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**Study on the Enforcement of the EU Wildlife Trade Regulations
in the EU-25**

Final Report: Overview Paper

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Abbreviations

| | |
|---------|--|
| AID | <i>Algemene Inspectiedienst</i> (General Inspection Service, Ministry of Agriculture, Nature and Food Quality), Netherlands |
| CFS | <i>Corpo Forestale dello Stato</i> (State Forest Corps), Italy |
| CITES | Convention on International Trade in Endangered Species of Wild Fauna and Flora |
| GAD | <i>Groupe anti-drogue</i> (Anti-drug group), Brussels Zaventem Airport, Belgium |
| EECCA | Eastern Europe, Caucasus and Central Asia |
| EU10 | Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia (the 10 Member States that acceded to the EU in May 2004) |
| EU15 | Austria, Belgium, Denmark, Finland, France, Germany, Ireland, Italy, Netherlands, Portugal, Spain, Sweden, United Kingdom |
| MA | Management Authority |
| OCLAESP | <i>Office Central de Lutte contre les Atteintes à l'Environnement et à la Santé Publique</i> (National Agency for the Fight Against Environmental and Public Health Crime), France |
| PAW | Partnership for Action Against Wildlife Crime |
| RSPCA | Royal Society for the Prevention of Cruelty to Animals |
| SA | Scientific Authority |
| SOIVRE | <i>Servicio Oficial de Inspección, Vigilancia y Regulación de las Exportaciones</i> (Service for Export Inspection, Surveillance and Regulation), Spain |
| TAM | Traditional Asian medicines |
| WTR | (EU) Wildlife Trade Regulations |
| WWF | Worldwide Fund for Nature |

Executive Summary

The European Union is the world's largest importer of legal CITES specimens. Illegal trade appears to be significant as well, and many officials in EU Member States believe that it is on the increase. This *Study on the Enforcement of the EU Wildlife Trade Regulations in the EU-25*, for the European Commission, reviewed national efforts to control illegal wildlife trade as well as the level of cooperation and coordination among Member States.

The Study identified a series of good practices for enforcement in Member States. While some Member States have developed effective practices in specific areas, all need to improve enforcement in at least some areas. The Study's outline of good practices includes the following:

- *Regular national assessments* of CITES crime. Such assessments, prepared in several Member States, have helped identify major types of illegal wildlife trade to be addressed. Several Member States have used these assessments to develop *enforcement plans* that pinpoint enforcement objectives and actions.
- *Adequate resources* for enforcement: officials in many Member States, including some with strong enforcement systems, noted that their resources – including budgets, personnel and equipment – were not sufficient to tackle existing illegal wildlife trade.
- *Effective coordination* among national agencies. In all Member States, several authorities and agencies are involved in CITES enforcement. The formal agreements, inter-agency committees and regular working contacts used in several governments have proven effective in facilitating cooperation and coordination.
- *Regular training* for enforcement personnel who work regularly on CITES. Several Member States have established training programmes for frontline customs, police and other officials.
- *Effective controls at border points*. The thoroughness of document checks for declared CITES shipments varies; on average, these are most comprehensive at EU airports, less at sea ports and post. Some Member States have found that computerised CITES documents and enforcement information can assist checks at border points.
- *Computerised risk assessment that incorporates illegal wildlife trade*. Risk assessment is used to pinpoint controls of passengers and cargo, and is vital in checking for illegal shipments. Member States are putting in place sophisticated, computer-based methods, and some have adopted comprehensive approaches to incorporate illegal wildlife trade into risk assessment.
- *Strong in-country enforcement*. In many Member States, officials regularly check pet shops, breeders, taxidermists and other facilities for illegal specimens. In other Member States, however, these checks are not frequent due to resource difficulties. These and other in-country actions can be as important for enforcement as border controls.
- *Sufficient care for seized and confiscated specimens*. Under CITES and the EU Wildlife Trade Regulations, all Member States should designate rescue centres. Officials in many, however, report difficulties in finding adequate facilities to house live animal and plant specimens that are seized, and in some cases these difficulties hinder enforcement. In many Member States, further work is needed to identify facilities; cooperation among Member States can supplement these efforts.
- *Effective public information* can raise awareness of CITES and the EU Wildlife Trade Regulations and their role in protecting endangered species. Overall the long term, it may help to shape demand for CITES specimens. Several Member States have introduced innovative methods, such as in-flight videos, zoo exhibitions and school programmes; still, both here and elsewhere, officials report that further efforts are needed.

- *Strong sanctions for violations of CITES and the EU Wildlife Trade Regulations.* Several Member States have established strong criminal penalties and fines. In others, however, sanctions specified in national legislation are quite low and do not appear adequate to deter organised, commercial CITES crime; moreover, low sanctions may be a signal to prosecutors and judges that these crimes are not a priority.
- *Coordination with other Member States* is needed. Several Member States are particularly active in terms of communication and coordination across the EU.

Effective national enforcement is vital. Member States can use the full outline of good practices, presented at the end of this report, to review their national practices.

At the same time, the EU is a single market – also for illegal wildlife trade. Stronger cooperation among Member States is needed. The Study presents recommendations for common EU actions to improve coordination, to further develop common enforcement action and to share tools and knowledge:

1. Use the outline of best practices proposed here to develop EU guidance on CITES enforcement
2. Develop a common enforcement Action Plan at EU level
3. Gather more comprehensive information on national enforcement structures and actions
4. Strengthen Customs coordination for CITES
5. Improve cooperation for managing seized and confiscated specimens
6. Sharing of tools and know-how to identify specimens
7. Improve public information, by sharing methods among Member States as well as launching an EU-wide campaign
8. Strengthen sanctions by moving forward on an EU directive on criminal penalties for environment
9. Develop a more innovative structure for the EU Enforcement Group, to increase its effectiveness in promoting coordination and cooperation among Member States

1. Dimensions of legal and illegal wildlife trade in the EU

1.1. Overview of legal wildlife trade

The European Union is the world's largest importer of legal CITES specimens, including live animals and plants taken from the wild, animals bred in captivity, artificially propagated plants and parts and derivatives of animals and plants. The EU is also an important exporter of CITES specimens, in particular of live animals bred in captivity, artificially propagated plants and products such as leather goods made from parts and derivatives. Various types of CITES specimens are also re-exported, including caviar.

From 1996 through 2002, the EU15¹ imported approximately 6 million live birds, 1.6 million live reptiles, 10 million reptile skins, and almost 600 tonnes of sturgeon caviar listed under CITES. In all these areas, the EU was one of the world's largest import markets: for live birds, the EU was the predominant market, accounting for over 80% of global net imports; for caviar, the EU imported about 45% of global trade. Net imports to the now EU10² were smaller in this period: they included about 160 000 live birds and 100 000 live reptiles. In other categories EU15 imports were lower: 33 000 tonnes of reptile skins and 7 tonnes of caviar.³

The demand for CITES specimens – including live animals and plants as well as parts and derivatives such as hunting trophies and leather products – varies considerably among Member States. In several, demand for live animals, in particular for exotic birds and reptiles, is strong: these include Belgium, the Czech Republic, Germany, the Netherlands, the United Kingdom and several others. Many individuals and facilities in these Member States breed specimens in captivity.

France, Italy and Spain are major importers of reptile skins for the production of luxury leather goods. Italy is also prominent importer of tropical timber, including CITES-listed timber, for furniture manufacture. Other Member States also have major imports important in both these areas; in addition, there are large imports of finished leather and wood products made of CITES specimens.

Caviar is imported in many Member States. A few, such as France, are large consumers. Luxembourg has a prominent importer of caviar, and large quantities arrive in the EU via its airport.⁴

In contrast, declared imports of CITES specimens are quite low in a number of Member States, including Ireland and the Baltic States. Nonetheless, demand in these and other parts of the EU appears to have increased in recent years, in particular with improving economic conditions.

1.2. Perceptions of illegal wildlife trade

A picture of illegal wildlife trade is vital in terms of identifying the need for enforcement. Such a picture may aid in highlighting areas where stronger enforcement measures are needed, such as stronger sanctions in some Member States.

This section is based on the results of a questionnaire and follow-up interviews with Member States officials. The results provide a valuable picture; nonetheless, as many of the interviewees noted, their views are based only on the information they have available. In most cases, this is limited to seizures that have been made as

¹ The EU15 Member States are: Austria, Belgium, Denmark, Finland, France, Germany, Ireland, Italy, Netherlands Portugal, Spain, Sweden and United Kingdom

² The EU10 Member States, which joined the EU in May 2004, are: Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, and Slovenia

³ S. Theile *et al*, *Expanding Borders: New Challenges for Wildlife Trade Controls in the European Union*, TRAFFIC Europe and WWF, Brussels, 2004.

⁴ Caviar is also produced in the EU, mainly from fish bred in captivity

well as any anecdotal and informal information they have received. Moreover, only a few Member States have made formal assessments of CITES crime (see section 3.1); where these exist, officials may have a clearer picture of illegal trade.

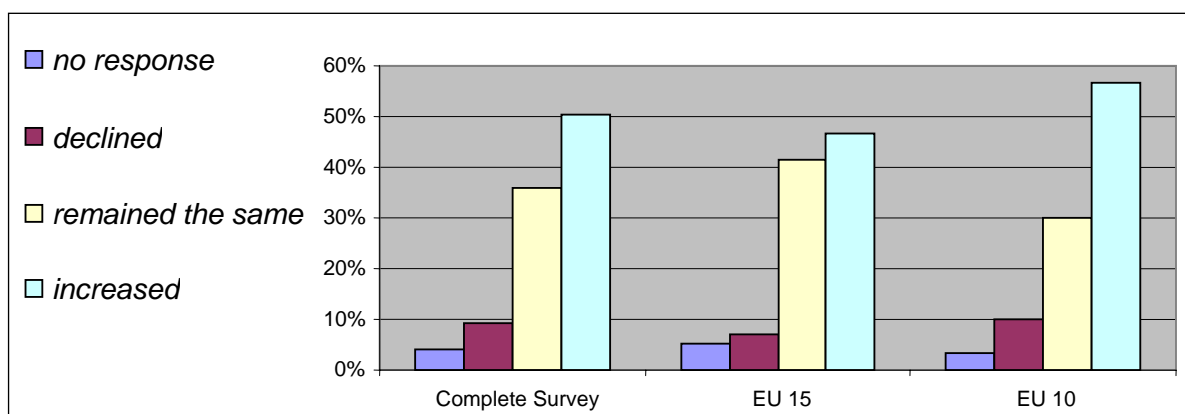
On this topic, the questionnaire and interviews focused on commercial and other significant crime, and thus not on tourist souvenirs: in essentially all Member States, most seizures are related to individuals who have returned from a tourist trip outside the EU and bring back objects made from CITES-listed species.

Trends since 2000

The study questionnaire inquired about perceptions of illegal wildlife trade, and in particular whether this has increased since 2000. This question sought to understand how the challenges for enforcement of CITES and the EU Wildlife Trade Regulations may have been changing. A follow-up question for respondents who saw an increase in illegal trade asked about specific factors.

Across the full sample, just over half of respondents to the questionnaire thought that the level of illegal wildlife traffic had increased since 2000 (see Figure 1.1). Over a third of respondents believed that illegal trade had remained the same; notably, only 9% thought that it had fallen. A higher share of respondents from the EU10 (57%) believed that the trade has increased, compared with 47% in the EU15.

Figure 1.1: Trends in illegal wildlife trade – overall questionnaire responses



It should be noted that in interviews, officials in a few new Member States reported that they perceived little illegal wildlife trade, other than tourists returning with souvenirs.

