendment occurring in 2007.[2] The amendment removed from the list of animals requiring a license

> cat hybrids having a domestic cat as one parent and a first generation hybrid of a domestic cat and a non-excepted cat as the other parent, and cats which are descended exclusively from such excepted hybrids or from such excepted hybrids and a domestic cat.[3]

---

[1] Dangerous Wild Animals Act 1976, c. 38, http://www.legislation.gov.uk/ukpga/1976/38/contents, *as amended by* Dangerous Wild Animals Act 1976 (Modification) Order 2007, SI 2007/1437, ¶ 2, sched., http://www.legislation.gov.uk/uksi/2007/1437/contents/made.

[2] Dangerous Wild Animals Act 1976 (Modification) Order 2007, SI 2007/1437, http://www.legislation.gov.uk/uksi/2007/1437/contents/made.

[3] *Id.*, Explanatory Note.

II. License Requirements

Licenses are required for all animals that are listed under the Dangerous Wild Animals Act 1976, as amended. These licenses are provided on an annual basis, and expire on December 31st of the year they are issued.

An application to the local authority for a license must include both the species and number of animals for each species that the applicant proposes to keep and the specifics of the premises where the animals will be kept.[4] In order to grant the license, the local authority must be satisfied of a number of requirements, including that

- the ownership of the animal is not contrary to public safety,
- the applicant is a suitable person to hold a license,
- the accommodation the animal is held in is secure and suitable for the number of animals it holds, and
- measures are in place to secure the animal in case of fire or other emergencies and that the animal will be adequately exercised.[5]

To ensure that the accommodation the animal will be held in is suitable and secure, a veterinarian is required to inspect the premises where the animal will normally be held prior to the issuance of any license.[6] The inspection considers not just the animals that are present but the possibility of intentional or accidental breeding of the animals and the impact of this on the number of animals present.[7] In addition to the requirement of a license, applicants should ensure that they meet any required planning permission for the set up of any required enclosures.[8] Once

[4] Dangerous Wild Animals Act 1976, c. 38, § 1, http://www.legislation.gov.uk/ukpga/1976/38/contents.

[5] Specifically, the Act requires the local authority to be satisfied that

(a) it is not contrary to the public interest on the grounds of safety, nuisance or otherwise to grant the licence;

(b) the applicant for the licence is a suitable person to hold a licence under this Act;

(c) any animal concerned will at all times of its being kept only under the authority of the licence—

(i) be held in accommodation which secures that the animal will not escape, which is suitable as regards construction, size, temperature, lighting, ventilation, drainage and cleanliness and which is suitable for the number of animals proposed to be held in the accommodation, and

(ii) be supplied with adequate and suitable food, drink and bedding material and be visited at suitable intervals;

(d) appropriate steps will at all such times be taken for the protection of any animal concerned in case of fire or other emergency;

(e) all reasonable precautions will be taken at all such times to prevent and control the spread of infectious diseases;

(f) while any animal concerned is at the premises where it will normally be held, its accommodation is such that it can take adequate exercise. *Id*. § 1(3).

[6] *Id*. § 3.

[7] Guidelines to Dangerous Wild Animals, Shepway District Council, ¶ 1, http://www.shepway.gov.uk/UserFiles/File/pdf/licensing/licensing/dangerous-wild-animals-information.pdf (last visited May 28, 2013).

[8] *Id*.

the local authority receives the report of the veterinarian and is satisfied that the premises are suitable, the local authority may grant a license.[9]

Licenses are issued and include certain conditions that require

- the holder to be the person who keeps the animals,
- the animal to be kept at the premises specified in the license, and
- the holder to maintain an insurance policy that insures him or her against any liability for damage caused by the animal.[10]

These conditions are required to be included in every license. Additional conditions may include restrictions on the species and number of animals that may be held, or any other restriction that the local authority feels is necessary to enable it to meet the objectives listed above.[11] The local authority may vary the license at any time, such as by adding, varying, or revoking conditions, other than the required conditions.[12]

III. Exemptions

There are certain exemptions to the Act that apply to dangerous or wild animals that are kept in a zoo that has a valid license under the Zoo Licensing Act 1981, a circus, a licensed pet shop under the Pet Animals Act 1951, or a place that is a "designated establishment" under the Animals (Scientific Procedures) Act 1986.[13]

IV. Enforcement Measures

If animals are being kept without a license, or if they are being kept with a license but the terms are being breached, the local authority where the animal is being held may seize the animal and keep it, or destroy or otherwise dispose of it. No compensation is required to be paid to any person if the local authority exercises these powers,[14] and if the local authority incurs any expenses when exercising these powers it may recover the amount from the person who was at the time the keeper[15] or license holder of the animal.[16] Anyone who holds an animal without a

[9] Dangerous Wild Animals Act 1976, c. 38, § 1, http://www.legislation.gov.uk/ukpga/1976/38/contents.

[10] *Id.*

[11] *Id.*

[12] *Id.*

[13] *Id.* § 5.

[14] *Id.* § 4.

[15] A local authority has stated that "[a] person is regarded as the 'keeper' of the animal if they have it in their possession. They remain the 'keeper' and therefore are responsible for the animal, even if it escapes or it is being transported." *Licence – Dangerous Animals*, DERBY CITY COUNCIL, http://www.derby.gov.uk/environment-and-planning/animal-welfare/licence-dangerous-animals/ (last visited May 28, 2013).

[16] Dangerous Wild Animals Act 1976, c. 38, § 4, http://www.legislation.gov.uk/ukpga/1976/38/contents.

license or commits any offense under the Dangerous Wild Animals Act 1976 is liable, upon summary conviction, to a fine of up to £2,000 (approximately US$3,500).[17]

V. Operation of the Act

In 2010 a newspaper collated data obtained under Freedom of Information requests sent to every local authority across England and reported that there were 4,296 animals held with a license under the Dangerous Wild Animals Act. One hundred thirty-seven of these were wildcats that included leopards and lynx.[18] There are reports of animals licensed under the Act escaping; however, these do not appear to be dangerous predatory animals and no news reports of anyone being injured by an escaping animal were located.[19]

[17] *Id.* § 6.

[18] Jasper Copping, *Pet Croc Swaps Swamp for a Cosy Bungalow in Wilds of Kent*, THE SUNDAY TELEGRAPH, Jan. 17, 2010, at 9 (accessed via Lexis).

[19] David Randall & Tom Anderson, *Why Do Thousands of Us Think We've Seen Big Cats Every Year?*, INDEPENDENT ON SUNDAY, Mar. 27, 2005, at 15 (accessed via Lexis).

Greece

Theresa Papademetriou
Senior Foreign Law Specialist

SUMMARY In Greece, the possession, sale, import, export, transport, and display for commercial purposes of wildlife without a permit is prohibited, and this prohibition also applies to wild cats. Greece's obligations arise from the ratification of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, EU regulations, and national law enacted in implementation of the Convention.

I. Protection of Wildlife

In Greece, wildlife is protected and regulated by four pieces of legislation: (a) Law 2055/1992,[1] by virtue of which, Greece ratified the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES);[2] (b) Regulation (EC) No 338/97 of 9 December 1996 on the Protection of Species of Wild Fauna and Flora by Regulating Trade Therein[3] and its implementing Regulations;[4] (c) certain provisions of the Greek Forest Code, as amended;[5] and (d) the 2006 Joint Decision of the Ministers of Finance and Economy and Rural Development and Food on Trade of Species in Wild Fauna and Indigenous Flora.[6]

II. The 2006 Joint Ministerial Decision

Ratification Law 2055/1992 transposes within the Greek legal order the CITES Convention, and Regulation No. 338/97 is directly applicable within Greece. The 2006 Joint Decision of the Ministers of Finance and Economy and Rural Development and Food implements the obligations

[1] Law No. 2055/1992 on the Ratification of the Convention on International Trade in Endangered Species of Wild Fauna and Flora and Appendices I and II, EPHEMERIS TES KYVERNESEOS TES HELLENIKES DEMOKRATIAS [E.K.E.D.] [GAZETTE OF THE HELLENIC REPUBLIC], Part A, No. 105, June 30, 1992, http://www.et.gr/index.php/2013-01-28-14-06-23/search-laws.

[2] Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), Mar. 3, 1973, 27 U.S.T. 1087, T.I.A.S. 8249, 993 U.N.T.S. 243, http://www.cites.org/eng/disc/text.php, *as amended*, June 1, 1979, T.I.A.S. 11079, *and* Apr. 30, 1983, http://www.cites. org/eng/disc/gaborone.php (Gaborone Amendment).

[3] Regulation (EC) No. 338/97 of the Council of 9 December 1996 on the Protection of Species of Wild Fauna and Flora by Regulating Trade Therein, Official Journal of the European Union, 1997 O.J. (L 61) 1, *as amended*, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1997:061:0001:0069:EN:PDF.

[4] Regulation (EC) No. 865/2006 of the Commission of 4 May 2006 Laying Down Detailed Rules Concerning the Implementation of Council Regulation (EC) No. 338/1997 on the Protection of Species of Wild Fauna and Flora by Regulating Their Trade Therein, 2006 O.J. (L 166) 1, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:166:0001:0069:EN:PDF.

[5] Law No. 2637/1998, E.K.E.D., Part A, No. 200, Aug. 27, 1998.

[6] Joint Decision of Minister of Finance and Economy and Rural Development and Food No. No. 99098/5881 on Trade of Species of Wild Fauna and Indigenous Flora of October 26, 2006, E.K.E.D., Part B, 1570, http://www.eu-wildlifetrade.org/pdf/natleg/Decision99098-5881en.pdf.

arising from CITES and Regulation No. 338/1997, as amended, and the implementing regulations. As required by CITES and Regulation No. 338/97, the 2006 Joint Decision assigns the implementation of CITES to the national forest and customs authorities.[7] The 2006 decision specifies that Appendices of the CITES Convention and of the Regulation are an integral part of this decision.[8]. Thus, wild cats, which are included in Annex I of CITES and also in Annex I of Regulation No. 338/97, fall within the scope of the 2006 Joint Decision.

A. Acquisition and Trade

Article 3 of the 2006 Joint Ministerial Decision provides that the acquisition, sale, purchase, import, export or re-import, transport, shipment, and public display of wildlife are governed by Regulation No. 338/97 and by Law 2055/1992, which ratified CITES.[9]

Article 9 prohibits the import, export, holding, and keeping of live animals within Greece to be used for personal or household pets.[10]

B. Permits and Certificates

The required permits or certificates for the purposes of import, export, personal ownership, or traveling exhibition of wild animals, whether live or dead,) are issued by the competent administrative authorities.[11]

C. Penalties

The Greek Forest Code, as amended, prohibits without a permit the possession, sale, keeping, import, export, transport, or exploitation for commercial purposes of live or dead specimens of wild fauna, as well as of those born and bred in captivity and those that constitute personal or household items.[12] The Forest Code also provides for imprisonment ranging from two months to one year and, in the case of repeat offenders, up to two years to anyone who commits the above offenses without a permit.

Individuals who commit the above offenses are also subject to a fine ranging from 200.000 to 5.000.000 drachmae. (Greece's currency is the euro. A conversion of the fines from drachmae to euros could not be found in a subsequent amendment. In 1998, the fines above would have been very heavy). The wildlife specimens involved are seized by the appropriate customs

[7] *Id*. art. 4.

[8] *Id*. art. 12.

[9] *Id*. art. 3.

[10] *Id*. art. 9.

[11] *Id*. arts. 5, 6.

[12] Presidential Decree 86/1969 of the Forest Code art. 258, para. 6, *as amended*, E.K.E.D., Part. A, No. 7, Jan. 18, 1969. Paragraph 6 was added by Law No. 2637/1998, E.K.E.D., Part. A, No. 200, Aug. 27, 1998.

authority and either re-exported to the country of origin or kept in appropriate facilities to be taken care of.[13] The fines are doubled in the case of repeat offenders.

[13] *Id*. art. 288a, as added by Law No. 2637/1998.

India

Tariq Ahmad
Legal Research Analyst

SUMMARY The private possession in India of endangered cats listed under Schedules 1 and 2 of the Wildlife Protection Act is prohibited unless the person has a certificate of ownership for a wild animal he or she possessed at the commencement of the Act. Trade and commerce involving these animals is also prohibited under the Act unless previous permission from the Chief Wildlife Warden has been provided. The Wildlife Protection Act grants authority to the Central Zoo Authority of India to recognize zoos in the country. The Recognition of Zoo Rules regulates the recognition (licensing) process for all zoos and stipulates the minimum standards and norms for housing, upkeep, and healthcare of all animals in zoos.

I. Private Possession and Trade of Big Cats

The private possession and trade of big cats, particularly those that are native to India, are prohibited under the Wildlife (Protection) Act of 1972.[1] Article 39 of the Wildlife (Protection) Act stipulates that every wild animal, other then vermin, is considered state property, and no person without previous permission from the Chief Wildlife Warden is allowed to

> (a) acquire or keep in his possession, custody, or control, or
>
> (b) transfer to any person, whether by way of gift, sale or otherwise, or
>
> (c) destroy or damage
>
> such Government property.[2]

According to section 40(2) of the Act, no person shall "acquire, receive, keep in his control, custody or possession, sell, offer for sale, or otherwise transfer or transport any animal specified" in Schedule I and Part II of Schedule II of the Act, unless granted an authorization to do so by "the Chief Wildlife Warden or the authorised officer."[3]

The Act also prohibits the trade, commerce, and transfer of certain rare and endangered wild animals. The Act states that a person shall not "sell or offer for sale or transfer whether by way of sale, gift or otherwise, any wild animal specified in" Schedule I or Part II of Schedule II, "or any captive animal belonging to that category or any animal article, trophy, uncured trophy or meat derived therefrom" unless the person has a certificate of ownership or has "previous permission in writing of the Chief Wildlife Warden or the authorised officer."[4]

---

[1] Wildlife (Protection) Act, No. 53 of 1972, http://nbaindia.org/uploaded/Biodiversityindia/Legal/15.%20Wildlife%20%28Protection%29%20Act,%201972.pdf.

[2] *Id.* § 39.

[3] *Id.* § 40(2).

[4] *Id.* § 43(a).

Additionally, the Act prohibits the purchasing or acquiring of any captive or wild animal from anyone except a licensed dealer or person otherwise authorized to sell the animal.[5]

Any person who had at the commencement of the Act the "control, custody, or possession" of any captive animal specified in Schedule I or Part II of Schedule II is required to provide to the Chief Wildlife Warden or an authorized officer a declaration that includes the number of animals in question, a description of each animal, and an indication of the place where the animal is kept.[6] The Chief Wildlife Warden may then "issue a certificate of ownership in such form, as may be prescribed, to any person who, in his opinion, is in lawful possession of any wild animal."[7]

The above provisions do not apply to recognized zoos, which are subject to a provision that states "no zoo shall acquire or transfer any wild animal specified in Schedule I and Schedule II except with the previous permission of the Authority."[8]

Any person in contravention of these prohibitions "shall, on conviction, be punishable with imprisonment for a term which may extend to [three years] or with fine which may extend to [twenty-five thousand rupees] or with both."[9]

Part I of Schedule I of the Act lists mammals that are protected under the Act, including Cheetahs (*Acinonyx jubatus*), Clouded Leopards (*Neofelis nebulosa*), Fishing Cats (*Felis viverrina*), Golden Cats (*Felis temmincki*), Indian Lions (*Panlhera leo persica*), Leopards, Panthers, Marbled Cats (*Felis marmorata*), Snow Leopards, and Tigers (*Panthera tigris*).[10] Part II of Schedule II also lists the Jungle Cat (*Felis chaus*) as a protected species. Species that are foreign to India do not appear to be protected under the Act.

II. Regulation of Zoos

Under the Wildlife Protection Act, only zoos that are granted recognition (a license) by the Central Zoo Authority of India (CZA) are able to operate.[11] Zoos are "considered to be any establishment where animals are kept for public exhibition and includes zoos, circuses and rescue centers."[12] The Recognition of Zoo Rules, 1992,[13] establishes the criteria for recognition

[5] *Id.* § 49.

[6] *Id.* § 40.

[7] *Id.* § 42.

[8] *Id.* § 38I.

[9] *Id.* § 51.

[10] *Id.* sched. I, pt. I.

[11] *Id.* § 38H.

[12] THOMAS G. KELCH, GLOBALIZATION AND ANIMAL LAW: COMPARATIVE LAW, INTERNATIONAL LAW AND INTERNATIONAL TRADE 211 (2011).

[13] Recognition of Zoo Rules, 1992, GAZETTE OF INDIA EXTRAORDINARY, Nov. 11, 2009, http://www.moef.nic.in/legis/wildlife/RZR,%202009.pdf.

and sets the "minimum standards and norms for housing, upkeep and healthcare of animals" housed in zoos.[14] The CZA also publishes additional guidelines for the maintenance and upkeep of zoos.[15] The Authority is charged with evaluating zoos with reference to the standards prescribed under the Rules and as a result are granted or refused recognition. Zoos that no longer meet the prescribed standards and rules may be denied recognition and ordered to close down.

According to the Recognition of Zoo Rules, zoos are classified into four categories based on "the area, number of animals and their variety exhibited, and the number of visitors."[16]

Professor Kelch, an animal law expert, has described the Recognition of Zoo Rules as follows:

> There are specific strictures relating to the treatment of animals in the Zoo Rules. The rules prohibit cruelty to any zoo animals as proscribed by the PCAA. The rules also provide that animals are generally not to be chained or tethered, or exhibited when ill or infirm, and animals are to be provided a clean and healthy environment. Zoos are required to be closed at least one day a week, presumably to give the animals a break from crowds and being constantly observed. Animals are required to be provided wholesome food, animals must be checked for health problems on a daily basis and veterinary facilities must meet certain physical requirements … In addition, there are rules dictating the physical conditions of zoos, including fencing, the providing of green belts, limitations on the amount of area at the zoo dedicated to buildings, the type of housing required for animals and so on.[17]

Though most of the rules are of a general nature, Appendix I of the Recognition of Zoo Rules provides the minimum prescribed size for enclosures and cubicles for specified animals, including certain big cats.

In addition to protections for the upkeep and healthcare of animals under the Recognition of Zoo Rules, India also has a Prevention of Cruelty to Animals Act, 1960.[18]

---

[14] Central Zoo Authority, Ministry of Environment & Forests, Government of India, Guidelines for Establishment & Scientific Management of Zoos in India 2 (2008), http://cza.nic.in/Guidelines%20for%20 Establishment%20of%20 zoos%20Jan.%202009.pdf.

[15] *Id.*

[16] Recognition of Zoo Rules § 9.

[17] KELCH, *supra* note 12, at 212.

[18] Prevention of Cruelty to Animals Act, No. 59 of 1960, *as amended*, http://www.envfor.nic.in/legis/awbi/ awbi01.pdf.

Israel

Ruth Levush
Senior Foreign Law Specialist

SUMMARY Israel is a signatory to the Convention on International Trade in Endangered Species of Wild Fauna and Flora. Israeli law contains comprehensive legislation for the protection of wild animals, including big cats. Hunting wild protected animals is prohibited without a license. Owners and managers of facilities for keeping wild animals are required to get accreditation from city veterinarians to operate such facilities. There are specific regulations regarding the operation of facilities, including size and type of accommodations for the animals kept there and the provision of medical care. Medical experiments on animals are regulated by Israeli law, which incorporates requirements listed in the United States National Research Council Guide for the Care and Use of Laboratory Animals regarding their purchase and transfer, physical constraint, and pain management. Violations of legal requirements regarding unauthorized hunting, keeping, trading or experimentation on animals are punishable by imprisonment terms or fines.

I. Protection of Wild Animals

Israel is a signatory to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).[1] CITES seeks to ensure that international trade in specimens of wild animals and plants does not threaten their survival. The obligations undertaken by Israel for the preservation of endangered species apply to various types of big cats.

Israel's Protection of Wild Animals Law, 5715-1955,[2] as amended, regulates the hunting, trade, transfer and possession of wild animals. A wild animal is defined by the law as "a mammal or bird which does not by its nature live in association with man."[3] The law defines a "protected wild animal" as an animal that has not been defined by the Minister of Agriculture as a "game animal" or a "pest."[4]

The hunting of any "protected wild animals," including big cats, is prohibited except with a special license. Such a license may generally be granted for scientific purposes, for breeding animals, for keeping animals' balance in nature, for preventing harm to agriculture or danger to humans or animals, or for the prevention of the spread of contagious diseases.[5]

---

[1] Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), Mar. 3, 1973, 27 U.S.T. 1087, T.I.A.S. 8249, 993 U.N.T.S. 243, http://www.cites.org/eng/disc/text.php, *as amended*, June 1, 1979, T.I.A.S. 11079, *and* Apr. 30, 1983, http://www.cites. org/eng/disc/gaborone.php (Gaborone Amendment).

