



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
ENVIRONMENT
Directorate E - International affairs & LIFE
ENV.E.2 - Environmental Agreements and Trade

EC WILDLIFE TRADE REGULATIONS – STAKEHOLDER MEETING

Monday, 29 September 2008, 10h00 – 16h30 hrs

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EC WILDLIFE TRADE REGULATIONS – STAKEHOLDER MEETING

Monday, 29 September 2008,
Centre de Conférence Albert Borschette (CCAB),
Bruxelles

Summary record

On the basis of a study on the effectiveness of the EC Wildlife Trade Regulations¹, which was carried out by TRAFFIC and IUCN and completed in December 2007, the European Commission organised this stakeholder meeting with a view to collect input from traders and NGOs regarding the implementation of the current EC Wildlife Trade Regulations and to put forward options for addressing the issues and shortcomings identified.

At this meeting, participants presented problems encountered as well as possible solutions. The Commission took note of these remarks, bearing in mind that some issues would depend on a CoP decision. In addition, stakeholders were invited to submit information of any problems or inconsistencies in writing and to continue the dialogue in the future.

Generally, participants considered that the current legislation provides a good framework for implementing CITES and for ensuring that trade in species does not threaten their survival in the wild. However they did consider that some improvements could be made in the way the regulatory system functions.

The following are the main points of a general nature that were raised by stakeholders at the meeting:

- Participants considered that Wildlife Trade legislation was very complex and in particular that:
 - A coherent and uniform approach to its implementation throughout the EU was necessary;
 - Cooperation between different Member States and authorities should be improved;

¹ http://ec.europa.eu/environment/cites/pdf/studies/effectiveness_study.pdf

- Stricter measures adopted by Member States should be transparent and easily accessible at EU level;
- Participants underlined that procedures should be harmonised as far as possible and should be efficient and proportionate; in particular:
 - The need to harmonise the costs and fee structure across the EU and to ensure that permit fees are proportionate was emphasised;
 - Member States should ensure smooth and efficient procedures for issuing permits and to reduce undue delays; information should be provided to applicants as to the reason for possible delays;
 - Computerized methods for applying for and issuing permits should be developed; on-line application forms should be linked to information on negative opinions and import suspensions;
 - Marking requirements should as far as possible be harmonised across EU Member States;
- Participants considered that the decision-making processes should be made more transparent and that communication and dissemination of information to stakeholders should be improved, in particular:
 - Transparency in the composition of committees and in the decision-making process within the SRG in particular was considered very important; the information on the basis of which SRG opinions were formed should be made available to the public;
 - The need to improve publicly available information was underlined;
 - The provision of information through an EU website would be useful; In particular the UNEP-WCMC website should be improved and awareness of the "eu-wildlifetrade.org" website should be raised;
 - A tool for the rapid dissemination of information to stakeholders on such issues as negative opinions and suspensions should be considered. This could be done i.e. by means of an e-mail alert system;
- Participants deplored the general lack of staff and economic resources available for CITES implementation and enforcement and considered that Member States should ensure sufficient training for staff dealing with CITES matters;

Participants also made a number of more specific comments in relation to possible amendments to Regulation (EC) No. 865/2006 or guidance, including the following:

- Travelling exhibition certificates should cover more than one specimen, in line with import and export permits;

- Guidance should be provided on the implementation of the provisions on biological samples (Article 18);
- Marking requirements for dead specimens would be useful;
- Clarification should be provided as regards the origin that can be granted to confiscated specimens and the circumstances under which such specimens can be used;
- The status of descendants of pre-Convention specimens should be clarified;
- The issue of treatment of specimens of species uplisted from Annex B and to Annex A should be clarified;
- Guidance is necessary as regards providing proof of legal origin for Annex B species;
- The definition of commercial purposes should be clarified;
- The definition of worked specimens should be clarified; And clarification as regards re-worked specimens is needed;
- It would be useful for UNEP-WCMC to look into the scale of trade in personal and household effects in order to inform the discussion on amendment the relevant provisions.

These as well as other more detailed comments are also provided in the stakeholders' individual written input to the meeting, which are annexed to this report.

At the meeting the Commission underlined that it would take these comments into account when revising the CITES Implementing Regulation and developing guidance. The Commission would also consider ways to improve transparency and exchange of information and would discuss possible improvements to the UNEP-WCMC and the "eu-wildlifetrade.org" websites with UNEP-WCMC and TRAFFIC respectively. This report would also be submitted for consideration to the Member States Expert meeting scheduled for December 2009.



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**EC Wildlife Trade Regulations – Stakeholder Meeting
29 September 2008**

BACKGROUND DOCUMENT

The EC Wildlife Trade Regulations

The European Union is one of the main and most diverse global markets for trade in wild fauna and flora, estimated to represent around one third of the world market for CITES listed products.

Although the European Community is not a Party to CITES¹, its provisions have been implemented in Community law since 1982, when the first Community-wide legislation implementing the Convention entered into force.

