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Via Electronic Mail

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Re: Request for Denial of Import Authorization for Argali (*Ovis ammon*)
Trophy Taken by Donald Trump Jr. in Mongolia

Dear Dr. Gnam and Ms. Cogliano,

On behalf of the Center for Biological Diversity, Humane Society International, The Humane Society of the United States, and Humane Society Legislative Fund, we are writing to urge you not to authorize the import of an argali hunting trophy from Mongolia that was killed in August of 2019 by Mr. Donald Trump Jr.

Argali are an imperiled species that should not be hunted for their horns or hides to serve as wall hangings. The reporting on Mr. Trump Jr.'s argali hunt – that it was conducted at night with a rifle with a laser sight and without a required hunting permit at the time of the hunt – raises serious questions regarding the legality of the killing and subsequent import of this animal.

Background

Argali from Kyrgyzstan, Mongolia, and Tajikistan are listed as threatened under the Endangered Species Act (ESA),¹ and hunting was identified as a threat to the species when federal protections under the ESA went into effect in 1993.² Threatened argali from the three countries have a 4(d) rule, 50 C.F.R. § 17.40(j), which includes parameters for FWS to certify a country thus authorizing trophy imports³ or to permit the import of a hunting trophy.

¹ Argali in other countries are listed as endangered.

² 57 Fed. Reg. 28,014, 28,017 (June 23, 1992) (“poaching or excessive hunting is a significant threat to most argali populations”).

³ “Upon receiving from the governments of Kyrgyzstan, Mongolia, and Tajikistan properly documented and verifiable certification that (i) argali populations in those countries are sufficiently large to sustain sport hunting, (ii) regulating authorities have the capacity to obtain sound data on these populations, (iii) regulating authorities recognize these populations as a valuable resource and have the legal and practical capacity to manage them as such, (iv) the habitat of these populations is secure, (v) regulating authorities

Argali are also listed under Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).⁴ According to Mongolia's Red List of Mammals from 2006, argali are "endangered."⁵ The Listing explains:

Intentional mortality caused by hunting is the primary threat identified for more than half of Mongolia's threatened mammals (57%; see Table 3). This is a particularly serious threat for ungulates such as red deer (*Cervus elaphus*), argali (*Ovis ammon*), Mongolian gazelle (*Procapra gutturosa*), and musk deer (*Moschus moschiferus*), as well as species hunted for their fur, such as Siberian marmot (*Marmota sibirica*) and snow leopard (*Uncia uncia*).⁶

As a result, hunting of argali generally is prohibited but trophy hunting is permitted with license fees going to the government.⁷ Beyond hunting, a more recent threat is emerging with "Mongolia's climate and highly variable weather patterns" now serving as "limiting factors regulating argali."⁸ Of course, the need for routine monitoring of argali also remains a concern.⁹

It has been reported that Mr. Trump Jr. allegedly did not obtain the mandatory Mongolian permit to hunt argali before his trip or before actually killing an argali.¹⁰ Instead, it has been reported that the hunt was undertaken and the argali killed without a permit.¹¹ Only after Mr. Trump Jr. had departed Mongolia—on September 2, 2019—was a permit apparently issued for his argali hunt.¹²

can ensure that the involved trophies have in fact been legally taken from the specified populations, and (vi) funds derived from the involved sport hunting are applied primarily to argali conservation, the Director may, consistent with the purposes of the Act, authorize by publication of a notice in the Federal Register the importation of personal sport-hunted argali trophies, taken legally in Kyrgyzstan, Mongolia, and Tajikistan after the date of such notice, without a Threatened Species permit pursuant to § 17.32 of this part, provided that the applicable provisions of 50 CFR part 23 have been met."

⁴ We note that if the hunt violated Mongolian law, then Mongolia should not issue an export permit under CITES for the trophy because that trophy was not acquired legally. Thus, we suggest that you work with the U.S. CITES Management Authority in investigating this issue.

⁵ <https://portals.iucn.org/library/efiles/documents/IUCN-RL-517.3-001.pdf> at 123.