[2] Protection of Wild Animals Law, 5715-1955, SEFER HAHUKIM [S.H.] [Book of Laws, Official Gazette] No. 170, p. 10.

[3] *Id.* § 1.

[4] *Id.*

[5] *Id.* § 3.

The law authorizes the Minister of Agriculture to issue regulations for the protection and preservation of wild animals, as well as for hunting and disposal of hunted animals.[6]

II. Accreditation of Facilities for Keeping Big Cats

An owner or a person under the control or care of whom animals are kept must inform the city veterinarian of the local authority of the types of animals and the location of their captivity. The owner or the keeper of these animals is not allowed to operate the facility where the animals are kept unless he or she received a confirmation from the city veterinarian affirming receipt of the notification.[7]

III. Requirements for Keeping Wild Animals in Captivity

The Treatment of Animals (Protection of Animals) Law, 5744-1994[8] provides general requirements for the protection of animals. It prohibits cruelty to animals and regulates the treatment and killing of suffering animals. The law also authorizes the Minister of Environment Protection to appoint supervisors for its implementation.

The treatment of big cats in captivity is regulated by the Humane Treatment of Animals (Protection of Animals) (Possession not for Agricultural Purposes) Regulations 5769-2009[9] (hereafter the regulations), issued in accordance with the law.

A. Operation of Zoos

A person who is responsible for the operation of a facility for the keeping of animals, including big cats, is required to have "the necessary knowledge for the holding and treatment of animals of the kind [present] in the facility."[10] Such a person must be present at the facility at any time it is open for visitors.[11]

According to the regulations, workers employed at a zoo must be trained to comply with the regulations and their number must be sufficient to carry out the regulations' requirements.[12]

---

[6] *Id.* § 16(5).

[7] Humane Treatment of Animals (Protection of Animals) (Possession not for Agricultural Purposes) Regulations, 5769-2009, § 9, KOVETZ HATAKANOT [K.T.] [Subsidiary Legislation] 5769 p. 1260 (2009).

[8] Treatment of Animals (Protection of Animals) Law, 5744-1994, S.H. 5744 No. 1447 p. 56, as amended.

[9] Humane Treatment of Animals (Protection of Animals) (Possession not for Agricultural Purposes) Regulations, 5769-2009, K.T. 5769 p. 1260 (2009).

[10] *Id.* § 10(1) (translated by author, R.L.).

[11] *Id.* § 10(3).

[12] *Id.* § 10(2).

B. Supervision of Animals

An owner of a facility that keeps animals must install a sign prohibiting the feeding and touching of animals without the presence of a person responsible for the facility's operation.[13] Feeding an animal may be authorized if in the opinion of a person responsible for the facility's operation (hereafter the responsible person) the feeder knows how to do so without causing the animal pain or suffering.[14]

The responsible person must employ any means reasonable under the circumstances to prevent harm or harassment of animals in captivity at any time, including when the facility is closed to the public.[15] In addition, such person must ensure a daily review of equipment and of the animals in the facility, in order to identify any problems or signs of animals' distress or disease.[16]

In addition, the responsible person should generally not leave animals in the facility without supervision for a period exceeding twenty-six consecutive hours.[17] He or she must also pose a clear sign with the contact information of a person who is in charge of the facility's operation when it is closed.[18]

C. Medical Supervision

The regulations impose specific requirements regarding medical treatment of animals in captivity. Animals must be examined by a veterinarian at least once a month[19] and within a reasonable time if they show signs of disease or injury.[20] A register must be compiled of all signs of disease and distress identified, the type of examinations and treatment provided, and the name, signatures and license number of the treating veterinarian.[21] The regulations require isolation of animals that were identified or suspected as having contracted contagious diseases.[22]

D. Accommodations Requirements

The regulations require that keepers of wild animals provide them with adequate living conditions and spaces of certain dimensions depending on their size,[23] including

---

[13] *Id.* § 11(a).

[14] *Id.* § 11(b).

[15] *Id.* § 11(d).

[16] *Id.* § 11(e).

[17] *Id.* § 11(f).

[18] *Id.* § 11(g).

[19] *Id.* § 12(1).

[20] *Id.* § 12(3).

[21] *Id.* § 12(4).

[22] *Id.* § 13.

[23] *Id.* § 4.

- ventilated living spaces,[24]
- protection from climate and lighting conditions that significantly deviate from those to which animals of their kind are naturally accustomed to,[25]
- living spaces that include at least one wall that is not exposed to the public for animals that are exposed to the public,[26] and
- the possibility to climb for animals that are used to climbing.[27]

The regulations prohibit endangering animals by placing several of them together if such placement enables the infliction of serious harm by one against the other. This prohibition does not apply to animals that cannot be fed except by consuming other live animals.[28]

E. Permission for Breeding

A search for rules governing breeding of big cats has not identified any specific requirements. It is assumed, therefore, that general rules regarding health and safety of such animals would govern this topic.

IV. Trade in Wild Animals

The trade in wild animals is regulated by the Protection of Wild Animals Law, 5715-1955,[29] as amended. In accordance with regulations issued under this law, trading in wild animals is prohibited in the absence of a special permit to be issued by the Minister of Agriculture with the consent of the Head of Veterinary Services. A permit will not be granted unless it complies with requirements enumerated in CITES.[30]

Possession of such animals similarly require a special license that may be granted by the Minister of Agriculture under specific limitations or conditions that may be voided or amended at any time.[31]

V. Research on Animals

Research on animals with vertebra, excluding those defined as "protected animals" under Israel's Protection of Wild Animals Law, 5715-1955,[32] as amended, is regulated by the Humane

[24] *Id.* § 3A(1).

[25] *Id.* § 3A(2).

[26] *Id.* § 3A(3).

[27] *Id.* § 3A(10).

[28] *Id.* § 3A(14).

[29] Protection of Wild Animals Law, 5715-1955, S.H. No. 170, p. 10.

[30] Protection of Wild Animals Regulations, 5736-1976, § 12B, K.T. 5736 No. 3586, p. 2631.

[31] Protection of Wild Animals Law, 5715-1955, §§ 810, S.H. No. 170, p. 10.

[32] Protection of Wild Animals Law, 5715-1955, S.H. No. 170, p. 10.

Treatment of Animals (Experiments on Animals) Law, 5754-1994,[33] as amended (hereafter the HTAE Law).

A. Academic Experiments

The HTAE Law establishes a high level committee (hereafter the Civilian Committee) on experiments on animals that includes twenty-three members, including six representatives of the national academy of science, two deans of medical schools in Israel, and three representatives of associations for the humane treatment of animals.[34] The Civilian Committee is authorized to grant permission for the conduct of experiments on animals in accordance with the requirements established by the law.

The HTAE Law requires that experiments on animals must be conducted in a way that will minimize the number of animals involved and their level of pain.[35] Permission for experiments will not be granted if there are alternative ways to achieve the research goals.[36] It will similarly not be granted for examination of cosmetic products that are not medically necessary or for cleaning products.[37] The Civilian Committee may issue rules for conducting experiments.[38]

In accordance with regulations issued by the Civilian Committee with the approval of the Minister of Health,[39] the approval of experiments on animals requires compliance with rules published by the United States National Research Council's Guide for the Care and Use of Laboratory Animals[40] regarding the following activities:

(1) Purchase and transfer of animals;

(2) Physical constraint of an animal;

(3) Identification of pain;

(4) Sedation and anesthesia;

(5) Euthanasia of animals.[41]

---

[33] Humane Treatment of Animals (Experiments on Animals) Law, 5754-1994, S.H. 5744 No. 1479, p. 298.

[34] *Id.* § 2.

[35] *Id.* § 8.

[36] *Id.* § 9.

[37] *Id.* § 10.

[38] *Id.* § 13.

[39] The Humane Treatment of Animals (Experiments on Animals) Rules, 5761-2001, K.T. 5761 No. 6101, p. 752, as amended.

[40] NATIONAL RESEARCH COUNCIL, GUIDE FOR THE CARE AND USE OF LABORATORY ANIMALS, (8th ed. 2011), *available at* http://grants.nih.gov/grants/olaw/Guide-for-the-Care-and-Use-of-Laboratory-Animals.pdf.

[41] The Humane Treatment of Animals (Experiments on Animals) Rules, 5761-2001, § 5, K.T. 5761 No. 6101, p. 752 (translated by author, R.L.).

The regulations provide that the Civilian Committee will not authorize repeated experiments on an animal that has already undergone experimentation except under conditions guaranteeing the minimization of pain or the provision of full anesthesia to the animal during the experiment, followed by its killing at the end.[42] The regulations require any authorized researcher to obtain training in minimization of pain in experimentation of animals.[43]

The HTAE Law authorizes the Minister of Health to appoint a veterinarian for the position of supervisor of institutions where research on animals is conducted.[44] The supervisor may visit such institutions any time without prior notice to ensure compliance with the requirements of the law.[45]

B. Experiments in the Department of Defense

The HTAE Law contains a special chapter regulating experiments on animals that are conducted by the Department of Defense. It authorizes the Minister of Defense to appoint a Committee for Experiments on Animals (hereafter the Defense Committee). The Defense Committee is headed by a veterinarian and is composed of a researcher from live sciences, a licensed physician, a jurist, a holder of academic degree in social sciences or the humanities, and a public representative who is not a civil servant and who does not engage in experiments on animals.[46]

The Defense Committee enjoys the same authorities of those enjoyed by the Civilian Committee[47] and is guided, to the extent possible, by rules adopted by the Civilian Committee. The Defense Committee may deviate from such rules if it is convinced, for reasons that should be written, that the deviation is required for reasons of state security.[48] Similarly to civilian experiments, experiments on animals that are conducted in the Department of Defense can be inspected by a veterinarian appointed as a supervisor of defense experiments.[49]

VI. Penalties

A. Protection of Wild Animals Law, 5715-1955

Trade in wild animals, or violations of regulations issued by the Minister of Agriculture including those in connection with disposal of hunted animals, is punishable by one year imprisonment or a fine.[50] Unauthorized hunting is punishable by two years imprisonment or a

[42] *Id.* § 6.

[43] *Id.* §§ 9–10.

[44] Humane Treatment of Animals (Experiments on Animals) Law, 5754-1994, § 5, S.H. 5744 No. 1479, p. 298.

[45] *Id.* § 15.

[46] *Id.* § 18.

[47] *Id.* § 19.

[48] *Id.* § 20.

[49] *Id.* § 21.

[50] Protection of Wild Animals Law, 5715-1955, § 14(a), S.H. No. 170, p. 10.

fine.[51] In case of an ongoing offense the court is further authorized to impose two additional days of imprisonment or a fine for every day in which the offense continues to be perpetrated starting the day on which the defendant was notified of his conviction.[52]

B. Humane Treatment of Animals (Protection of Animals) Law, 5744-1994

Cruelty to animals, including by inflicting torture, harassment and inciting animals to fight each other, is punishable by three years imprisonment or a fine.[53] Offenses such as desertion of animals, pulling out their fingernails, employment of sick animals, and their killing by poison are punishable by one year imprisonment or a fine.[54]

C. Humane Treatment of Animals (Protection of Animals) (Possession Not for Agricultural Purposes) Regulations, 5769-2009

Violations of the rules regarding keeping and transfer of animals in appropriate facilities, unnecessary harsh chaining, lack of provision of medical care to sick or suffering animals, and failure to isolate animals suspected of contracting contagious diseases are punishable by six months imprisonment. Noncompliance with accreditation, training or supervision requirements are punishable by fines.[55]

D. Humane Treatment of Animals (Experiments on Animals) Law, 5754-1994

Unauthorized experimentation on animals is punishable by one year imprisonment and for an additional fine for every day in which the offense continues to be perpetrated after notification of the verdict.[56]

---

[51] *Id.* § 14(b).

[52] *Id.* § 14(c).

[53] Treatment of Animals (Protection of Animals) Law, 5744-1994, § 17(a), S.H. 5744 No. 1447, p. 56, as amended.

[54] *Id.* § 17(b).

[55] Humane Treatment of Animals (Protection of Animals) (Possession Not for Agricultural Purposes) Regulations, 5769-2009, § 39, K.T. 5769 p. 1260 (2009).

[56] Humane Treatment of Animals (Experiments on Animals) Law, 5754-1994, § 23, S.H. 5744 No. 1479, p. 298.

Japan

Sayuri Umeda
Foreign Law Specialist

SUMMARY Japan's Act on Welfare and Management of Animals requires those who care for specified animals, including big cats such as tigers, to first obtain a permit from the prefectural governor and then meet certain standards related to the structure and size of the facility where such animals are housed and the planned method of care. The governor may impose additional conditions on permit holders as necessary to prevent harm and has the authority to address violations of such conditions. Zoos, addressed separately under the Act, are likewise subject to facilities and method of care requirements.

I. Permit Requirements for the Care of Specified Animals

Japan's Act on Welfare and Management of Animals contains a provision regulating the care of specified animals that may cause harm to the life, body, or property of humans.[1] Big cats, including tigers, are listed as such dangerous animals.[2]

A person who cares for a specified animal must receive a permit from the prefectural governor having jurisdiction over the location of the facility for the care and keeping of such animal. A permit is required for each kind of specified animal. When a veterinarian cares for or keeps a specified animal in a medical facility for the purpose of medical care, he or she does not need a permit, however.[3]

A person who applies for a permit must report the following, among other things:

- Kind and number of specified animals
- Purpose of the care or keeping
- Location of the specified animal facility
- Structure and size of the specified animal facility
- Method of caring for or keeping the specified animals[4]

The last two items—structure and size of the facility and method of care—must conform to the standards specified by the Ordinance of the Ministry of the Environment.[5] The structure of the

[1] Dōbutsu aigo hō [Act on Welfare and Management of Animals], Act No. 105 of 1973, *last amended by* Act No. 68 of 2005, art. 26.

[2] Dangerous animals are listed in a chart attached to the Enforcement Order of the Act on Welfare and Management of Animals, Cabinet Order No. 109 of 1975, *last amended by* Order No. 8 of 2012.

[3] Act on Welfare and Management of Animals art. 26, para. 1.

[4] *Id*. art. 26, para. 2.

facility must be strong enough to prevent the animal from escaping, with the specific requirements in this regard depending on the animal.[6] The design drawing of the facility and photos of the facility must be submitted.[7]

II. Permit Conditions and Enforcement Measures

The prefectural governor may attach conditions to a permit when he or she finds it necessary for preventing specified animals from causing an infringement on the life, body, or property of humans.[8] The caretaker must periodically inspect the specified animal facility.[9] Specified animals must carry identification, such as an implanted microchip for mammals and foot rings for birds.[10] The governor may request that a specified animal caretaker provide reports on the status of specified animal facilities, the method for the management of the specified animals handled, and other necessary matters, or have prefectural officials enter the specified animal facilities.[11]

In the case where a specified animal caretaker has violated the conditions and the prefectural governor finds it necessary for preventing the specified animals from causing an infringement on the life, body, or property of humans, the governor may order said person to improve the method of caring for or keeping the animals or take other necessary measures.[12]

III. Zoos

In order to open and run a zoo, a person or an organization must obtain a permit from the governor. The Act sets forth requirements on the structure and size of zoos, and the method of caring for the animals held.[13]

---

[5] *Id*. art. 27, para. 1.

[6] Enforcement Ordinance of the Act on Welfare and Management of Animals, Ministry of Environment Ordinance No. 1 of 2006, *last amended by* Ordinance No. 8 of 2013, art. 17.

[7] *Id*. art. 15.

[8] Act on Welfare and Management of Animals art. 27, para. 2.

[9] *Id*. art. 31.

[10] *Id*.; Enforcement Ordinance of the Act on Welfare and Management of Animals art. 20, item 3.

[11] *Id*. art. 33.

[12] *Id*. art. 32.

[13] *Id*. art. 10.

Lebanon

Issam M. Saliba
Senior Foreign Law Specialist

Lebanon does not have specific laws regulating private possession of animals.

Ownership of animals, including big cats such as lions, tigers, and cheetahs, and the responsibilities of owners concerning any acts of such animals, are basically subject to the general provisions of the Law on Obligations and Contracts and the relevant provisions of the Penal Code.

The only direct references to animals in environmental legislative instruments were identified as follows:

- Article 2(4) of Law No. 216 of 1993[1] concerning the establishment of the Ministry of Environment, which gives the Ministry the authority to regulate animal farms;

- Article 2(7) of the same Law, which gives the Ministry the authority to determine the types of animals and birds allowed to be hunted and those to be protected for fear of extinction;

- Law No. 580 of 2004 regulating hunting on land;[2]

- Ministerial Decree No. 16/1 of 2001 concerning the issuance of permits to create or exploit cow farms and/or domesticated birds farms;[3]

However, none of these instruments are specifically related to the keeping of big cats such as tigers, whether in zoos or private residences, or for breeding purposes.

[1] Law No. 216 of 1993, art. 2(4), http://www.moe.gov.lb/The-Ministry/Laws-Regulations/Laws/New-document.aspx (in Arabic).

[2] Law No. 580 of 2004 , http://www.moe.gov.lb/The-Ministry/Laws-Regulations/Laws/الصيد-نظام-580-رقم-قانون-لبنان-في-البري.aspx (in Arabic).

[3] Ministerial Decree No. 16/1 of 2001, http://www.moe.gov.lb/getattachment/0f97863d-661f-451d-b987-f15cbebb3800/الاوا-و-الانشاء-لرخص-البيية-الشروط-16-1-رقم-قرار.aspx (in Arabic).

Malaysia

Kelly Buchanan
Chief, Foreign, Comparative, and
International Law Division I

SUMMARY Tigers and other species of large cats are listed as totally protected wildlife under the Wildlife Conservation Act 2010. Special permits are required to keep such animals, including in a zoo or for the purposes of breeding. Various regulations apply to these activities. The penalties for illegally keeping tigers and for wildlife cruelty were increased by the 2010 legislation, and wildlife officers were given greater enforcement powers. Only one report was located regarding a tiger being kept as a pet in Malaysia, which was cited as illegal because the owner did not hold a permit.

I. Introduction

Malay tigers are native to the Malaysian Peninsula.[1] Poaching and habitat loss have led to a huge decline in the population of tigers in the wild, with possibly only around five hundred remaining. The Malaysian government faced pressure over a number of years to address the situation relating to tigers and other wildlife, including by increasing penalties for wildlife crimes and improving enforcement powers.[2] In response to these issues, the Malaysian Parliament enacted the Wildlife Conservation Act in 2010,[3] which repealed and replaced the previous Protection of Wild Life Act 1972.[4] As with the earlier legislation, a range of species, including tigers, are listed as "totally protected" wildlife in the 2010 Act, with special licenses required in order to keep such animals. However, there are broader protection provisions and increased penalties for illegal activities.[5] The government has subsequently put in place various regulations under the Act, including requirements relating to captive breeding of wildlife and keeping such animals in zoos.

---

[1] This report covers the laws applicable in the Malaysian Peninsula only, not those that apply in the Malaysian Borneo states of Sabah and Sarawak.

[2] *See* Wildlife Conservation Bill 2010, Explanatory Statement, at 134, http://www.parlimen.gov.my/files/billindex/pdf/2010/DR162010E.pdf.

[3] Wildlife Conservation Act 2010 (Act 716), *available at* http://www.gunungganang.com.my/pdf/Malaysian-Legislation/National/Wildlife%20Conservation%20Act%202010.pdf (unofficial site).

[4] Protection of Wild Life Act 1972 (Act 76), http://www.agc.gov.my/Akta/Vol.%202/Act%2076.pdf.

[5] *See* Jeremy Hance, *Malaysia Introducing Tough New Wildlife Laws*, MONGABAY.COM (May 20, 2010), http://news.mongabay.com/2010/0520-hance_wildlifelaw.html; Seann Lenihan, *New Malaysian Wildlife Conservation Act Including Anti-Cruelty Language Comes into Force*, ANIMAL PEOPLE ONLINE (Oct. 1, 2011), http://www.animalpeoplenews.org/anp/2011/10/01/new-malaysian-wildlife-conservation-act-including-anti-cruelty-language-comes-into-effect/; Natalie Heng, *Stronger Prosecution Needed to Deter Wildlife Crime*, THE STAR ONLINE (Mar. 12, 2013), http://thestar.com.my/lifestyle/story.asp?file=%2F2013%2F3%2F12%2Flifefocus%2F12781668&sec=lifefocus.