There are three main reasons why CITES is implemented at EU level and not individually by each of the 27 EU Member States:

- External trade is exclusive an Community competence;
- The absence of systematic border controls within the EU as a result of the customs union; and
- The Community policy on the environment and legislation on the protection and conservation of the Community's indigenous species.

CITES is implemented across the EU through a Regulation adopted in 1996 (Council Regulation (EC) No. 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein²) and specified in an implementing Regulation (Commission Regulation (EC) 865/2006³).

¹ Accession by the Community requires the ratification of the Gaborone Amendment to the Convention by 54 Countries that were a Party in 1983. 44 Parties have ratified to date.

² OJ L 61, 3.3.1997, p. 1

³ OJ L 166, 19.6.2006, p. 1.

Study on the Effectiveness of the EC Wildlife Trade Regulations

The Regulations have now been in place for over 10 years and have provided a coherent and comprehensive regulatory system for wildlife trade across the EU. They have ensured coordination implementation amongst Member States, in particular through the regular meeting of Member States CITES Authorities in the context of the Committee on Trade in Wild Fauna and Flora, the Scientific Review Group and the Enforcement Group, which together meet about 10 times per year.

Nevertheless, the regulations have been amended several times since their first adoption and that has led to an increasing level of complexity and in some cases lack of clarity in the text and provisions of the Regulations. Experience has shown that Member States and stakeholders encounter difficulties in effectively implementing certain provisions of these Regulations.

Concerns expressed by Member State authorities as well by stakeholders have included the following:

- Lack of clarity of certain provisions and varying interpretations among the Member States
- Cases where significant time and resources have to be devoted to cases of little conservation concern.
- Loopholes in the Regulations that could lead to the laundering of illegal specimens as legal / captive-bred specimens
- Provisions allowing for derogations that are excessively complex and therefore not implemented in practice

The Commission therefore decided to launch a study on the effectiveness of the Regulations, which was carried out by TRAFFIC and IUCN and completed in December 2007. The purpose of the study was to assess the effectiveness of the current EC Wildlife Trade Regulations in relation to the objective of CITES to ensure that trade in species of wild fauna and flora does not threaten their survival and to put forward options for addressing the issues and shortcomings identified. In carrying out this study the contractor was asked, *inter alia*, to assess the Regulations in relation to three criteria:

- Efficiency – whether the net effect of the Regulations is commensurate with the resources required to implement them effectively;
- Simplicity – whether or not the Regulations are over-complicated in relation to their substantive provisions; and
- Conservation benefit – whether or not the Regulations contribute to the conservation of listed species *in situ* and whether or not this contribution could be enhanced.

The result of the Study highlight that the Regulations are considered to constitute a comprehensive and detailed legislative framework for implementing CITES and to generally serve the aims for which they were established. Nevertheless there is also a general view that the Regulations could be improved in a number of ways. The Study

provides an analysis of those issues/provisions, which have been identified by stakeholders as problematic and puts forward options for addressing these.

The Study can be downloaded from the following webpage:

http://ec.europa.eu/environment/cites/pdf/studies/effectiveness_study.pdf

Next steps

CITES has as an overriding objective to ensure that trade in species is sustainable. The Study concludes that by and large the basic Regulation (Council Regulation (EC) No. 338/97) is effective in supporting the achievement of that objective. Whilst a number of possible improvements were identified, the Study did not present a convincing case for a revision of the basic regulation, which would lead to the adoption of legislation, which is decisively simpler and easier to implement and enforce. Therefore, given the lengthy and time-consuming process for revising the basic Regulation, the European Commission does not consider that the limited number of flaws identified in the study in relation to this Regulation are sufficient to warrant a full revision at this stage.

The study concludes however that there is considerable scope for rendering the Regulatory system more efficient and effective by revising the implementing Regulation (Commission Regulation (EC) 865/2006) and by developing clear and transparent guidance for the implementation of both Regulations.

Building upon the results of the Study, the Commission would therefore like to:

- Identify those amendments to the Implementing Regulation that would render its provisions clearer and simpler and its implementation more effective, without jeopardizing any benefits in terms of conservation; and
- Develop user friendly guidance to assist in the implementation of both the basic Regulation and the implementing Regulation.

The purpose of this stakeholder meeting is to allow traders, NGOs and other interested parties to contribute to this process by sharing their experience with the implementation of the implementing Regulation and their input as to possible amendments and guidance.

Possible issues for discussion

Below is a non-exhaustive list of issues, which were identified in the Effectiveness Study (hereafter referred to as "ES") as problematic and potentially requiring either amendment of the implementing Regulation or guidance.

Issues relating solely to the provisions of the basic Regulation are only listed to the extent that guidance could be developed in order to assist implementation.

Some provisions that might be considered problematic but which are currently being revised at international level through the CITES process are not mentioned here.