Possible driving factors

A follow-up question asked the respondents who perceived an increase in illegal wildlife trade to indicate which factors they believed had contributed to this suspected increase. Four possible factors were listed:

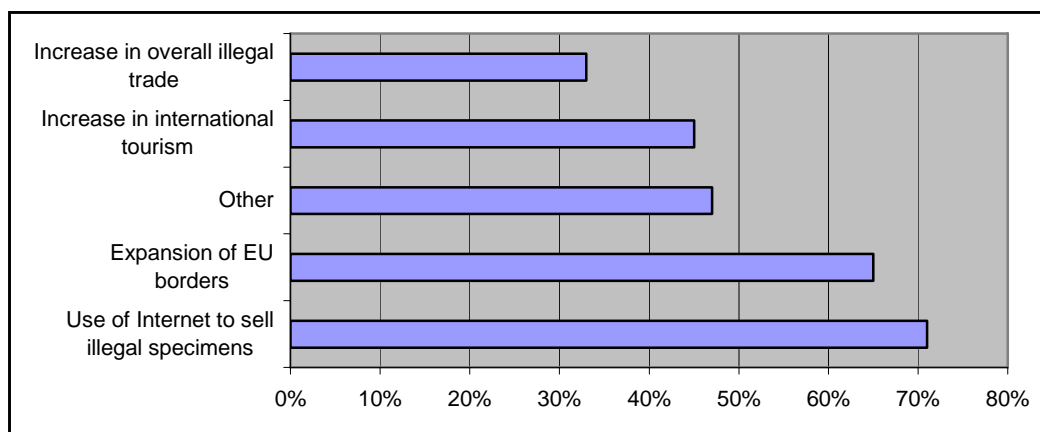
- Increase in overall illegal trade
- Increase in international tourism
- Use of Internet to sell illegal specimens
- Expansion of EU borders

Respondents could also choose “Other” and had the option to explain this.

Of the respondents who thought that illegal trade had increased, 71% felt that use of the Internet was a factor (Figure 1.2). The expansion of the EU borders was identified by 65% of the respondents, and 45% thought that international tourism was a factor. In addition, 47% of respondents identified other potential factors.

There was a notable difference between responses from the EU15 and those from the EU10, in particular with regards to the two most important factors. For EU15 respondents, the most important factor was the use of Internet: this was identified by about 80% of those who thought illegal trade had increased. In contrast, about 80% of EU10 respondents who perceived an increase in illegal trade identified the expansion of EU borders, making this the most important factor for the new Member States.

Figure 1.2: Trends in illegal wildlife trade – reasons for an increase



Many of those who selected “other” provided a description. In a few cases, these reasons involved stronger enforcement, suggesting that these respondents are referring to increased seizures rather than an increase in the underlying trade. Overall, the reasons are quite varied: some refer to specific criminal issues, others to the increase in caviar trade, and others to economic issues.

Types and forms of illegal trade

In many cases, illegal trade appears to be related to domestic demand and thus to legal trade. For example, in Member States where there are many collectors of exotic birds and reptiles, demand for illegal live specimens appears higher. Similarly, in Member States that import skins of CITES species for the production of leather goods, illegal shipments are a concern even if the great majority of this trade appears to be legal.

Traditional Asian medicines

The products may contain parts and derivatives of listed species. In several Member States there has been an increase in seizures of these items.

Caviar

For shared stocks of sturgeons and paddlefish – in particular those in the Caspian Sea – the range states have to agree on export quotas, in line with CITES Resolution 12.7.⁵ For 2006, however, the CITES Secretariat has only notified quotas for Caspian Sea caviar for Iran. Caviar harvested in 2006 from Caspian States – except for Iran – (as well as caviar harvested in 2004 and 2005 from Russia) cannot be legally exported and therefore cannot be legally traded. As of July 2006, the EU requires that all caviar containers in trade, regardless of their size or origin, have to bear a label indicating that their contents meet CITES obligations.⁶

⁵ CITES Conf. 12.7, as revised at CoP13: Conservation of and trade in sturgeons and paddlefish

⁶ Commission Regulation (EC) No. 865/2006 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 (OJ L 166 of 19.06.2006)

These new requirements further restrict legal caviar imports; there is a concern that they will lead to an increase of illegal traffic from large producers such as Russia.

Other issues of concern

The telephone interviews identified some other important concerns for illegal trade. One in particular relates to trade in species listed on Annex B of Regulation 338/1997, and the rules in the Regulation for commercial trade in Annex B species.⁷ In particular, there is a concern that Annex B species taken from the wild are being smuggled into the EU and then traded using false documents claiming them to be bred in captivity. Other, more specific concerns cover specimens such as birds of prey, including those taken from the wild in EU Member States.

Individuals and organisations involved

One official interviewed said there appear to be three types of illegal traders:

1. legal traders who in one or more cases go beyond the limits of the law
2. small-scale illegal traders
3. criminal organisations

Officials in several other Member States also mentioned the role of criminal organisations, though some referred to “informal networks” rather than “organised crime”. The Interpol Wildlife Working Group Strategic Plan states that:

The increase in international wildlife criminal activity, coupled with trends in legal and illegal trade, reveals criminal patterns and practices which indicate that organized crime composed of various cells exists within the illegal wildlife trade.⁸

In interviews, officials in several Member States said, however, that they have not seen such patterns and practices and had not detected organised networks or groups involved in illegal wildlife trade in their country. Thus, organised CITES crime has been detected or is believed to be operating in some Member States, but has not been seen in others.

Repeat offenders

The questionnaire asked how often there have been cases of repeat offences (frequently, rarely or never). The vast majority of respondents felt that recidivism was rarely or never seen: of the 76 respondents who answered this question, only 17% felt that repeat offenders have been frequently charged. This figure was slightly higher for respondents from the EU10 states.

Notably, most respondents in the Netherlands answered that recidivism was frequent. This response may be related to a recent analysis of illegal wildlife trade in the Netherlands, which reportedly identified several cases of repeat offenders.

In interviews, officials in some Member States said that they were not able to identify repeat offenders due to either the absence of a national database on seizures or sanctions, or difficulties in sharing databases at different enforcement services.

⁷ Article 8, Para 5, states that the prohibition on “purchase, offer to purchase...” etc. of Annex A species (under Article 8, para 1) also applies to Annex B species unless the original, legal acquisition and introduction into the EU of the specimen can be “proved to the satisfaction of the competent authority”.

⁸ From the Interpol web site: <http://www.interpol.int/Public/EnvironmentalCrime/Wildlife/Default.asp>

Summary

A 2003 study for the European Commission of environmental crime across several areas, including CITES, found that over two-thirds of cases involved activities in more than one Member State. This study also refers to several sources that consider the illegal wildlife trade is approximately 25% of the level of legal trade, though it notes that this is a broad estimate and cannot be considered accurate.⁹

The information presented here, from CITES officials across the EU, indicates that illegal wildlife trade is indeed significant, that in some cases organised networks are involved and, notably, that it increasingly moves across Member States. Just over half of questionnaire respondents believe illegal wildlife trade has increased since 2000; under 10% believed it had decreased in their country.

For illegal wildlife crime, the EU is a single market. These factors suggest a need for better enforcement within Member States, as well as further coordination among Member States. Sections 3 and 4 look at enforcement at national level, and Section 5 at EU-level coordination.

⁹ Fröhlich *et al*, Organised environmental crime in the EU Member States: Final Report, Betreuungsgesellschaft für Umweltfragen (BfU) and partners, May 2003. See pages III and 16.

2. Enforcement efforts at national level

This section reviews the enforcement efforts undertaken at national level. It discusses:

- National assessments of illegal wildlife trade and their use to develop enforcement objectives
- The administrative structure of enforcement services as well as training for personnel and cooperation among different services
- Enforcement actions undertaken at border points
- Actions taken in-country
- Approaches for identifying specimens
- Public information efforts: though not enforcement actions in themselves, these can contribute to implementation and enforcement

2.1. National assessments and enforcement objectives

The *Action Plan for Combating Illicit Wildlife Trade in the European Union*, put forward at the October 2005 workshop on Wildlife Trade Enforcement Cooperation (WTEC), calls on each Member State to develop and endorse "...a national strategic action plan with clear terms of reference, objectives and time-frames". The Action Plan also calls on Member States to "use existing and further develop national threat assessments".¹⁰

The study found that a few Member States have developed national policies and strategies for CITES and WTR enforcement, and these have been based on assessments of illegal wildlife trade in the country.

National assessments of illegal trade

A few Member States have prepared assessments of CITES crime. These include the Netherlands and the United Kingdom. The UK National Criminal Intelligence Service made a baseline assessment of organised wildlife crime, and has used this to guide law enforcement efforts.

At least three other Member States, Belgium, France and Ireland, have launched similar analyses in 2006. In Belgium, the management authority has commissioned TRAFFIC/Europe to prepare a report on the main areas of illegal wildlife trade in the country. Ireland has commissioned UNEP-WCMC to prepare an assessment of wildlife trade.

In some Member States, such assessments have been carried out in a broader context. This is the case for Spain, where CITES crime is included in a national crime analysis prepared every six months.

Policies and strategies

The existing policies and strategies for CITES enforcement vary in their scope. In the UK, a forum of government agencies and NGOs has developed broad, multi-year enforcement plans for all areas of wildlife crime (see Box 2.1), including in-country crimes such as poaching and mistreatment of animals.

Box 2.1 The UK PAW Enforcement Plan

In the United Kingdom, the Partnership for Action Against Wildlife Crime (PAW) develops a multi-year Enforcement Plan (the current Plan runs from 2004 to 2007). PAW brings together government agencies, including the MA, SA and enforcement services, as well as environmental NGOs and associations that collect, breed or otherwise use wildlife. The multi-year plans are broad-based. Their goals are not quantitative, and include actions such as raising awareness of wildlife crime in local police forces and among public prosecutors and judges.

¹⁰ The workshop on Wildlife Trade Enforcement Co-ordination, organised by the UK Presidency in October 2005: the Action Plan is found in the Proceedings, published by the UK Department for Environment, Food and Rural Affairs.

In the Netherlands, an intervention plan under preparation will focus on the operational level. In Spain, the national crime analysis made every six months indicates enforcement priorities, and the MAs are consulted on illegal wildlife trade priorities.

While no examples of CITES assessments and strategies were identified in the EU10, most of these “new” Member States strengthened their enforcement capacities in the accession process, as part of their actions to implement the EU *acquis*.

A note on the broader policy context

Although assessments and strategies are important tools for tackling illegal wildlife crime, outside events and actions also may draw the attention of decision-makers to enforcement needs. NGO actions have been important: for example, UK officials noted that the investigation of ivory sales in London followed an NGO report on this topic. In some cases, unexpected seizures and other events can place CITES issues on the policy agenda.¹¹

EU cooperation and initiatives are also important. For example, officials in several Member States mentioned that the workshop on Wildlife Trade Enforcement Cooperation (WTEC), organised by the UK Presidency in October 2005, helped support new actions within their ministries, including the creation of inter-agency committees.

Summary of good practices

Crime assessments and enforcement objectives have proved valuable in those Member States that have undertaken them. In a number of cases, these have also been important exercises for strengthening co-operation among agencies.

The need for assessments and strategies may seem less pressing in Member States where there appears to be less illegal trade: nonetheless, in the single EU market, goods can move freely across borders, and the involvement of all Member States is needed to monitor illegal wildlife trade.

2.2. Administrative structures

Both CITES and the EU Wildlife Trade Regulations specify that each Member State have at least one Management Authority (MA) and a Scientific Authority (SA).¹² EC Regulation 338/1997 also refers to the role of Customs offices.¹³

¹¹ In France, for example, the discovery of a young, live Bonobo monkey (*Pan paniscus*) in the bag of two transiting passengers at Paris Roissy/Charles de Gaulle Airport in December 2005 resulted in media attention and ministerial action.

¹² EC Regulation no. 338/1997 states that “Each Member State shall designate a management authority with primary responsibility for implementation of this Regulation...” (Article 13.1a) and “Each Member State may also designate additional management authorities and other competent authorities...” (Article 13.1b). On Scientific Authorities, Regulation 338/1997 merely states that their “...duties shall be separate from those of any designated management authority” (Article 13.2), and that SA representatives shall participate in the EU Scientific Review Group. Scientific authorities also assess the conservation status and other parameters of imports of Annex B specimens, at the request of the MA.

¹³ Under Article 12 of EC Regulation 338/1997, Member States should designate customs offices for the import and export of specimens: these should have “sufficient and adequately trained staff”. The recitals to the Regulation call for the designation of customs offices “with trained personnel responsible for carrying out the necessary formalities and corresponding checks where specimens are introduced into the Community”.

Although the Regulation does not specify other enforcement services, it does call for the monitoring of compliance and the investigation of infringements, as well as the establishment of an “enforcement group ... consisting of the

In nearly all Member States, Customs authorities undertake enforcement at border points. For in-country enforcement, the situation can be more complex, as several services, including Police and a wildlife agency or an environmental inspectorate can be involved. Other services, including public prosecutors may play a direct role in enforcement.

