

A case for stepping up CITES enforcement in the EU



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Results of a needs assessment conducted by IFAW

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1. Introduction

1.1 The global wildlife poaching and trafficking crisis

Illegal wildlife trade has seen a dramatic global increase over recent years. Fuelled by a surging demand in Asia, wild populations of elephants, rhinos, tigers and many other wildlife species such as pangolins and other mammals, as well as numerous species of reptiles and birds, are facing a risk of extinction due to massive, large-scale poaching and trafficking.

Evidence that organised crime groups in Africa and Asia have become heavily involved in the low risk, high profit business of wildlife trafficking is mounting. Moreover, ivory poaching in Africa is feeding armed conflicts which pose a threat to international security. In response to the international poaching crisis, the call for strong action to curb transnational wildlife crime is getting louder:

- Organised wildlife crime was a key topic at the CITES CoP16 which took place in March 2013 in Bangkok, Thailand: a number of decisions and resolutions were adopted, all by consensus, addressing the need to, amongst other matters, treat wildlife crime as a serious crime; increase cooperation at the national, regional and international levels and across source, transit and range states; make better use of forensics; and utilise specialised investigative techniques that are used to combat other serious crimes, such as illicit trade in narcotics.
- In a range of international fora the US is expressing concerns about the links between international terrorist groups and the syndicates involved in illegal wildlife trade, along with the smuggling of drugs, weapons and humans, and is calling upon the international community to collaborate to support the fight against transnational wildlife crime.
- On 26 April 2013, the United Nations Commission on Crime Prevention and Criminal Justice (CCPCJ) adopted a draft resolution on “Crime prevention and criminal justice responses to illicit trafficking in protected species of wild fauna and flora”. The resolution, to be recommended to the UN Economic and Social Council for adoption, recognises certain wildlife crimes as serious transnational organised crime and urges Member States to treat them as seriously as they do other crimes.
- On 21 May 2013 the UK Government in conjunction with Prince Charles and Prince William of the British royal family hosted the ‘End Wildlife Crime Conference’ which brought together politicians, law enforcement officers and conservationists to discuss how to fight wildlife crime in advance of a Heads of State meeting to be convened later in the year.

1. Introduction

1.2 The role of the European Union

The European Union has a significant role to play in the global push to combat transnational wildlife crime. The EU is a major consumer market for wildlife sourced from Asia, Africa, the Pacific, North and South America as well as from within the EU. Seizures made by customs authorities in several EU Member States show that the EU functions as a transit point for illegal trade from Africa to the Middle and Far East, including for ivory. Due to the absence of internal border controls, once in the EU, illegal wildlife can easily be trafficked throughout the EU, making it necessary that illegal wildlife trade is tackled at an EU level through effective law enforcement collaboration.

This necessity has been recognised, and several efforts are being and have been made to enhance coordination on

CITES enforcement issues across the EU, including through the biannual meetings of the EU CITES Enforcement Working Group, EU TWIX, and the 2007 Commission recommendation to improve wildlife trade enforcement in the EU.

There is, however, a perception among many inside and outside the law enforcement community that more could be done to tackle illegal wildlife trade in and through the EU. An expression of that sentiment is the recent proposal made by the Dutch Member of the European Parliament, Gerben-Jan Gerbrandy, to establish an EU Action Plan Against Wildlife Trafficking. Gerbrandy points out that despite the scale of the problem, the EU has failed to put the issue of wildlife crime high enough on the policy agenda.

Evidence that organised crime groups in Africa and Asia have become heavily involved in the low risk, high profit business of wildlife trafficking is mounting.



1. Introduction

Below are some examples of illegal wildlife trade that occurred in the first few months of 2013 to illustrate the significance of the issue:

- In January 2013 Belgian Customs at Zaventem airport seized 14 songbirds from the luggage of a Belgian passenger arriving from Bangkok, Thailand;
- In February 2013 a Vietnamese man was arrested in the Czech Republic with a sack of tiger parts in his car;
- Also in February 2013 Dutch authorities seized five rhino horns (estimated value €125.000) and arrested two suspects who had tried to sell the horns;
- In March 2013 a man hacked off a tusk from an elephant exhibit in a Paris museum;
- Also in March 2013 two Chinese passengers from France were arrested in Shanghai for smuggling rhino horns and ivory (total estimated value \$800.000);
- In the same month in the Netherlands a Congolese man was caught with a sack of monkey parts in his car;
- Rhino horn thefts in the EU are ongoing, despite attempts to prevent them; recent incidents have occurred in Portugal (March 2013), the UK (April 2013) and Ireland (April 2013).
- Belgian Customs frequently makes seizures of ivory, pangolin scales, sea horses, reptile skins etc. from Chinese passengers travelling from Africa to China. In January 2013 they reported having seized seven postal shipments of pangolin scales (totaling 700 kg) in transit from Cameroon to Hong Kong between 28-12-2012 and 17-01-2013. In April 2013 Belgian Customs seized 17 kg of ivory from a Chinese passenger from DRC in transit to Romania.