- Definition of Member State of destination and place of destination (ES p. 44)
- Primarily commercial purposes / commercial purpose / scientific institutions (ES p. 46 and p. 52)
- Definition of worked specimens (ES p. 49)

- Specimens that are born and bred in captivity (ES p. 53)
- Proof of legal origin of founder stock (ES p. 65)
- Offspring (ES p. 87)
- Personal and household effects (ES p. 55, 143-151)
- Marking requirements (ES p. 56)
- Internal trade certificates for Annex A species (ES p. 59, 63, 140-142):
 - Validity of certificates*
 - Transaction/Specimen-specific certificates*
 - Exemptions provided for under Annex X of the implementing regulation*
- Source and Purpose codes ((ES p. 72-74)
- Retrospective issuance of permits (ES p. 76)
- Proof of legal origin for Annex A and Annex B species and necessary documentary evidence (ES p. 63, 84, 92, 97-105, 137-139)
- The use of pre-issued certificates (simplified procedures) (ES p. 85)
- The issuance and use of personal ownership, travelling exhibition and sample collection certificates
- Application of import restrictions (*inter alia* Article 71 of the Implementing Regulation)

Stakeholders are invited to share relevant experience on the implementation of these and other relevant provisions and provide their views on possible amendments/guidance.

Name	Company	E-mail
Adolfo Santa-Olalla	AEDPAC (importers & traders of exotic animals for pet trade)	caavv@aedpac.com
Josep Arnas	AEDPAC (importers & traders of exotic animals for pet trade)	jarnas@aedpac.com
Laura van de Meer	Alliance for Marine Mammal Parks and Aquariums Brussels Office	IntEnvRes@cs.com AllianceBrussels@cs.com
Kris Ulens	Belgian Federation for Falconers	fantom@akasha.be
Robert de Buysere	Belgische Vereniging Van Preparateurs BVP	info@biodidak.be
Shelley Waterland	Born Free Foundation	shelley@bornfree.org.uk
Nicolas Berhault	Caviar Petrosian	nicolas.berhault@petrossian.fr
Luc Gauchez	Christie's	lgauchez@christies.com
Vagn Reitz	Dansk Zoologisk Konservatorforening	v.reitz@mail.dk
J.W. van Hout	Dutch Taxidermy Association (NVP)	jw.vanhout@quicknet.nl
Véronique Schmit	Eurogroup for Animals	V.Schmit@eurogroupforanimals.org
Alex Ploeg	European Pet Organisation (EPO) & Ornamental Fish International (OFI)	secretariat@eponet.org
Christine Rödlach	FACE	christine.roedlach@face.eu
Johan Svalby	FACE	legal@face.eu
Nick Kester	Hawk Board	sales@falcons.co.uk
Nikki Kelly	IFAW	nkelly@ifaw.org
Eva Abe	IFAW	eabe@ifaw.org
Christian de Coune	International Association for Falconry and Conservation of Birds of Prey	christian.decoune@belgacom.net
Joe McHale	International Fur Trade Federation (IFTF)	joe@schumanassociates.com
Barbara Sixt	International Fur Trade Federation (IFTF)	bs@fur-fashion-frankfurt.de
Fiona Murray	International Fur Trade Federation (IFTF)	
David Waugh	Loro Parque Fundación	environment@loroparque-fundacion.org
Keith Davenport	Ornamental Aquatic Trade Association (OATA)	keith@ornamentalfish.org
Jim Collins	Pet Care Trust	Jimcollin1@aol.com
Luc Ladonne	PRODAF	luc.prodaf@prodaf.org
Chris Newman	Reptile & Exotic Pet Trade Association	Chris-Newman@cviewmedia.com
Birgith Sloth	Society for the Conservation of Marine Mammals	Be-eco@mail.tele.dk
Daniela Freyer	SSN European Bureau	daniela.freyer@prowildlife.de
Bruno Martin	Taxidermist' Syndicate of France	oxformartin@orange.fr
Oxana Ganzha-Martin	Taxidermist' Syndicate of France	
Mr. Kim McDonald	The Guild of Taxidermists	Kim@taxidermylaw.co.uk
Amelie Knapp	TRAFFIC Europe	Aknapp@traffic-europe.com
Cathy Williamson	WDCS	cathy.williamson@wdcs.org
Frank Burkard	Wissenschaftlicher Mitarbeiter von Dr. Thomas Ulmer (MEP)	Thomas.ulmer-assistant@europarl.europa.eu
Colman O'Criodain	WWF International	COCriodain@wwfint.org

EC WILDLIFE TRADE REGULATIONS – STAKEHOLDER MEETING

Monday, 29 September 2008, 10h00 – 16h30 hrs

Written contributions from stakeholders

AEDPAC COMMENTS ON CITES 2006/865 REGULATION

The main concerns of the regulation 2006/865

Complex and not uniform

The European Implementation of CITES legislation is complex.

The information available is not clear. There is a lot of information available but this information is very difficult to trace, and almost impossible for people without specialized knowledge.

The interpretation of the regulations is also very complex. It is difficult even for CITES authorities and inspectors. There are many different interpretations in different countries, causing a lot of harm to traders.

Our opinion is that we need changes which will reduce the complexity of the Regulation and enable a more uniform interpretation within the European Union but also within the Member States.