II. Wildlife Protection Law

Tigers (*panthera tigris*) and other big cats are listed as totally protected species under the Second Schedule of the Wildlife Conservation Act 2010.[6] A special permit is required in order for a person to "hunt or keep any totally protected wildlife"; import or export such wildlife; or use totally protected wildlife for a zoo, circus, wildlife exhibition operation, or commercial captive breeding.[7] Special permits may only be issued by a licensing officer if the application is approved by the relevant Minister.[8] Licensing officers can attach any conditions or restrictions to a permit as he or she sees fit,[9] and can suspend or revoke a permit if he or she is satisfied that these conditions, or any provisions of the Act, are breached.[10]

Under section 68 of the Wildlife Conservation Act, any person who "hunts or keeps any totally protected wildlife (other than an immature totally protected wildlife or the female of a totally protected wildlife)" without a special permit commits an offense. This offense is punishable by a fine of up to RM100,000 (about US$32,300) or imprisonment for up to three years, or both. The penalties are increased in relation to certain named species, including tigers, leopard, and clouded leopard. Unlawfully hunting or keeping these species is punishable by a fine of between RM100,000 and RM500,000 (about US$161,300) and imprisonment for a term of up to five years.[11] Unlike those for the primary offense, these sanctions are not listed in the alternative.

There are separate offenses for hunting or keeping female or immature totally protected wildlife. In relation to tigers and certain other species, the punishments are as follows:

- Immature tiger, etc.: fine of between RM150,000 (about US$48,400) and RM500,000 and imprisonment for up to five years[12]
- Female tiger, etc.: fine of between RM200,000 and RM500,000 and imprisonment for up to five years[13]

---

[6] Wildlife Conservation Act 2010 (Act 716), sched. 2. Other wild cat species listed as totally protected under the Second Schedule (pages 100–101 of the Act) include Bay Cat, Asian Golden Cat, Clouded Leopard, Leopard, Marbled Cat, Leopard Cat, Flat-headed Cat, Cheetah, Iberian Lynx, Asiatic Lion, Jaguar, Florida Cougar, Central American Cougar, Eastern Cougar, and Snow Leopard. Various other species of wild cats are listed as protected wildlife under part 2 of the First Schedule (page 74 of the Act). The Second Schedule was subsequently amended by the Wildlife Conservation (Amendment of Schedule) Order 2012, http://www.federalgazette.agc.gov.my/outputp/pua_20120420_P.U.%20%28A%29%20103-perintah%20pemuliharaan%20hidupan%20liar%20%28pindaan%20jadual%29%202012.pdf.

[7] Wildlife Conservation Act 2010 (Act 716), § 11.

[8] *Id.* § 14(2).

[9] *Id.* §§ 14(4), 15.

[10] *Id.* § 23.

[11] *Id.* § 68(2)(c).

[12] *Id.* § 69(2). Immature tigers and other wild cats are defined by their size under the Third Schedule of the Act.

[13] *Id.* § 70(2).

Offenses are also listed in the Act in relation to using totally protected wildlife for a zoo, circus, or wildlife exhibition operation, or for a commercial breeding program without a special permit. The penalties are again higher where the offense involves tigers or other named species, being a fine of between RM100,000 and RM500,000 and imprisonment for up to five years.[14]

Cruelty to wildlife is also punishable under the Wildlife Conservation Act 2010, including where a person neglects to "supply sufficient food or water to any wildlife which he houses, confines or breeds" and for keeping, housing, confining or breeding wildlife "in such manner so as to cause it unnecessary pain or suffering including the housing, confining or breeding of any wildlife in any premises which is not suitable for or conducive to the comfort or health of the wildlife."[15] This offense carries a fine of between RM5,000 (about US$1,600) and RM50,000, or up to one year imprisonment, or both.

Offenses under the Wildlife Conservation Act are specified as being "seizable" offenses for the purposes of the Criminal Procedure Code.[16] Various enforcement powers and associated procedures are listed in Part VIII of the Act.

III. Regulation of Zoos and Captive Breeding Programs

Broadly, under the Wildlife Protection Act 2010, a permit to operate a zoo, commercial captive breeding program, circus, or wildlife exhibition will not be issued unless the licensing officer is satisfied that

> (a) the establishment or continuity of the establishment of the zoo, commercial captive breeding, circus or wildlife exhibition will not bring ill effects to the health or safety of any person or community in the surrounding area;
>
> (b) there is prepared an emergency plan relating to plague, natural disaster and accidental release of any wildlife; and
>
> (c) the person has never been previously convicted of an offence under this Act or any of its subsidiary legislation or any other written law related to cruelty to animals.[17]

More specific requirements related to the keeping of wildlife are included in recently promulgated regulations. The relevant government Minister is authorized by the Wildlife Conservation Act 2010 to issue any necessary regulations, including in relation to "the conditions under which totally protected wildlife or protected wildlife may be kept and bred" and "regulating the operation of zoo, commercial captive breeding, circus or wildlife exhibitions."[18]

The following instruments contain rules governing special permits and zoo or commercial captive breeding permits:

---

[14] *Id.* § 72(3).

[15] *Id.* § 86(1)(b), (c).

[16] *Id.* § 89.

[17] *Id.* § 28.

[18] *Id.* § 132(2)(c), (e).

- Wildlife Conservation (Licence, Permit and Special Permit Fees) Regulations 2013[19]
- Wildlife Conservation (Commercial Captive Breeding) Regulations 2013[20]
- Wildlife Conservation (Operation of Zoo) Regulations 2012[21] and Wildlife (Operation of Zoo) (Amendment) Regulations 2013[22]
- Wildlife Conservation (Exhibition) Regulations 2013[23]

Under the first regulations listed above, the fees for special permits[24] (required by the Act in relation to activities involving totally protected species listed in the Second Schedule) include[25]

- RM20 (about US$6.50) per head for keeping or using totally protected wildlife;
- no fee for keeping or using totally protected wildlife for the operation of a zoo, wildlife exhibition, or commercial captive breeding;
- RM100 for research or study on any protected wildlife for wildlife purposes, with no fee applicable for academic or conservation research; and
- RM50 for the import, export, or re-export of totally protected wildlife.

A. Commercial Captive Breeding

The Wildlife Conservation (Commercial Captive Breeding) Regulations 2013 state that "[n]o person shall use any totally protected wildlife for a commercial captive breeding activity unless he holds a special permit under section 11 of the Act."[26] A commercial breeder is required to ensure that wildlife used for the activity is able to "move freely in an appropriate size and comfortable enclosure" and "is kept in an appropriate number in an enclosure and not overcrowded."[27] There are also tagging and record-keeping requirements,[28] and a requirement

[19] Wildlife Conservation (Licence, Permit and Special Permit Fees) Regulations 2013, http://www.federalgazette.agc.gov.my/outputp/pua_20130228_Combined.pdf.

[20] Wildlife Conservation (Commercial Captive Breeding) Regulations 2013, http://www.federalgazette.agc.gov.my/outputp/pua_20130228_peraturan-peraturan%20pemuliharaan%20hidupan%20liar%20%28pembiakbakaan%20dalam%20kurungan%20komersial%29%202013.pdf.

[21] Wildlife Conservation (Operation of Zoo) Regulations 2012, http://www.federalgazette.agc.gov.my/outputp/pua_20120131_peraturan-peraturan%20pemuliharaan%20hidupan%20liar%20%28pengendalian%20zoo%29%202012.pdf.

[22] Wildlife (Operation of Zoo) (Amendment) Regulations 2013, http://www.federalgazette.agc.gov.my/outputp/pua_20130412_PERATURAN-PERATURAN%20PEMULIHARAAN%20HIDUPAN%20LIAR%20%28PENGENDALIAN%20ZOO%29%20%28PINDAAN%29%202013.pdf.

[23] Wildlife Conservation (Exhibition) Regulations 2013, http://www.federalgazette.agc.gov.my/outputp/pua_20130412_P.U.%20%28A%29%20138%20-%20PERATURAN-PERATURAN%20PEMULIHARAAN%20HIDUPAN%20LIAR%20%28PAMERAN%29%202013.pdf.

[24] Wildlife Conservation (Licence, Permit and Special Permit Fees) Regulations 2013, reg. 4.

[25] *Id.* sched. 3.

[26] Wildlife Conservation (Commercial Captive Breeding) Regulations 2013, reg. 3(2).

[27] *Id.* reg. 5.

that the commercial breeder ensure that wildlife used in the activity "is kept in good health under the supervision of a veterinary surgeon."[29]

Contravention of the regulations is an offense punishable by a fine of up to RM100,000 or up to five years' imprisonment, or both.[30]

B. Zoos and Exhibitions

A "zoo" is defined in the Wildlife (Operation of Zoo) (Amendment) Regulations 2013 as being "any area or premises which keeps or places 50 or more wildlife species [of] which the total is 100 or more whether for the purposes of conservation, education, research or recreation, and is open to the public."[31] These Regulations also specify that "no person shall use any totally protected wildlife for zoo operation unless he holds a special permit issued under paragraph 11*(e)* of the Act."[32]

The required enclosure sizes for different wildlife species are set out in a Schedule to the regulations. This includes specifications for very large, medium large, medium, and small carnivores. The "very large carnivores" category includes lions, tigers, and cheetah.[33] A night stall for one animal must be at least four meters by three meters, with a height of at least three meters. The minimum size for an exhibition area for a pair of animals must be at least five hundred square meters, with a non-exhibit area for a pair to be at least fifty square meters.[34]

The enclosure must also "have a design appropriate to the natural behaviour and basic needs of the wildlife," and the design must be submitted to the Director General for approval.[35] There are also requirements relating to the diet[36] and healthcare[37] to be provided to the wildlife and for the cleaning of enclosures,[38] as well as restrictions and approval requirements applicable to the holding of wildlife shows.[39] Zoo operators may be required to pay a deposit to the government for the purpose of financing costs incurred in seizing, keeping, and maintaining any wildlife seized from the zoo.[40]

---

[28] *Id.* reg. 6.

[29] *Id.* reg. 7(1).

[30] *Id.* reg. 9.

[31] Wildlife (Operation of Zoo) (Amendment) Regulations 2013, reg. 2. The original definition in the 2012 regulations did not specify the number of species or animals.

[32] Wildlife (Operation of Zoo) (Amendment) Regulations 2013, reg. 3(2).

[33] *Id.* sched. (A).

[34] Id.

[35] Wildlife Conservation (Operation of Zoo) Regulations 2012, reg. 6.

[36] *Id.* reg. 8.

[37] *Id.* reg. 9 (as amended by reg. 4 of the 2013 Amendment Regulations).

[38] *Id.* reg. 10.

[39] *Id.* reg. 13.

[40] *Id.* reg. 14 (as amended by reg. 5 of the 2013 Amendment Regulations).

The penalty for contravening the zoo regulations is a fine of up to RM100,000 or five years' imprisonment, or both.[41]

Similar provisions apply in relation to wildlife exhibitions, including with regard to enclosure sizes,[42] diet,[43] and healthcare requirements.[44] Only those animals specified in a schedule to the relevant regulations may be shown as part of a mobile, as opposed to a permanent, exhibition.[45] The schedule does not include any large cats such as tigers.[46]

IV. Reports Relating to Tigers in Captivity

We located reports of enforcement officers seizing a tiger and other animals from a private zoo in 2011 due to conditions at the zoo and associated breaches of the new legislation.[47] In terms of the keeping of big cats in private residences, the following items were found:

- A news report on a tiger being kept as a pet in Malaysia in 2003, with the owner attempting to release the animal rather than facing heavy penalties for not holding a permit to keep it.[48]
- A 2007 report by the Malaysian government in relation to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) said that, under the 1972 legislation, no special permits had been issued for activities involving trade in tigers other than for noncommercial purposes such as research, captive breeding programs, and exchanges between zoos.[49]

[41] *Id.* reg. 15.

[42] Wildlife Conservation (Exhibition) Regulations 2013, reg. 6 & sched. 2(A).

[43] *Id.* reg. 9.

[44] *Id.* reg. 7.

[45] *Id.* reg. 5(1).

[46] *Id.* sched. 1(A).

[47] Vincent Chow, *Act of Kindness to Animals in Enclosures*, NEW STRAITS TIMES (Oct. 10, 2011), *available at* http://www.nre.gov.my/Malay/Pusat-Media/NRE_Akhbar/Act%20of%20kindness%20to%20animals%20in%20enclosures.pdf; Mohd Farhaan Shah, *Animals Rescued from Johor Zoo*, THE STAR (Sept. 9, 2011), *available at* http://www.nre.gov.my/Malay/Pusat-Media/NRE_Akhbar/Animals%20rescued%20from%20Johor%20Zoo.pdf.

[48] Jonathan Kent, *Malaysian Pet Tiger Reluctantly Goes Wild*, BBC NEWS (Jan. 16, 2003), http://news.bbc.co.uk/2/hi/asia-pacific/2664461.stm.

[49] Department of Wildlife and National Parks, Peninsular Malaysia, Management and Conservation of Tigers in Malaysia at 2 (Convention on International Trade in Endangered Species of Wild Fauna and Flora, Fourteenth Meeting of the Conference Parties (June 2007), CoP14 Doc. 52 Asian Big Cats, Annex 4), http://www.cites.org/common/cop/14/doc/E14-52A04.pdf. *See also* an updated report from July 2008 at http://www.catsg.org/catsgportal/cites/05_standing-committee/sc57-31-1A2_Malaysia.pdf.

- A 2008 news item that referenced the lack of strong protections in the previous legislation stated that an organization had called on the government to ban the keeping of wildlife as pets by refusing to issue permits.[50]
- A 2009 blog post suggested that the Malaysian government allow tigers to be kept as pets to prevent extinction, and stated that endangered animals were already kept as pets by wealthy people in east Malaysia.[51]
- A January 2012 newspaper item warned people against keeping small leopard cats as pets, stating that they are protected species and that people can be fined or jailed for having these animals and should hybridization with domestic cats occur.[52]

[50] *'Ban People from Keeping Wildlife as Pets'*, THE STAR ONLINE (Apr. 20, 2008), http://thestar.com.my/news/story.asp?file=/2008/4/20/nation/20080420115302&sec=nation.

[51] *Tigers as Food or as Pets*, THE MALAYSIAN LIFE (Jan. 8, 2009), http://themalaysianlife.blogspot.com/2009/01/tigers-as-food-or-as-pets.html.

[52] Nicholas Cheng, Letter to the Editor, *'Don't Keep Leopard Cats as Pets'*, NEW STRAITS TIMES (Jan. 27, 2012), http://www.nst. com.my/opinion/letters-to-the-editor/don-t-keep-leopard-cats-as-pets-1.37753.

Mexico

Gustavo Guerra
Senior Foreign Law Specialist

SUMMARY The private possession of big cats in Mexico is allowed subject to registration with Mexico's environmental authorities and compliance with regulations published by Mexico's Department of Environment and Natural Resources. The guidelines provide specifications for cages and enclosures, security measures for personnel that come in contact with these animals, food and healthcare, the use of tranquilizers, transporting the animals, and marking and identifying the animals. Mexico's General Law on Wildlife lists the powers that federal, state, and county authorities have over the protection and conservation of wildlife, and provides that keeping wild animals in captivity without complying with applicable regulations is punishable with a fine, suspension or revocation of wildlife-handling permits, administrative arrest for up to thirty-six hours, and/or seizure of the animals.

I. Introduction

Mexico became a party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) in 1991.[1] It subsequently enacted the General Law on Wildlife, which lists the powers that federal, state, and county authorities have over the protection and conservation of wildlife[2] and provides that such authorities are responsible for adopting measures to protect wild animal welfare.[3] Cruelty against wild animals is strictly prohibited.[4] Mexico has a number of native big cats, including pumas, jaguars, lynx, and ocelots.[5]

II. Private Possession of Big Cats

The private possession of big cats is allowed in Mexico but owners must register with Mexico's federal Department of Environment and Natural Resources or with the environmental authorities

[1] Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), Mar. 3, 1973, 27 U.S.T. 1087, T.I.A.S. 8249, 993 U.N.T.S. 243, http://www.cites.org/eng/disc/text.php, *as amended*, June 1, 1979, T.I.A.S. 11079, *and* Apr. 30, 1983, http://www.cites.org/eng/disc/gaborone.php (Gaborone Amendment). For a list of contracting parties, *see* http://www.cites.org/eng/disc/parties/alphabet.php.

[2] Ley General de Vida Silvestre [General Law on Wildlife], *as amended*, arts. 1, 7, 9, 10, DIARIO OFICIAL DE LA FEDERACIÓN [D.O.], July 3, 2000, available on the website of Mexico's House of Representatives *at* http://www.diputados.gob.mx/LeyesBiblio/pdf/146.pdf.

[3] *Id.* art. 29.

[4] *Id.* art. 30.

[5] SECRETARÍA DE MEDIO AMBIENTE Y RECURSOS NATURALES [DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES], MANEJO DE FELINOS EN CAUTIVERIO [HANDLING OF FELINES IN CAPTIVITY] (Sept. 2000), http://biblioteca.semarnat.gob.mx/janium/Documentos/Ciga/Libros2011/331.pdf.

of the Mexican States of Baja California, Coahuila, Chihuahua, Nuevo León, Sonora, or Tamaulipas, to which the federal government has delegated authority for that purpose.[6]

III. Guidelines for Keeping Big Cats in Captivity

Mexico's Department of Environment and Natural Resources has published guidelines applicable to keeping big cats in captivity.[7] The guidelines provide specifications for cages and enclosures, security measures for personnel that come in contact with these animals, the use of tranquilizers, food, healthcare, transportation, and markings and identification.[8]

Generally, the enclosure for big cats must have an area for feeding and sleeping measuring seven square meters, and an exhibition area whose size ranges from ten to thirty-five square meters, depending of the size of the animal.[9] The doors that control the transit of the animal between these areas must ensure complete protection for handlers.[10]

An appropriate diet includes raw meat (chicken, horse, or donkey) and vitamin supplements. The guidelines also recommend offering whole and fresh carcasses of pigeons, rats, and rabbits.[11] Parasite prevention measures should be taken and a vaccination regime must be followed.[12]

The transportation of wild animals must be done in a way that avoids or minimizes suffering, stress, injuries, and pain.[13] Transportation cages for big cats must be wide enough to allow the animal to turn and move comfortably. For example, the transportation of an adult tiger requires a cage that is two meters long, 1.5 meters high, and 1.5 meters wide.[14] If the period in transit is less than twenty-four hours, feeding may not be necessary, but longer periods require appropriate

[6] Iniciativa con Proyecto de Decreto por el que se Modifica y Adicionan dos Párrafos del Artículo 27 de la Ley General de Vida Silvestre, en Materia de Ejemplares y Poblaciones Exóticas Peligrosas [Senate Bill Proposing an Amendment to the General Wildlife Law Concerning Wild Animals], introduced Feb. 2013, currently pending, available on the website of Mexico's Senate *at* http://www.senado.gob.mx/content/sp/dd/content/cale/diarios/62/1/SPO/d5_documen_2.pdf. *See also* Registro Federal de Trámites y Servicios, SEMARNAT-08-032, Incorporación al Registro de Mascotas y Aves de Presa [Federal Registry of Procedures and Services, SEMARNAT-08-032, Registration of Private Possession of Wild Animals], available on a website maintained by Mexico's Department of Economy *at* http://207.248.177.30/tramites/fichatramite.aspx?val=27286 (last visited June 13, 2013).

[7] SECRETARÍA DE MEDIO AMBIENTE Y RECURSOS NATURALES, *supra* note 5.

[8] *Id.*

[9] *Id.* at 17.

[10] *Id.* at 18.

[11] *Id.* at 21.

[12] *Id.* at 22.

[13] Ley General de Vida Silvestre art. 31.

[14] SECRETARÍA DE MEDIO AMBIENTE Y RECURSOS NATURALES, *supra* note 5, at 24.

feeding.[15] Big cats may be marked by means that are permanent (such as tattoos or microchips), semipermanent (such as stickers or earrings), or temporary (for example, paint).[16]

IV. Penalties

Mexico's Law on Wildlife provides a list of violations that are subject to punishment, including keeping wild animals in captivity without complying with applicable regulations.[17] Such violations are punishable with a number of sanctions, including fines, the suspension or revocation of permits to handle wild animals, administrative arrest for up to thirty-six hour, and/or seizure of the wild animals.[18]

[15] *Id.*

[16] *Id.* at 25.

[17] Ley General de Vida Silvestre art. 122(X).

[18] *Id.* art. 123.