Management Authorities (MAs)

The structure of MAs varies considerably. In many Member States, such as Estonia, France and the UK, the MA is located in the national environmental ministry. In a few, it is located in other ministries: in Spain, in the Ministry of Industry, Tourism and Trade (primary MA) and in the Ministry of Economy and Finance (secondary MA); and in the Netherlands, the Ministry of Agriculture, Nature and Food Quality. In other Member States, the MA is not in a ministry but in a separate body, such as Latvia's Nature Protection Board: this separation may, however, hinder an MA's role in terms of policy coordination.

In a few Member States, there is more than one MA: in Italy, for example, there are three bodies, including the State Forest Corps, an enforcement service. In some cases, regional bodies are also involved, such as for Portugal's autonomous regions of the Azores and Madeira. In Germany, about 200 local authorities can grant EC certificates; one of Germany's two federal management authorities (the Federal Agency for Nature Conservation) is responsible for granting import and export documents. France has almost 30 regional MAs that report to the central MA at the national Ministry of Ecology. Additional MAs can create a challenge in terms of coordination: in France, the central and regional MAs meet twice a year to discuss CITES issues.

The role of the MA in enforcement can vary considerably. Across all Member States, the Management Authorities (MAs) are involved in enforcement, but their role varies considerably. In several Member States, including the Netherlands and Germany, the MA helps to develop overall goals and participates in enforcement discussions. In some cases, the MA is directly involved in enforcement work: in Slovenia, the MA coordinates and provides training for enforcement officials and provides advice on possible seizures: Customs officials send digital photographs via email for evaluation. In some Member States, including Denmark and Malta, MA officials often visit border points to check shipments. This direct role can provide the enforcement services with expertise, but it may strain the MA's capacities.

A key element, in fact, regardless of the specific structure of the MA and its role, relates to the resources available; this is reviewed further below (page 14).

Scientific Authorities

The roles of the SAs also differ from country to country. In part, this is due to variations in structures: some SAs are large public institutions, including the National Museum of Natural History in France and the Royal Botanic Gardens in the UK. In these cases, the SAs have greater capacity to provide direct assistance for enforcement, usually by identifying difficult to determine specimens and, in some Member States, providing temporary care for seized specimens, as is the case for the French and UK SAs noted here.

In several other Member States, such as Poland, the SAs are committees of experts; in some Member States, they are unpaid. In Poland, SA members assist enforcement services with difficult identification cases, often using digital photographs sent via email. In other Member States, however, the SA members are called less frequently for such assistance.

While the Wildlife Trade Regulations do not call for a direct enforcement role of SAs, enforcement services need access to scientific expertise for the identification of specimens, and SA members can play a role here (see also section 2.7 on the identification of specimens).

representatives of each Member State's authorities with responsibility for ensuring the implementation of the provisions of this Regulation" (Article 14).

Customs services

Controls at border posts are a vital element of CITES enforcement; enforcement is led by Customs services and agencies. These are typically independent agencies or departments under national ministries of finance.¹⁴ Enforcement work at border points includes checks of required permits and certificates for CITES shipments, as well as the detection of illegal shipments.

In a number of Member States, Customs services have set up units specifically for CITES enforcement. Perhaps the best-known is located at London Heathrow Airport: this eight-person team provides a focal point for CITES work throughout Her Majesty's Revenue and Customs. In Belgium, a specialised unit called GAD (*groupe anti-drogue*) at Brussels Zaventem Airport focuses on CITES controls as well as those for drugs and counterfeiting.

In Germany and several other Member States, Customs investigations offices conduct criminal investigations of import and export violations as well as in-country violations.

In a few Member States, services other than Customs also play an important role at border points. In Spain and Portugal, a national police service provides frontline enforcement at border points (*Guardia Civil* and *Guarda Civil*, respectively). In Spain, another body also plays an important role: the Ministry of Industry's Service for Inspection Surveillance and Exports Regulation (SOIVRE) has offices at border points: these can issue CITES permits and provide expert assistance for enforcement.

In Italy, the State Forest Corps (*Corpo Forestale dello Stato, CFS*) leads on CITES checks at border points. (The CFS is also the main service for in-country enforcement, thus covering all sides of CITES enforcement.)

The specialised Customs units as well as the use of other specialised services appear to provide the strongest CITES expertise at border points. In some Member States, individual staff with CITES expertise or training work at border points. In others, however, the expertise available at border points is not as strong.

Police services

While Police services are charged with crime enforcement generally, their involvement on CITES varies considerably. In many Member States, Police play a central role in CITES enforcement; in several, Police have national networks focusing on either wildlife crime or environmental crime more generally. France and the UK both have a coordinating unit and a network for environmental and public health crime (see Box 2.2).

Box 2.2 National networks for environmental crime in France and the UK

In France, OCLAESP, a national office located within the *Gendarmerie*, was established to co-ordinate enforcement on environmental and public health crime across enforcement agencies, including Customs and the National Hunting and Wildlife Agency (ONCFS). Within the *Gendarmerie* itself, about 800 officers located across the country have received specialised training on wildlife crime.

In the UK, the Police forces have a specific network of Police Wildlife Crime Officers (PWCOs), who investigate wildlife offences. Nearly all local police forces have at least one PWCO, and large forces have several. Whilst some of the PWCOs are full-time officers, the vast majority (300 – 350) work on this topic part-time. The recently created National Wildlife Crime Unit will support the PWCO network.

In some other Member States, however, the Police have little involvement in CITES enforcement.

¹⁴ Indeed, the primary role of Customs services has been to collect tariffs and in many Member States they have responsibility for collecting some indirect taxes.

Forest services and wildlife inspectorates

In a few Member States, forestry and wildlife services play an important role in enforcement. This is the case in several EU10, including Slovakia (see Box 2.3) and the Czech Republic. In the latter, the Environment Inspectorate has a leading role on enforcement, with an office at Prague Airport specialised on wildlife and CITES as well as 10 regional offices.

In Greece, regional units and district units of the Forest Service are the main enforcement service in country, and police forces do not have a direct mandate to address CITES crime. The Greek Forest Service is under the Ministry of Rural Development and Food, which is also responsible for the MA: this facilitates cooperation. In Malta, MA staff have the status of wildlife inspectors and lead in-country enforcement work.

Box 2.3 The role of Slovakia's Environmental Inspectorate

In Slovakia, the Environmental Inspectorate under the Ministry of Environment is the main service in the country responsible for CITES enforcement. It has four regional offices, each with one person working on CITES issues. Also the officers at the 80 District Environmental Offices in Slovakia assist with the in-country CITES control, mainly through logistic support to the regional CITES officers. Inspectorate officers have the right to seize CITES specimens. They work closely with the Customs and Police, providing expert advice. In the national Police force, the Department for Economic and Environmental Crime coordinates CITES enforcement. The Police focuses on serious crime cases, which are beyond the power of the Environmental Inspectorate.

Other services

In many Member States, veterinary inspectorates play a role, in particular at border points. Veterinary services across the EU operate Border Inspection Posts that are responsible for checking live animals and products of animal origin arriving from outside the Union, including ensuring that they have a health certificate from the country of export.¹⁵ These checks, which like CITES checks occur at the first port of entry, can provide an important point of intervention for ensuring that any live CITES animal specimens have necessary documentation. In some Member States, veterinary inspectorates assist enforcement by identifying CITES specimens at border points.

Phytosanitary checks are similar: The EU has a restricted list of live plants and plant products that are potential carriers of harmful organisms: these require plant health certificates from the country of origin for their import into the Union, and the certificates are to be checked on entry.¹⁶ Specimens of endangered species of plants may also be caught in this way.

Public prosecutors and the judiciary are also vital services in terms of enforcement. Their roles are discussed further in Section 3.

Decentralisation and coordination

In nearly all Member States, enforcement services have operations at national as well as regional and local levels, creating a need for coordination, especially in larger Member States.

In the UK, local police forces develop their own approaches to implementing national and local enforcement priorities; as a result, different local forces give different priority to CITES and other wildlife crime tasks. In the UK, national strategies have been seen as a tool for setting common, national priorities. In France, with two police forces, customs and regional MA offices, the coordination roles of the central MA and OCLAESP are vital.

¹⁵ http://ec.europa.eu/food/animal/liveanimals/index_en.htm

¹⁶ http://ec.europa.eu/food/plant/organisms/imports/inspection_en.htm. At international level, these requirements are set in the International Plant Protection Convention.

Resources available

Officials interviewed in many Member States mentioned that further budget and staff were necessary. In their CITES Biennial Reports for 2003-4, nine Member States indicated a high need for increased budget, and 10 for more staff. While the question referred to overall implementation, not just enforcement, the responses are notable in that they include a broad range of Member States (large and small, EU15 and EU10).

At the same time, a number of Member States have strengthened CITES enforcement in recent years, through greater budgets, new coordination mechanisms such as inter-agency committees, new training programmes and other approaches. In particular, many of the EU10 strengthened enforcement in the period leading up to and following accession, as part of their actions to implement the EU *acquis*.

Summary

The administrative structures for CITES implementation vary considerably across Member States. The structures are determined by each Member States, and this review has not indicated any “best models”.

Across all Member States, at least three elements are important, however. One is sufficient resources for implementation and enforcement. A second is expertise, both on the part of enforcement personnel (and training, discussed in the following section, can play an import role here), as well as access to scientific expertise. Third, in all Member States, several agencies work on CITES; countries with decentralised systems face additional complexity here. Thus, communication and cooperation are vital (see section 2.4).

2.3. Training

The enforcement of CITES requires specialised knowledge across a range of topics, from EU and national legislation to the identification of species, and most Member States have training programmes for enforcement officials.

Training is often organised by service, and it can take place on several levels. New Customs officers in many Member States receive a brief introduction to CITES: this is the case, for example, for new Customs officers in Poland, who receive eight hours of instruction. In some Member States, such training has been introduced relatively recently.

In most Member States, in-depth training is also provided. In Slovenia, the MA organises training courses, which use confiscated specimens in practical exercises. In addition, on returning to their posts, officials attending training courses are to present what they have learned to their immediate colleagues. In Hungary, as in Slovenia, participants from different services attend courses together: this helps establish working contacts across services (see Box 2.4 below).

Box 2.4. A new training programme in Hungary

In Hungary, approximately half of the country’s 4 000 customs officers have received basic training on CITES. In January 2006, the Hungarian CITES Management Authority launched an advanced training programme for customs, border police, veterinary and phytosanitary officers. In the course of the project, MA officials visited all major border stations and internal headquarters. During the visits, officials in the different authorities are trained together: this approach is intended to strengthen their working-level cooperation. By April 2006, the CITES MA had provided training at 14 locations for almost 600 officers.

In France, an extended training programme designates police officers for a network focused on environmental crime: by mid-2006, about 800 officers in the *Gendarmerie* had attended a five-week course entitled *Formation Relais Enquêteur Environnement* (FREE). The training programme provides specialised forensic skills to take samples at environmental crime scenes, and the graduates join a national network. Each *Gendarmarie* division should have at least one officer

Across the EU, many officials who are designated for CITES enforcement have learned a great deal of their skills on the job; this is a regular element of work in special units for CITES, such as those at Heathrow, Brussels and several other airports.

Summary of good practices

Both basic and more advanced training courses are required for CITES enforcement: the basic courses help ensure broad awareness of these crimes in enforcement agencies, and advanced courses train officers who work frequently on CITES. A few Member States have assisted others through training: an overview of these efforts is presented in section 4.

Where officials of different services participate together in training courses, this helps build contacts at the working level. Another good practice is requiring participants to train their immediate colleagues.

2.4. Cooperation among services

The previous sections have shown that CITES enforcement in all Member States involves several agencies, and that communication and coordination are vital. This section describes coordination at several levels:

- Working contacts among officials
- Formal agreements, such as memoranda of understanding
- Inter-agency committees

Working contacts

The questionnaire asked Member State officials how often they were in contact with other services in their country. The results indicate that contacts with customs services are relatively frequent – at least once a month in both EU15 and EU10 (it should be noted that most respondents work in central and coordinating offices, not at local level). As an average, however, communication is slightly less strong in the EU10 than in the EU15, and it is least strong in the Candidate Countries (responses came from Bulgaria, Croatia and Romania).