Legislation must be more accessible through a website with search engines. Is important to get easy access to a database including specific national legislation for each Member State and specific information on practical obligations.

Composition of the Committees

According to the actual regulations the members of the national scientific committees should have “appropriate qualifications”. Actually, persons working for zoos and members of animal protection organizations are members of scientific committees, but as far as we know they are not members of the pet industry. Zoos and protection organizations are in general against trade in pet animals. Thus, their decisions are biased. The pet industry should have representatives in the scientific committees to compensate this situation.

Another important issue has to do with the discussions and other relevant information not being available. Such decision drastically affects many importers, and should therefore be public. If decisions are correct, why shouldn't they be public? The trade must be sustainable, so we are obviously very interested in good regulations. Currently, it is often that the industry cannot understand the decisions taken, and thus questions the capability of the committee, who apparently afraid to justify itself.

The pet industry should have representatives in the scientific committees. Also, a person with enough scientific knowledge would also qualify for a position in the national scientific committee despite a link to a trade association. All decisions directly affecting the industry should be consulted, and we should be given the chance to express our opinion.

Making of decisions should be transparent on the SRG level and on states levels.

Cost of import permits

Each Member State implements a different tax to apply for import permits.

As the trade is free between EC states, the importers from states with higher taxes have an extra cost which makes it difficult for them to compete with traders from states with lower taxes.

It is necessary to establish one same cost to apply for import permits in all the EC.

There are animals and plants listed in Annex A or I which need individual import permits. This makes it necessary to apply for one import permit per unit and pay a full tax per individual. If the price of the animal or plant is high, this isn't a problem, but if it is low, the cost of the tax could sometimes be higher than the animal's selling price. This could be dramatic for breeders of certain species.

It does not make sense for a Spanish importer to pay 2,000.00 € to apply for a CITES permits to import 100 Testudo Graeca when the total cost of the tortoises is 3,000.00 USD.

We welcome a lower tax for large amounts of applications of Annex I or A species.

In Spain, applications for import permits and tax payments are complex and very time consuming. To apply for import permits for 100 units of Annex I or A species you must fill 100 application forms and 100 tax payment forms, go to the bank and pay one by one the 100 documents, and go to the CITES office with the documents. Once the permit is issued we have, you must go back to the CITES office to get the import documents.

An electronic system of application and payment should be implemented.

Not enough resources

Currently, the period between application for an import permit and issue of the permit is set at a maximum of one month, except for situations where the management authorities need to consult third parties. In many cases, this period of one month is exceeded. When third parties are consulted the period often exceeds the validity of the export permit before the import permit is issued. Once again, the lack of transparency is total. The importer doesn't know the situation of the permits.

According to the national management authorities, one of the reasons for this delay is the delay in the response from third countries. This is only partially right, because many times, the replies have been received, but there are not enough personnel to do the work. When the response is delayed, they should send a fax or call by phone instead of relying on regular mail.

Sometimes an urgent issue is necessary for several reasons, and this possibility should be implemented paying an extra tax.

It is difficult for importers to understand this kind of procedures, since they are used to working fast and with communicating with people all over the world daily. Such delays cause a lot of losses for loss of business to importers.

In the 21st century, technology is advanced enough to make all these procedures very simple and almost automatic. The delays are caused by bureaucracy, except when consulting the scientific committee or third parties is needed.

Another important issue is the implementation of a website for application of permits on line. It should be linked to a database. It could also prevent mistakes and applications for which no permits would be issued, saving time both to applicants and management authorities. An online tax payment system should also be implemented, together with a link which would allow tracing the permit issuing process.

Importers are paying enough money for their applications which could cover all of the forementioned improvements.

The management service in Spain does not have enough resources to do the amount of work it has properly and on time. It is necessary to hire more personnel and set up more resources to do the work properly. A website for on line application system permits, tax payment and permit trace will improve and make the application process and the issuing of permits more efficient. Time to issue permits should be drastically shortened. This is the worst problem we have in Spain, because the continuous delays translate into significant economic losses and also into loss of business for Spanish importers.

Belgische Valkerij Federatie
"Valkeniers.be"
Fédération Belge de la Fauconnerie



Friday, 17th October 2008

Subject: EC Legislation on Wildlife Trade
Input on consultation meeting on current and future EC legislation with interested stakeholders (Brussels, 29 September 2008)

Dear members of EC,

Belgian federation for Falconry "Valkeniers.be" represents the 4 main Belgian Falconry clubs.

As a result of the effectiveness study and the meeting for stakeholders on the 29th of September, the Belgian Federation for Falconry "Valkeniers.be" would like to address 3 topics:

Hybridization is often practiced while breeding birds of prey for falconry. The current situation is not making any distinction between hybrid birds and natural species. Hybrid birds are domesticated birds and do not have any representation within wildlife. Therefore our suggestion would be to make a clear distinction at the official CITES certificates. Including these birds within statistical figures isn't appropriate either.

Within the current implementation of the Flemish legislation concerning protection of birds it is illegal to keep European species of birds without a closed ring. Although if the birds is legal in other European countries (microchip), it is not accepted within the Flemish region of Belgium.