Norway

Wendy Zeldin
Senior Legal Research Analyst

SUMMARY Norway's Animal Welfare Act, which entered into force in 2010, emphasizes that animals can be held by human keepers only if the animals' welfare is protected, and authorizes the issuance of specific regulations that limit or ban the keeping of certain animal species. One set of such regulations are the Regulations Prohibiting Alien (Exotic) Animals to Be Imported, Sold, or Kept as Livestock, Pets, or Otherwise in Captivity. Based on the Regulations, animals other than fish may not be exhibited in public except in connection with showing pets or livestock for purposes of breed improvement. However, an exemption from the ban against showing animals may be granted, subject to certain conditions, in order to exhibit animals in zoos, if the application to do so is accompanied by detailed plans of the entire exhibition site and of its operation, and contains sufficiently detailed information on the economic basis for the plans' implementation. No specific regulations have been found on keeping big cats in captivity.

I. Overview

According to a government report, as of 2002 Norway had eleven large and small zoos that kept wild animals; six aquariums of which three also had seals, penguins, and other warm-blooded animals; and twenty-three other establishments that held a small number of animals, often common pets.[1]

Norway's Parliament adopted a new Animal Welfare Act that entered into force on January 1, 2010.[2] Section 22 of the Act stipulates, "animals can only be kept if they can adapt to the method of keeping in a satisfactory way with regard to animal welfare."[3] Section 22 further authorizes the King of Norway to issue specific regulations to limit or ban the keeping of certain animal species, breeds, or strains.[4] The Act also obligates the animal keeper to ensure an environment consistent with the animal's good welfare;[5] good attention, care, and feeding of the

[1] Landbruks- og matdepartementet [Ministry of Agriculture and Food], Om dyrehold og dyrevelferd [On Animal Husbandry and Animal Welfare], Report No. 12 (2002–2003), http://www.regjeringen.no/nb/dep/lmd/dok/regpubl/stmeld/20022003/stmeld-nr-12-2002-2003-.html?id=196533.

[2] Lov om dyrevelferd, LOV-2009-06-19-97 (in force Jan. 1, 2010), LOVDATA, http://www.lovdata.no/all/nl-20090619-097.html; Animal Welfare Act (July 10, 2009), GOVERNMENT.NO, http://www.regjeringen.no/en/doc/laws/Acts/animal-welfare-act.html?id=571188 (last visited June 3, 2013). *See also* Norwegian Animal Welfare Act [summary plus text of the Act in English, with link to Norwegian text], ANIMAL LEGAL AND HISTORICAL CENTER (Michigan State University College of Law), http://www.animallaw.info/nonus/statutes/stnoapa1995.htm (last checked by staff Aug. 2011).

[3] Animal Welfare Act § 22, ¶ 1.

[4] *Id.* ¶ 2.

[5] *Id.* § 23, ¶ 1.

animal, and suitable tameness of the creature to allow for acceptable care;[6] and breeding that encourages positive characteristics of the animal.[7] The Act stipulates in addition that anyone who sells or transfers animals to another person must provide that person with the necessary information regarding the animal's welfare, and authorizes the King to issue specific regulations on the import, export, trading, re-homing, and loan of animals, among other activities, including the issuance of a ban against such activities.[8]

The Norwegian Food Safety Authority (Mattilsynet, FSA) is responsible for controlling all matters related to animal health and welfare.[9] The Norwegian Animal Research Authority (Utvalg for forsøk med dyr (Forsøksdyrutvalget)) is responsible for animal research.[10]

Norway is a party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), having ratified the Convention on July 27, 1976. The treaty entered into force in Norway on October 25 of the same year.[11] Regulations on the implementation of the Convention in Norway were issued in 2002 and entered into force on January 1, 2003.[12] Norway is also a party to the Council of Europe's Convention on the Conservation of European Wildlife and Natural Habitats[13] and the European Convention for the Protection of Pet Animals.[14]

---

[6] *Id*. § 24, ¶ 1.

[7] *Id*. § 25, ¶ 1.

[8] *Id*. § 27, ¶¶ 1 & 2.

[9] Carlos G. das Neves, *Animal Experiments in Field Conditions, Lab Vs. Field Wild Animals for Scientific Experiments* (Course in Laboratory Animal Science, Bergen, Mar. 2012), http://www.uib.no/dyreavd/fish2012/LECTURE%20BERGEN%20DAS%20NEVES%202012pdf.pdf.

[10] Adrian Smith, *Legislation (contd.)*, NORECOPA, http://oslovet.norecopa.no/dokument.aspx?dokument=111 (last updated Apr. 15, 2013).

[11] Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), Mar. 3, 1973, 27 U.S.T. 1087, T.I.A.S. 8249, 993 U.N.T.S. 243, http://www.cites.org/eng/disc/ text.php, *as amended*, June 1, 1979, T.I.A.S. 11079, *and* Apr. 30, 1983, http://www.cites. org/eng/disc/gaborone.php (Gaborone Amendment); *List of Contracting Parties*, CITES, http://www.cites.org/eng/disc/parties/alphabet.php (last visited June 3, 2013).

[12] FOR 2002-11-15 nr 1276: Forskrift til gjennomføring av konvensjon 3. mars 1973 om internasjonal handel med truede arter av vill flora og fauna (CITES) [Regulations for the Implementation of the Convention of 3 March 1973 on International Trade in Endangered Species of Wild Fauna and Flora (CITES)], LOVDATA, http://www.lovdata.no/for/sf/ud/xd-20021115-1276.html. At the end of the text of these regulations there is a link to a brochure on endangered species on the 2010 CITES list, most in Norwegian but with the names of the species in English as well.

[13] For the list of Member States, *see* Convention on the Conservation of European Wildlife and Natural Habitats, Sept. 19, 1979, in force on June 1, 1982, CETS No.:104, http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=104&CM=8&DF=&CL=ENG. Norway ratified the Convention on May 27, 1986; it entered into force in the country on Sept. 1, 1986.

[14] For the list of Member States, *see* European Convention for the Protection of Pet Animals, Nov. 13, 1987, in force on May 1, 1992, CETS No.: 125, http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=125&CM=&DF=&CL=ENG. Norway ratified the Convention on Feb. 3, 1988; it entered into force in the country on May 1, 1992. *Id*. The Convention defines "pet animal" as "any animal kept or intended to be kept by man in particular in his household for private enjoyment and companionship" and "animal sanctuary" as "a non-profit making establishment where pet animals may be kept in substantial numbers. If national legislative and/or administrative measures permit, such an establishment may accept stray animals." European Convention for the Protection of Pet Animals art. 1, Nov. 13, 1987, ETS No. 125, http://conventions.coe.int/Treaty/en/Treaties/Html/125.htm.

II. Regulations on Exotic Animals

Section 22, paragraph 2, of the Animal Welfare Act, on authorizing the issuance of specific regulations to limit or ban the keeping of certain animal species, breeds, or strains, along with section 27 on the trading of animals, provide for the continuation of the Regulations Prohibiting Alien (Exotic) Animals to be Imported, Sold, or Kept as Livestock, Pets, or Otherwise in Captivity.[15] The Regulations make it illegal to import, sell, purchase, give away, receive, or keep as livestock, pets, or otherwise in captivity alien (exotic) mammals, reptiles, amphibians, frogs, and newts.[16] If there is doubt as to which animals fall under this ban, the FSA will make a determination.[17]

However, the Regulations state in section 1 that certain animals may be exempt from the ban and refer to section 15, on the prohibition against exhibiting animals in public, of the former Animal Protection Act.[18] Section 15 states as follows:

> Animals other than fish must not be exhibited in public, including public exhibition for advertising purposes or decoration. This ban does not apply to the showing of pets or livestock in connection with breed improvement.
>
> The Ministry may, subject to certain conditions, grant exemption from this ban against the showing of animals. Applications for permission to exhibit animals in zoos, bird parks, and the like, shall be accompanied by detailed plans of the entire exhibition site and its operation, and adequate details of the economic basis for the implementation of the plans.[19]

Moreover, section 2 of the Regulations authorizes the FSA to grant exemptions from the prohibition set forth in section 1 "in special cases" and to determine the conditions for exemption.

The FSA and Norway's Directorate for Nature Management have prepared a list of species that have traditionally been kept as domestic pets in Norway and should not be considered as wild animals in connection with the import application process. Animals on the list can reportedly be freely imported under the provisions of the Wildlife Act, although an import application is still

---

[15] Ministry of Agriculture and Food, Specific Guidelines Regarding the Animal Welfare Act, REGJERINGEN.NO, http://www.regjeringen.no/en/dep/lmd/whats-new/news/2009/mai-09/new-animal-welfare-act-/specific-guidelines-regarding-the-animal.html?id=562555 (last updated May 15, 2009) (*see* the section "With regard to § 22. General conditions for keeping animals").

[16] FOR 1976-11-20 nr 03: Forskrifter om forbud mot at fremmedartede (eksotiske) dyr innføres, omsettes eller holdes som husdyr, selskapsdyr eller i fangenskap på annen mate [FOR 1976-11-20 nr 03: Regulations prohibiting alien (exotic) animals from being imported, sold, or kept as farm animals or pets or otherwise in captivity] (hereinafter Regulations) (Nov. 20, 1976, in force Jan. 1, 1977, as last amended Aug. 6, 2010), § 1, ¶ 1, LOVDATA, http://www.lovdata.no/cgi-wift/ldles?doc=/sf/sf/sf-19761120-0003.html.

[17] *Id*. § 1, ¶ 2.

[18] *Id*. § 1, ¶ 3.

[19] Animal Welfare Act, No. 73 (Dec. 20 1974), NORECOPA, http://oslovet.norecopa.no/act.html. Note that the title of this Act (Dyrevernloven) is more typically translated as the Animal Protection Act.

required. It is therefore legal, on the basis of the list, to sell certain animals that may have been considered alien or exotic, e.g., rodents such as hamsters, gerbils, guinea pigs, and chinchillas.[20] The Norwegian government recently decided to retain a thirty-seven-year-old ban on reptile and amphibian keeping and trading, rejecting a proposal from exotic animal keepers and wildlife dealers to allow trade in a limited number of species.[21]

III. Punishment for Violation of Animal Welfare Provisions

The Animal Welfare Act provides that an intentional or grossly negligent violation of the requirements in or under the Act's provisions or of decisions issued under it is punishable with fines or with a prison term of up to one year, or both, if the offense is not subject to more severe penal provisions. The same punishment applies to aiding and abetting such acts.[22] "Serious violations" may be subject to a punishment of imprisonment for up to three years, with the scale and effect of the violation and the degree of culpability to be taken into account in determining the seriousness of the violation.[23]

The FSA may order animals imported or attempted to be imported in violation of the Regulations' provisions to be returned or euthanized at the importer's expense, without compensation from the public.[24]

[20] *Reise med esotiske dyr til Norge* [*Traveling with Exotic Animals to Norway*], MATTILSYNET [NORWEGIAN FOOD SAFETY AUTHORITY] (Mar. 19, 2013), http://www.mattilsynet.no/dyr_og_dyrehold/reise_med_kjaledyr/eksotiske_dyr_til_Norge/#.

[21] Libby Anderson, *Norway Says 'No Way' to Pet Reptile and Amphibian Keeping*, ONEKIND (blog) (Apr. 4, 2013), http://www.onekind.org/take_action/blog_article/norway_says_no_way_to_pet_reptile_and_amphibian_keeping.

[22] Animal Welfare Act § 37, ¶ 1.

[23] *Id*. § 37, ¶ 2. The Act provides, however, that the sanctions of paragraphs 1 and 2 do not apply to sections 4, 5, and 6, on the duty to help if an animal is obviously sick, injured, or helpless; on the duty to alert if a person believes an animal is exposed to mistreatment or neglect; and on the animal keeper's responsibility to ensure that animals are looked after by competent personnel, respectively. *Id*. § 37, ¶ 3.

[24] Regulations, *supra* note 16, § 3, ¶ 2, in part.

Russian Federation

Peter Roudik
Director of Legal Research[*]

SUMMARY While big cats and other wild animals in private possession create a recognizable public safety threat, this issue is not addressed by current Russian legislation directly, although a bill aimed at criminalizing the unauthorized keeping of wild animals in captivity has been introduced in the Russian legislature. General environmental protection legislation regulates taking big cats from the wild, keeping them in captivity, breeding them, and trading in these animals, which are included on the list of rare and endangered species. Although all animals living in the wild are considered state property, once they are legally obtained by an entity or individual they become the property of that person. Zoos and other establishments involved in keeping big cats in captivity are subject to numerous federal regulations, including safety norms and ethical treatment requirements. Noncompliance may result in cancellation of licenses and the administrative or criminal prosecution of the responsible individuals.

I. Introduction

The problem of big cats being held privately became known in Russia in the 1970s, when the family of an architect with two minor children living in a typical Soviet-style three-bedroom apartment in the South Caucasus adopted a lion cub left without maternal care from a local zoo. The family became well-known throughout the country, writing books and making movies about keeping a lion as a family pet. After the lion was killed by a police officer in 1974, when it ran away during filming and scared people on the street, the family acquired another lion and a puma; however, in 1980, both animals were terminated after they brutally attacked the wife of the owner and killed their fourteen-year-old son.[1]

Presently, it has become popular among owners of Russian food establishments and other local businesses to keep bears and big cats in cages or on leashes next to the restaurants with the purpose of attracting more customers. It is also common for former circus or zoo employees to use wild animals for street performances. In most of these cases, the animals are not registered, there is no veterinary control, and those who possess the animals do not acknowledge their ownership if approached by the authorities.[2]

Three types of big cats, namely, the Far Eastern leopard (*Panthera pardus*), snow leopard (*Uncia uncia*), and Siberian tiger (*Panthera tigris altaica*), are native to Russia. It appears that in the wild their population is small and ranges from between twenty-five and forty Far Eastern

[*] This report was prepared with the assistance of Law Library intern Svitlana Vodyanyk.

[1] Byrap Imanov, *Tragediia Sem'i Berberovykh* [*Tragedy of the Berberov Family*], TREND (Apr. 6, 2010), http://www.trend.az/life/history/1664069.html.

[2] Andrei Moiseenko & Larisa Kaftan, *Tsirk Uehal, a Klouny Spilis* [*Circus is Gone and Clowns Are Drunk*], KOMSOMOLSKAIA PRAVDA (Oct. 17, 2003), http://www.kp.ru/daily/23139/24067/.

leopards[3] to about 240 tigers.[4] All subspecies of big cats that live in Russia are recognized as endangered species and are included in the so-called Red Book of the Russian Federation, a government-approved list of animals and plants recognized as rare or endangered.[5] The formal protection of rare and endangered species in Russia is regulated by federal legislation and international agreements ratified by the Russian Federation. The governing document in this area is the Federal Law on Wildlife, which established basic principles for the protection and preservation of wild fauna, government control in this area, the involvement of interested organizations, rules for the usage of animals, and principles of administrative and criminal responsibility for violations of animal protection legislation. Presently, the State Duma of the Russian Federation is considering the Bill on Responsible Treatment of Animals.[6] If adopted, the measure would particularly govern the treatment of animals used in cultural events and entertainment—for example, in zoos, circuses, etc. It would also provide for legal liability for acts contrary to the principles of ethical and humane treatment of animals.[7]

II. Taking Big Cats from the Wild

Any activity that leads to a reduction in the number of animals recognized as endangered species and the deterioration of their environment is not allowed.[8] Hunting endangered species is allowed only in exceptional cases specified by Russian legislation. The Government Regulation on Taking from the Wild Animal Species Listed in the Red Book of the Russian Federation of January 6, 1997, lists such situations, which include the extraction of animals for purposes of their conservation, monitoring their population status, regulating their numbers, ensuring the health and well-being of animals, maintaining human health safety, and preventing threats to human life and epizootic diseases.[9] Taking such animals, including big cats, from the wild can only be done pursuant to a permit issued by the Federal Ministry of Natural Resources and the Environment.[10]

---

[3] WORLD WILDLIFE FUND, CONSERVATION OF THE FAR EASTERN LEOPARD: DRAFT STRATEGY (2011), http://www.wwf.ru/resources/publ/book/530 (in Russian).

[4] Ministry of Natural Resources and Environment of the Russian Federation, Strategy for Conservation of the Amur Tiger in the Russian Federation (2010), *available at* http://www.wwf.ru/ resources/publ/book/eng/444 (in Russian).

[5] Regulation No. 158 of the Russian Federation Government of February 19, 1996, SOBRANIE ZAKONODATELSTVA ROSSIISKOI FEDERATSII [SZ RF] [Russian official gazette] 1996, No. 9, Item 808.

[6] Bill No. 458458-5, text and information *available at* the official website of the Russian Federation State Duma, http://asozd2.duma.gov.ru/main.nsf/%28Spravka%29?OpenAgent&RN=458458-5.

[7] *Id.*

[8] Federal Law on Wildlife of April 24, 1995, art. 26, SZ RF, 1995, No. 17, Item 1462.

[9] SZ RF 1997, No. 3, item 385.

[10] Order of the Ministry of Natural Resources and Environment, No. 123 of April 30, 2009, http://rpn.gov.ru/node/5883 (Ministry's official website, in Russian).

III. Keeping Big Cats in Captivity

A. Possession of and Trading in Big Cats

The government is the owner of all animals living in the wild within Russia. However, once wild animals are legally obtained by an entity (e.g., zoos, sanctuaries, research institutions, etc.) or an individual they become the property of that person, and may be under private, state, municipal, or other forms of ownership following the ownership regime of the institution.[11]

The law does not prohibit the possession of big cats and does not regulate the treatment of these animals specifically; however, it regulates the trade in species listed as rare or endangered, keeping them in captivity, and their release back into the wild. These activities require the permission[12] of federal authorities in charge of environmental protection.[13]

Individuals and legal entities interested in obtaining such permission must go through a complex procedure that involves submitting an application with multiple attachments to the Ministry of Natural Resources and the Environment. The list of required documents includes a copy of the articles of incorporation for legal entities, documents justifying the appropriateness of the intended use of the animals, an official determination of the designated government-run research institute for nature conservation, approval issued by a regional branch of the Federal Ministry of Natural Resources and the Environment, and, if necessary, documents from other competent organizations that prove the admissibility of the use of the claimed wild animals.[14] Additional requirements for the content of documents submitted by applicants can be established.[15] All operations undertaken with respect to wildlife in violation of existing federal and regional legal provisions are invalid.[16]

B. International Trade in Big Cats

Russia is a party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), signed in Washington, DC, on March 3, 1973.[17] This Convention was adopted by the Soviet Government,[18] and Russia as a legal successor to the USSR is likewise a

[11] Federal Law on Wildlife art. 4.

[12] *Id*. art. 24.

[13] Trade in animals listed in the Russian Red Book, including big cats, is regulated by Government Decree No. 156 of February 19, 1996, on Issuing Licenses for Trading Animal Species listed in the Red Book of the Russian Federation, SZ RF 1996, No. 9, Item 807.

[14] *Id*.

[15] *Id*.

[16] Federal Law on Wildlife art. 58.

[17] Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), Mar. 3, 1973, 27 U.S.T. 1087, T.I.A.S. 8249, 993 U.N.T.S. 243, http://www.cites.org/eng/ disc/text.php, *as amended*, June 1, 1979, T.I.A.S. 11079, *and* Apr. 30, 1983, http://www.cites. org/eng/disc/gaborone.php (Gaborone Amendment).

[18] Resolution of the Council of Ministers of USSR No. 612 of August 4, 1976; Resolution of the Council of Ministers of the Russian Soviet Federative Socialist Republic No. 501 of September 8, 1976, *published as amended in* SOBRANIE POSTANOVLENII PRAVITELSTVA SSSR (then the official gazette) 1990, No. 14, Item 78.

Party to CITES. In July 1975, big cats were included in Appendix I of CITES, which means that all trade in big cats must be in accordance with the provisions of article 3, which does not allow the trade of such wild animals for primarily commercial purposes.

The Federal Service for Supervision of Natural Resources (Rosprirodnadzor), which holds the status of CITES Administrative Authority in the Russian Federation,[19] controls all export and import operations related to those species covered by the Convention on the Russian territory.

C. Breeding

Keeping wild animals listed in the Red Book of the Russian Federation in captivity and breeding them are allowed with the permission of the authorized federal authority,[20] which in this case is the Federal Service for Supervision of Natural Resources.[21]

The process of obtaining such permission is quite complex and requires submission of a significant number of documents.[22] The application must include

- a documents stating the origin or proof of acquisition of the claimed wildlife,
- documents demonstrating the conditions for keeping animals in captivity and breeding,
- a description of the system used for marking or labeling each individual animal,
- the registration of animals bred in captivity, and
- information on the training of employees involved in husbanding and breeding the wild animals listed in the Red Book.[23]

IV. Legal Requirements for Zoos

Most Russian zoos are owned by federal and regional government authorities and are under the authority of the Ministry of Culture. Private zoos are also allowed by Russian legislation. Despite the fact that the law mainly regulates aspects of state zoos operation,[24] the establishment

[19] Decree of the Ministry of Natural Resources of the Russian Federation, No. 47 of February 27, 2008, published in BIULLETEN' AKTOV FEDERALNYH ORGANIV ISPOLNITELNOI VLASTI [BULLETIN OF EXECUTIVE REGULATIONS, official publication] 2008, No. 25.