⁶ <https://portals.iucn.org/library/efiles/documents/IUCN-RL-517.3-001.pdf> at 27.

⁷ <https://portals.iucn.org/library/efiles/documents/IUCN-RL-517.3-001.pdf> at 123.

⁸ Lkhagvasuren, B., Adiya, Y., Tsogtjargal, G., Amgalanbaatar, G., & Harris, R. (2016). Current Status and Conservation of Mountain Ungulates in Mongolia. (Available at: <https://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1180&context=biolmongol>).

⁹ Lkhagvasuren, B., Adiya, Y., Tsogtjargal, G., Amgalanbaatar, G., & Harris, R. (2016). Current Status and Conservation of Mountain Ungulates in Mongolia. (Available at: <https://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1180&context=biolmongol>).

¹⁰ <https://www.wnycstudios.org/podcasts/trumpinc/episodes/trump-inc-mongolia> at minute 12:58-14:18.

¹¹ <https://www.wnycstudios.org/podcasts/trumpinc/episodes/trump-inc-mongolia> at minute 12:58-14:18.

¹² <https://www.wnycstudios.org/podcasts/trumpinc/episodes/trump-inc-mongolia> at 13:36-13:45.

Reasons for Denial

Given that we are in the midst of an extinction crisis, according to UN scientists one million species facing extinction in the coming decades unless dramatic reforms are undertaken,¹³ trophy hunting of imperiled species simply can no longer be condoned. Indeed, climate and variable weather have already been identified as new threats to argali beyond the hunting of the species¹⁴ that led to its precipitous decline. In order to give argali a fighting chance to survive these threats, we need to reduce other sources of mortality, such as trophy hunting.

We disagree that killing an ESA-listed species aids in its conservation or that trophy hunting in-and-of-itself “enhances” the survival of ESA-listed species and have previously provided FWS ample scientific and legal evidence to the contrary. Indeed, there are serious questions about whether Mongolia’s trophy hunting program can or should be found to enhance the survival of argali.

According to a 2017 finding from the Service that appears to have authorized argali trophy imports, only a small portion of the license fees from trophy hunters actually goes to the conservation of argali. The majority of the revenues are used to plan for, monitor, and otherwise support argali hunting. Fifty percent of license fees go to the Mongolian government for argali. Of that 50 percent, only a small percentage actually goes to conservation (rather than management of the trophy hunting program). Thus, 30 percent of that 50 percent is allocated to “monitoring, anti-poaching and inspection” and 20 percent of that 50 percent is allocated to “habitat restoration and pasting management” while “conservation programs” are lumped in with other hunting-related efforts. This means that—all told—far less than half of each license fee goes to actual conservation. Moreover, the program is neither benefitting local communities nor providing incentives to increase habitat availability and argali populations.¹⁵ We are not alone in this critique; the IUCN expressed the concern that very little money from trophy hunting supports conservation activities in Mongolia.¹⁶ In sum, this program is not enhancing the survival of argali since available information points to it providing nominal support to the species with most proceeds enabling trophy hunters to continue hunting.¹⁷

¹³ <https://ipbes.net/global-assessment>.

¹⁴ Lkhagvasuren, B., Adiya, Y., Tsogtjargal, G., Amgalanbaatar, G., & Harris, R. (2016). Current Status and Conservation of Mountain Ungulates in Mongolia. (Available at: <https://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1180&context=biolmongol>).

¹⁵ Lkhagvasuren, B., Adiya, Y., Tsogtjargal, G., Amgalanbaatar, G., & Harris, R. (2016). Current Status and Conservation of Mountain Ungulates in Mongolia. (Available at: <https://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1180&context=biolmongol>).

¹⁶ <https://www.iucnredlist.org/species/15733/5074694#conservation-actions>

¹⁷ Indeed, the fact that the Service has not publicly certified Mongolia as meeting the criteria in the argali 4(d) rule demonstrates the outstanding issues with the existing trophy hunting program. Verification that “regulating authorities can ensure that the involved trophies have in fact been legally taken from the specified populations” as well as ensuring sufficient population size, that argali are valued and their habitat is secure are all basic requirements of the 4(d) rule but also essential elements to the Service’s current interpretation of what enhancing the survival of a species means. Without the ability to ensure these (and other) criteria are met, trophies from Mongolia certainly should not be entering the U.S.