1.3 IFAW needs assessment for an EU CITES enforcement conference

Given the scale of illegal wildlife trade, IFAW has investigated the need for the European Commission to host an EU CITES enforcement conference. The aim of such a conference would be to provide an opportunity for law enforcers to exchange experiences and expertise and discuss pertinent actions for improving collaboration and information exchange on priority issues. The output of the conference would be an EU CITES enforcement strategy, which could form part of an EU Action Plan along the lines of those that exist for human trafficking and narcotics.

In order to establish whether such a conference would fulfil a need, a number of key law enforcement and CITES MA personnel in different EU countries as well as representatives from international law enforcement bodies and the European Commission were interviewed from October 2012 through to January 2013. Without exception, there was acknowledgement of the necessity for improved enforcement collaboration across the EU, and the idea of holding an EU CITES enforcement conference was very well received. The interviews also generated valuable feedback on the state of CITES enforcement in the EU.

1.4 Why this paper

IFAW hopes that the need for more intensive collaboration by EU Member States to tackle transnational wildlife crime will be recognised and translated into action at an EU level. In order to encourage and inform such action, IFAW has summarised the results of the needs assessment in this paper.



2. Results

This chapter outlines feedback given on the conference proposal (paragraph 2.1), the recommendation to draft an EU CITES Enforcement strategy (paragraph 2.2) and the EU CITES Enforcement Working Group (paragraph 2.3). Comments on perceived bottlenecks for EU enforcement are listed in paragraph 2.4; paragraph 2.5 summarises remarks that were made on the issue of ivory trafficking.

2.1 Feedback on the conference proposal

All respondents welcomed the proposal of a Commission initiated conference. It was widely acknowledged that there is insufficient enforcement collaboration to tackle illegal CITES trade in the EU and that more targeted and intelligence-based actions focussing on agreed priorities are necessary in order to put limited resources where they are most needed.

Most respondents felt the conference should take into account and align with existing efforts by the EU Enforcement Working Group and should include EUROPOL and INTERPOL.

Several respondents stressed the need to provide an opportunity for enforcers to discuss operational, tactical and strategic enforcement issues without NGOs present.

When asked about suggestions for the agenda, the majority of respondents preferred to narrow down to a small number of at-risk species in trade, i.e., reptiles/amphibians, birds of prey, parrots, rhinos and elephant ivory. More generic enforcement topics such as intelligence management, Internet trade, capacity building, forensics, etc. were also suggested. Some Member States with a pressing lack of expertise and capacity expressed a desire to learn from best practices in other Member States.

A list of suggested issues and priority species for the conference is included in Appendix II.

2.2 Feedback on the recommendation to draft an EU CITES Enforcement Strategy

Several respondents agreed that a new EU CITES Enforcement strategy focussing on practical, targeted and collaborative action, including a mechanism for improved information exchange and analysis, against agreed-upon illegal wildlife trade issues, could provide a mechanism for implementing Commission Recommendation No 2007/425/EC to Member States (which identifies a set of actions for the enforcement of Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein), which has not been fully implemented according to a number of sources. This 2007 Commission Recommendation provides a valuable framework for improved CITES enforcement by Member States but further elaboration to put it into practice would be useful, including documenting objectives, activities, and indicators of success as well as applying time frames and identifying responsible parties.

Many respondents strongly felt the strategy could only have a chance of success if high-level commitment was obtained from the top management of enforcement agencies as well as the responsible ministries and politicians. Several respondents highlighted that the Member 2007 Commission Recommendation was not always implemented because higher-level commitment had not been obtained. Several respondents also commented that recommendations alone are not enough, and that CITES enforcement needs to be elevated to a higher level of urgency.

One respondent thought it essential for the strategy to become an official EU document, e.g. adoption as a Council decision following a proposal by the EC. It was stressed that the strategy would only be taken seriously in their country if it were an official EU document.

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2. Results

2.3 Feedback on the EU CITES working group

Several respondents identified that the EU CITES Enforcement Working Group could review how it can better meet its purpose of coordinating law enforcement efforts in the EU.