[20] Federal Law on Wildlife art. 12.

[21] Regulations of the Federal Service for Supervision of Natural Resources, adopted by Resolution No. 400 of July 30, 2004, of the Russian Federation Government, SZ RF 2004, No. 32, Item 3347.

[22] Procedure for obtaining a permit for keeping in captivity and breeding animals listed in the Red Book is provided by the Administrative Regulation of the Federal Service for Supervision of Natural Resources approved by the Order of the Ministry of Natural Resources of the Russian Federation, No. 279 of October 30, 2007, *available at* http://bazazakonov.ru/doc/?ID=3677606.

[23] *Id*. art. 2.4.4.

[24] Model Statute on State Zoological Parks adopted by the Order of the Ministry of Culture of Russia No. 473 of July 16, 1993 (unpublished), *available at* http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=EXP;n=309141.

of private zoos is in line with the Law on Wildlife and other legislative provisions in this field.[25] Private zoos can be established and be in operation as long as they comply with the requirements of wildlife legislation regulating such issues as taking animals from the wild, and keeping, breeding, and trading them. The requirements of regulations addressing sanitary conditions, veterinary practices, fire hazards, and other safety concerns[26] must also be met. All zoological collections and rare animals held in the possession of private individuals, legal entities, museums, research institutions, or educational institutions, among others, are subject to mandatory state registration regardless of the type of property.[27] A specially issued government regulation defines the procedure for creating, keeping, enlarging, and exchanging these collections.[28]

A significant number of Russian zoos, including several private zoos, are members of the Eurasian Regional Association of Zoological Parks and Aquaria (EURAZA).[29] In turn, EURAZA is a member of the World Association of Zoos and Aquariums (WAZA),[30] which in November 2003 adopted the Code of Ethics and Animal Welfare that applies to all WAZA members.[31] According to the WAZA's Code of Ethics, animals should be protected from conditions detrimental to their well-being and the appropriate husbandry standards must be followed.[32] The Code states that where wild animals are used in presentations, these presentations must deliver a sound conservation message or be of other educational value, focus on natural behavior, and not demean or trivialize the animal in any way. If there is any indication that the welfare of the animal is being compromised, the presentation should be brought to a conclusion.[33]

In line with these requirements, zoos should create proper conditions for animals to meet their physical and psychological needs. The Federal Service for Supervision of Natural Resources monitors zoos together with other government agencies responsible for different areas of

[25] Article 26.10 of the Federal Law on Wildlife provides that wildlife taken from the wild in the prescribed manner may be under private, state, municipal, or other forms of ownership.

[26] Requirements are stipulated by Safety and Sanitation Rules for Zoos, approved by the USSR Ministry of Culture on July, 25, 1973 (unpublished), *available at* http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=129693.

[27] Federal Law on Wildlife art. 29.

[28] Government Regulation No. 823 of July 17, 1996, SZ RF 1996, No. 31, Item 3718.

[29] A list of zoos that are members of EURAZA is available at the EURAZA website, http://earaza.ru/?page_id=1196 (last visited May 31, 2013).

[30] See the website of the World Association of Zoos and Aquariums (WAZA), http://www.waza.org/en/site/home (last visited June 4, 2013).

[31] The text of the Code of Ethics and Animal Welfare is available at the WAZA website, http://www.waza.org/en/site/conservation/code-of-ethics-and-animal-welfare (last visited May 31, 2013).

[32] Code of Ethics and Animal Welfare art. 3.

[33] *Id*. art. 2.

sanitation and public safety. All of them have the right to request the correction of found violations or close the zoos.[34]

V. Penalties

The Law on Wildlife provides that legal entities and individuals engaged in keeping in captivity and breeding wild animals must treat them humanely and comply with respective sanitary, veterinary, and zootechnical requirements. Failure to comply with these requirements results in administrative and criminal responsibility in accordance with the laws of the Russian Federation.[35] Illegally obtained wildlife, including big cats, are subject to uncompensated seizure and, where possible, return to their habitat.[36]

Administrative liability for the destruction of rare and endangered species of animals listed in the Red Book of the Russian Federation that diminishes the habitat of such animals or causes their death, as well as taking, purchasing, selling, or transferring such animals without proper authorization or in violation of the conditions stipulated by a permit or otherwise in violation of the established order, is punishable by a fine in an amount approximately equal to US$100 for individuals and US$15,000 for legal entities.[37]

According to the Criminal Code of the Russian Federation, the destruction of habitat of the animals listed in the Red Book of the Russian Federation that causes the death of such animals is a felony punishable by imprisonment for up to three years.[38] The Criminal Code also punishes cruelty to animals, including both animals living in the wild and those kept in captivity. A penalty in the form of correctional labor for up to one year or imprisonment for up to six months is prescribed for this crime.[39]

---

[34] *See*, *e.g.*, Model Statute on the State Zoological Park adopted by the Order of the Russian Federation Ministry of Culture No. 473 of July 16, 1993 (unpublished), *available at* http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=EXP;n=309141.

[35] Federal Law on Wildlife art. 26.

[36] *Id*. art. 54.

[37] Code of Administrative Violations of the Russian Federation, art. 8.35, SZ RF 2002, No. 1(1), Item 1.

[38] Criminal Code of the Russian Federation art. 259, SZ RF 1996, No. 25, Item 2954.

[39] *Id*. art. 245.

South Africa

Hanibal Goitom
Foreign Law Specialist

SUMMARY Although many wildlife issues are covered by provincial legislation in South Africa, a number of relevant national laws on the subject are also in force. Two national laws appear applicable to the regulation of private ownership of big cats: the National Environmental Management: Biodiversity Act (NEMBA) of 2004 and its subsidiary legislation, as well as the Animal Protection Act (APA). NEMBA categorizes three animals in the cat family (the cheetah, lion, and leopard) as "vulnerable species." As a result, their possession either in private homes or as part of commercial exhibition facilities is classed as being among the "restricted activities" requiring permits. A permit to possess a big cat in a private home may be issued for a period of fifty years. The APA protects animals living in captivity, including big cats, by criminalizing certain acts amounting to cruelty.

I. Introduction

In South Africa, legislative jurisdiction regarding the conservation and management of wildlife is shared between the national and provincial governments. The Constitution mandates that "[n]ature conservation, excluding national parks, national botanical gardens and marine resources," is one of the functional areas in which there is concurrent national and provincial legislative jurisdiction.[1] The governments of South Africa's nine provinces exercise substantial legislative and executive jurisdiction over issues of the conservation and management of wildlife in the country, including regulation of imports and exports.[2]

However, the national government also wields significant legislative power over the protection of wildlife, largely to create national uniformity in affording such protection. One demonstration of this power is the National Environmental Management: Biodiversity Act (NEMBA) of 2004[3] and its subsidiary legislation,[4] which put in place protections for various species that are threatened or otherwise in need of protection. It also provides the authority for consolidating fragmented biodiversity legislation in the country through the establishment of national norms

[1] S. AFR. CONST., 1996, sched. 4, http://www.info.gov.za/documents/constitution/1996/96conssec4.htm.

[2] *Services by Provincial Authorities*, REPUBLIC OF SOUTH AFRICA, DEPARTMENT OF ENVIRONMENTAL AFFAIRS, https://www.environment.gov.za/services/provincial-authorities (last visited May 30, 2013); M.A. Kidd, *Environmental Conservation*, *in* 9 THE LAWS OF SOUTH AFRICA 139, 246–47 (LexisNexis Butterworths, 2005).

[3] National Environmental Management: Biodiversity Act No. 10 of 2004 [NEMBA], 20 BUTTERWORTHS STATUTES OF THE REPUBLIC OF SOUTH AFRICA [BSRSA] (rev. through 2011), http://www.info.gov.za/view/ DownloadFile Action?id=82170.

[4] NEMBA: Threatened or Protected Species Regulations [NEMBA Regulations] § 1, No. R. 152, GOVERNMENT GAZETTE [GG] No. 29657 (Feb. 23, 2007), available at the South African Department of Environmental Affairs and Tourism website, https://www.environment.gov.za/sites/default/files/legislations/nemba_threatenedspecies _regulations_g29657rg8638gon152.pdf.

and standards specific to certain particularly vulnerable animals.[5] A notable example is the National Norms and Standards for the Management of Elephants in South Africa (NNSMESA).[6] One purpose of this document is to set uniform norms and standards so that "the management of elephants is regulated in a way that is uniform across the Republic" and takes into account the country's international obligations.[7] There is also a similar 2005 draft document on sustainable use of large predators, including cheetahs and leopards.[8] The other major piece of legislation through which the national government protects animals is the Animals Protection Act (APA).[9] This law is aimed at preventing cruelty to animals, including wild animals.

This report discusses these two national laws.

II. NEMBA and Subsidiary Legislation

A. Vulnerable Species and Restricted Activities

NEMBA prohibits anyone from engaging in a "restricted activity" involving any listed "threatened or protected species" (listed species) without a permit.[10] It authorized the Minister of Environmental Affairs and Tourism to establish lists of species that are threatened or in need of national protection, further subdividing the class of "threatened" species into those which are "critically endangered," "endangered," and "vulnerable."[11] The Minister issued NEMBA Regulations in 2007 that contained such lists.[12] Accordingly, three members of the cat family (*acinonyx jubatus* (cheetah), *panthera leo* (lion) and *panthera pardus* (leopard)) were listed as vulnerable species in that they are "[i]ndigenous species facing a high risk of extinction in the

[5] *National Environmental Management Act (NEMBA) Regulations on Threatened and Protected Species*, REPUBLIC OF SOUTH AFRICA, DEPARTMENT OF ENVIRONMENTAL AFFAIRS, SPECIES STATUS DATABASE, http://www.species status.sanbi.org/ threatened.aspx (last visited May 30, 2013).

[6] NEMBA: National Norms and Standards for the Management of Elephants in South Africa [NNSMESA], Government Notice [GN] No. 251, GG No. 30833 (Feb. 29, 2008), http://www.info.gov.za/view/DownloadFile Action?id=78006.

[7] *Id*. § 2.

[8] Draft National Norms and Standards for the Sustainable Use of Large Predators Issued in Terms of Section 9(1) of the National Environmental Management: Biodiversity Act (Act No. 1 of 2004), 475 GG, No. 27214 (Jan. 28, 2005), http://www.info.gov.za/view/DownloadFileAction?id=60605.

[9] Animal Protection Act No. 71 of 1962 [APA], 3 BUTTERWORTHS STATUTES OF THE REPUBLIC OF SOUTH AFRICA [BSRSA] (rev. through 2012), version with amendments through 1993 *available at* the Animal Legal and Historical Center website, http://www.animallaw.info/nonus/statutes/stat_pdf/AnimalsProtectionAct71-62.pdf.

[10] NEMBA § 57.

[11] *Id*. § 56(1); *see also* NEMBA Regulations § 10(b).

[12] NEMBA: Publication of Lists of Critically Endangered, Endangered, Vulnerable and Protected Species, No. R. 151, GG No. 29657 (Feb. 23, 2007), available at the South African government portal, http://www.info.gov.za /view/DownloadFileAction?id=72163. This list was amended by NEMBA. Amendment of Critically Endangered, Endangered, Vulnerable and Protected Species List, GN No. R. 1187, GG No. 30568 (Dec. 14, 2007), http://www .info.gov.za/view/DownloadFileAction?id=112825.

wild in the medium-term future, although they are not critically endangered species or an endangered species."[13]

Restricted activities with regard to the listed species include

> (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; . . .
>
> (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. [14]

NEMBA further authorizes the Minister to prohibit engaging in any activity "that may negatively impact the survival of listed threatened or protected species" or engaging in such activity without a permit.[15] For instance, the NEMBA Regulations stipulate various prohibited activities in relation to large predators (cheetahs and leopards are the only members of the cat family in this list).[16] These include hunting

---

[13] *Id*. at 3.

[14] NEMBA § 1. This does not apply to species in South Africa that are in transit. *Id*. § 57.

[15] *Id.* § 57.

[16] NEMBA Regulations, §§ 1 & 24. The Regulations have been amended at least five times through the following measures:

Threatened or Protected Species Amendment Regulations, GN No. R. 69, GG No. 30703 (Jan. 28, 2008), https://www.environment.gov.za/sites/default/files/legislations/nemba_speciesamendment_g30703rg8825gon69.pdf.

Threatened or Protected Species Amendment Regulations, 2009, GN No. R. 209, GG No. 31962 (Feb. 27, 2009), https://www.environment.gov.za/sites/default/files/legislations/nemba_species_g31962 rg9040gon209.pdf.

Threatened or Protected Species Second Amendment Regulations, 2009, GN No. R. 210, GG No. 31963 (Feb. 27, 2009), https://www.environment.gov.za/sites/default/files/legislations/nemba_species _g31963rg9041gon210.pdf.

Threatened or Protected Species Second Amendment Regulations, 2011, GN No. R. 576, GG No. 34453 (July 11, 2011), https://www.environment.gov.za/sites/default/files/legislations/nema_tops _g34453gon576.pdf.

- a "put and take animal";[17]
- in a controlled environment;
- with the use of any tranquilizer, narcotic, or other immobilizing agent;
- in an area near a holiday facility for such animals;
- with the use of a gin trap; or
- without first obtaining a written affidavit from the owner of the land where the animal is located indicating the length of time the animal has been on the property and that it is not a "put and take animal."[18]

The NEMBA Regulations also prohibit the purchase, acquisition, sale, supply, or export of any live cheetah or leopard with one exception: a person may purchase, acquire, sell, supply, or export any of these animals if he can provide an affidavit or other written proof indicating the purpose of the transaction and that the animal is not going to be used for prohibited hunting activities.[19]

However, it is important to note that the above-noted prohibitions that the NEMBA Regulations impose with regard to certain activities and methods involving cheetahs and leopards are inapplicable to an animal bred or kept in captivity "which has been rehabilitated in an extensive wildlife system; and has been fending for itself in an extensive wildlife system for at least twenty-four months."[20]

B. Penalties

The violation of any of the above-referenced provisions of NEMBA is an offense[21] punishable by fines and/or up to five years of imprisonment.[22] If the conviction is for an offense regarding a listed threatened or protected animal, the applicable fine could reach up to three times the value of the animal.[23] A person convicted under any of the above-referenced provisions of the NEMBA Regulations is also subject to a fine in the amount of 100,000 South African Rand (ZAR) (about US$11,255) and/or up to five years of imprisonment.[24]

Amendment to the Protected Species Regulations, 2007, GN No. R. 614, GG No. 35565 (Aug. 2, 2012), https://www.environment.gov.za/sites/default/files/legislations/nemba_tops_protectedareas_g35565gon614.pdf.

[17] A "put and take animal" is defined as "a live specimen of a captive bred listed large predator, or a live specimen of *Cerutotherium simum* (white rhinoceros) or *Diceros bicornis* (black rhinoceros) that is released on a property irrespective of the size of the property for the purpose of hunting the animal within a period of twenty four months." NEMBA Regulations § 1.

[18] *Id.* §§ 1 & 24.

[19] *Id* § 24.

[20] Id.

[21] NEMBA § 101; NEMBA Regulations § 73.

[22] NEMBA § 102.

[23] *Id.*

[24] NEMBA Regulations § 74.

C. Permits

There are two forms of permits: a regular permit and a standing permit.[25] A key difference between the two is their period of validity. A regular permit is issued for a maximum of one year, while a standing permit may be issued for up to thirty-six months.[26] However, a possession permit to keep a big cat in a private home, which is categorized as a regular permit for the purposes of this report, may be issued for a span of fifty years.[27] A permit holder may apply for renewal before the expiration of an existing permit.[28]

Another key difference between the two types of permits involves conditions of eligibility.[29] Only certain individuals or organizations may seek a standing permit to conduct restricted activity involving a big cat. These are operators of commercial exhibition facilities (this includes zoological gardens), persons conducting registered captive breeding operations, persons operating a registered nursery, operators of registered sanctuaries or registered rehabilitation facilities, operators of registered scientific institutions, land owners of registered game farms, and registered wildlife traders.[30] Certain restrictions apply to each permit.

Others may only apply for possession permits, game farm hunting permits, or personal effects permits. A person wishing to obtain a big cat to have at home may apply for a possession permit. The NEMBA Regulations state that "[a]ny person may apply for a possession permit for having or conveying" a big cat "if that person does not intend to carry out any other restricted activity with that specimen."[31] Registered nurseries may also apply for a possession permit.[32] This permit enables a person to "buy, transport or convey and keep in his possession" a big cat obtained from a registered nursery.[33] Similarly, landowners of registered game farms may apply for game farm hunting permits, and registered wildlife traders may apply for personal effects permits.[34]

A permit-issuing authority (this may be the national Department of Environmental Affairs or a provincial department, depending on the applicant and the animal involved) appears to have wide discretionary powers. When approached for a permit, an issuing authority may

- require the applicant to provide "any additional information,"
- require an applicant to "comply with such reasonable conditions" before issuing a permit,

[25] NEMBA § 88; NEMBA Regulations § 5.

[26] NEMBA Regulations § 22.

[27] *Id.*

[28] *Id*. § 38.

[29] *Id*. § 5.

[30] *Id*.

[31] *Id*.

[32] *Id*.

[33] *Id*.

[34] *Id*.

- issue a permit subject to certain conditions, or
- refuse to issue a permit.[35]

The discretionary powers of the issuing authority, however, are not completely unfettered. A notable example of the limits is the requirement that its decisions be consistent with all applicable national laws and policy, as well as international laws binding on South Africa.[36] The issuing authority is also required to issue a decision within twenty working days from the day an application for a permit is made.[37] If it approves an application for a permit, the issuing authority is required to issue one within five working days after the decision.[38] In addition, if it rejects an application for a permit, the issuing authority is obligated to provide the reason to the applicant in writing.[39] Significantly, a decision of an issuing authority is appealable to the Minister of the Department of Environmental Affairs, who either rules on the appeal him or herself or sends the appeal to a panel.[40]

D. Registration

The NEMBA Regulations provide that a registration is required for working as a wildlife trader and for operating a captive breeding operation, commercial exhibition facility, nursery, scientific institution, sanctuary, or rehabilitation facility.[41] In addition, for a nursery to apply for a nursery possession permit, a registered wildlife trader for a personal effects permit, and a landowner of a game farm for a standing permit, they need to be registered accordingly.[42] All individuals seeking to engage in an activity for which a registration is necessary are required to submit an application on the prescribed form and provide all the necessary supporting documents.[43] If granting the application would affect the rights of third person, the applicant is required to give such person due notice to make an objection.[44]

When considering a registration application, an issuing authority is required to take various factors into consideration**.** For instance, the issuing authority is expected to ensure that its decision is consistent with all applicable legal requirements.[45] When the registration involves a specimen for a captive breeding operation, commercial exhibition facility, game farm, nursery,

[35] NEMBA § 88.

[36] *Id*.; NEMBA Regulations § 10.

[37] NEMBA Regulations § 8.

[38] *Id*. § 18.

[39] *Id.*; NEMBA § 88.

[40] NEMBA § 94.

[41] NEMBA Regulations § 27.

[42] *Id*. §§ 27 & 28.

[43] *Id*. § 30.

[44] *Id*. § 30.

[45] *Id*. § 29.

sanctuary, or rehabilitation facility, or for wildlife trading, the issuing authority must take into account the applicant's preparedness to microchip or mark the specimen.[46]

Once the issuing authority receives an application for registration, it is required to take a number of actions, including ordering the inspection of the facility to be registered[47] and making a written recommendation to grant or reject the application. If the recommendation is to grant the application, the recommendation should include any applicable conditions.[48] Once it makes a decision on the application, the issuing authority is required to provide written notification within ten working days to the applicant and to anyone who may have submitted an objection to the application.[49] If the issuing authority refuses to approve the application or approves the application but attaches conditions, it must, upon the request of the applicant, provide reasons for its decision.[50] It is also under obligation to notify applicants whose application has been denied that they have the right to appeal.[51]

If the issuing authority approves an application for a registration, it is required to issue a registration certificate within ten working days after approval.[52]

The NEMBA Regulations impose several compulsory conditions for obtaining a registration certificate for captive breeding operations, commercial exhibition facilities, and rehabilitation facilities. The holder of a registration certificate for any of these operations is required to prevent hybridization and/or inbreeding; keep a studbook, where appropriate; and report back to the issuing authority on these matters annually.[53] In addition, if the registered commercial exhibition facility is a travelling exhibition, the person to whom the registration certificate is issued must inform the province to which the exhibition is travelling at least two months ahead of time.[54]

[46] *Id*.