The questionnaire responses were used to analyse bilateral contacts between agencies. The results are presented in schematic form in Figure 2.1 below. The heavier the line, the more frequent the level of contact with the activity within each country.

Figure 2.1: Strength of working contacts among main authorities and services

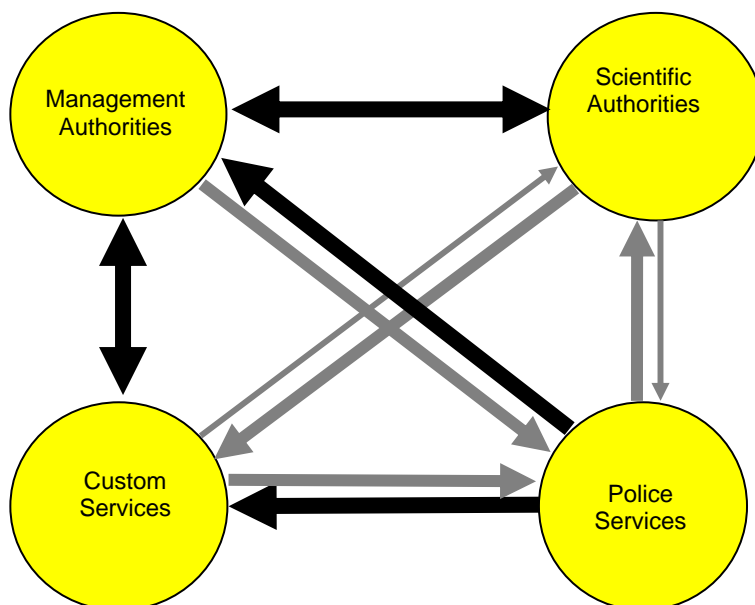


Figure 2.1 shows that frequent bilateral contacts were reported between management authorities and scientific authorities and between the management authorities and the customs services. Respondents from police services reported frequent contacts with management authorities and customs services; the latter two groups, however, saw their contacts with police services as less frequent. This was the case in particular for some EU10.

Public prosecutors are not included in the figure, as contacts with these offices were relatively rare in most Member States (relations with public prosecutors and magistrates are discussed in section 4). The questionnaire also asked about veterinary and phytosanitary services. In all but a few Member States, contacts with these agencies were also infrequent.

Formal cooperation agreements

Formal agreements, such as memoranda of understanding, are frequently used among services involved in CITES enforcement. In the Netherlands, there are memoranda of understanding or other formal arrangements for institutional co-operation between the MA and all authorities/services, including customs and police. Nonetheless, in many Member States, one or more services are not covered by such agreements.

These agreements can be important in terms of establishing clear roles and procedures for enforcement. For example, an agreement in Italy between the Ministry of Environment, the State Forest Corps (CFS) and the Customs Agency sets out the CFS and Customs roles in terms of CITES checks at border points and the procedures to be followed. Written agreements and procedures are also necessary in order to share confidential enforcement information among different services. They can be used to set up formal coordination mechanisms and bodies, such as inter-agency committees. Agreements may also be useful in allowing direct formal contacts between offices working on CITES, rather than by longer channels (in some Member States, while informal contacts may be easy, formal communication can be lengthy and laborious).

Formal mechanisms may be less important in those Member States, often smaller ones, where both working and formal contacts across ministries and agencies are easy and frequent.

This study did not focus on the content of formal agreements, though this may be a valuable area for future work.

Inter-agency committees and working groups

Committees and working groups that bring together CITES officials from different agencies are an important tool. Several Member States have such committees and groups, and these can be organised at different levels.

In the UK, a broad forum on wildlife crime brings together government agencies and NGOs (see Box 2.5). In Sweden, an inter-agency committee is chaired by TRAFFIC/WWF.

Box 2.5 PAW: a broad forum

The UK Partnership for Action against Wildlife Crime (PAW) – a forum that brings together the MA, SA, enforcement services, other government departments and NGOs – develops multi-year Enforcement Plans. The current Plan, for 2004-7, provides a set of broad-based recommendations, including for enforcement services. The Partnership for Action against Wildlife Crime (PAW) brings NGOs directly into policy making and enforcement of wildlife legislation, including CITES. The NGOs involved include, on the one hand, wildlife and nature conservation groups and, on the other, associations of traders and keepers of exotic animals.

In other Member States, however, committees bring together only government bodies: typically the MA and enforcement services. In the Netherlands, in fact, there are two separate groups, one for co-operation at working level and the other looking at broader issues for CITES enforcement.

In several Member States, such as Belgium and Italy, inter-agency committees have been recently created. Some of these initiatives were encouraged by the action plan from the 2005 UK Workshop on Wildlife Trade Enforcement Cooperation.

Enforcement coordination offices

Permanent offices that bring together enforcement agencies can both provide coordination and strengthen enforcement. OCLAESP in France is one recently established example. A longer standing example can be found outside the EU, in New Zealand: this country's Wildlife Enforcement Group was set up by three agencies (see Box 2.6).¹⁷ The experience in New Zealand and initial work in France shows that such offices can play an important role in enforcement.

Box 2.6 New Zealand Wildlife Enforcement Group

In New Zealand, the Wildlife Enforcement Group (WEG) is an amalgamation of three New Zealand Government Departments, under a Memorandum of Agreement: New Zealand Customs Service, the Ministry of Agriculture and Forestry and Department of Conservation, which is the MA, responsible for national wildlife and also for care of any seized specimens. Each has its own role, and collectively the WEG works for all three departments. A liaison committee of senior administrators from each provides oversight. The Group works closely with the Police.

Summary of good practices

In all Member States, several agencies work on CITES enforcement, and good cooperation and coordination are needed. This requires a series of elements:

- Regular communication and good working contacts among enforcement officials and with MA officials and SA members for expertise
- Memoranda of understanding to define roles and procedures, in particular for sensitive enforcement areas such as sharing confidential information
- An inter-agency committee that meets regularly, ideally for discussions at two levels: ongoing enforcement coordination and strategic choices
- Finally, formal coordination offices and agencies, though rare, are an important step for strengthening enforcement.

2.5. Enforcement at entry points

Airports are the main entry route for legal CITES shipments into the EU, in particular for live animals. Sea ports can be important for shipments of parts and derivatives, such as animal skins and timber. The post can be another route for shipments. Finally, the EU has external land borders with EECCA and South East European countries.¹⁸

Enforcement work at border points is divided here into two initial topics: checking declared CITES shipments and looking for illegal, undeclared shipments. A third topic is also covered in this section: checking postal packages. Finally, this section discusses the ongoing process of EU customs cooperation, including cooperation on enforcement, where CITES is only one of several areas of attention.

Checking declared CITES shipments

The documents for specimens of species regulated under the EU Wildlife Trade Regulations must be presented at their "point of introduction" into the EU, according to Regulation 338/1997.¹⁹

¹⁷ John Sellar, Senior Enforcement Officer of the CITES Secretariat, indicated the New Zealand Group as an example of best practice in this area.

¹⁸ The EU's external borders with EFTA countries such as Norway and Switzerland are not considered here.

¹⁹ EC Regulation 865/2006 provides one derogation for this procedure, in the case where a shipment continues to another designated CITES entry point by the same mode of transport (i.e. sea, road or rail; Article 53.1). Despite this

Checks first determine whether the documents of a declared shipment are in order. Physical checks may be needed to ensure that the shipment matches the accompanying permits and certificates – that, for example, there are no specimens other than those declared.

Document checks are strongest at airports, according to the responses to the written questionnaire: the average score given was 3.2. (This is on a scale from 1 for the least thorough to 4, the most thorough; a score of 4 means that all documents are checked closely for fraud, using national and international databases.) Checks at sea ports and of postal packages followed (2.8 and 2.7, respectively), followed by those at land crossing (2.5).

In follow-up interviews, officials across all Member States said that the documents for all CITES shipments are checked, though the thoroughness varies. The computerisation of CITES documents can help the thoroughness of checks. In Slovenia, permits and other documents are computerised on a database that also includes information on offences, on captive breeding and artificial propagation facilities, as well as a register of marked specimens. This system is a valuable tool for Customs officers in checking declared CITES shipments.

For a few Member States, physical checks are regularly performed: in Italy, the procedures for border checks of CITES shipments specify that physical checks be carried out to ensure that shipments correspond to their accompanying documents and permits. In contrast, at many border points, physical checks are carried out only in specific circumstances.

In almost all Member States, document and physical checks are carried out by enforcement officers. In a few, however, the MA assists: in Denmark, for example, MA officials are sometimes called to the airport to check an arriving shipment, in particular one containing live animals. In Spain, at each border point designated for CITES shipments, a SOIVRE technical office is on hand to assist with these checks.

Searching for illegal shipments

Every year, millions of passengers and cargo containers arrive in the EU. About 10 million passengers arrive from outside the EU at Amsterdam's Schiphol Airport, the EU's fourth largest (the 10 million includes transit passengers, to destinations both in and outside the EU). Every year, the sea port at nearby Rotterdam receives over two million loaded containers.

As noted in section 2.2, most seizures concern tourists who return by air and who have purchased souvenirs made of CITES specimens. Most appear unaware of the restrictions. The common practice is for Customs officers to seize the souvenir without making further sanctions (in some Member States, however, a minimum fine is levied).

The more difficult task – and the focus here – is tackling commercial smuggling.

Risk assessments

Customs services face a challenge in reconciling their enforcement tasks – for CITES, for other environmental issues such as waste, and across areas such as drugs, arms and counterfeiting – and more generally their role in maintaining a high level of border security with the objective of facilitating trade. This problem is addressed through risk assessments that target controls on potentially dangerous or protected goods and passengers arriving in the EU.

derogation, there is a difference between CITES shipments and others. In general, all cargo and passengers are also subject to controls on entry. Cargo shipments, however, often go through customs clearance at other points within the EU: for example, a container arriving in Rotterdam with goods for a German company may complete customs procedures in Germany whereas WTR control must take place in Rotterdam. While this issue was not studied in this project, several officials mentioned that the difference between requirements for CITES and those for other types of shipments was a concern for enforcement; the EU's review of the Wildlife Trade Regulations may wish to consider this further.

Customs services in all the Member States have established national risk analysis centres. Many Member States have introduced sophisticated, computer-based risk assessment systems to target controls for passengers and cargo arriving at border points. A recent amendment to the EU customs code provides for a common framework for risk management (see “EU customs cooperation”, below).

A number of Member States, including the Netherlands and Slovenia have integrated CITES profiles into overall Customs risk assessment.

In addition, at many border points, individual customs officers also play a role in risk assessment. In Belgium, for example, the experienced GAD team at Brussels Airport provides an additional identification of cargo to be checked for CITES (as well as other concerns).

Finally, at some border points a high share of arriving cargo and persons are still checked. This is the case in particular for some of the EU’s external land borders, such as Korczowa in Poland, where Customs officials make an initial physical check of essentially all arriving vehicles.

Detection methods

At the Port of Rotterdam, containers selected for risk assessment checks first go through an X-ray scan: when a scan detects possible smuggled items, a physical check is then carried out. The Slovenian Customs Service uses a mobile scanner for trucks arriving by sea and by road.

Customs officers at Frankfurt Airport have employed sniffer dogs for drug detection to search for illegal shipments of live animals, following a suggestion by WWF/Germany. Following the success of these dogs, officials in several other Member States have indicated that they were considering training and introducing dogs for detection of live CITES specimens.

In-country controls

In several Member States, Customs services may also carry out checks within the country. In Slovenia, the Customs service has mobile units that regularly stop and check vehicles within the country and in particular transit traffic on main highways.

Many customs services also make “*a posteriori*” checks of goods that have entered the country. In France, the Customs agency has two forms of investigation that review cargo declarations:

1. *A posteriori* controls by a special unit of research and study that analyses customs declarations after entry for indications of fraud.
2. Later controls (*contrôles différés*), by the National Department for Intelligence and Customs Investigations (DNRED), are active investigations where there are suspicions of fraud, including for illegal wildlife trade.