For example: if you would like to buy a goshawk in Germany and the goshawk has a microchip and all the legal documents but doesn't have a closed ring, it is illegal to keep this bird in Flanders.

We would like to support the suggestion to have a centralized electronic system (on-line) where people could easily submit the requests for CITES-documents (Article 10 certificates). Providing a central system where every state could address there specific legislation would be of a huge benefit. Many falconers are traveling through Europe to join field meetings for example. Therefore it would be very useful for the falconer to be able to get all the necessary information at once

Yours faithfully,


Ulens Kris
Chairman

Chairman:	Ulens Kris	kris.ulens@akasha.be	+32 (0)486 68 35 32
Vice Chairman:	Motmans René	rene.motmans@telenet.be	+32 (0)473 31 40 77
Secretary:	De Bruyn Erik	erik.de.bruyn@kontich.be	+32 (0)3 457 16 07

**To the European Commission
Directorate-General
Environment**

Date: 08.10.08

On the Stakeholder meeting 29.09.08, the labelling systems for the taxidermists were mentioned, and hereby I send some facts about the Danish system.

The legislation for taxidermy in Denmark, are drawn up in a law-announcement: (Bek. nr.925 af 08/11/1994 om erhvervsmæssig konservering af visse dyrearter).

A taxidermist must have an authorisation to practice - in Denmark. There is a demand of education to get it. The authorisation gives the taxidermist the privilege to work with all legally dead animals, except species on a list of - "Rare and endangered animals in Denmark":

All whales (Cetacea) and the European otter (Lutra lutra)

19 birds: Botaurus stellaris, Ciconia nigra, Ciconia ciconia, Milvus milvus, Circus pygargus, Circus cyaneus, Pandion haliaetus, Apuila chrysaetos, Haliaeetus albicilla, Falco subuteo, Falco rusticolus, Falco peregrinus, Falco columbarius, Grus grus, Gelochelidon nilotica, Coracias garrulus, Merops apiaster, Upupa epops and Tetrao tetrix.

It is possible to get a permission to stuff these species for schools and other institutions with an educational purpose, and - specimens which provable are imported legally from other countries, or provable are of legal Danish origin from before 1984, can be manufactured by the taxidermists.

All protected species and easily recognisable parts of these has to be registered in a ledger (protocol) and marked with a number label of aluminium. The taxidermist is responsible to control if a specimen is of legal origin.

The authorisation gives the responsible authorities the right to control the firm.

If a customer delivers a protected animal, and the taxidermist can see, or find out during the skinning - that it is not of legal origin, maybe it has been shot, the taxidermist must refuse to stuff it, even if the customer can prove, that he/she did not kill the specimen. It is then illegal and can not be transferred into any sort of business. The taxidermist has to inform the customer, that the specimen can either be send to one of the National Museums or get destroyed.

If the taxidermist breaks the laws, the authorisation can be cancelled either for a period or forever - or fined.

Birds of prey, owls and other specimens from the CITES Annex A, found dead in the nature, are allowed to be stuffed for customers without a CITES licence, just by following the procedure with the ledger and labels, if they are not illegally killed, and not on the list of "Rare and endangered animals in Denmark"

The taxidermist are allowed to receive animals from other countries, if they are of legal origin. Specimens from the CITES Annex A need the demanded CITES-certificate and for Annex A, and

2.

Annex B specimens being imported need a CITES-import licence. By import there are some veterinary claims too.

Specimens listed by CITES, the Bern-Convention and the Bird- or Habitat-directive are included in the regulations, and must be marked with a number equal to the Danish protected species. The taxidermist must be able to prove, that imported specimens are of legal origin in the actual country.

To avoid discussion with the responsible authorities about “old specimens”, it was a part of the legislation that within 6 months after a certain date in 1984 - all specimens stuffed and frozen in private collections and stocks, should be registered and marked with a number.

These regulations have now been in force since 1984 and there has only been few and minor problems. The Danish Ministry of Environment and the taxidermists are very satisfied with the conditions.

All the involved parts admit, that it is better to have a fully controlled trade based on re-use of the large number of dead animals killed in the traffic, against windows and so on, instead of an uncontrolled “black market”. Because of the control-system and the labels, the Danish regulations meet the conditions in CITES, the BERN-convention and the Bird- and Habitat-directive.

On behalf of DZK - Dansk Zoologisk Konservatorforening.

Vagn Reitz.

Comments on the revision of 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

Early 2007 Eurogroup for Animals provided the European Commission with its views on possible amendments to Council Regulation (EC) 338/97. Following the recent publication of the results of two studies on enforcement and effectiveness commissioned by the European Commission, we understand that no thorough revision of the Council regulation is scheduled in the short term. Instead the Commission is looking at how to better implement EU wildlife trade legal provisions by improving the Commission Regulation which sets out implementing rules and by looking at how to provide better guidance to the Member States on the interpretation of certain provisions. Eurogroup regrets that the Commission is not planning a thorough revision at this stage, as we are convinced fundamental changes are needed in the Council Regulation if it is to really protect the welfare of the live animals involved in trade, and to safeguard biodiversity at international level.