[47] *Id*. § 32.

[48] *Id*.

[49] *Id*.

[50] *Id*.

[51] *Id*.

[52] *Id*. § 33.

[53] *Id*. § 35.

[54] *Id*. § 35.

III. The Animal Protection Act (APA)

The APA, which protects against cruelty to both domesticated and wild animals, appears to have some relevance to big cats, including those possessed privately or kept in zoos. The APA defines animals broadly to include "any equine, bovine, sheep, goat, pig, fowl, ostrich, dog, cat or other domestic animal or bird, or any wild animal, wild bird or reptile which is in captivity or under the control of any person."[55] It criminalizes various actions against these animals that amount to cruelty. Such actions include instances in which a person

> b) . . . confines, chains, tethers or secures any animal unnecessarily or under such conditions or in such a manner or position as to cause that animal unnecessary suffering or in any place which affords inadequate space, ventilation, light, protection or shelter from heat, cold or weather; or
>
> c) Unnecessarily starves or under-feeds or denies water or food to any animal; or . . .
>
> e) being the owner of any animal, deliberately or negligently keeps such animal in a dirty or parasitic condition or allows it to become infested with external parasites or fails to render of procure veterinary or other medical treatment or attention which he is able to render or procure for any such animal in need of such treatment or attention, whether through disease, injury, delivery of young or any other cause, or fails to destroy or cause to be destroyed any such animal which is so seriously injured or diseased or in such a physical condition that to prolong its life would be cruel and would cause such animal unnecessary suffering; or . . .
>
> m) conveys, carries, confines, secures, restrains or tethers any animal —
>
> i. under such conditions or in such manner or position or for such a period of time or over such distance as to cause that animal unnecessary suffering; or
>
> ii. in conditions affording inadequate shelter, light or ventilation or in which such animal is excessively exposed to heat, cold, weather, sun, rain, dust, exhaust gases or noxious fumes; or
>
> iii. without making adequate provision for suitable food, potable water and rest for such animal in circumstances where it is necessary; or
>
> n) without reasonable cause administers to any animal any poisonous or injurious drug or substance; or . . .
>
> q) causes, procures or assists in the commission or omission of any of the aforesaid acts or, being the owner or any animal, permits the commission or omission of any such acts; or
>
> r) by wantonly or unreasonably or negligently doing or omitting to do any act or causing or procuring the commission or omission of any act, causes any unnecessary suffering to any animal.[56]

[55] APA § 1.

[56] *Id*. § 2.

A person convicted of animal cruelty charges is subject to a fine and a prison term of up to twelve months, or imprisonment for up to twelve months without a fine.[57] Additional penalties may be imposed, including ordering the animal involved to be destroyed if the court deems it cruel to keep it alive, depriving the person of ownership of the animal in question, or even declaring the person unfit to own any animal.[58]

[57] *Id*.

[58] *Id*. § 3.

Spain

Graciela Rodriguez-Ferrand
Senior Foreign Law Specialist

SUMMARY Spain's Law on the Legal Regime of the Possession of Potentially Dangerous Animals was enacted in 1999 as a response to the increasing number of attacks by animals in the 1990s. The law does not include any specific provision on big cats. Both the Law and its implementing regulation provide safety standards as well as licensing and registration requirements for owning or keeping potentially dangerous animals. Preservation of wildlife in zoos is subject to additional safety requirements.

I. Legislation on Possessing Potentially Dangerous Animals

In response to the increasing number of attacks by animals at the end of the 1990s in Spain,[1] Ley 50/1999 sobre el Régimen Jurídico de la Tenencia de Animales Potencialmente Peligrosos[2] (LAPP) [Law 50/1999 on the Legal Regime of the Possession of Potentially Dangerous Animals] was enacted to provide standards compatible with the safety of people, property, and other animals.[3]

A. Definition of Potentially Dangerous Animal

The law defines potentially dangerous animals as wild animals that are kept as pets or companion animals and, regardless of their aggressiveness, belong to a species that is capable of causing death or injury to persons, other animals, or property.[4] LAPP also makes specific reference to canines that may be considered potentially dangerous.[5] The law does not include any specific provision on big cats. Real Decreto 287/2002 por el que se Desarrolla la Ley 50/1999 sobre el Régimen Jurídico de la Tenencia de Animales Potencialmente Peligrosos[6] [Royal Decree 287/2002 on the Legal Regime for the Possession of Potentially Dangerous Animals] provides a list of dogs of specific breeds or species that are considered potentially dangerous.[7]

---

[1] Perez Monguio, Animales Potencialmente Peligrosos-Su Régimen Jurídico 21 (Bosch, Barcelona, 2006).

[2] Ley 50/1999 de Animales Potencialmente Peligrosos [LAPP] [Law 50/1999 on Potentially Dangerous Animals] BOLETÍN OFICIAL DEL ESTADO [B.O.E.] Dec. 24, 1999, http://www.boe.es/buscar/act.php?id=BOE-A-1999-24419.

[3] *Id*. art. 1.1.

[4] *Id*. art. 2.1.

[5] *Id.* art. 2.2.

[6] Real Decreto 287/2002, de 22 de marzo, por el que se desarrolla la Ley 50/1999, de 23 de diciembre, sobre el régimen jurídico de la tenencia de animales potencialmente peligrosos [Royal Decree 287/2002 on the Legal Regime of the Possession of Potentially Dangerous Animals], B.O.E. Mar. 27, 2002, http://www.boe.es/buscar/act.php?id=BOE-A-2002-6016.

[7] *Id*., Annex 1 & 2.

A person who brings a potentially dangerous animal into a public space should carry the required administrative license and the animal's registration.[8] Animals kept on a private property, in a home, on a patio, or in any other fenced or enclosed habitat must be tied unless the animal is kept in an adequately enclosed living space of the appropriate dimensions in height and width to prevent other animals or people from approaching it.[9]

B. Licensing Requirement

In order to possess any animal considered potentially dangerous under the law, an administrative license must be obtained from the municipality with jurisdiction over the applicant's residence. This license, which is valid for five years and renewable for the same period,[10] may be issued provided that the applicant

- [h]as reached the age of majority and has not been disqualified from providing the necessary care to the animal;
- [h]as not been convicted of homicide; assault; torture; crimes against freedom or moral integrity, sexual freedom, or public health; association with an armed gang or drug trafficking; or sanctioned for infractions related to potentially dangerous animals;
- [has a c]ertificate of psychological aptitude;
- [has p]roof of civil liability insurance for damages to third parties that may be caused by animals in his possession.[11]

In addition, Real Decreto 287/2002 requires that the applicant have civil liability insurance with coverage of not less than 120,000 euro*s* in damages.[12]

C. Trade

Under LAPP, the importation of an animal classified as potentially dangerous into Spain as well as its sale or transfer requires both parties to the transaction to be licensed.[13] Animals entering the country from European Union (EU) countries are also subject to EU norms.[14]

Additionally, any transaction involving these types of animals requires

- a license for both seller and buyer;

[8] Real Decreto 287/2002 art. 8.1.

[9] *Id*. art. 8.4.

[10] LAPP art. 3.1.

[11] *Id*. art. 3.1.a–d.

[12] Real Decreto 287/2002 art. 3.1.e.

[13] LAPP art. 4.1.

[14] *Id.* art. 4.2.

- an updated health card for the animal; and
- registration of the animal's transfer in the pertinent registry.[15]

All establishments or associations that keep potentially dangerous animals for breeding, trade, training, recreation, or care must have an official authorization issued by the competent authorities.[16]

D. Registration

Owners, breeders, or keepers of potentially dangerous animals must register them in the Municipal Registry of Potentially Dangerous Animals.[17] The record should include the personal information of the owner or keeper, characteristics of the animal for the sake of identification, the animal's habitual residence, and information as to whether it is going to live with people or is being kept for other purposes.[18] Its sale or transfer must also be recorded in the Registry.[19]

Any incident involving the animal must be recorded in the Registry's file, including a record of its death or slaughter that is signed by a veterinarian.[20] A health certificate for the animal that has been issued by the pertinent authorities must be included in the registration and must be updated annually.[21] The owners or keepers of potentially dangerous animals must keep them under their control under adequate safety conditions to secure public safety.[22]

E. Penalties

In addition to civil and criminal sanctions, violations to LAPP are subject to administrative penalties, which include fines and confiscation, sterilization, or slaughter of the animal. The closure of the establishment involved in the infractions and the temporary suspension or permanent cancellation of its license may be part of the sanctions imposed.[23]

Under the Civil Code[24] anyone possessing an animal is responsible for damages caused by the animal, even if it escapes or is lost, except when the damages are caused by *force majeure* or the fault of the victim.[25] Regarding criminal liability, the Penal Code[26] provides that the owners or

[15] *Id*. art. 4.4.

[16] *Id*. art. 4.5.

[17] *Id*. art. 5.

[18] *Id*. art. 6.1.

[19] *Id*. art. 6.5.

[20] *Id*. art. 6.4.

[21] *Id.* art. 6.7.

[22] *Id.* art. 9.

[23] *Id.* art. 13.

[24] CÓDIGO CIVIL [CC] [CIVIL CODE], B.O.E. July 25, 1889, *as amended*, http://www.boe.es/buscar/act.php?id=BOE-A-1889-4763&tn=1&p=20121114&vd=#art1905.

[25] *Id*. art. 1905.

custodians of ferocious and harmful animals left loose or in a condition susceptible to causing harm are sanctioned with a fine.[27]

II. Legislation on Wildlife in Zoos

Ley 31/2003 de Conservación de la Fauna Silvestre en los Parques Zoológicos[28] (LCFSZ) [Law on Preservation of Wildlife in Zoos] provides for welfare and safety measures in public and private zoological parks.[29]

Regarding safety, the law requires zoos to take the necessary measures to prevent the escape of animals from the zoo, especially of those species that are potentially dangerous.[30] Zoos are required to have specialized staff and adequate equipment and facilities to implement the necessary measures for animal welfare, environmental fitness, and safety.[31] They are also obliged to implement in their facilities specific safety measures according to the characteristics of each species to prevent any risk to the health and safety of visitors and zoo staff, as well as to prevent the escape of animals.[32]

Zoos with wild animals are required to have the official authorization of the local authorities in order to operate, change, extend, or alter zoo facilities.[33] Zoos are subject to at least one annual inspection by the local authorities to verify compliance with the measures and conditions required under this law.[34] Violators are subject to administrative fines in addition to eventual civil and criminal penalties.[35] Additional sanctions may include the permanent or temporary closure of the zoo.

---

[26] CÓDIGO PENAL [CP] [PENAL CODE], B.O.E. Nov. 24, 1995, http://www.boe.es/buscar/act.php?id=BOE-A-1995-25444&tn=1&p=20121228&vd=#a631.

[27] *Id.* art. 631.1.

[28] Ley 31/2003 de Conservación de la Fauna Silvestre en los Parques Zoológicos [LCFSZ] [Law on Preservation of Wildlife in Zoos], B.O.E. Oct. 28, 2003, http://www.boe.es/buscar/pdf/2003/BOE-A-2003-19800-consolidado.pdf.

[29] *Id.* arts. 1, 3.

[30] *Id*. art. 3.d.

[31] *Id*. art. 5.

[32] *Id*. Disposición Adicional Primera. Medidas de Seguridad Pública [First Additional Provision. Public Safety Measures].

[33] *Id.* art. 7.1.

[34] *Id.* art. 8.

[35] *Id*. arts. 11, 14.

Thailand

Sayuri Umeda
Foreign Law Specialist[*]

SUMMARY Thailand's Wildlife Preservation and Protection Act prohibits a private person from possessing protected wildlife, including big cats such as tigers, except where the person owned such animal before the Act became effective. Only the government can breed protected animals. Zoos are also regulated under the Act.

I. Prohibition on Possession of Protected Wildlife

Thailand's Wildlife Preservation and Protection Act has a chapter that regulates hunting, propagating, possessing, and trading in wildlife, their carcasses, and carcass products.[1] Under the Act, "preserved wildlife" are rare wildlife species listed in the Annexed Schedule of the Act. "Protected wildlife" are wildlife that are to be protected in accordance with and as specified in ministerial regulations.[2] There are approximately 190 to 250 tigers remaining in Thailand.[3] The tiger is designated as a protected wildlife animal.[4]

In principle, it is illegal to possess protected wildlife animals in Thailand.[5] However, if a person possessed such an animal before the Wildlife Preservation and Protection Act came into force in 1992, the person may keep it but must file a report on the animal with the government and undergo an inspection by a competent officer. The inspection focuses on the level of care and safety for the protected wildlife. When appropriate, the government may issue a temporary permit that is valid for the remaining lifetime of the protected wildlife. When the animal has babies or dies, the person must notify the government.[6] If a person possesses, sells, imports, or exports preserved wildlife or protected wildlife, or part of or the entire body of dead protected

---

[*] This report was prepared with the assistance of Law Library intern Nichaya Soothipan.

[1] Wildlife Preservation and Protection Act, B.E. 2535 (1992), *amended by* Wildlife Preservation and Protection Act No. 2, B.E. 2546 (2003), Ch. 3. An unattributed English translation of the Act is available on a private law firm's website, at http://www.thailawonline.com/en/thai-laws/laws-of-thailand/114-wildlife-preservation-and-protection-act-be-2535-1992.html (last visited May 29, 2013).

[2] *Id*. § 4.

[3] Department of National Parks, Wildlife and Plant Conservation, Ministry of Natural Resources and Environment of Thailand, Thailand Tiger Action Plan 2010–2022, at 14, http://www.dnp.go.th/TigerCenter/Thailand_tiger_action_plan_2010-2022.pdf.

[4] Wildlife Preservation and Protection Act, B.E. 2535, § 6; Ministerial Regulations on designating some wildlife animals to be wildlife protected animals, B.E. 2546 (2003). The Ministerial Regulations are available in Thai on the website of the Department of National Parks Ministerial Regulation, at http://www.dnp.go.th/wildlifednp/เอกสาร/gov2.pdf (last visited May 30, 2013).

[5] Wildlife Preservation and Protection Act, B.E. 2535 (1992), § 19.

[6] *Id*. § 67(2) (referring to § 61).

wildlife, he or she is punishable by imprisonment for a term not exceeding four years, a fine of no more than 40,000 Baht (approximately US$1,333), or both.[7]

II. Breeding of Protected Wildlife

Specified kinds of protected wildlife may be propagated with permission from the government.[8] However, the tiger is not one of these animals. If a person breeds protected wildlife illegally, he or she is punishable by imprisonment for a term not exceeding three years, a fine not exceeding 30,000 Baht (approximately US$1,000), or both.[9] If a person possesses protected wildlife that comes from the illegal breeding of such animals, he or she is punishable by imprisonment for not more than one year, a fine of up to 10,000 Baht (approximately US$333), or both.[10] The breeding of protected wildlife can be done by the government, with permission from the Director-General of the Department of National Parks, Wildlife and Plant Conservation, for educational or academic research purposes, or for the operation of a zoo.[11]

III. Zoos

The operation of zoos is also regulated under the Wildlife Preservation and Protection Act. Upon permission from the Director-General, a private person can establish a zoo.[12] Requirements for permission are specified in the ministerial regulations.[13] The number of animals in the zoo and the size of cages for the animals must be appropriate.[14] The zoo must be located in an appropriate area and may not disturb the people who live near the zoo.[15] After the zoo operator obtains permission and before the zoo opens, the operator must report the kinds and the numbers of protected wildlife in his possession to the government, and provide copies of their registration records. When the number of protected wildlife in the zoo changes, the operator must inform the government.[16]

---

[7] *Id*. § 47.

[8] *Id*. §§ 17, 18; Ministerial Regulations on specifying the type of protected wildlife that can be bred, B.E. 2546 (2003), http://www.dnp.go.th/wildlifednp/เอกสาร/กฎหมาย/กำหนดชนิดของสัตว์.pdf.

[9] Wildlife Preservation and Protection Act, B.E. 2535 (1992), § 48.

[10] *Id*. § 49.

[11] *Id*. § 26.

[12] *Id*. § 29, para. 1.

[13] *Id*. § 29, para. 3; Ministerial Regulations No. 9, B.E. 2540 (1997), http://app-thca.krisdika.go.th/Naturesig/CheckSig?whichLaw=law2&folderName=%CA04&lawPath=%CA04-2b-2540-009.

[14] Ministerial Regulations No. 9, B.E. 2540 (1997), art. 14.

[15] *Id*. art. 15.

[16] Wildlife Preservation and Protection Act, B.E. 2535 (1992), § 30.

Turkey

Wendy Zeldin
Senior Legal Research Analyst

SUMMARY Turkey does not appear to have a specific piece of legislation on the private possession of big cats. The handling of domestic, domesticated, and wild animals in the country is governed by the Animal Protection Law, as well as by various regulations, such as those on zoos, veterinary services, and animal breeding. Turkey is also a party to international instruments regulating wildlife, such as the Convention on International Trade in Endangered Wild Fauna and Flora and the Council of Europe's Convention on the Conservation of European Wildlife and Natural Habitats.

I. Introduction

Although Turkey has a number of zoos that contain wild animals, big cats do not form a major part of the wildlife in Turkey itself. Anatolian lions became extinct in the 19th century and tigers in the 1970s, and except for a few random sightings in recent years, it is believed that Anatolian leopards, too, have been completely wiped out.[1]

The major piece of legislation governing the protection of animals in Turkey is Law No. 5199, the Animal Protection Law.[2] Although amendments to this law have been proposed, it was reported in October 2012 that some of the proposed amendments had been withdrawn because of pressure from animal rights groups.[3]

Under the Animal Protection Law, wild animals are defined as "vertebrate and invertebrate animals living freely in nature which have not been domesticated or cultivated."[4] Domesticated animals are "animals which have been cultivated and trained by humans,"[5] while domestic

[1] Adem Gilgin et al., TURKEY'S BIODIVERSITY 27 (UNFF 10, Apr. 8–19 2013, Istanbul, Turkey), General Directorate of Nature Conservation and National Parks, http://www.milliparklar.gov.tr/kitap/5/?sflang=tr; Nicholas Burch, *Anatolian Leopard Is Alive*, THE WASHINGTON TIMES (Aug. 25, 2006), http://bigcatrescue.org/anatolian-leopards/.

[2] Hayvanlari Koruma Kanunu [Animal Protection Law], Law No. 5199 (June 24, 2004, last amended Dec. 13, 2010), MEVZUAT.GOV.TR, htutp://www.mevzat.gov.tr/Metin.Aspx?MevzuatKod=1.5.5199&sourceXml Search=&MevzuatIliski=0; Animal Protection Bill Law no 5199, HAYTAP (Animal Rights Federation of Turkey) (May 28, 2007), http://www.haytap.org/index.php/20070528133/mevzuat/animal-protection-bill-law-no-5199.

[3] *Direndik ve kazandık. Hayvan hakları yasa tasarısı geri çekildi* [*Resisted and Won. Animal Rights Bill Was Withdrawn*], YEŞIL GAZETE (Oct. 2, 2012), http://www.yesilgazete.org/blog/2012/10/02/direndik-ve-kazandik-hayvan-haklari-yasa-tasarisi-geri-cekildi/; 24/06/2004 tarihli ve 5199 sayılı Havanları Koruma Kanununun Bazı Maddelerinin Değiştirilmesi Hakkinda Kanun Teklifi gerekçesi ile birlikte ekte sunulmuştur … [Dated 06.24.2004 and No. 5199 the Law Amending Certain Provisions of the Law on the Protection of Animals, with the Reason Given in the Appendix …] (hereinafter Draft Amendments to Animal Protection Law), GRAND NATIONAL ASSEMBLY OF TURKEY (Feb. 28, 2012), http://www2.tbmm.gov.tr/d24/2/2-0366.pdf.

[4] Animal Protection Law art. 3(h).