If imports were to be authorized, those authorizations must ensure the trophy hunting program is sustainable. This includes accounting for existing sources of mortality and analyzing them against the current argali population assessment. The 2017 finding cites two studies from the 1990s that recommended a sustainable quota of two percent of the population. It is unclear whether these recommendations account for all existing sources of mortality. It is important that the Service account for poaching or illegal take of argali when ascertaining if the import of a legally taken argali trophy enhances the survival of the species. This is particularly true here given the ongoing threat hunting has posed to argali and that poaching and illegal hunting is a major threat to the argali population in Mongolia as warned by the IUCN.¹⁸ Poor enforcement of Mongolian law throughout most of the range of the species threatens the survival of the species.

Beyond the need to analyze existing sources of mortality, a current population estimate is also essential. However, the 2017 argali finding indicates that argali quotas in Mongolia are based on “annual studies in hunting reserve areas.” Data taken only from hunting reserves and not argali populations as a whole are insufficient to serve as the basis for an enhancement finding. As the 2016 study on argali explained, “[t]he most recent nationwide and local data [prior to the study] were produced by a survey conducted in autumn 2009.”¹⁹ Argali are a migratory species within their range and simply surveying populations in one part of their range — e.g., hunting reserves — will not provide sufficient information on their overall status. More holistic assessments of argali populations, including all existing mortality sources, must be relied upon to ensure that mortalities from trophy hunting are not still negatively impacting populations. This is especially the case given that changing climate and weather patterns are now also threatening the species.

We note that the scientists who conducted the 2016 study made several recommendations. These included the following:

- “where trophy-hunting licenses of the species are issued, and what rights and obligations trophy hunters have” must be clarified and “some current laws need to be amended and updated, and some new regulations must be developed;”
- “Trophy hunting management must cover both the species and the land” not just the animals;
- “Hunting licenses should not be issued by the tourist companies, but to the certified hunting companies that are entitled to conduct hunting within certain region(s), and simultaneously carry out conservation activities for wildlife within the region(s).”

Have these reforms or similar efforts been made to address trophy hunting of argali? If not, then in order to comply with ESA mandates argali imports should not be authorized

¹⁸ <https://www.iucnredlist.org/species/15733/5074694#conservation-actions>

¹⁹ Lkhagvasuren, B., Adiya, Y., Tsogtjargal, G., Amgalanbaatar, G., & Harris, R. (2016). Current Status and Conservation of Mountain Ungulates in Mongolia. (Available at: <https://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1180&context=biolmongol>).

in 2019, including any authorization or import permit for the argali killed by Mr. Don Trump Jr.

One question FWS asks for argali imports is about the direct and indirect effects of permit issuance on wild populations of argali. Here, issuing an import permit or other authorization to Don Trump Jr., a well-known public figure, could set a precedent that both increases other trophy hunters' desire for argali trophies and establishes that "after-the-fact" permitting of trophy hunts is acceptable. Both of these precedents are dangerous, especially for argali conservation, and we urge you not to establish them.

Conclusion

FWS must rigorously evaluate the biological impacts of an argali hunt in Mongolia in 2019 and strictly scrutinize the capacity of Mongolia to sustainably manage a hunting program for this species before allowing the import of this trophy pursuant to either an enhancement permit (50 C.F.R. § 17.32) or the argali 4(d) rule (50 C.F.R. § 17.40(j)). Further, FWS must determine whether the hunt was lawful. If it was not, then importing the trophy would be unlawful including under the Lacey Act (16 U.S.C. § 3372(a)(2)(A)).

We thank you for your consideration of this matter and stand ready to answer any questions should you have them.

Sincerely,



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Center for Biological Diversity



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Humane Society International



Laura Smythe
The Humane Society of the United States



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