Postal packages

Some declared CITES shipments arrive by post (almost always parts and derivatives, though also live reptiles and plants), and illegal postal shipments of parts and materials have also been detected. Traditional Asian medicines containing CITES specimens have been found in several Member States, as well as other types of specimens: in Poland, bear skins have been found in postal packages.

In most Member States, Customs services check postal packages. In Belgium, the GAD unit at Brussels Zaventem Airport checks arriving postal packages. At Frankfurt Airport, German Customs detected as many cases of illegal shipments arriving by post as those brought in by passengers and air cargo combined.

EU customs cooperation

The European Union has a common Customs Code, and work is underway to strengthen cooperation in Customs cooperation across all Member States. DG Customs has noted that:

The Customs Union is a foundation of the European Union and an essential element in the functioning of the single market. The single market can only function properly when there is a common application of common rules at its external borders. This implies that the twenty five Customs administrations of the EU must act as though they were one.²⁰

Improving enforcement is a key area for common action across the EU. In a 2003 Communication on the role of customs in the management of external borders, the European Commission noted, *inter alia*, that Customs services will increasingly have to support border security, Enforcement related to environmental issues, including CITES, is among the issues of common EU concern it identifies. The Communication also notes that both customs controls as well as investigation will need to be improved, and Customs services will need to improve their cooperation with other enforcement services, such as Police.²¹

Computerisation is a vital tool for common enforcement actions. EU policy calls for a common, computerised approach to Customs: for example, all import declaration will have to be presented electronically. At present, however, the European Commission notes that "...the lack of interoperability between these systems is a barrier to an effective paperless customs environment".²²

An element of this approach is the development of a "common rationalised, computerised and complete" risk strategy: this means that Customs across the EU would use common profiles to identify passengers and cargo to be checked.²³ The common profiles could be supplemented by national or local ones for additional risks. Council Regulation 648/2005, which amends the EU Customs Code, provides the basis for a common risk management framework. The European Commission and the Member States are working on the development of common priority areas for risk analysis. CITES is included in the risk domains under this framework.

Summary of good practices

Thorough document checks for all declared CITES shipments are a good practice.

These checks can be aided by computerisation of CITES permits, in particular computer systems that can be used directly at border points. To the extent possible, document checks should be supplemented by regular physical checks.

Computerised risk assessment is a valuable tool for targeting border controls, especially in the search for illegal shipments. Expert judgement by experienced officers is also vital, and computerised risk assessment should supplement rather than replace this.

Customs services across the EU are adopting computerised risk assessment procedures – and the EU goal is to integrate current, national systems. CITES enforcement should be part of both national as well as EU risk profiles.

²⁰ See http://ec.europa.eu/taxation_customs/customs/policy_issues/customs_strategy/index_en.htm

²¹ European Commission, COM(2003) 452 final 2003/0167 (COD), Communication from the Commission to the Council, The European Parliament and the European Economic and Social Committee: a simple and paperless environment for Customs and Trade; Communication from the Commission to the Council, European Parliament and the European Economic and Social Committee on the role of customs in the integrated management of external borders; Proposal for a Regulation Of The European Parliament and of the Council amending Council Regulation (EEC) No 2913/92 establishing the Community Customs Code, 24 July 2003

²² See http://ec.europa.eu/taxation_customs/customs/policy_issues/customs_strategy/index_en.htm

²³ European Commission, Communication on the role of customs in the integrated management of external borders; Proposal for a Regulation Of The European Parliament and of the Council amending Council Regulation (EEC) No 2913/92 establishing the Community Customs Code, 24 July 2003: in COM(2003) 452 final 2003/0167 (COD)

2.6. In-country enforcement

This section looks at four key elements of in-country enforcement:

- regular checks of pet shops, breeders and other facilities;
- checks of Internet sales, a growing area of attention;
- the legal powers of enforcement services, including search and seizure;
- information and active investigations.

Regular controls

One important task is the control of importers and breeders of CITES specimens, pet stores selling CITES specimens and other important facilities, such as taxidermists. These checks assess whether any specimens of illegal origin, including illegal imports, are traded.

Many Member States make regular checks of pet stores. Greece has a dual system: the veterinary service inspects all pet shops regularly, and the forest service checks stores that hold specimens requiring CITES permits or certificates. In the UK, local authorities as well as the RSPCA's inspectors check pet shops.²⁴

In Greece, the forest service also checks imports, breeders, and taxidermists. In the UK, these checks are made by DEFRA's wildlife inspectors. However, in general, inspections of importers and breeders and other actors appear less common across the EU.

In several Member States, fairs and exhibitions of exotic animals and plants are held regularly. Enforcement services in several Member States regularly attend and check these events.

Italy's State Forest Corps provides an example of regular checks, supplemented also by a registration system for animals bred in captivity and for artificially propagated plants. For live animal specimens, Italy is one of the few Member States to have instituted DNA testing to help track such specimens.

In a few Member States, however, these sorts of checks are not regular, often due to a lack of resources.

Monitoring Internet sales

Illegal sales of specimens are a growing concern, as reported in section 2.2. Illegal Internet sales can use different methods. Illegal specimens have been offered for sale on public sites, such as EBay. It is more difficult, however, to check sales on protected web sites, such as "chat-rooms". Officials in several Member States, ranging from Estonia to Hungary and the UK monitor the Internet for possible illegal sales. In some Member States, such as Germany, a national unit focuses on all Internet crimes, including CITES crime.

In Germany, the UK and a few other Member States, officials have reached agreements with major web auction sites to provide on-line information or links on WTR requirements. In some cases, web auction companies have agreed to provide information on possible offenders.

While the Internet is a new means for illegal contacts and sales, CITES specimens are physical goods, and must be shipped or otherwise consigned to their purchasers. Specimens arriving from outside the EU will thus be subject to the same controls as other shipments. Some Member States have found such illegal specimens, for example in postal packages.

Legal powers for enforcement services

Enforcement services need adequate powers for their work: these include powers to carry out searches (within requirements to guarantee individual privacy; in most Member States, search warrants must be granted by a judge) and seize suspected illegal specimens. In some cases, enforcement services have the power to directly apply administrative penalties, such as fines (this is the case for Customs officials in

²⁴ The Royal Society for the Prevention of Cruelty to Animals, an NGO recognised in UK law, has over 300 inspectors.

several Member States, though typically for smaller fines). In France, officers of OCLAESP, the coordinating agency for environmental and public health crimes, have the status of judiciary police and can lead investigations. In Germany, a federal state, authorities of the *Bundesländer* (regions) have supplementary powers to investigate and control trade with the European Community, and they can impose administrative fines for a series of infringements.

In some Member States, the lead enforcement agencies do not have such powers. In some cases, national legislation does not provide strong powers for CITES enforcement. Often, this is related to weak sanction: in some Member States, the criminal code does not provide search, seizure and other powers for crimes with minor sanctions. Even where this is not a legal obstacle, judges in several Member States are said to be reluctant to provide powers, such as those for searches or wiretaps, for crimes that have minor sanctions.

Some Member States have recently addressed such problems. In Belgium, new legislation has strengthened sanctions for CITES crimes and also provided greater powers for investigation, search and seizure, including the power to arrest suspects.

Information and active investigations

In most Member States, investigations into possible CITES violations start once enforcement services receive information on illegal specimens, or find suspected illegal activity through regular checks. Across the EU, the public and NGOs can play an important role in providing information for actions. In some cases, competitors have also provided information to enforcement services. Information can also come from other Member States.

In a few Member States, enforcement services look actively for possible illegal activity, though this work needs to be more common across the EU.

Summary of good practices

Enforcement services should make regular inspections of pet shops, importers and breeders that deal with CITES specimens, as well as checks in reaction to concerns and suspicions. These are conducted in many Member States, but not all.

Good enforcement also requires monitoring Internet sales of CITES specimens. A few Member States have taken the lead in this area. Where police or other enforcement services have Internet crime programmes, as in Germany, CITES should be part of their work. Moreover, this task that needs to be coordinated across the EU.

Enforcement services need appropriate legal powers.

They also need the resources and methods to carry out active investigations. A coordinating office that brings together different services, as in France as well as for New Zealand's WEG (described in Box 2.6, above), is an effective structure for active investigations as it brings together complementary enforcement expertise and powers.

2.7. Identifying specimens

One key task – both at border points and also for in-country operations – is the identification of specimens. Enforcement officials need to know, for example, whether a shipment of timber is from a species listed in the Wildlife Trade Regulations, or the specific species of a shipment of smuggled live birds.

Software tools are available for this task. In a number of Member States, Customs officers use *Green Parrot*, a software tool developed by UK Customs that can help identify species based on simple queries, such as on their colouring.

Specialised CITES units in Customs and Police have officers who can help identify specimens in one or more difficult areas. Management and Scientific Authorities can also provide this assistance. In Slovenia, frontline officers send a digital photograph to the Management Authority of any suspected specimen: MA has 24 hours in which to decide whether or not the specimen should be seized. In some Member States, the Scientific Authority is called for assistance. In many cases, however, enforcement officials call on other experts. In Germany, recognised expert bodies and individuals are published in the Federal Gazette.

Several types of specimens appear to pose notable difficulties for identification. One is wood, which can be imported both as raw timber and in the form of finished products. Customs specialists at the Port of Rotterdam have developed special techniques for identifying timber. There have been several initiatives to develop identification methods; Germany, for example, is developing a guide for timber identification.

In several Member States, there are difficulties in determining whether traditional Asian medicines contain CITES-restricted species, as the list of ingredients on the packages are often only in Chinese characters. In both Netherlands and Germany, enforcement services have hired interpreters to prepare official lists of Chinese characters of such ingredients.

Summary of good practices

Enforcement officials at the frontline needs tools and also training for the identification of CITES specimens. Some areas, such as the identification of wood specimens, have posed specific problems; here, methods used effectively in some Member States should be disseminated broadly.

Enforcement officials also need to have access to expertise, whether this lies in the MA, in the SA or with external scientific experts. With clear procedures frontline officials will know whom to contact and how.

2.8. Managing seized and confiscated specimens

Member States need to provide temporary care for live specimens that are seized by enforcement services, and storage of dead specimens and parts. A trial or other legal procedure may result in the confiscation of the specimens, in which case a permanent solution will be needed. Where legal procedures are lengthy, “temporary care” may last several years.

Most Member States report difficulties in finding adequate care for both seized and confiscated live specimens.

Seized specimens

Nearly all Member States have designated national rescue centres to house live specimens: these are usually zoos and botanical gardens, though other centres, including some operated by NGOs, are included.

The Netherlands and the UK are among the few Member States with an extensive capacity to house seized specimens. Box 2.7, below describes practices at the UK’s Heathrow Airport: notably, officials there keep an extensive list on available centres. An inventory of designated and other possible facilities is useful: in France, the MA is preparing an inventory of all centres that can accept live animals.

Box 2.7 Finding temporary care in the UK

In the United Kingdom, the CITES team at Heathrow Airport is responsible for finding temporary and permanent care for all specimens seized at border points. In 2004 and 2005, the team found housing for over 7 000 live animals (including corals) and over 4 000 live plants. At Heathrow itself, there are facilities for the temporary care of reptiles, tortoises and small numbers of birds. Mammals are sent to outside rescue centres. Plant specimens are sent to the Royal Botanical Gardens (Kew), which is part of the Scientific Authority. (“Re-homing of seized specimens in the United Kingdom”, *CITES World – Official Newsletter of the Parties*, No. 16, December 2005, pp. 7-9)

In many other Member States, despite the existence of designated facilities, finding an appropriate location can be difficult. Indeed, in more than one Member State, seized live specimens in cases have been left in the care of the suspect. Difficulties in managing and caring for seized specimens can hinder enforcement.

Large and numerous seizures are the most difficult to care for. In some cases, other Member States have helped: in 2004, officials at Brussels Zaventem airport discovered and seized a large number of frogs, which were placed in several centres, not only in Belgium but also in the Netherlands and other countries. In other cases as well, Member States have assisted each other in finding care for seized specimens.

On the other hand, a few Member States have, as yet, had few seizures of live specimens. Here too, a large seizure may create difficulties and assistance from other Member States could be needed.

