



EU approaches against wildlife trafficking, illegal logging and illegal fishing – an introduction

HOW TO ENFORCE EU LEGISLATION ON BIODIVERSITY AND WILDLIFE TRAFFICKING
WORKSHOP FOR JUDGES AND PROSECUTORS
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A large number of high level commitments have been taken in the last years against wildlife trafficking

- *Resolution by the UN General Assembly and targeted sanctions by the UN Security Council in relation to conflicts in Central Africa*
- *Inclusion of a dedicated target on the need to step up action against wildlife trafficking as part of the Sustainable Development Goals*
- *G7 Statement and many high level conferences*



CITES: one of the major biodiversity related Conventions

- *Convention on International Trade in Endangered Species of wild fauna and flora*
- *Signed in 1973, entered into force in 1975*
- *182 Parties (including EU and all EU Member States)*
- *Aim: ensure that no species of fauna or flora is threatened with extinction as a result of international trade*
- *Scope: 35 000 animal and plant species*



CITES particular features: use of trade instruments to protect biodiversity

- *CITES main tool: trade regulation through prohibition or permitting system, depending on levels of threat to the species concerned*
 - Appendix I species: species threatened with extinction commercial trade prohibited
 - Appendix II species: trade regulated (export permits to be issued by exporting country demonstrating that export is legal and sustainable)
 - Appendix III species: trade regulated (export permit to be issued by exporting country demonstrating the legal origin of the species)

- *Additional recommendations adopted by the CITES instances (CoP and Standing Committee)*



Appendix I	Appendix II	Appendix III
species threatened with extinction	species not threatened with extinction, but trade must be controlled to avoid them becoming threatened	species for which a country is asking Parties to help with its protection
over 900 species	over 34 300 species	around 140 species
International trade generally prohibited except in exceptional circumstances	International trade permitted but regulated	International trade permitted but regulated to ensure legality (less restrictive than Appendix II)

CITES does not only
deal with live
animals/plants, but
also derived products



Ramin Venetian blind
Mahogany table-football table
Snake-skin handbag
Medicine



CITES particular features: an effective decision-making process

Conference of Parties (every 3 years)

- Amendment to Appendices binding on Parties
- Resolutions/decisions on implementation
- Voting (2/3 majority)

Standing Committee (between CoP's)

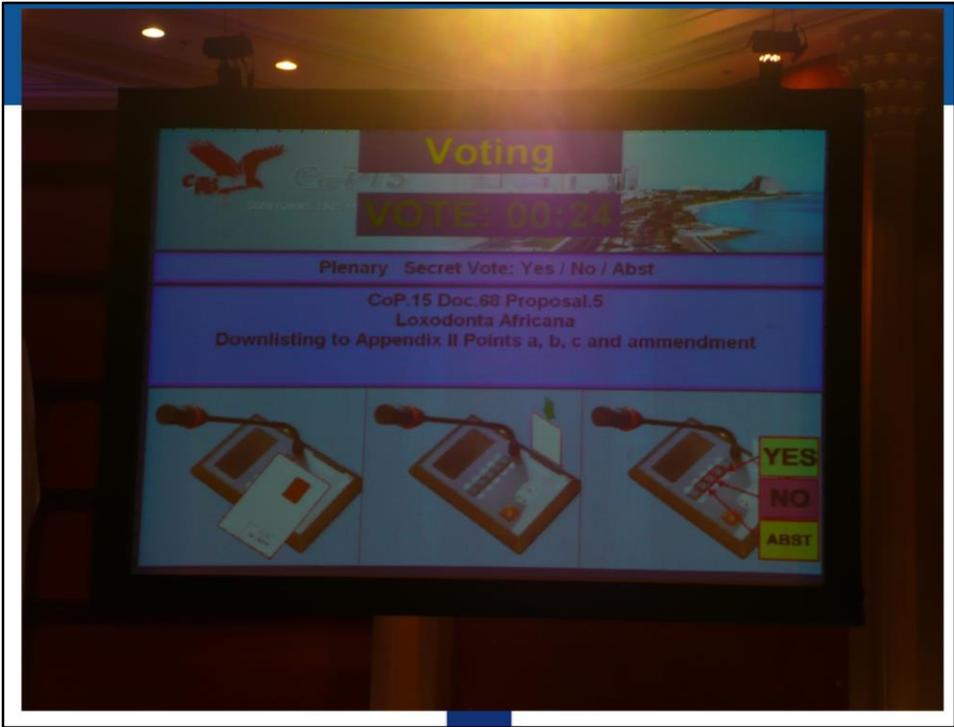
- Effective compliance mechanism which can result in targeted recommendations and trade sanctions