[5] *Id*. art. 3(e).

animals and pets refer to "all type of animals retained or intended to be retained by people in their houses, workplaces or on their land for private pleasure or security purposes whose care and responsibility is undertaken by their owners."[6] In addition, "controlled animals" are duly registered house animals and pets which have been adopted by a person, institution, organisation or legal entity and whose care, vaccinations and periodic health check-ups are carried out."[7]

Since 1995, Turkey has been a party to the Convention on International Trade in Endangered Wild Fauna and Flora (CITES).[8] In addition, the Council of Europe's Convention on the Conservation of European Wildlife and Natural Habitats, CETS No. 104, has been in force in Turkey since 1999.[9] The Animal Protection Law sets forth certain principles that reflect the spirit of the Conventions, for example, "endangered species and their natural habitats will be protected,[10] "wild animals will not be removed from their natural habitats, and animals which are living freely in nature will not be captured and deprived of their freedom";[11] "[i]n the protection of animals and the facilitation of their welfare, the hygiene, health and safety of humans and other animals must be taken into account";[12] and "animals will be cared for, fed, sheltered and transported under the conditions suited to their species."[13] Turkey is also a party to the European Convention for the Protection of Pet Animals.[14]

---

[6] *Id*. art. 3(i).

[7] *Id*. art. 3(j).

[8] *List of Contracting Parties*, CITES, http://www.cites.org/eng/disc/parties/alphabet.php (last visited May 29, 2013); Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) (Mar. 3, 1973), 27 U.S.T. 1087, T.I.A.S. 8249, 993 U.N.T.S. 243, http://www.cites.org/eng/disc/text.php, *as amended*, June 1, 1979, T.I.A.S. 11079, *and* Apr. 30, 1983, http://www.cites. org/eng/disc/gaborone.php (Gaborone Amendment). The Convention was published in 22672 RESMÎ GAZETE [OFFICIAL GAZETTE] (June 20, 1996).

[9] *Status as of: 29/5/2013*, Convention on the Conservation of European Wildlife and Natural Habitats, CETS No.: 104 (Sept. 19, 1979, entered into force June 1, 1982), COUNCIL OF EUROPE, http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=104&CM=8&DF=&CL=ENG; Convention on the Conservation of European Wildlife and Natural Habitats, COUNCIL OF EUROPE, http://conventions.coe.int/Treaty/en/Treaties/Html/104.htm (last visited May 29, 2013).

[10] Animal Protection Law art. 4(e).

[11] *Id.* art. 4(f).

[12] *Id*. art. 4(g).

[13] *Id*. art. 4(h).

[14] For the list of Member States, *see* European Convention for the Protection of Pet Animals, Nov. 13, 1987, in force on May 1, 1992, CETS No.: 125, http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=125&CM=&DF=&CL=ENG. Turkey ratified the Convention on November 28, 2003; it entered into force in the country on June 1, 2004. *Id*. The Convention defines "pet animal" as "any animal kept or intended to be kept by man in particular in his household for private enjoyment and companionship" and "animal sanctuary" as "a non-profit making establishment where pet animals may be kept in substantial numbers. If national legislative and/or administrative measures permit, such an establishment may accept stray animals." European Convention for the Protection of Pet Animals art. 1.

II. General Care of Animals

A. Keeping of Animals

The Animal Protection Law stipulates that, regarding the care of animals, persons who take part in a general training program on the care of animals and who take ownership of or look after an animal are liable for sheltering the animal and for meeting the animal's needs, and for "taking care of their health and taking all necessary precautions with regard to the health and safety of people, animals and the environment."[15] Sellers of domestic animals and pets must participate in a certified training program on the care and protection of these animals, arranged by the local authorities.[16]

The conditions for owning and keeping domestic pets or controlled animals, as well as such matters as training in animal welfare and preventative measures to be taken against damage and disturbance caused by the animals, are prescribed in a regulation issued by the Ministry of Environment and Forestry in coordination with the Ministry of Agriculture and Rural Affairs, upon consultation with the Ministry of Internal Affairs and related organizations.[17] Sequestration, because of the owner's debts, of domestic pets that are being cared for in a house or garden is prohibited unless done for a commercial purpose.[18]

B. Trade in Animals

The Animal Protection Law imposes an obligation on those who produce and trade in domestic pets to take precautions in relation to the necessary anatomical, physiological, and behavioral characteristics of the animal to avoid endangering the health of the pet owner and of the mother selected for reproduction or her young.[19] It prohibits abandonment of domestic pets and controlled animals that will not be able to reestablish harmony with their natural environment, although it stipulates that such creatures may be reclaimed or handed over to an animal shelter.[20]

The Animal Protection Law had formerly contained a provision, under the heading "bans and permissions" (*Yasak ve izinler*), giving the authority to the Ministry of Agriculture and Rural Affairs, based on consultation with the Ministry of Environment and Forestry, to handle all types of permissions and transactions related to the trade of domestic pets under the Law's provisions,

---

[15] *Id*. art. 5, ¶ 1.

[16] *Id*. ¶ 3.

[17] *Id*. ¶ 4. *See* Hayvanların Korunmasina dair Uygulama Yönetmeliği [Implementation Regulation for Animal Protection], 26166 RESMÎ GAZETE (May 12, 2006), http://www.mevzuat.gov.tr/Metin.Aspx?MevzuatKod=7.5.10300&MevzuatIliski=0&sourceXmlSearch=; Ev ve Süs Hayvanlarının Üretim, Satış, Barınma ve Eğitim Yerleri Hakkinda Yönetmelik [Regulation on Places of Production, Sale, Shelter, and Training of Pet and Ornamental Animals], 28078 RESMÎ GAZETE (Oct. 8, 2011), http://www.resmigazete.gov.tr/eskiler/2011/10/20111008-4.htm.

[18] *Id*. ¶ 5.

[19] *Id*. ¶ 6.

[20] *Id*. ¶ 7.

including "their import and export and their removal from or bringing into the country in any manner whatsoever."[21] That provision was abolished in a 2010 revision of the Law.[22]

According to the Law on Veterinary Services, Plant Health, Food and Feed, provisions on the consignment, trade, and transport of live animals and animal products and reproductive products are to be laid down by the Ministry of Agriculture and Rural Affairs.[23] The purchase and sale of animals is to be carried out in licensed animal markets and bourses and in animal fairs permitted by the Ministry, with the exception of direct sales made by animal holders. The purchase and sale of pet animals is to be conducted in places licensed for the sale of such animals.[24] It may be noted that the commentary on article 21 of the draft law on amendments to the Animal Protection Law stated that illegal animal imports, in particular, into Turkey, except for imports handled by pet shops, are unregulated, and indicated that as long as such imports are fueled by demand it will be difficult to curtail them. (The concern voiced is more in connection with ordinary domestic pets; no reference was made to wild animals.)[25]

As a CITES member, Turkey has issued regulations on the Convention's implementation within its borders. The Food and Agriculture Organization law database (FAOLEX) has provided an abstract on the contents of Turkey's 2001 implementation regulation[26] and on an amending regulation issued in 2004.[27] According to the former:

> List I of the regulation covers all endangered species of which trading is restricted. Trading of these is allowed only under exceptional circumstances. List II covers species that could be endangered unless appropriate restrictive measures are not taken. List III covers all the species regulated by one country, where collaboration with other countries is needed for trade restrictions. The Ministry of Agriculture and Rural Affairs and [the

[21] *Id*. art. 23.

[22] The 2010 revision is cited as being the Veteriner Hizmetleri, Bitki Sağliği, Gida ve Yem Kanunu, Law No. 5996 (June 11, 2010), 27610 RESMÎ GAZETE (June 13, 2010), http://www.iegm.gov.tr/Default.aspx?sayfa= iegm_mevzuat &thelawtype=1&thelawId=27; Law on Veterinary Services, Plant Health, Food and Feed (hereinafter Law on Veterinary Services) (adopted June 13, 2010), *available at* http://faolex.fao.org/docs/pdf/tur106155E.pdf.

[23] Law on Veterinary Services art. 8(1).

[24] *Id*. art. 8(2).

[25] Draft Amendments to Animal Protection Law art. 21.

[26] Nesli Tehlike Altinda Olan Yabani Hayvan ve Bitki Türlerinin Uluslararasi Ticaretine İlişkin Sözleşmenin Uygulanmasina dair Yönetmelik [Regulation on Implementation of CITES], 24623 RESMÎ GAZETE (Dec. 27, 2001), *available at* http://www.orgtr.org/tr/nesli-tehlike-altinda-olan-yabani-hayvan-ve-bitki-turlerinin-uluslararasi-ticaretine-iliskin-sozlesmenin-uygulanmasina-dair-yonetmelik (text as amended by Aug. 6, 2004, Regulation).

[27] Nesli Tehlike Altında Olan Yabani Hayvan ve Bitki Türlerinin Uluslararası Ticaretine İlişkin Sözleşmenin Uygulanmasına Dair Yönetmelikte Değişiklik Yapılmasına Dair Yönetmelik [Regulation on Amending the Regulation on Implementation of CITES] 25545 RESMÎ GAZETE (Aug. 6, 2004), LEX-FAOC046270 *available at* http://faolex.fao.org/ (with text of document at http://faolex.fao.org/docs/texts/tur46270.doc). *See also* Nesli Tehlike Altinda Olan Yabani Hayvan ve Bitki Türlerinin Diş Ticaretine İlişkin Tebliğ [Foreign Trade Notification on Endangered Species of Wild Fauna and Flora], 27126 RESMÎ GAZETE (Jan. 30, 2009), http://www.resmigazete.gov.tr /eskiler/2009/01/20090130-3.htm; *and* Nesli Tehlike Altinda Olan Yabani Hayvan ve Bitki Türlerinin Diş Ticaretine İlişkin Tebliğ (Diş Ticaret: 2011/1) [Foreign Trade Notification on Endangered Species of Wild Fauna and Flora (Foreign Trade: 2011/1)], 27859 RESMÎ GAZETE (Feb. 27, 2011), *available at* http://www.orgtr.org/ tr/nesli-tehlike-altinda-olan-yabani-hayvan-ve-bitki-turlerinin-dis-ticaretine-iliskin-teblig-dis-ticaret-20111.

> Ministry of Forestry and the Environment] … are authorized to issue CITES certificates for the species listed in the regulation. CITES certificate is required to export and import species in List I, List II and List III. Certificates for List I-A, List II-A, and List III-A is prepared by the Ministry of Agriculture and Rural Affairs, List I-B, List II-B, and List III-B by the Ministry of Forestry, and for List I-C, List II-C, and List III-C by the Ministry of Environment. Procedure details are given in the regulation.[28]

The FAOLEX abstract of the 2004 Regulation Amending the Regulation on the Implementation of CITES states:

> This regulation amends some provisions of the previous regulation on trading of endangered species: CITES certificate for species in List I-C, List II-C, and List III-C is not required. As the ministries of Environment and Forestry are merged, CITES certificate for List I-B, List II-B, and List III-B are prepared by the Ministry of Environment and Forestry. The information that has to be covered by the CITES certificate is given in details.[29]

According to a news report published in October 2012, as of that date, the General Directorate of Nature Conservation and National Parks had that year imposed fines of 611,000 Turkish lira (about US$327,500) on people who had engaged in illegal hunting and illegal trade in wild animals. In addition to the imposition of administrative sanctions, the animals were confiscated.[30]

C. Consequences of Violating Animal Welfare Provisions

The Animal Protection Law provides that persons who act in breach of its provisions on animal welfare and "who … seriously neglect the animals in their care or cause them pain, suffering or damage will be banned from keeping animals by the supervisory authorities and the animals will be seized. Such animals will be given to new owners or taken into care."[31]

III. Zoos

A. Types of Zoos

Under the Animal Protection Law, the zoo management and the respective municipality must arrange the zoo in a manner suited to animals' natural habitats, or ensure that they are so arranged, in accordance with regulations on the principles and procedures relating to the

[28] *Turkey: Regulation on the Implementation of the Agreement Regarding Trading of Endangered Species* [abstract of the 2001 Regulation], LEX-FAOC046273, *available at* http://faolex.fao.org/ (click on the hyperlink to the Regulation) (last visited May 31, 2013).

[29] *Turkey: Regulation Amending the Regulation on the Implementation of the Agreement Regarding Trading of Endangered Species* [abstract of the 2004 Regulation], LEX-FAOC046270, FAOLEX, http://faolex.fao.org/ (click on the hyperlink to the Regulation) (last visited May 31, 2013).

[30] *Hayvan Ticareti Yapanlar ve Kaçak Avlananlara 611 Bin Lira Ceza Kesildi* [*Illegal Animal Trade Helpers and Poachers Fined 611,000 Lira*], HABERLER.COM (Oct. 26, 2012), http://www.haberler.com/hayvan-ticareti-yapanlar-ve-kacak-avlananlara-611-4043136-haberi/.

[31] Animal Protection Law art. 24.

establishment and operation of zoos.[32] The key regulation in this connection is the Regulation on the Procedures and Principles for the Establishment and Operation of Zoos, which classifies zoos, based on the number of animal species they contain, into Group A, zoos that have more than seventy animal species and where the responsible administrator is obliged to employ at least one veterinarian, and Group B, zoos that have a maximum of sixty-nine animal species and where the responsible administrator can arrange the form of veterinary services.[33] An additional class of zoos is the children's zoo.[34]

B. Documentation for Establishing a Zoo

A natural or legal person, institution, or organization that seeks to establish a zoo must provide certain documents, along with an application, to the provincial directorate of the place where they want to set up the zoo. These include the list of animal species form, a building site plan permit, and a water use certificate.[35] The documentation will be examined by the provincial directorate of environment and forestry and, if approved, be checked by a provincial commission, one of whose members is a veterinarian. If the conditions of locating the zoo in a place where humans and animals will not be exposed to noise, air, and water pollution that might adversely affect their health are met,[36] the provincial directorate will approve the application, and two copies of the Commission report and the facilities permit will be issued. One copy will be filed with the provincial directorate; the other will be given to the applicant.[37]

C. The Zoo License

Within six months of obtaining authorization to establish a zoo based on the approved documentation, the natural or legal person, institution, or organization concerned must apply to the provincial directorate of labor for a work permit.[38] Various documents are required in order to obtain a zoo license. These include: 1) a document from the fire department that the necessary precautions have been taken to prevent fires and explosions; 2) a document to the effect that the domestic or foreign animal species have been obtained by legal means (proforma invoices, invoices, documents of sale, a contract that includes additional lists of CITES documents, nature collection and capture permits and similar documents); and 3) a document from the provincial administration of domestic, solid, and medical waste that disposal of such material will be carried out in a controlled manner.[39]

---

[32] *Id*. art. 22.

[33] Hayvanat Bahçelerinin Kuruluşu İle Çalişma Usul ve Esaslari Hakkinda Yönetmelik [Regulation on the Procedures and Principles for the Establishment and Operation of Zoos] art. 5(1) (Aug. 11, 2007), http://www.mevzuat.gov.tr/Metin.Aspx?MevzuatKod=7.5.11503&sourceXmlSearch=&MevzuatIliski=0.

[34] *Id.* art. 5(2).

[35] *Id*. art. 7(1).

[36] *Id*. art. 6.

[37] *Id*. art. 7(2).

[38] *Id*. art. 8(1).

[39] *Id*. art. 8(2)(a)–(c).

If there is no deficiency in the documentation examined by the provincial directorate, a Report on Opening (Açılma Raporu) (a recommendation for opening of the facility signed by the Provincial Director of Environment and Forestry) and a Zoo License (signed by the governor of the provincial directorate of environment and forest)[40] will be issued. If there are deficiencies in the documents, the applicants will be notified of them.[41]

A review must be conducted of the legality of the means of obtaining the game and wild animals in the zoo and of the Central Hunting Commission's decisions on legally prohibited hunting methods, among other matters, within ten days before the approval of the zoo license by the provincial directorate. Once the review has been completed, two copies of the Certificate of Possession of Game and Wild Animals will be made for each type of game and wild animal held,[42] one for the provincial directorate and one for the party concerned.[43] The provincial directorate creates a file of all the permits and documents for each zoo and sends a copy of the Zoo License and Species List Form[44] to the General Directorate of Nature Conservation and National Parks.[45]

Managers of Group A and Group B zoos must also send certain documents to the provincial directorate within three months after the zoo's registration date, including, among other information, the letters of engagement for the zoo's manager and veterinarian, and a document signed by an administrator attesting to his or her responsibility for all personnel working in the zoo.[46]

The zoo license is valid for five years, at the end of which a petition for an extension may be submitted to the provincial directorate, along with the Species List Form. If the extension is approved, the license will be valid for another five years.[47] Without a license, a zoo cannot be opened to the public.[48]

IV. Breeding

The breeding of animals in Turkey is governed by the Law on Animal Breeding.[49] The Law stipulates that the breeding of animals of any kind must be conducted according to certain

[40] *Id.* Annex 4.

[41] *Id*. art. 8(3).

[42] *Id.* Annex 6.

[43] *Id*. art. 8(4).

[44] *Id.* Annex 5.

[45] *Id*. art. 8(5).

[46] *Id*. art. 8(6).

[47] *Id*. art. 8(7).

[48] *Id*. art. 8(9).

[49] Hayvan Islahi Kanunu [Animal Breeding Law] (Feb. 28, 2001), Law No. 4631, 24338 RESMÎ GAZETE (Mar. 10, 2001), *available at* http://www.alomaliye.com/4631_sayili_kanun.htm.

principles and procedures by units authorized to do so.[50] Those qualified to breed animals will obtain a breeding license or certificate.[51] Registration certificates, pedigree breeding, and the raising of animals for the breeding process cannot be used for other purposes. A fee must be paid for purchase of the animals to a provincial commission established by the Ministry of Agriculture and Rural Affairs.[52]

[50] *Id*. art. 4.

[51] *Id*. art. 5.

[52] *Id*. art. 6.

Vietnam

Sayuri Umeda
Foreign Law Specialist

SUMMARY Vietnam is a party to the Convention governing international trade in endangered species and has adopted by decree a set of conditions applicable to farms and zoos to protect such species. There are currently eleven public and private registered zoos and farms in Vietnam that breed tigers.

I. Vietnam and CITES

Vietnam signed the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)[1] in 1994. The tiger is listed in Appendix I of the CITES. Pursuant to Vietnamese law, it is illegal to trade illegally caught wild tigers.[2]

II. Conditions on Breeding and Rearing Endangered Wild Animals

It appears that stocks of tigers are bred in captivity in Vietnam.[3] A regulation sets conditions for farms that breed and rear animals, including tigers, that are listed in the Appendices to the CITES. Among others, those conditions include the following (as stated in a government-provided translation):

a. Cages and farms are constructed in suitability to the characteristics of the reared species and the production capacity of the farms.

b. Registering the farms for breeding of animal species which have been certified in writing by CITES scientific bodies of Vietnam as having the capability to reproduce many successive generations in the controlled environment.

c. Registering the farms for breeding of animal species, the breeding of which has been certified in writing by CITES scientific bodies of Vietnam as having not affected the conservation of such species in nature.

d. Ensuring safety for humans and environmental sanitation under the State's regulations.

e. Having professionals meeting the requirements of management and techniques of breeding, rearing and tending the reared species and preventing diseases and epidemics.

---

[1] Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), Mar. 3, 1973, 27 U.S.T. 1087, T.I.A.S. 8249, 993 U.N.T.S. 243, http://www.cites.org/eng/disc/text.php, *as amended*, June 1, 1979, T.I.A.S. 11079, *and* Apr. 30, 1983, http://www.cites. org/eng/disc/gaborone.php (Gaborone Amendment).

[2] Decree on Management of Endangered, Precious and Rare Forest Plants and Animals, No: 32/2006/ND-CP (Mar. 30, 2006), art. 5, http://www.moj.gov.vn/vbpq/en/Lists/Vn%20bn%20php%20lut/View_Detail.aspx?ItemID=5787.

[3] *Vietnam's Tiger Farms Are Called Trafficking Hubs*, FOX NEWS, July 27, 2012, http://www.foxnews.com/scitech/2012/07/27/vietnam-tiger-farms-are-called-trafficking-hubs/.

f. Organizations, households and individuals exploiting broods and/or eggs from the nature for breeding, hatchery for commercial purposes must obtain permission from the appropriate management bodies.[4]

III. Tiger Farms

According to media reports, the Prime Minister made a decision in 2007 that four private farms would continue to raise dozens of pet tigers. The tigers held in captivity in southern Binh Duong Province had generated a high-profile national debate since 2000. Initially, Vietnamese agriculture officials asked the Prime Minister to allow them to confiscate forty-one tigers and transfer them to semi-wild facilities. However, when the Prime Minister visited one of the farms, he found the animals were well cared for. Therefore, he made the decision to allow the private farms to continue the tiger farms, despite conservation groups' strong opposition. No other private farms were permitted to open, under the Prime Minister's ruling.[5] That ruling also provided only temporary permits.[6]

In 2009, provincial inspectors found that three private farms/zoos for wild animals in Binh Duong Province failed to meet required technical and safety standards, and the registration certificates of these farms had also expired. The three companies had a total of fifty-three tigers. Despite violations, it appears that permits were extended for the three companies.[7]

As of 2012, it appears that there were eleven registered tiger farms in Vietnam, including public facilities and zoos.[8] According to Vietnam's Ministry of Agriculture and Rural Development, forty-nine of the 112 tigers living on the eleven registered tiger farms were born in captivity.[9] The government has suggested setting some of captive tigers free in the wild to increase the wild tiger population.[10]

[4] Decree No. 82/2006/ND-CP on management of export, import, re-export, introduction from the sea, transit, breeding, rearing and artificial propagation of endangered species of precious and rare wild fauna and flora, Aug. 10, 2006, art. 10, http://www.moj.gov.vn/vbpq/en/Lists/Vn%20bn%20php%20lut/View_Detail.aspx?ItemID=5158.