Confiscated specimens

Both CITES and the EU Wildlife Trade Regulations refer to the return of illegal specimens to their State of origin. Under CITES, specific guidelines have been developed on the disposal of confiscated live specimens, including criteria and safeguards before specimens are to be returned and released in the wild (Conference Resolution 10.7, 1997). The resolution notes that management options for live animals fall into three main categories – maintenance in captivity, return to the wild and euthanasia – and that “the last option may often prove the most appropriate and most humane”.²⁵ The last option may, however, prove unpopular.

Live specimens have been returned to the countries of origin in very few cases: many live animal species need to be returned to the location from which they were taken, otherwise their chances of survival are quite low. Determining this exact location can be quite difficult. Some officials noted that return also depends on good working relations with officials in the country of origin or with other structures that can assure that the specimens will be properly released.

As a result, returning specimens has been rare. In one recent case, France returned almost 200 tortoises from Madagascar that were seized on La Réunion. In other examples, Hungary has sent back several illegal shipments of tortoises to nearby countries: in 2006, 181 live specimens were returned to Serbia; in 2004, 24 to Romania; and in 2002, 320 live tortoises were returned to Greece.

Most confiscated specimens, however, remain in the Member States, and CITES officials must find a solution for their permanent care.

The Wildlife Trade Regulations allow MAs to sell confiscated Annex B, C and D specimens. At present, this appears to be rarely done in any Member State, especially for live specimens. In the Netherlands, for example, national guidelines, prepared by the public prosecutors’ office, discourage sales. Procedures for the disposal of confiscated animals and plants have been developed, including contracts with certain zoos and rescue centres. Nonetheless, finding solutions can be difficult and costly, and the Netherlands MA faces an ongoing expense to house confiscated specimens at designated zoos and rescue centres.

In the UK, the Heathrow team also co-ordinates the identification of permanent homes for confiscated species. For specimens listed on Annex A, the team contacts the Scientific Authority for assistance in identifying the most suitable location, including zoos, wildlife parks and, on occasion, locations outside the EU. For other specimens, the team has an extensive list of UK institutions and organisations for different species. In exceptional cases, such as a large number of live specimens, homes may be found with members of interested wildlife NGOs.

Member States have on occasion provided care for confiscated specimens, as for seized ones, but this faces the same set of obstacles, including finding space available and financing costs.

²⁵ See the CITES Secretariat web site: <http://www.cites.org/eng/res/10/10-07.shtml>

For confiscated dead specimens and parts, there have been some cases of sales, though not recent ones. In the 1980s, Belgium sold two confiscated shipments (one of ivory, the other of skins), and used the funds from both for CITES projects in the countries of origin.

More common now, however, is the use of dead specimens and parts to set up displays and exhibits on CITES. In Italy, confiscated specimens have been used for an exhibit at the Rome Zoo. In several cases, specimens are sent to a museum: in France, specimens confiscated at border points are sent to the Customs Museum in Bordeaux.

Summary of good practices

Adequate facilities are needed to provide care for both seized and confiscated specimens. An inventory of all designated as well as other facilities is a useful tool.

A further problem relates to the management of large seizures. Here, Member States may need assistance. Indeed, greater cooperation EU level may be warranted (possibly an EU-wide inventory of facilities) may be valuable.

Finally, guidelines and procedures for disposal of live specimens are a valuable tool for enforcement services.

2.9. Public information

Public information on CITES and the EU Wildlife Trade Regulations can have at least two functions:

- Provide information where this is lacking: for example, many EU tourists bringing back souvenirs apparently are not aware of CITES requirements
- Develop a broader awareness of the importance and role of CITES, which may encourage public and NGO contributions to enforcement and influence demand for exotic animals and plants and products made of these.²⁶

Several Member States have used specific methods to target information for tourists. Germany, for example, has prepared a web site on CITES specifically for tourists travelling abroad (see Box 2.19). Several Member States have conducted training sessions for travel agents; others have provided specific information to this sector.

Box 2.8. A web site for travellers

German Customs, in cooperation with the Federal Nature Conservation Agency, has developed a web site that travellers can use to learn about the endangered species in the regions and countries they will visit (www.artenschutz-online.de). The web site has a map-based tool for travellers to identify the region and country they will visit, and it provides colour photos of endangered species.

In Slovenia, a public information campaign has included luggage labels distributed via travel agencies and airports as well as brochures, sent to schools and also distributed at customs offices. In both France and the Netherlands, national services have prepared short videos to be shown on flights to destinations where tourists might buy souvenirs made of CITES species.

Schools are an important focus for public information efforts. In several Member States, MA and enforcement officials regularly make presentations to school children. In Italy, an exhibit on CITES and other wildlife crimes was established at the Rome Zoo.

²⁶ Awareness efforts can focus on specific types of specimens. For example, a US campaign raises public awareness of sturgeon decline and encourages consumers to reduce their caviar consumption (see www.caviareemptor.org).

Many airports have set up exhibits on CITES, and others are planned. The value of these exhibits was questioned, however. Here, a specific comparison of effective approaches for placement and display may be valuable.

In addition, agencies in nearly all Member States have web sites providing general information on CITES goals and on requirements under the EU Wildlife Trade Regulations.

At the same time, officials in nearly all Member States indicated that further work was needed to educate the public. The examples of good practice described here can provide models for new initiatives. Moreover, it may be valuable to share items that have been produced, such as web sites, in-flight videos, brochures and other materials: in some cases, these could be usefully translated and adapted for other Member States more easily than creating new materials.

Finally, a few Member States appear to a comprehensive approach to public information; for many, however, there does not appear to be an overall strategy and public information actions are in some cases are carried out on an *ad hoc* basis by different agencies.

Summary of good practice

There are a series of good practices for public information across the EU. They cover different areas, such as in-flight informational videos, work with schools and the development of web site tools.

A few Member States appear to have a comprehensive approach to public information; for many, however, there does not appear to be an overall strategy for public information efforts, which in some cases are carried out on an *ad hoc* basis by different agencies.

Many Member States indicated, however, that this is an important area for further work. Tourists returning with souvenirs that are illegal under CITES demonstrate that further public information is needed.

3. Sanctions and their application

This section provides an overview of the sanctions in Member States for violations of CITES and the EU Wildlife Trade Regulations. It looks first at sanctions in legislation, and then at their application in practice. The section closes with a discussion of relations between enforcement services and prosecutors and judges.²⁷

CITES states that “Parties shall take appropriate measures to enforce [its] provisions”,²⁸ and it calls in particular for measures to:

- “penalize trade in, or possession of” specimens traded in violation of the Convention, and
- “provide for the confiscation or return to the State of export of such specimens”.²⁹

In Regulation 338/1997, Article 16.1 calls on Member States to impose sanctions for a series of infringements. These measures “shall be appropriate to the nature and gravity of the infringement”, shall include provisions for seizure and “where appropriate, confiscation of specimens (Article 16.2). Indeed, the Regulation specifies that specimens listed on Annex B or C “must be seized” if they arrive at an entry point without “the appropriate valid permit or certificate” (Article 16.4).

3.1. The range of sanctions in Member State legislation

All Member States have provisions for the seizure and confiscation of species, and all specify some type of fine. Nearly all specify some type of prison sentence. Most Member States specify penalties both under administrative law and criminal law. This distinction depends in part on national systems. For example, Member States with common law legal systems (Ireland and the United Kingdom) essentially do not have a separate administrative law and therefore all sanctions for environmental violations are criminal sanctions.

Fines

The severity of the fines and prison sentences under national law varies considerably across Member States: maximum fines specified under national law for CITES offences vary from €250 in Poland to €75 000 in Italy (for individuals). In some Member States, such as the Netherlands, there are separate scales for individuals – the maximum is €45 000 – and for commercial enterprises, where the maximum is €450 000.

In a few Member States, legislation specifies the methods to calculate fines (a summary of the different methods is provided in box 3.1 on the next page). As a result of the different approaches, the fines for the same violation can be quite different across the EU. Some Member States do not specify any method or guidelines for calculating fines, resulting in further uncertainty.

Prison sentences

Maximum prison sentences for violations of the Wildlife Trade Regulations also vary considerably. In Portugal there are no sanctions under criminal law and thus no prison sentences for violations and in a number of Member States, maximum prison sentences are of one year or less. The highest sentences listed

²⁷ The data for this section was gathered from several sources, including national legislation and interviews with Member State officials. A report under preparation by TRAFFIC/Europe for the European Commission provides an overview of current sanctions:

– *Implementation of Article 16, Council Regulation (EC) No. 338/97, in the 25 Member States of the European Union*, (draft) 2006

Information can also be found in two previous reports available on the European Commission’s web site:

– Milieu Ltd, *Study on criminal penalties in a few candidate countries’ environmental law*, for the European Commission, 2003

– Milieu Ltd and Huglo-Lepage, *Study on measures other than criminal ones in cases where environmental Community law has not been respected in the EU Member States*, for the European Commission, 2004

²⁸ Article VIII.1

²⁹ Article VIII.1a and VIII.1b

are in the Czech Republic, Lithuania and Slovakia, up to 8 years. (This includes applicable sentences under wildlife legislation as well as Customs codes, where applicable.)

Box 3.1: Different methods for calculating fines

A recent study by TRAFFIC/Europe notes four methods for calculating fines in the EU Member States:

- i Market value of the specimens
- ii Conservation status of the species
- iii Compensation for the environmental damage caused
- iv Financial situation of the offender

The first approach provides an incentive against commercial crime; however, TRAFFIC noted that in some Member States, judges have not received clear information on market values. Member States that employ the second or third approaches have developed formulas of varying complexity for their application. Italy combines the first and second, as the conservation status is used to develop a multiplier of the market. The fourth approach typically uses “day fines” that are specified in terms of a number of days, the value of which is determined by the means of the offender.

(TRAFFIC/Europe, *Implementation of Article 16, Council Regulation (EC) No. 338/97, in the 25 Member States of the European Union*, 2006)

Several Member States have strengthened their sanctions in recent years. In Belgium, for example, legislation passed in 2004 increased maximum prison sentences from six months under the previous laws to five years, and the maximum fine to €50 000. In the UK, amendments passed in 2005 raised maximum prison sentences from two years to five years for some CITES crimes. Proposals to strengthen sanctions were under consideration at the time of this writing in some of the Member States with low sanctions, such as France and Portugal.

Other sanctions can include requiring an offender to pay for expenses, such as those for the return of the specimen to the country of origin³⁰ or for its temporary care. In some Member States, the licenses of commercial enterprises, such as pet shops or taxidermists, found in violation can be suspended or revoked.³¹

3.2. Sanctions applied in practice

Minor violations

Section 3 noted that most seizures result from tourists who bring back souvenirs made of CITES specimens, such as coral or skins or protected animals. In most Member States, no penalties are applied after seizure. In some, however, small fines are commonly given: in the Netherlands, for example, Customs officers seize specimens and are entitled by prosecutors to set a fine as a “settlement” of the case. In one or two Member States, such as Austria, there are minimum fines for all violations. While minimum penalties will be small, they may increase awareness of CITES, in particular where the level of tourist “souvenirs” is high.

Significant violations

In practice, the sanctions applied for violations of CITES and the Wildlife Trade Regulations rarely reach the maximums set by law. A 2002 TRAFFIC study reported that they rarely exceed one-quarter of the maximum fine or prison sentence.³²

³⁰ This sanction is identified in Article 16.3 of the Regulation 338/1997.

³¹ In one Member State, however, it is reported that some individuals simply re-open a business using a relative’s name on the new license.

³² Anton, M. “A preliminary overview of court cases and challenges in the prosecution of crime related to wildlife trade in the EU”, in Anton et al (Eds.), *Proceedings of the International Expert Workshop on the Enforcement of Wildlife Trade Controls in the EU*, 5.-6. November 2001, Frankfurt (Germany). TRAFFIC Europe, Brussels, and IUCN, Gland (Switzerland) and Cambridge (UK). pp. 42-47. Cited in TRAFFIC/Europe, 2006 (*op. cit.*)

In the UK, a Member State with relatively strong prison sentences for CITES violations, officials interviewed said that most court convictions result only in fines, not in prison sentences.

In several Member States, low criminal penalties effectively never result in a sentence being carried out. In France, for example, prison sentences of six months (the current maximum for CITES violations) are effectively always suspended or replaced by alternatives, such as hours of work for the public administration. In Italy, a payment can be made in lieu of the prison sentences for minor crimes; the sentences for CITES violations fall into this category. Moreover, this payment also removes the sentence from the individual's record.