As long as the provisions of the Council Regulation are not amended however, Eurogroup agrees that there is an urgent need for guidance to be given on the way many of them should be interpreted and implemented with the view to better protect the welfare of the traded live animals. Indeed EU wildlife trade regulations are clearly included in the list of Community legislation on the protection and welfare of animals¹.

In that context Eurogroup would like to provide comments on several topics highlighted in the effectiveness study and discussed at the stakeholder meeting organised by DG environment on 29 September 2008.

1. Definition of Member State of destination and place of destination

Our concerns about this definition are linked to the provisions on housing and care of live specimens under Articles 4(1) c, 4(2) b, 9 (2) a and be and 9 (4), which make adequate housing and care of live animals at the place of destination a pre-condition to the issuance of permits or certificates, either when they are imported from a third country, or when they are moved from one place to another one within the Community.

Eurogroup is concerned that it is not always clear what is meant by place of destination, and believes that live animals should be equally adequately housed and cared for wherever they are kept before they reach their final destination: port of entry, quarantine station, wholesaler, retailer or private owner.

Eurogroup believes that clear guidance should be provided for Member States on how they are expected to ensure compliance with this requirement.

¹ Commission staff working document *Annexed to the Communication from the Commission to the European Parliament and the Council on a Community Action Plan on the Protection and Welfare of Animals 2006-2010*
http://ec.europa.eu/food/animal/welfare/comm_staff_work_doc_protection230106_en.pdf

2. Mortality in shipment and restriction on the importation of live specimens with high mortality

Eurogroup is concerned about various aspects of this provision. Indeed we believe there is scope for trade restrictions to be imposed on more vulnerable species and thus better protection of biodiversity if the following issues are considered:

- Definition of mortality during shipment

Mortality during shipment should not be narrowly interpreted as mortality during international transport but should reflect fully the mortality which affects the traded species, taking into account mortality during capture and storage before shipment, and mortality in quarantine and after arrival at the place of destination. This would allow a better evaluation of the impact of trade on a given species.

- Record of number of animals dead on arrival

If mortality during shipment is interpreted in the broader sense, then data must be recorded at various stages of the trade. The first step is to ensure better enforcement of the provision under Article 69(3) of Regulation 865/2006 which requires Member States to maintain records of dead on arrival "where possible". This wording opens the door to not recording the data, and should be strengthened. It must also be made obligatory for member states to collect data on the number of animals dead in quarantine, for groups of species for which quarantine is an obligation such as mammals.

- Interpretation of the provision which allows the Commission to restrict the import of live specimens – Article 4.6 c of Council Regulation 338/97

Article 4(6)c specifically deals with mortality during transport and captivity. Through this provision the Regulation intends to provide extra protection to and limit "waste" of species that are already at risk (and therefore listed in Annex B). Application of Article 4(6)c can effectively limit additional pressure on wild populations caused by replacement demand. It clearly aims at controlling trade when potential detrimental impacts can be inferred from a high level of mortality during shipment or captivity and before these detrimental impacts can be observed or proven.

Eurogroup is concerned that the European Commission decided in 2006 to lift the import restriction it had applied to 17 species of tortoises, following advice by the SRG that not enough data is available to allow the use of this provision.

We believe it is contrary to the precautionary principle - to which the EU has an obligation – to make the availability of data proving a link between the difficulty of keeping a specific species in captivity and the decline of wild populations a requirement for the application of Article 4(6)c. Data on average life expectancy of wild specimens do exist for some species, and a lot of information is available on mortality of species during captivity and in husbandry, that could be used to develop indicators and criteria.

Criteria or guidelines need to be developed on which species qualify for trade suspension under Article 4(6)c, and they could be developed on the basis of eco-type groups or of groups of species that have a similar biology, instead of individual species. Further action to address this problem must be undertaken.

3. Control of commercial activities

Commercial activities involving Annex A specimens are prohibited, but a number of exemptions to this prohibition are allowed under Article 8 (3), including for breeding from which conservation benefits will accrue to the species concerned and research or education aimed at the preservation or conservation of the species.

Eurogroup is concerned that at present Regulation 338/97 lacks clear guidelines to define when a specimen is not traded for “primarily commercial purposes” and therefore when the exemptions can be granted, permitting trade in Annex A specimens. The prohibition of trade in strictly protected species for primarily commercial purposes is one of the fundamental requirements of CITES and the EC Regulation. Res. Conf. 5.10 defines primarily commercial purposes, stressing “the term commercial purposes should be defined by the country of import as broadly as possible” and that “all uses whose non-commercial aspects do not clearly predominate shall be considered to be primarily commercial in nature”. However, clearly there are commercial aspects involved in the import and display of many Annex A specimens. Some Member States grant import permits for Annex A specimens to entertainment parks with clearly predominating commercial purposes or to private persons.