Comments received include:

- The agenda tends to focus on CITES MA issues and less on enforcement issues. Ensuring that part of the agenda specifically targets enforcement issues would ensure greater attendance and therefore the engagement of enforcement representatives. The Working Group could provide a more effective forum for enforcement issues if it prioritised enforcement issues and provided a robust mechanism to address priority issues;
- The Working Group focusses mostly on import and export issues; it would be useful to also address the problem of illegal EU internal trade and the abuse of Art. 10 certificates (e.g. with birds of prey);
- The Working Group meetings would be more effective if there was greater interaction between Member State delegates;
- The Working Group would benefit from a reorganisation to ensure there is a balance between CITES MA related issues and enforcement issues; including providing an opportunity for law-enforcers-only discussions on sensitive issues.

2.4 Bottlenecks for CITES enforcement in the EU

Many respondents touched upon issues they perceived to be hindering effective CITES enforcement in the EU. Most of the bottlenecks summarised below were mentioned in several interviews.

2.4.1 Lack of political will in Member States

There was concurrence among most that a lack of political will within EU Member States is the key issue that stands in the way of an effective approach to tackling CITES crime in the EU.

As far as the proposed strategy is concerned, most said the biggest challenge would be implementing rather than drafting the strategy, and that a conference would only succeed if high-level commitment for following through on its outputs could be obtained.

Law enforcement agencies responsible for tackling wildlife trafficking generally have the will to work on wildlife crime but often lack adequate capacity and resources due to a lack of high-level political support. In fact, some respondents said resources for their work had been reduced in recent years and that remaining resources were deemed insufficient for effectively fulfilling their mandate.

2.4.2 Inadequate coordination between Member States

There is already quite a lot of communication going on, for example, via the EU-TWIX platform, but most agreed there is much room for improvement. All respondents believed collaboration should be enhanced. Some thought this was an absolute necessity and that CITES enforcement agencies cannot afford to just focus on their own territory because the EU is a free market with massive amounts of wildlife being moved in and between Member States. The surge in rhino horn thefts since 2010 was mentioned as an example; EU Member States could have been much more effective in handling these at an earlier stage if there had been better coordination and information sharing.

In terms of solutions, several respondents mentioned the establishment in 2011 of Envicrimenet as a platform that might contribute to better coordination, information exchange and storage of knowledge and expertise. One respondent noted it would be helpful to have an overview of who is doing what on CITES enforcement across Europe.

2.4.3 Coordination challenges in Member States

A key complication for effective enforcement collaboration is the fact that different agencies are responsible for CITES enforcement, each with their own responsibility, management structure, culture, approach to the issue, etc. (i.e., police, customs, inspectorates). Often there are not just institutional but also legal obstacles to the sharing of information and collaboration among these different agencies.

In several Member States, there are no agreed-upon priorities for CITES enforcement among the different agencies involved, and there is limited insight into the scale and nature of illegal wildlife trade due to a lack of centralised intelligence gathering and analysis.

The crux to effectuating an EU enforcement strategy at a national level and making it work would be to ensure that mechanisms are in place (at a national level) for collaboration and coordination among the different agencies. In many Member States such mechanisms are lacking or not as effective as they could be.

Several respondents referred to the UK model for centralised intelligence gathering and analysis by the National Wildlife Crime Unit (NWCU) and countering cross-border smuggling by dedicated CITES staff in the UK Border Force as a possible example that other Member States could learn from

2.4.4 EU transit role

There is a perception that there is insufficient insight at a European level into the scale and nature of wildlife trafficking via the EU of commodities from Africa such as ivory, rhino horn, pangolin scales, etc. that have a high value in East Asia. It was noted that this transit function is particularly relevant for those Member States that handle direct flights from Africa to Asia, such as France, Belgium, the UK, the Netherlands and Germany. The frequent seizures by Belgian customs of illicit wildlife goods from the luggage of Chinese passengers transiting from African countries such as DRC, Guinea and Liberia to China and from courier mail testify to this. Some also suggested that ships passing through EU harbours are used by wildlife traffickers.

Most respondents thought the EU should pay more attention to the EU's role as a transit hub.

EUROPOL in particular advised EU Customs organisations to pay more attention to goods in transit: they caution that crime syndicates in Africa and Asia use existing logistics and trafficking routes to smuggle ivory and other wildlife commodities, including the Africa-Europe-China trafficking routes; they make use of mules, people travelling with the mules to oversee them, people in transit and end ports to receive the goods, etc. The modus operandi are exactly the same as those used in drugs and other illegal trades.