Animals and Plants Committee

- Technical and scientific advice

CITES Secretariat

- Ensuring implementation of the Convention on a daily basis





CITES obligations by Parties under the CITES Convention

- *Not authorise commercial trade in Annex I specimens and only authorise non-commercial trade with required CITES documentation*
- *Only authorise trade in Appendix II and III specimens when accompanied with required CITES documentation (export/import permits, re-export certificates etc.)*
- *Ensure that illegal trade is punishable by criminal law*
- *Report on trade levels and on implementation of the Convention*



EU in CITES

- *European Union became a Party to CITES in July 2015 (further to the ratification of the “Gaborone amendment”)*
- *All 28 EU Member States are also Parties*
- *CITES implemented into EU law through Council Regulation 338/97 and implementing Regulations – directly applicable ONE law for all Member States*

Basic Regulation defines the scope of the measures and lays down the basics for their implementation and enforcement. It broadly transposes the provisions of the CITES Convention

Implementing Regulations fill in the administrative and practical details and specifies the exemptions and derogations.

Suspension Regulation sets out the species and third countries from which imports are suspended temporarily. Revised on a regular basis.

The Legislation does not need to be transposed into the national law of the member States although some provisions require the adoption of measures at national level (in particular as regards Enforcement)



The EU “Wildlife trade regulations” – Council Regulation 338/97 and associated Commission Regulations

Implementing CITES into EU law but going beyond on the following issues:

- Import permits required for the import of Appendix II/Annex B specimens, based on assessment by EU scientific experts, and import suspensions if no “non-detriment findings” can be made
- Additional species listed in EU Annexes or “uplisted” compared to CITES Appendices (notably species protected under Birds and Habitat Directives)



The "nature" directives

*The **Nature (Birds and Habitat) Directives 2009/147/EC and 92/43/EEC**, prohibit or regulate the taking, sale and transport of a number of strictly protected wild species in the EU*



The new EU Action Plan against Wildlife Trafficking

Adopted on 26 February 2016

(COM (2016) 87), accompanied by a Staff Working Document with comprehensive Analysis and Evidence

Presented jointly by Commissioners in charge of environment, foreign affairs, development support and home affairs

Following stakeholder consultation and EP resolution in 2014



Objectives of the WAP

- Put wildlife trafficking higher on the political agenda of the EU and its MSs
- Turn high-level commitments against wildlife trafficking into concrete deliverables with timeline and monitoring mechanisms
- Reinforce EU action against wildlife trafficking in EU and globally



1st pillar: prevention – acting on the key drivers of wildlife trafficking

- reduce the demand for illegal wildlife products
- engage with the business sector
- tackle the root causes of the problem in source countries, including corruption
- suspend of the export of old raw ivory items from the EU and strengthened scrutiny over intra-EU trade in old ivory items
- propose the inclusion of new species in CITES



3rd pillar: global partnership

- increased and strategic EU financial support to tackle wildlife trafficking in source countries
- use the EU diplomatic and trade leverage to press for progress against WLT at the bilateral, regional and global levels
- better explore and address the links between wildlife trafficking and security
- Support joint international law enforcement operations



2nd pillar – implementation and enforcement

Common challenges in environmental crime

- low prioritisation, few resources, little specialization
- lack of data
- divergence in implementation and enforcement of common legislation, in particular sanction levels
- insufficient inter-agency coordination
- weaknesses in cross-border cooperation



Important points for judges and prosecutors

- *Training / Awareness raising***
- *Networks***
- *Eurojust***



2nd pillar: implementation and enforcement, including organised crime(1)

- Strategies to improve compliance with wildlife trade legislation
- Enhanced cooperation between competent enforcement agencies
- Adequate training
- Setting of priority enforcement targets at EU level, cross-border operations between EU Member States