Under the exemption for breeding purposes the production of offspring is not sufficient to satisfy the requirement that conservation benefits must arise for the species concerned. To justify the import of a wild-caught Annex A specimen, a breeding project can simply not be directed at maintaining a captive population per se. Instead, it must not only compensate for the off take of wild animals but also specifically contribute to the conservation of the species *in situ*. This can only be achieved by qualified and coordinated breeding programmes, aiming at the re-introduction of captive bred animals into the wild.

The transfer to and use by zoos and other fauna exhibitions must be strictly limited to those involved either in captive breeding or research with conservation benefits for the species involved. Detailed provisions concerning research and educational activities are seldom included in national zoo legislation and it remains to be proved how EU zoos respect their obligations concerning conservation and education of the public regarding protected wildlife. Educational objectives in particular do not necessarily need the display of wild live animals outside their natural habitats and would rather benefit from documentary or exhibitions based on in-situ conservation project.

Eurogroup believes that it is essential to establish strict criteria, clearly defining the exemptions to the prohibition to import annex A species and providing for consistent implementation in all EU Member States. The terms “primarily commercial purpose” must be clearly defined as well as what establishments are considered to be commercial. Very strict criteria and thorough assessment of research activities and its benefits to the conservation of the concerned protected species should be a pre-requisite for a zoo to receive live specimens of species listed on Annex A and wild-caught specimens of species listed on Annex B. Finally Annex A live specimens should never be displayed to the public in zoos for educational purposes.

4. Transparency

The lack of transparency in the consultation process which led to the effectiveness study report and its publication has already been highlighted at the stakeholder meeting on 29 September 2008. Eurogroup calls for a full debate to take place within the institutions, with broad public participation on the need for a revision of the Council Regulation.

Eurogroup is also concerned about the lack of available data on the implementation of EU wildlife trade rules by Member States. We believe that the detailed reports on the implementation of the regulation by Member States must be made publicly available.

EC Wildlife Trade Regulations Stakeholder Meeting

Monday, 29 September 2008-10-01
Brussels

Intervention of Christian de Coune on behalf of the

International Association for Falconry and Conservation of Birds of Prey

Falconers are citizens who make frequent movements with their birds of prey for non-commercial purposes. Those movements are mostly within the EU and concern mostly captive-bred specimens.

Captive bred specimens are no wildlife, so the Wildlife Trade Regulations should not apply on them. At the very least, legislations should be implemented on them on a very streamlined way with reduced formalities to avoid unnecessary administrative burden which is of no conservation benefit.

There is a problem linked to hybrids : they appear in the statistics under the name of the species of one of their parents, the result of which is that statistics do not reflect the reality by increasing the number of specimens of a given species whereas it does not go about a species but about a hybrid.

Hybrids should appear in the documents and in the statistics as hybrids and not under the name of a species.

Another point of dissatisfaction is the “stricter measures” that member states may maintain or introduce. Stricter measures are in contradiction with the harmonisation of the legislations in the EU. A stricter measure is a kind of a derogation, it should then be allowed only “where there is no other satisfactory solution”.

The CHAIRMAN asks IAF to be more precise on what we wish and on what we are unhappy with. C. de Coune replies that we are happy with the free movement of specimens in the EU and we wish that no additional burden be laid upon us.

**EC Legislation on Wildlife Trade –
Consultation meeting, Brussels, 29 September 2008**

Contribution from Loro Parque Fundación, Tenerife, Spain

We preface the contribution from the Loro Parque Fundación (LPF) with the following information, to give the context to its interest as a stakeholder:

LPF is a non-profit conservation NGO, registered with the Spanish Ministry of Education and Science (legal charity nº264). It owns and maintains a genetic reserve of parrots (Psittacidae), and conducts breeding programmes for species listed in all the appendices of CITES, and annexes of the EC. It sells (trades) parrots from the annual breeding production, with 100% of income from sales/trade being directed to its conservation projects, these being mainly *in situ*. The use of trading income in this way is verifiable. In accordance with Spanish law, the LPF is independently audited, and also must submit an annual technical and financial report to the ministry in which it is registered.

We make observations especially related to:

- a) trade of animals included in Annexes A and B, within the EC and with third countries,
- b) all that concerns the procedures for their identification and certification for their captive breeding and trade.

Treatment of the origin of specimens within the scope of the EU:

1. Clarification of the origin granted to confiscated animals and their descendants.

Once confiscated and given to a centre, the best outcome for the animal, if it is not possible to return it to the wild, is to give it the chance to reproduce in captivity. For this outcome it is necessary to define the legal origin of the confiscated specimen with a view to apply to its descendants the qualification of “bred in captivity” to facilitate their trade. Thus it is necessary to have a unified effective criterion for all the member states, which is currently not the case.

2. Clarification of the basis of “preconvention”. It is necessary to ensure in all member states the legal security of animals, in the definition of their origin, treated as legally acquired as “preconvention”, and their descendants. To fulfil the spirit of the Convention, presuming legality as preconvention to specimens in countries before the Convention or the EC regulation was applicable to them, to facilitate the designation of ‘C’ to their descendants, and to facilitate their breeding in captivity through allowing their trade.