Officials in Member States with low sanctions noted a further problem: the low sanctions are a signal to prosecutors and judges that illegal wildlife trade is a low priority. One result is that these crimes take a long time to reach trial, often aggravating the already long times to trial in some Member States' court systems.

Using other legislation

The use of other legislation, such as customs codes, is also common.

In France, the customs code allows Customs officers to directly apply sanctions; it also reverses the normal burden of proof, in that it requires importers to demonstrate the legality of their goods. The customs code is used for minor violations, which can thus be processed quickly.

In many Member States, legislation for other crimes, such as customs and fiscal offences, may provide stronger penalties and enforcement powers, including against organised networks, than wildlife laws. In Portugal, for example, tax and other legislation has been used to bring court cases for illegal wildlife trade. Other legislation may also be useful: in some Member States, animal welfare legislation has stronger penalties than CITES legislation.

Examples of strong sentencing

Despite the many problems, in a few prominent cases across several Member States, strong sanctions have been applied (see box 3.2). These demonstrate that strong sanctions can be applied effectively.

Box 3.2: Cases where strong sentences were applied

In January 2004 a Czech citizen returning from a "holiday trip" in Indonesia was found to be in possession of 115 reptiles, including two species listed in CITES Appendix I and hence banned for commercial trade. The smuggler was sentenced to 3 years prison. This is one of the first applications of a 2002 amendment to the Criminal Code, under which serious CITES violations can be treated as criminal offences.

In January 2006, a London resident was sentenced to imprisonment on 13 counts after pleading guilty to smuggling a total of 126 Asian Slipper Orchids (*Paphiopedilum spp.*, listed on CITES Appendix I) into the UK in his luggage at Heathrow airport. The seizure was made by Customs officers at Heathrow Airport in June 2004. The offender's aim was considered by the judge to be commercial.

3.3. Prosecutors and judges: awareness and specialisation

In all Member States, enforcement services have formal procedures and rules for cooperation with public prosecutors on the prosecution of suspected violations.

At the same time, officials in several Member States – including some with strong sanctions for CITES/WTR violations – said that some prosecutors and judges have an insufficient awareness of CITES. Many prosecutors and judges reportedly do not give priority to these and indeed other environmental crimes.

A number of initiatives have sought to address the problem. In France, for example, enforcement officials have provided brief training on environmental and CITES crime to new magistrates. TRAFFIC has played an important role in raising the awareness of prosecutors and judges across Europe, including through a 2004 workshop in Sweden, organised with the International Association of Prosecutors.

Several Member States have prosecutors and judges specialised in environmental crime. One example is the Netherlands; here, prosecutors for the environment are directly involved in enforcement coordination (see box 3.3). In Spain, there are specialised environmental prosecutors in Madrid and Barcelona, and the position of environmental prosecutor for the Supreme Court has recently been created with a staff of more than 200 investigators.

Box 3.3: The role of Dutch prosecutors in enforcement coordination

In the Netherlands, the Public Prosecution Service (PPS) cooperates closely with enforcement services. The PPS, which has about 2 000 staff, is authorised by law to initiate a criminal investigation. If an enforcement agency finds evidence of an environmental crime within the country, the agency reports to PPS and the latter takes the lead and instructs enforcement services to investigate the case. Thus, the process of investigation is supervised by the public prosecutors, who also decide whether to bring a case to court.

A special department of environmental crime within the Dutch PPS has been set up recently, with about 100 staff working on all types of environmental crime, including illegal wildlife trade. The PPS chairs a working group – with the MA and enforcement services – that is developing an intervention strategy to improve in-country enforcement in particular.

Several Member States, however, have difficulties specifically related to the judicial system, such as long times to trial as well as other problems relating to a lack of resources or efficient working practices.

Summary of good practices

Strong sanctions – both fines and prison sentences – are needed for violations of the EU Wildlife Trade Regulations. These do not exist in all Member States. Stronger sanctions are needed for more effective national enforcement; more uniform standards are important for enforcement across the EU.

Sentencing guidelines exist in several Member States, in particular for fines. The guidelines help reduce uncertainty in sentencing; however, they vary significantly across the EU.

Training and other contacts can increase the awareness of CITES crimes on the part of prosecutors and judges. Structural changes, such as the designation of prosecutors and judges for environmental crimes, can help to focus official attention and bring new resources to enforcement efforts.

4. Cooperation among Member States

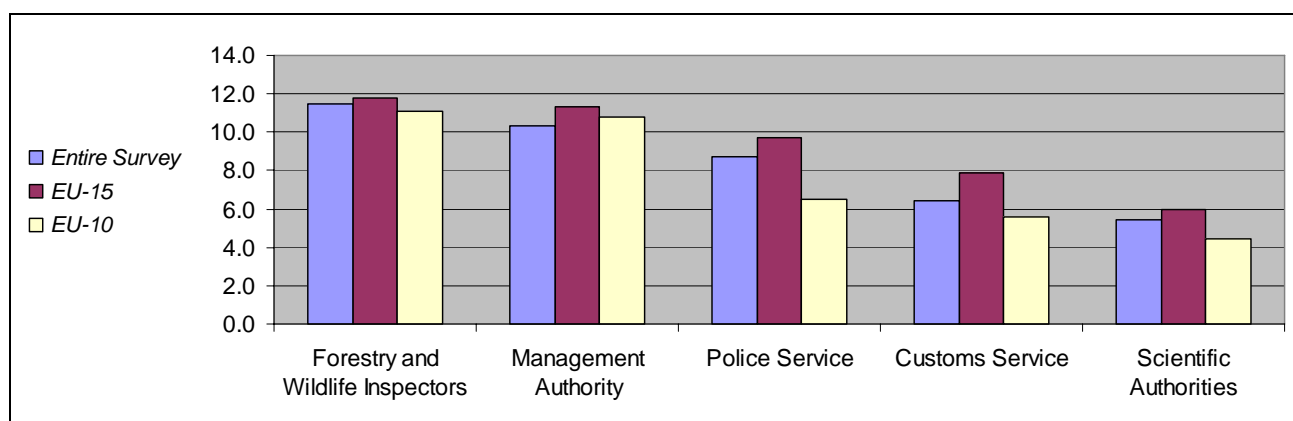
This section reviews three areas of communication and cooperation among Member States. First, it looks at the current, overall pattern of contacts among Member State agencies; second, it reviews the use of specialised mechanisms for communication and for common databases; finally, it discusses cooperation among Member States on enforcement actions and for training.

The written questionnaire asked about the frequency of communication with counterparts in other Member States.

The results are shown in figure 4.1, in terms of the authority or service of the respondents. The figure also distinguishes between EU15 and EU10 responses.³³ Overall, contacts with other Member States are more frequent for respondents in EU15 countries than those in EU10 countries.

The results also show that forestry and wildlife inspectorates and the Management Authorities have the most frequent communication with CITES authorities and services in other countries. On the other hand, customs and police services, in particular those in the EU10, rank lower.

Figure 4.1: Cooperation and coordination among Member States by respondent's service



The scores sum responses for different types of communication methods.
A score of 15=weekly across all communication methods.

EU Member States most frequently contacted

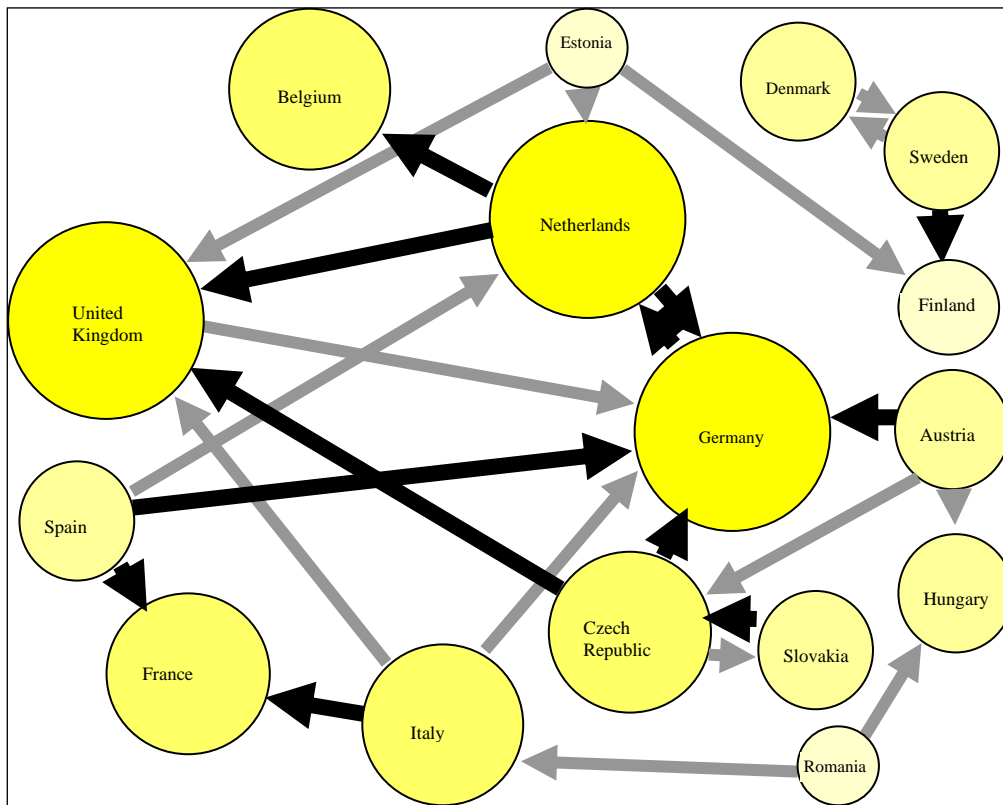
Respondents were asked to identify the four Member States with which their authority or service has the most frequent contacts. The results were used to develop a schematic overview of the contact relationships among Member States (Figure 4.2 on the next page), focusing on those most frequently cited.

In Figure 4.2, the countries identified most frequently cited are represented by the largest circles. Strong contact from one Member State to another – in other words, a high share of responses in the first Member State cite contacts with the second – is represented by a heavy arrow, and less frequent contact by a lighter arrow. Thus, while Belgium was cited 23 times in responses, only one Member State (the Netherlands) had a large majority of respondents who cited Belgium.

The results show, first, that many Member States have strong contacts with their immediate neighbours. Beyond proximity, a second pattern of contacts points to two Member States, Germany and then the United Kingdom. These countries – and to a lesser extent others, including Belgium, Italy and the Netherlands – appear to be "focal points" in terms of communication on CITES implementation and enforcement.

³³ A small number of responses were received from the Candidate Countries, not enough to be included in the analysis.

Figure 4.2: Contacts among Member States - schematic diagram



An overall conclusion of this study is that cooperation and coordination among Member States needs to be further strengthened. Recent initiatives, such as the 2005 workshop on Wildlife Trade Enforcement Cooperation, have also emphasised this need. Several Member States point the way for improved enforcement. Several mechanisms, notably the EU-TWIX network and database introduced in 2005, have been useful in strengthening communication.

Conclusions and Recommendations

The European Union is the world's largest market for legal wildlife trade, and illegal trade into and within the EU may reach billions of Euros each year. In many Member States, illegal trade is believed to have increased in recent years. Moreover, this illegal trade can move easily among Member States as the EU is a single market, for legal as well as illegal wildlife trade. It appears that some illegal traders seek "easy" entry points into the EU, and some work in organised networks.

These conclusions and recommendations are divided into two sections. The first focuses on national enforcement efforts: it provides an outline of good practice, developed based on current experience in the Member States. The second section identifies common actions that can be taken at EU level.

Recommendations for national action

The differences among Member States in terms of strength of their CITES enforcement actions are pronounced and need to be addressed. At the same time, even Member States with relatively strong enforcement systems recognise the need for further work.

The recommendations in this section are presented as an outline of good practices. This outline draws on measures currently in place in Member States. Nonetheless, all Member States can strengthen their enforcement and are encouraged to use this outline to review national practices and identify areas for action.