2nd pillar: implementation and enforcement, including on organised crime (2)

- Increased role for Europol and Eurojust
- Put wildlife trafficking on the radar screen of organised crime specialists and agencies
- MS to make sure that organised wildlife trafficking is considered a serious crime in national legislation (see UNGA resolution)
- Stronger focus on links with related crimes, e.g. money laundering
- Increased scrutiny on the import of hunting trophies in the EU to ensure their legal and sustainable origin



Next steps

Council Conclusions in June 2016

Implementation

- Inter service group within the Commission
- Scoreboard
- Monitoring through the CITES Enforcement Group twice per year
- In mid 2018, COM will report on progress
- In 2020 evaluation of the Action Plan



EU approach against illegal timber trade

- **FLEGT Action Plan** setting out the general EU approach on timber trade and illegal logging (2003) – combining supply and demand side measures
 - **Voluntary Partnership Agreements (VPAs)** with 3rd countries in Central and West Africa and South East Asia: work in progress
 - **EU Timber Regulation (EUTR)** in force since 2013



The FLEGT AP proposes partnership agreements with timber exporting countries that support:

- **measures to regulate and control the trade in timber**
- **governance improvements**

Measures to increase demand for legally sourced timber:

- **Green public procurement policies**
- **Private sector initiatives, (codes of conduct, etc.)**
- **Financing and investment, e.g. lending criteria**



Sustained interest and significant progress

- 6 Implementing countries: Indonesia and Liberia recently joined the group of countries (6) with which the agreement has been ratified. None of the countries issuing FLEGT licenses yet. Indonesia and Ghana have the ambition to issue FLEGT licenses in 2015. Evaluation of Indonesia's SVLK positive but significant work remains to be done.
- Negotiations ongoing with 9 countries: Mix of countries negotiating for many years (Malaysia) and others which started only recently (Honduras, Thailand, Côte d'Ivoire), showing a continued interest globally in VPAs. Good progress in general, with the exception of a few countries where negotiations are stalled or moving very slowly (Gabon, DRC).
- Informing countries: genuine interest in FLEGT from governments and/or stakeholders in many of these countries, but won't necessarily lead to a VPA negotiation. Ongoing reflection on engagement with "low trade countries" on FLEGT.



Key obligations of the EU Timber Regulation

Due diligence

EU operators shall exercise due diligence when placing timber or timber products on the market by implementing procedures so as to minimise the risk of illegal timber in their supply chain

Prohibition

The placing on the market of illegally harvested timber or timber products derived from such timber shall be prohibited

Traceability

EU traders (after first placing on the EU market) shall keep record from whom they bought timber products and where applicable, to whom they have supplied



Implementation and Enforcement

- Responsibility rests with the Member States:
 - ✓ Competent authorities

http://ec.europa.eu/environment/forests/pdf/list_competent_authorities_eutr.pdf

- ✓ Penalties - effective, proportionate and dissuasive
 - ✓ Checks on operators and monitoring organisations
- COM monitors uniform implementation



EU approach against illegal, unreported and unregulated fishing

EU Strategy since 2007 - IUU Regulation 1005/2008 entered into force on 1/1/2010

- Only marine fisheries products validated as legal by the competent flag state or exporting state can be imported to or exported from the EU.
- An IUU vessel list is issued regularly, based on IUU vessels identified by Regional Fisheries Management Organisations.
- Possibility to blacklist states
- For EU operators who fish illegally anywhere in the world, under any flag, penalties proportionate to the economic value of their catch



The environmental crime directive 2008/99/EC

- Common definitions for obligatory criminal offences relating to serious breaches of the wildlife trade and nature legislation
- Obligation for MSs to provide for "effective, proportionate and dissuasive criminal sanctions"
- No EU harmonisation of levels of sanctions
- EUTR and IUU regulation breaches not covered
- Review of the Directive foreseen in the course of 2016



Further information

http://ec.europa.eu/environment/cites/trafficking_en.htm

http://ec.europa.eu/environment/forests/illegal_logging.htm

http://ec.europa.eu/fisheries/cfp/illegal_fishing/index_en.htm