[5] *Vietnam Allows Four Private Farms to Raise Pet Tigers*, PRAVDA.RU (Apr. 6, 2007), http://english.pravda.ru/news/world/06-04-2007/89201-tigers-0/.

[6] FOX NEWS, *supra* note 3.

[7] Quang Thuan, *Vietnam Tiger Farm in Violations* [sic], THANH NIEN NEWS (July 28, 2009), *available at* http://www.indianjungles.com/280709b.htm.

[8] Jake Brunner, *Tiger Conservation: There Is a Way, But Is There a Will?*, THANHNIEN (Dec. 28, 2012), http://www.thanhniennews.com/index/pages/20121230-tiger-conservation-there-is-a-way-but-is-there-a-will.aspx.

[9] FOX NEWS, *supra* note 3.

[10] *Id.* *See also* News Release, Ministry of Natural Resources and Environment, MONRE Drafts National Tiger Conservation Programme by 2022 (Apr. 27, 2012), http://vea.gov.vn/en/laws/LegalDocument/Pages/MoNRE-drafts-National-Tiger-Conservation-Programme-by-2022-.aspx.

European Union

Theresa Papademetriou
Senior Foreign Law Specialist

SUMMARY At the European Union (EU) level, Regulation No. 338/97 on the Protection of Species of Wild Fauna and Flora by Regulating Trade Therein implements the Convention on International Trade in Endangered Species of Wild Fauna and Flora to which all EU Member States are parties. Wild cats are grouped in Annex I of Regulation No. 338/97 and are subject to strict controls on their import, export, and movement within the EU. The acquisition, sale, or public display for gain of wild cats is prohibited in general by the Regulation except for breeding or other purposes. Keeping wild cats in zoos falls under Directive 1999/22, which regulates the operation and functions of zoos. A draft regulation on Animal Health adopted in 2013 requires a health certificate for the movement of wild cats within the EU.

I. Introduction

Protection of wildlife and trade issues at the European Union (EU) level fall within the scope of Regulation No. 338/97 on the Protection of Species of Wild Fauna and Flora by Regulating Trade Therein, as amended.[1] This Regulation replaced Regulation No. 3626/82, which was adopted in implementation of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).[2] Currently, all EU Members are parties to CITES. Approximately 5,000 species of animals are included as wild fauna and are categorized in appendices relative to their degree of extinction. Wild cats are cited under the species name of *felidae*—which also includes panthers, leopards, jaguars, Asiatic golden cats, tigers, and others—and are included in Annex I.[3]

II. Regulation of Wildlife

In compliance with CITES, Regulation No. 338/97 divides the species into four groups listed in four appendixes. The scope of the Regulation is broader than the Convention, since it includes in the four groups the fauna and flora listed in the appendices and any other species that may be in demand within the EU or for international trade and that are threatened by extinction,[4] or species for which it has been established that their introduction within the natural habitat of the EU

[1] Council Regulation (EC) No. 338/97 of 9 December 1996 on the Protection of Species of Wild Fauna and Flora by Regulating Trade Therein, 1997 O.J. (L 61) 1, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1997:061:0001:0069:EN:PDF.

[2] Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), Mar. 3, 1973, 27 U.S.T. 1087, T.I.A.S. 8249, 993 U.N.T.S. 243, http://www.cites.org/eng/disc/text.php, *as amended*, June 1, 1979, T.I.A.S. 11079, *and* Apr. 30, 1983, http://www.cites. org/eng/disc/gaborone.php (Gaborone Amendment). For a list of parties, *see* the CITES website, http://www.cites.org/eng/disc/parties/alphabet.php (last visited June 3, 2013).

[3] Council Regulation (EC) No. 338/97, *supra* note 1, Annex I, at 31.

[4] *Id*. art. 3, para. 1(b).

"would constitute an ecological threat to wild species of fauna and flora indigenous to the Community."[5]

Regulation No. 338/97 prohibits the purchase, offer to purchase, keeping for sale, offering for sale, and exploitation of animals listed in Annex I for commercial purposes through public display.[6] Exceptions apply for research, education, or breeding purposes. EU Members have the discretion to prohibit the holding of animals listed in Annex I.

A. Import of Wild Fauna

The import of wild animals within the EU is subject to strict requirements. An import permit is required for animals in Annexes A and B, and is issued by the competent scientific authority designated by the Member State of destination. The scientific authority designated must consult the country of origin, after following a specific procedure and after obtaining an advisory opinion by the Scientific Review Group.[7] A permit is issued if a number of restrictions described in article 8 and the conditions enumerated in article 4 of the Regulation are met. The conditions for the introduction of wild fauna within the EU include *inter alia* that the animal must be

- intended for breeding purposes;
- intended for research or educational purposes designed to preserve or conserve the species concerned;
- required for the advancement of science or for important biomedical purposes;[8] or
- required for other purposes that are not harmful to the survival of the species concerned.[9]

The specific technical details for the implementation of Regulation 338/97 are determined by Regulation No. 865/2006.[10]

B. Export from the EU

The export or re-export from the EU of wild fauna listed in Annex A is subject to an export permit presented to the customs office. The permit is issued by the management authority of

[5] *Id*. art. 3, para. 2(d).

[6] *Id*. art. 8.

[7] *Id*. art. 4. The Scientific Review Group is comprised of national scientific authorities designated by each Member State.

[8] *Id*. art. 8, para. 3(e)–(g).

[9] *Id*. art. 4, para. 1(a)(ii).

[10] Regulation (EC) No. 865/2006 of 4 May 2006 Laying Down Detailed Rules Concerning the Implementation of Council Regulation (EC) No. 338/97 on the Protection of Species of Wild Fauna and Flora by Regulating Trade Therein, 2006 O.J. (L 166) 1, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:166:0001:0069:EN:PDF.

each Member State after the following conditions, as required by the competent scientific authority and the management authority, are met:

- A determination in writing by the competent scientific authority that the capture or the collection of wild live animals or their export will not harm the conservation status of the said species; and
- The applicant provides proof that the animals have been obtained in compliance with national legislation.[11]

EU Members must designate customs offices to execute the checks and formalities on imports and exports in compliance with the Community Customs Code.[12]

C. Movement Within the EU

The movement of a live wild cat listed in Annex A from the EU Member indicated in the import permit in another Member State requires prior authorization from the management authority of the Member State where the animal is located.[13] Authorization is not needed for urgent veterinary care, however.[14]

D. Penalties for Infringements

The appropriate competent national authorities are required to monitor implementation of Regulation No. 338/97. In the case of infringement of the Regulations, the authorities must inform the Commission or the CITES Secretariat of any measures taken to deal with such violations.[15] The Commission determines when an investigation is necessary and informs the Member State concerned.

The Regulation requires EU Members to impose penalties in the case of certain infringements related to the import and export of specified animals without a permit or a certificate or through the use of false documents, and the purchase, acquisition for commercial purposes, display to the public for gain, sale or offering for sale of such animals.[16]

---

[11] Id. art. 5, para. 2 (a) and (b). For additional requirements, see art. 5.

[12] Regulation No. 2913/1992 on Customs Code, 1992 O.J. (L 302) 1, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1992:302:0001:0050:EN:PDF, *as amended by* Regulation (EC) No. 450/2008 Laying down the Community Customs Code (Modernised Customs Code), 2008 O.J. (L 145) 1, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:145:0001:0064:EN:PDF.

[13] Council Regulation (EC) No. 338/97, *supra* note 1, art. 9, para. 1.

[14] *Id*. art. 9, para. 3.

[15] *Id*. art. 14, para. 1(a)–(c).

[16] *Id*. art. 16.

III. Regulation of Zoos

Directive 1999/22/EC on keeping wild animals in zoos[17] was adopted with the objective of protecting wild fauna, conserving biodiversity, and ensuring that EU Members adopt measures to regulate issues related to zoos, such as licensing and inspections.

A license is required for the opening of a new zoo or within four years for zoos that existed prior to March 1999 when the Directive entered into force.[18] Each license is conditional on the fulfillment of certain requirements by the zoo, such as the promotion of public education, record keeping, and compliance with biological and preservation requirements the specific to species to be kept in the facility.[19] Regulation and registration requirements to open and maintain a zoo could also be considered as adequate measures in lieu of a license.[20] EU Members are required to designate competent authorities to ensure implementation of this Directive and to determine the applicable penalties for violations of national laws regarding the opening and maintenance of zoos.[21]

IV. Conservation of Natural Habitats of Wild Fauna

Under Directive 1992/43/EEC on the Conservation of Natural Habitats of Wild Fauna and Flora,[22] the capture, keeping, and trading of a large number of animals is prohibited. Exemptions are provided for a number of specific reasons, such as research, education, and breeding.

V. Draft Regulation on Animal Health

On May 6, 2013, the European Commission issued a proposal on a comprehensive new regulation governing issues related to animal health, welfare, and trade between the European Union Member States.[23] The main objective of the proposal is to address food and safety concerns and to provide a mechanism for a quick response to health-related problems. Its scope is very broad; it would extends to both wild animals and animals kept in captivity.

---

[17] Council Directive 1999/22/EC of 29 March 1999 Relating to the Keeping of Wild Animals in Zoos, 1999 O.J. (L 94) 24, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1999:094:0024:0026:EN:PDF.

[18] *Id*. art. 4, para. 2.

[19] *Id*. art. 3.

[20] *Id*. art. 5.

[21] *Id*. arts. 7, 8.

[22] Directive 1992/43/EEC of 29 March 1999 on the Conservation of Natural Habitats of Wild Fauna and Flora, 1992 O.J. (L 206) 7, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1992:206:0007:0050:EN:PDF.

[23] *Proposal for a Regulation of the European Parliament and of the Council on Animal Health*, COM (2013) 260 final (May 6, 2013), http://ec.europa.eu/dgs/health_consumer/pressroom/docs/proposal_ah_en.pdf.

The movement of wild animals from a habitat in a Member State to another habitat in another Member State would be possible if

- such movement does not pose a significant risk of spreading listed or emerging diseases, designated as such by the Commission based on certain criteria;
- persons in charge of moving the animals have a health certificate; and
- the authorities of the Member State of destination are informed by the authorities of the Member State of origin.[24]

Upon adoption of this Regulation, the Commission would be empowered to adopt implementing regulations regarding procedural and other details relating to the movement of wild animals in establishments, such as zoos, or pet animals, and the health certificate requirements for such moves.[25]

[24] *Id*. art. 153.

[25] *Id*. art. 154.

Bibliography

Constance A. Johnson
Senior Legal Research Analyst

SUMMARY This bibliography contains recent English-language materials on wildlife legislation, zoos, and the keeping of exotic species. The books and articles describe laws of both the United States and other countries. The emphasis in much of the literature is on protecting wildlife, with a few titles also discussing public safety in relation to captive wild animals.

Agoramoorthy, Govindasamy & Minna J. Hsu. *Taiwan's Wildlife Conservation and Animal Protection Laws: Problems of Enforcement and Future Prospects*. WILDLIFE LAW: A GLOBAL PERSPECTIVE. pp. 257–81. Raj Panjawani, ed., Chicago: American Bar Association, 2008. K3525.W53 2008

Bowman, Michael, Peter Davies, and Catherine Redgwell. LYSTER'S INTERNATIONAL WILDLIFE LAW. 2nd ed. 755 pp. New York: Cambridge University Press, 2010. K3525.B69 2010

Braverman, Irus. *Zoo Registrars: A Bewildering Bureaucracy*. 21 DUKE ENVIRONMENTAL LAW & POLICY FORUM. pp. 165–206. Sept. 2010. K4.U58

Bryant, Sheila J. *Don't Try This at Home: Exotic Native and Nonnative Species in Our Backyard*. 10 JOURNAL OF AGRICULTURAL AND FOOD INFORMATION. pp. 274–80. 2009. S494.5.I47 J68

Chun, Joseph. *Wildlife Law in Singapore: Protecting Wildlife in the "Garden City."* WILDLIFE LAW: A GLOBAL PERSPECTIVE. pp. 201–56. Raj Panjawani, ed., Chicago: American Bar Association, 2008. K3525.W53 2008

Crane, Matthew. *Australasia: Licensing*. 1 ENCYCLOPEDIA OF THE WORLD'S ZOOS. pp. 83–87. Catharine E. Bell, Lester Fisher, and Laura Mizicko eds., London: Fitzroy Dearborn, 2001. QL76.E53 2001

Dukler, Geordi. *Toward a More Appropriate Jurisprudence Regarding the Legal Status of Zoos and Zoo Animals*. 3 ANIMAL LAW. pp. 189–200. 1997. K1.N4575

Falzon, Charlie. *Wildlife Law: The UK Approach*. WILDLIFE LAW: A GLOBAL PERSPECTIVE. pp. 319–71. Raj Panjawani, ed., Chicago: American Bar Association, 2008. K3525.W53 2008

Gesualdi, James F. *North America: Legislation*. 2 ENCYCLOPEDIA OF THE WORLD'S ZOOS. pp. 878–82. Catharine E. Bell, Lester Fisher, and Laura Mizicko eds., London: Fitzroy Dearborn, 2001. QL76.E53 2001

Gesualdi, James F. *North America: Licensing and Accreditation*. 2 ENCYCLOPEDIA OF THE WORLD'S ZOOS. pp. 883–84. Catharine E. Bell, Lester Fisher, and Laura Mizicko eds., London: Fitzroy Dearborn, 2001. QL76.E53 2001

Glavovic, P.D. WILDERNESS AND THE LAW: A RATIONALE FOR A NEW LEGAL PRAXIS FOR THE PROTECTION OF WILDERNESS IN SOUTH AFRICA IN VIRTUE OF ITS INSTRUMENTAL, INTRINSIC AND BIOCENTRIC VALUE: A CONCEPTUAL AND COMPARATIVE COMMENTARY. 402 pp. Durban: Law Books Press, 1995. KTL3134.G55 1995

Grech, Kali S. *Detailed Discussion of the Laws Affecting Zoos*. ANIMAL LEGAL & HISTORICAL CENTER. 2004. http://www.animallaw.info/articles/dduszoos.htm.

Günes, Yusuf & Aynur Aydin Coşkun. *Wildlife Laws in Turkey: Conflicts and Resolutions*. WILDLIFE LAW: A GLOBAL PERSPECTIVE. pp. 283–317. Raj Panjawani, ed., Chicago: American Bar Association, 2008. K3525.W53 2008

Ishida, Osamu, Tamie Ohashi, and Osamu Sakura. *Japan: Legislation*. 2 ENCYCLOPEDIA OF THE WORLD'S ZOOS. p. 649. London: Fitzroy Dearborn, 2001. QL76.E53 2001

Kirkwood, James K. *United Kingdom: Legislation*. 3 ENCYCLOPEDIA OF THE WORLD'S ZOOS. pp. 1281–83. Catharine E. Bell, Lester Fisher, and Laura Mizicko eds., London: Fitzroy Dearborn, 2001. QL76.E53 2001

Kirkwood, James K. *United Kingdom: Licensing*. 3 ENCYCLOPEDIA OF THE WORLD'S ZOOS. pp. 1284–85. London: Fitzroy Dearborn, 2001. QL76.E53 2001

Lameed, Gbolagade Akeem. *Nigeria's Wildlife Laws: Conflicts and Resolution*. WILDLIFE LAW: A GLOBAL PERSPECTIVE. pp. 133–299. Raj Panjawani, ed., Chicago: American Bar Association, 2008. K3525.W53 2008

Liebman, Matthew J. *Detailed Discussion of Exotic Pet Laws*. ANIMAL LEGAL AND HISTORICAL CENTER. 2004. http://www.animallaw.info/articles/ddusexoticpets.htm.

Lucca, Christopher M. *Keeping Lions, Tigers, and Bears (Oh My!) in Check: The State of Exotic Pet Regulation in the Wake of the Zanesville, Ohio Massacre*. 24 VILLANOVA ENVIRONMENTAL LAW JOURNAL. pp. 125–47. 2013.

Mauerhofer, Volker. *Conservation of Wildlife in the European Union with a Focus on Austria.* WILDLIFE LAW: A GLOBAL PERSPECTIVE. pp. 1–55. Raj Panjawani, ed., Chicago: American Bar Association, 2008. K3525.W53 2008

Nichols, Jr., David G., et. al. WILDLIFE TRADE LAWS OF ASIA AND OCEANIA. Loose-leaf. Washington, DC: World Wildlife Fund, 1991–. KTL3134 .G55 1995

Nicolait, Lou & Terry Wright. WILDLIFE LEGISLATION AND INSTITUTIONAL FRAMEWORK IN BELIZE. 67 pp. San José, Costa Rica: World Conservation Union, 1999. KGA3338 .N53 1999

Nyhus, P.J., R. L. Tilson, and J.L. Tomlinson. *Dangerous Animals in Captivity: Ex Situ Tiger Conflict and Implications for Private Ownership of Exotic Animals*. 22 ZOO BIOLOGY. pp. 573–586. 2003. QL77.5.Z66

Panjawani, Raj. *Evolution of Wildlife Laws in India*. WILDLIFE LAW: A GLOBAL PERSPECTIVE. pp. 93–132. Raj Panjawani, ed., Chicago: American Bar Association, 2008. K3525.W53 2008

Parenteau, Patrick A. & Donald C. Baur. *An Overview of the Federal Wildlife Law in the United States*. WILDLIFE LAW: A GLOBAL PERSPECTIVE. pp. 373–404. Raj Panjawani, ed., Chicago: American Bar Association, 2008. K3525.W53 2008

Qin, Tianbao. *Wildlife Laws in China*. WILDLIFE LAW: A GLOBAL PERSPECTIVE. pp. 57–91. Raj Panjawani, ed., Chicago: American Bar Association, 2008. K3525.W53 2008

Rees, P.A. *The EC Zoos Directive: A Lost Opportunity to Implement the Convention on Biological Diversity*. 8 JOURNAL OF INTERNATIONAL WILDLIFE LAW AND POLICY. pp. 51–62. 2005. K3525.A15J68

Walker, Sally R. *Africa: National Legislation and Licensing*. 1 ENCYCLOPEDIA OF THE WORLD'S ZOOS. pp. 14–15. Catharine E. Bell, Lester Fisher, and Laura Mizicko eds., London: Fitzroy Dearborn, 2001. QL76.E53 2001

Walker, Sally R. *Asia, South: Legislation and Licensing*. 1 ENCYCLOPEDIA OF THE WORLD'S ZOOS. pp. 57–58. Catharine E. Bell, Lester Fisher, and Laura Mizicko eds., London: Fitzroy Dearborn, 2001. QL76.E53 2001

Walker, Sally R. *Asia, Southeast: Legislation and Licensing*. 1 ENCYCLOPEDIA OF THE WORLD'S ZOOS. pp. 59–60. Catharine E. Bell, Lester Fisher, and Laura Mizicko eds., London: Fitzroy Dearborn, 2001. QL76.E53 2001

Walker, Sally R. *Australia: Legislation.* 1 ENCYCLOPEDIA OF THE WORLD'S ZOOS. pp. 433–35. Catharine E. Bell, Lester Fisher, and Laura Mizicko eds., London: Fitzroy Dearborn, 2001. QL76.E53 2001

Walker, Sally R. *Zoo Legislation*. ZOO OUTREACH ORGANIZATION. 2001. http://www.zooreach.org/ZooLegislation/ZooLegislation.htm.

Walker, Sally R. & Margaret E. Cooper. Europe: Legislation. 1 ENCYCLOPEDIA OF THE WORLD'S ZOOS. pp. 14–15. Catharine E. Bell, Lester Fisher, and Laura Mizicko eds., London: Fitzroy Dearborn, 2001. QL76.E53 2001

Walker, Sally R. & Margaret E. Cooper. *Europe: Licensing*. 1 ENCYCLOPEDIA OF THE WORLD'S ZOOS. pp. 435–37. Catharine E. Bell, Lester Fisher, and Laura Mizicko eds., London: Fitzroy Dearborn, 2001. QL76.E53 2001