Policies and Administrative structures

1. Assessments and plans

- Regular national assessment of illegal wildlife trade and related crimes
- National plans, based on these assessments, identifying objectives for enforcement
 - Regular plans at operational level
 - Less frequent reviews at strategic level

Crime assessments and enforcement objectives have proved valuable in those Member States that have undertaken them. A few Member States have launched such assessments (in some cases calling on outside expertise) in the past year.

2. Administrative structures and resources

- Adequate resources for enforcement (matching the needs, as identified in national assessment)
- Knowledge of CITES/WTR among staff of all implementing agencies on a broad basis (not just those designated for CITES/WTR)
- Necessary equipment including CITES identification manuals and software
- Computerisation of CITES/WTR information (permits, etc.)
- Agreements with scientific authority and other experts for species identification (e.g. universities, museums, zoos, herbaria, botanical gardens etc).

Many Member States have indicated the need for greater resources, in particular for more staff and budget. Computerisation can play an important role in implementation and enforcement: for example, a few Member States have introduced advanced database systems that link permit and enforcement.

3. Training

- Introductory training on CITES for all enforcement personnel
- Advanced training courses
 - Where appropriate, courses for participants from different enforcement services

Nearly all Member States provide introductory training, in particular for new Customs officials. Many Member States have advanced training programmes as well. In a few, however, resource difficulties have hindered training efforts. Cooperation among Member States has been valuable for training; the use of manuals and materials produced in other Member States can assist training programmes.

4. Cooperation at national level

- Frequent working contacts among enforcement personnel
- Memoranda of understanding and other formal cooperation agreements among authorities and enforcement services to define roles and procedures, in particular for sensitive enforcement work, and to establish procedures for enforcement actions
- Shared enforcement databases on seizures and on sanctions applied
- Inter-agency committee that meets regularly to discuss enforcement issues
- National co-ordinating office
- Cooperation with national NGOs and with user associations (e.g. collectors of specimens)

Working contacts among enforcement officials are usually strong in many Member States. In a few, however, contacts are less frequent with one or two enforcement agencies (for example, police services). Memoranda of understanding are fairly common, but in many Member States these do not cover all enforcement agencies. A number of Member States have established inter-agency committees in recent years, though others need to do so. As yet, national coordinating offices for CITES enforcement are rare.

Enforcement Actions

5. Enforcement at entry points

- Checks of declared CITES shipments:
 - Thorough document checks
 - Frequent physical checks
- Thorough checks of postal packages
- Risk assessment
 - Inclusion of CITES risk profiles in computerised risk assessment
 - Supplemented by expert risk assessment

Many Member States need to address one or more of these areas. While thorough document checks of declared CITES imports are common, especially at airports, regular physical checks are less so. Checks of postal packages can be improved in a number of Member States; these are important also for checking specimens purchased via Internet. A few Member States have effective systems for including CITES in computerised risk management of imports; this is not the case for all, however.

6. In-country enforcement

- Sufficient legal powers for enforcement
- Regular checks of pet shops, taxidermists, importers, breeders and other facilities
- Computerised database of permits, importers, owners, breeding facilities
- Regular checks of Internet sales (integration of CITES into Internet crime enforcement)

Many – but not all – Member States make regular checks of facilities such as pet shops, breeders and nurseries. While many Member States have databases, only a few have integrated these databases directly into enforcement work. Only a few Member States make regular checks of Internet sales, though this is an area of growing concern across the EU.

7. Active investigations

- Cooperation with other Member States on cross-border crimes
- Enforcement services that actively search for information on CITES violations beyond that received in regular border and in-country checks.

In some Member States, enforcement services actively investigate CITES crimes, often in cooperation with counterparts in other Member States. More can be done, however, to make information gathering and enforcement work more active, particularly in some areas, such as Internet crime as well as smuggled birds and reptiles.

8. Identifying specimens

- Frontline enforcement officials have access to and training for computerised tools (such as Green Parrot), manuals and other methods
- Scientific authority, other experts available to assist enforcement officials

In many Member States, tools and experts are available to assist enforcement officials in the identification of species. However, identifying specimens in a number of areas, including timber and traditional Asian medicines, poses additional problems and only a few Member States appear to use practical solutions in everyday work.

9. Managing seized and confiscated specimens:

- Sufficient facilities available for temporary care of usual level of seized, live specimens
- Inventory of available national facilities
- Cooperation with other Member States on temporary care for large seizures
- Procedures for final disposal of live and other specimens

Many Member States have indicated that they do not have sufficient facilities for seized and confiscated specimens. Most have difficulty housing unusually large seizures – here, further cooperation among Member States may be needed in addition to national efforts.

Public information

10. Public information on wildlife trade

- Awareness raising campaigns
- Internet web sites
- Educational material and actions for schools
- Publicized options for people to contact authorities
- Information on CITES for travellers:
 - Contacts and joint actions with the travel business
 - Brochures, in-flight information
 - Exhibits on CITES at airports and other major border points
- Information at zoos

Many Member States indicated that this is an area for further work. While there are many good practices across the EU, only a few Member States have comprehensive programmes for public information. Sharing current good practices could also assist work across Member States.

Sanctions

11. Sanctions and their application

- Strong sanctions – both fines and prison sentences – for violations of the EU Wildlife Trade Regulations
- Use of provisions in other legislation – e.g. for animal welfare, smuggling and fiscal crimes – to investigate and prosecute serious cases
- In Member States where tourist souvenirs are a significant problem, consider instituting a low, minimum fine: this, together with public information, might raise awareness among tourists
- Sentencing guidelines to ensure consistent application of fines, sentences and other sanctions
- Training and awareness raising for prosecutors and judges
- Sufficient enforcement and investigatory powers for enforcement services

Several Member States lack strong sanctions. Not only does this create a divergence across the EU; weak sanctions may indicate that illegal wildlife trade is not a priority for national enforcement. Sentencing guidelines, in particular for criminal penalties, exist in only a few Member States. In several, however, there are methods for the calculation of fines: these are valuable, but different approaches are followed across the EU. A lack of awareness of CITES crimes on the part of prosecutors and judges is a concern in many Member States; only in a few have officials undertaken initiatives, such as providing training and other programmes, to address the issue.

Cooperation and Coordination among Member States

12. Cooperation and coordination at EU level

- Focal points for international contacts; including secure focal points for confidential enforcement information, using clear, common procedures
- Rapid exchange of information via email or telephone
- Effective dissemination of information within national authorities
 - Broad dissemination of important news and information
 - Contacts with frontline officials on enforcement actions
- Language skills at focal points and (to the extent possible) at working level
- Broad contacts across Member States, and in particular among those with significant trading
- Active participation in EU and international forums
- Regular contacts with European Commission, CITES Secretariat, enforcement organisations (including Interpol, WCO)

Most Member States have focal points for the exchange of enforcement information. In many, it is not clear if information received from other sources is effectively disseminated. Language barriers are a problem in some Member States. While officials in all Member States have contacts in others, the strength of communication and cooperation varies greatly.

Recommendations for common actions at EU level

The EU is a single market, also for illegal wildlife trade: thus, good enforcement practices at national level are not sufficient. Greater coordination on enforcement among Member States is needed. The Commission and the Member States should consider the following actions.

1. Enforcement methods

The Commission and the Member States should review the set of good practices presented above, with the goal of developing a set of common guidelines for enforcement of the EU Wildlife Trade Regulations. The guidelines should be endorsed at the highest level (as per the criteria for environmental inspections of industrial facilities in Council Recommendation 2001/331/EC), and should also be updated regularly to reflect changes in the Wildlife Trade Regulations and developments in good practice for enforcement.

2. A common Action Plan

The Commission and the Member States should use existing national assessments of illegal wildlife trade to identify priority areas for coordinated work and to prepare an initial, common strategy or action plan for the Enforcement Group, as recommended by the WTEC Workshop.

3. Information on national structures and actions

In order to maintain an accurate picture of enforcement across the EU, the Commission should request regular information from Member States on the enforcement practices identified in this study as well as any other important topics. This information could be requested in the EU section of the CITES Biennial Report questionnaire. The questionnaire for the 2005-6 biennial reports might include a few additional questions on the following topics: areas of illegal wildlife trade of concern, i.e. where a need for further enforcement efforts is seen; actions taken for in-country enforcement, such as regular checks of pet shops, breeders and other facilities; and a list of joint training and capacity building actions among Member States and with candidate and neighbour countries.

Subsequent Biennial Reports could include more detailed questions, focusing on the implementation of the guidelines recommended above in point 1.

4. Customs coordination

EU customs cooperation is an ongoing process that will increasingly link work in the EU25. While EU policy for a common, computerised customs system recognises the need to integrate enforcement for CITES and other fields, in some Member States computerised risk assessment does not include CITES risk profiles.

The European Commission should consider efforts to promote the integration of CITES enforcement into computerised risk assessment systems used by customs across the Member States. Those Member States that have done so could share their approaches. Such an initiative can also further the process of integrating CITES and related environmental enforcement issues into EU-wide customs coordination.

5. Managing seized and confiscated specimens

Many Member States face problems finding adequate facilities to care for large seizures, in particular of live animals. Here, cooperation among Member States can help find solutions.

To ensure cooperation, the Commission and the Member States will need to address the obstacles to cross-border co-operation. These include contacts mechanisms, logistical problems and cost-sharing. Member States and the European Commission should discuss solutions, which could be used as the basis for a set of standard procedures for the request and provision of care facilities among Member States, as well as regular monitoring to identify gaps at EU level.

6. The sharing of tools and know-how to identify specimens

Enforcement officials in many Member States face difficulties in the identification of specimens in areas such as timber and traditional Asian medicines. A few Member States, however, have developed practical tools for these challenges. For example, the Netherlands and Germany have official translations of the Chinese characters of the ingredients in traditional medicines.

Such tools and know-how should be shared more broadly among Member States, through focused workshops and training courses. The European Commission should encourage such meetings, which may be best hosted by a Member State enforcement agency that has developed useful tools.

7. Improved public information

Public information activities are a necessary complement to enforcement efforts: they inform, raise awareness and over the long term they may reduce demand for illegal CITES specimens. Many Member States indicated public information as an area where further action is needed.

Several EU Member States have developed innovative materials for public information, ranging from brochures to luggage lockets used in Slovenia to the short CITES videos shown on flights departing from France and the Netherlands. Materials that have already been developed could be employed by other Member States, saving time and resources. For public information videos, for example, the translation of a narrative soundtrack is likely to cost far less than the preparation of a new video.

Thus, there needs to be greater sharing of these materials among Member States. Written materials could be placed on CIRCA along with descriptions of other resources, such as videos; specific user groups might be created for these specialised areas.

In addition, the European Commission should consider launching a common public information campaign. Such an initiative could encourage and help to harmonise work across the Member States. The participation of European and national NGOs will be valuable. The 2007 CITES Conference of the Parties may provide an appropriate moment to launch such a campaign. An effective EU-wide campaign could start with a focus on a specific issue (as, for example, the “Caviar Emptor” campaign in the United States).

8. Strengthened Sanctions

The European Commission’s proposal for a directive on criminal sanctions for environmental crime, including violations of the Wildlife Trade Regulations, needs to be moved forward.

Fines are also important for enforcement, as the most serious violations are economic crimes. The European Commission and the Member States should discuss the different existing methods for calculating these fines, as well as their appropriate range, in a thematic workshop, with a view to preparing common guidelines.

9. Increased cooperation and coordination at EU level

The EU Enforcement Group has expanded its work in recent years and now meets twice a year. However, participants at the WTEC workshop called for an even greater role for the Group in strengthening enforcement across the EU. At the same time, some Member States have launched useful *ad hoc* initiatives to address common areas of concern. The European Commission and the Member States should consider innovative approaches to improve the Group’s role in coordination and information exchange among Member States and also to provide a common framework for all initiatives to strengthen enforcement. IMPEL, which brings together Member State bodies responsible for enforcement of industrial pollution requirements, could provide a model for the development of the Enforcement Group’s structure.

In particular, an expanded Enforcement Group could involve the following elements:

- A common forum for initiatives to coordinate enforcement, build capacity and share tools and knowledge across Member States.
- The holding of an increasing number of regular meetings in Member States, hosted by national enforcement agencies. Some could be held at important border points, to better study common problems and discuss good practices.
- The organising of additional meetings, workshops and training on specific enforcement issues, including specific topics such as those identified in previous points: the management of seized and confiscated specimens, specimen identification and public information.