2.4.5 Legal restrictions to sharing information

Some said data protection regulations can be an obstacle to sharing information and so restrict international cooperation, although bilateral agreements can make it possible to share data.

2. Results

2.4.6 Lack of legislative deterrent

It was mentioned that not all Member States have adequately transcribed the EU Wildlife Trade Regulations into their national legislation; maximum penalties in some Member States do not reflect the seriousness of wildlife crime and so do not act as a deterrent against wildlife crime.

2.4.7 Lack of awareness of the judiciary

Several respondents mentioned the lack of awareness of prosecutors and judges dealing with wildlife crime cases, which can result in a failure to impose deterrent sentences on those involved in the business of wildlife crime. A recent example occurred in Ireland in March 2013, when a judge imposed a fine of €500 each on two brothers from Limerick who had been caught illegally attempting to import eight rhino horns worth almost €500,000 through Shannon Airport in 2010. The judge appears to have been unaware of efforts by EUROPOL and several EU Member States to fight the Irish criminal organisation from Limerick that is heavily involved in rhino horn trafficking.

Some pointed out that in some countries and regions, such as the Netherlands, Sweden and Scotland, the specialisation of public prosecutors and/or judges has resulted in an increase in successful prosecutions.

2.5 Ivory trafficking

Due to IFAW's focus on the poaching and trafficking of African elephant ivory, the interviews included a question which asked whether the respondent considered ivory trafficking to be a significant problem in the EU. This question generated valuable responses which have been briefly summarised below.

Almost all respondents said ivory trafficking should be on the agenda of the conference due to clear indications that African elephant ivory is being trafficked from Africa to Asia through the EU (also see par. 2.4.4, 'EU transit role'). Several believed intelligence should be built up on the mechanisms of illegal ivory transiting via the EU in order to obtain insights into trafficking routes, smuggling methods, and criminal networks involved.

It was mentioned that, even though most ivory seizures taking place in the EU consist of relatively small amounts, the smuggling of small amounts together may result in a significant amount, and that this places a responsibility on the EU to contribute to the fight against ivory poaching and trafficking.

Fewer concerns were expressed about illegal imports or exports and illegal domestic trade of ivory; some respondents said this was not an issue in their country, whereas others acknowledged that illegal ivory trade does occur, however, it is mostly seen to relate to pre-convention carved items. One respondent believed the economic crisis in their country could fuel a rise in illegal sales of pre-convention items.

It was mentioned that new transport routes and destinations are emerging, including the increasing use of countries in the Middle East as transit points for shipments to Asia. For example, the ivory pieces seized in Istanbul, Turkey, in October 2012 had arrived in a postal package from DRC, via Belgium and Frankfurt.

In the context of ivory trafficking, mention was made of the need to establish effective relations with customs agencies in Asia in order to conduct controlled deliveries where possible. Time pressure and the language barrier were however seen as obstacles to implementing this technique.

As mentioned above, Belgian Customs frequently seizes ivory from the personal luggage of Chinese passengers from African countries in transit to China. Courier mail is known to be used as well (BE, NL, UK). There are also some interceptions of ivory smuggling via sea (BE, NL, UK), however some respondents opined that if more attention was paid to sea cargo, more might be found. This viewpoint appears to be supported by the seizure of 24 tons of illegal ivory in Malaysia in December 2012, which had come from Togo via Spain, and was destined for China.

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3. Conclusions and Recommendations

3.1 Conclusions

The needs assessment identified that there is a need for EU Member States to step up efforts to combat illegal wildlife trade taking place within the EU and passing through the EU. An overwhelming majority of those working in the field of CITES implementation and enforcement across the EU expressed concerns that enforcement is not as effective as it could be. All believed there is a need for a more targeted and collaborative approach to transnational wildlife crime affecting the EU. In that respect, many respondents believed the EU CITES Enforcement Working Group could do more to fulfill its mandate.

Although the needs assessment did not aim to conduct an in-depth analysis of the state of CITES law enforcement in the EU, the interviews generated a shortlist of bottlenecks for effective CITES enforcement. These include lack of political will of EU Member States' governments; lack of coordination (both among and within Member States); lack of legislative deterrent; and lack of awareness within the judiciary, in some cases resulting in a lack of enforcement deterrent.

Valuable insights were received on illegal ivory trade; firstly, that ivory trafficking using the EU as a transit hub is an issue of concern that requires more attention; and secondly, that insight in the nature and extent of ivory trafficking through the EU needs to be increased.

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3. Conclusions and Recommendations

3.2 Recommendations

Establish an EU CITES enforcement strategy

The EU Member States should consider boosting the implementation of Commission Recommendation (2007/425/EC) on CITES enforcement by agreeing on a CITES enforcement strategy that provides a mechanism for tackling priority issues through effective collaboration, information sharing and analysis.

To accomplish this, IFAW makes the following recommendations:

- To draft the strategy, the European Commission should consider holding a 2-day conference for law enforcers only, possibly on the back of an EU CITES Enforcement Working Group meeting in Brussels.
- The conference should be prepared by a small working group of enforcement experts from interested EU Member States.
- In reaching agreement on priority issues for joint action, the conference should address relevant enforcement bottlenecks, such as those listed in chapter 2 of this paper.
- The role of the EU as a transit hub for illegal wildlife trade from Africa to Asia (including, but not limited to ivory) should also be on the agenda.
- The strategy should include a robust monitoring and evaluation mechanism to ensure it is implemented.
- The EU CITES Enforcement Working Group should have a key role in the implementation and monitoring of the strategy.

IFAW would be happy to assist the EU Member States by providing further recommendations on an enforcement conference based on input received through the needs assessment (e.g., suggestions on logistics, development process, contents, etc.).

Build political will

Actions to strengthen CITES enforcement can only succeed if political will to do so is considerably increased. In response to the call for action from international levels (including the UN Commission on Crime Prevention and Criminal Justice's draft resolution on wildlife trafficking), the EU and its Member States should take urgent measures to tackle transnational wildlife crime. Importantly, transnational wildlife crime should be recognised as serious organised crime, which should be reflected in the allocation of adequate resources and the active involvement of specialised police and customs investigation agencies that have the skills, expertise and capacity required to identify and undermine organised crime.

IFAW is aware that achieving this level of political may not be within the influencing power of the EU CITES Enforcement Working Group. IFAW will continue to work with governments and other NGOs with the aim of ensuring that the enforcement of wildlife crime receives high level political support given its links to wider organised crime and the hugely detrimental effect poaching has on global security and biodiversity.

Appendix I

Respondents to the needs assessments

Although efforts were made to ensure an optimal representation of Member States and key CITES staff in those States, it has not been possible to personally interview all staff and Member States involved.

Given the sensitive nature of the feedback captured in the needs assessment, IFAW has chosen to keep the participants' details confidential. However we can disclose that 22 individuals took part in the assessment, including representatives from 11 Member States as well as international policing bodies and EU institutions.

Appendix II

Suggested issues and priority species

Issues

(N.B. the top three issues in the list below came up frequently)

- Intelligence management (including analysis and sharing): agreeing how to exchange information.
- Internet trade.
- Dealing with confiscated specimens (both alive and dead). Who is responsible for ensuring the welfare of live animals? This issue is mostly being ignored but should be addressed.
- Risk analysis - Risk source countries/destination countries and risk entry and transit points.
- Sharing of experiences.
- Collaboration with the judiciary.
- Modus operandi.
- Collaboration in-country and trans-boundary (within and outside EU) > exploring mechanisms.
- Forensics and identification techniques.
- Illegal trade to and from farms and zoos (e.g., tigers). There is not much insight into this issue.
- Networking tools and mechanisms such as Envicrimenet.
- Capacity building.
- Operations and enforcement actions.
- Strategic analysis and priority identification.
- Tactical analysis.
- Communication and advocacy of successes.
- Building relations outside the EU to tackle the enforcement issues in source countries, including providing training for them.
- Collaboration with source and consumer countries outside the EU, including how to operate given the risk of corruption.
- Health and safety.
- New technologies.
- Emerging trends, e.g., Agarwood.
- Controlled deliveries.
- Transit: the free movement of goods within Europe.
- Control of internal trade within the EU.
- National coordination among different enforcement institutions.
- Misuse of specimens (especially commercialisation of valuable hunting trophies/goods imported for personal use – e.g., rhino horn, ivory, tiger/leopard skins) and methods of control and prevention.
- Identification of CITES species.

Species

- Ivory because of EU's transit role.
- Rhino horn trade (major issue and major threat) > will only increase as prices go up.
- Trade in reptiles, particularly rare tortoises.
- Maybe trade in medicinal plants and products.
- Illegal trade in birds of prey/ European birds/rare parrots (also to flag abuse of Art. 10 certificates in EU internal trade: e.g., in birds of prey trade; this is a major issue, involving fraud with documents and leg rings, and stretching across different countries (e.g., UK, NL, Sweden, Norway, Finland).
- Pangolin scales trade.
- Hunting trophies.
- Live chameleon trade from Africa.
- Caviar/sturgeon.



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