3. Legal security for species included in Annex A with respect to the prohibition of trade of article 8 of Regulation 388/97, and its exceptions, especially the exception with respect to animals bred in captivity. Uniformity to be established throughout the EU on when an animal category ‘C’ is or is not an exception to the prohibition to trade specimens of Annex A, or to clarify an objective procedure for this definition. The best thing would be that it is always an exception unless the EC, in a justified way, declares the opposite. In this way the legal trade would benefit from captive-bred animals, giving fulfilment to the spirit of CITES.

Difficulties in moving animals within the EU:

1. **The present situation of Annex B specimens**, and during the more than 20 of years of regulation until now, generates an important legal insecurity in front of the future. Any change in present status (e.g. that a species included in Annex B passes to Annex A, or that the law of application changes and demands certification of all animals included in Annex B) can result in a large number of animals being considered illegal after a lot of time has passed, and not to be able to certify with documentation their origin after 30 years. All this with preconvention animals, animals bred in captivity, etc. All this also after moving a great volume of these animals on the basis of the present norm, throughout the entire territory of the European Union. It is necessary to presume the legality of the birds within the community. With the existence of disparity of criteria between the member states, the paradox has occurred that CITES Spain does not admit as legal animals that are understood in France as of legal origin. The interpretation of the directives, as well as the recommendations, are made in a different way.

2. **General slowness of processing.** This is a general complaint from centres throughout Spain. A lack of coordination between the sub-delegations of the regions with respect to the CITES office in Madrid is observed, with disparity of criteria and application of norms in the different regions from the Spanish territory, e.g. registration of births of Annex B: there are regional inspectors who refuse to make this registration, although in Madrid the intention is to register all Annex B with a number in a national register. This register is not made in other member states.



**Ornamental Fish
International**



**European Pet
Organization**

Maarssen, 30-09-2008

Comments of Ornamental Fish International (OFI) and the European Pet Organization (EPO) to 2006/865

The European importers in general support the principles and background of CITES in Europe. They do have problems, however, with the practical implementation of CITES within the European Union. Many of the issues with which they struggle on a daily basis are the result of a sometimes very rigid implementation of Regulation 2006/865. In our view the implementation is sometimes more directed to enforcing the details of every article than to the spirit of the legislation.

Please find below our main concerns, which have been prepared in cooperation of Ornamental Fish International (OFI) and the European Pet Organization (EPO).

Complexity of implementation

The European Implementation of CITES legislation is complex. In fact it is so complex that a uniform interpretation is difficult even for management authorities, inspection services and prosecutors. For citizens and industry it is often very difficult to almost impossible to trace the relevant information, to trace the actual lists of species, to trace the list of negative opinions and to trace special requirements with respect to individual species. A lot of this information is available on the website of UNEP-WCMC, but this is hardly a word someone would type in for such information. The site is also not very accessible as in browsers it will not easily pop-up.

The DG-Environment website also seems to hide this information. Finding the proper information without special knowledge is only possible for absolute diehards who know what they are looking for. It is absolutely unavailable for normal citizens and trade.

Differences in interpretation per country and even within countries make it furthermore very hard to follow rules. In the eyes of the industry such differences are very difficult to understand.

In daily practice where shipments of e.g. Tridacna's or seahorses which are accepted from a certain shipper in one country but not in another do not contribute to the feeling to a fair EU system for trading in endangered species.

Additions to the legislation which have nothing to do with the status of species in the range but rather with the protection of species within a community, such as the import restrictions for red ear sliders, furthermore adds to the complexity and incomprehensibility of the

legislation. The integration of the Regulation with national species protection legislation, which may differ considerably per Member State on a national level hugely contribute to confusion for citizens industry and officials.

We would highly welcome changes in the Regulation leading to reduction of complexity enabling more uniform interpretation within the European Union but certainly also with the Member States.

We furthermore welcome systems to make legislation more accessible to operators, through a website which will pop-up in search engines when searching for e.g. CITES. We could also imagine an information database which also includes specific national legislation for each Member State and specific information on practical obligations like registration and application of chips, rings, etc.

Lack of transparency

A lot of the frustration of the industry is the result from lack of transparency beginning with the working procedures of the SRG, down to the procedures of the national scientific authorities. In most EU Directorate Generals the sector is involved in changes in the legislation which directly influences their trade. Of course we can find the Agenda of the SRG meetings in the website of DG. Environment, but the agenda items are described by subject only. Request for the background information for these agenda items have not been honored as yet. This way it is not possible to form an opinion on the information on which the SRG is taking its decisions. The results of the meetings can be found in the SRG website as well, however, only the decisions. There is no justification for the discussions, no background information, non whatsoever.

In most areas where the European Union is active, there are structural ways for the involvement of the stakeholders. Stakeholder consultancy is common practice and considered normal practice in a democratic procedure. In CITES stakeholder involvement is also common practice, at working group level as well as during CoPs. The European implementation lacks this sign of democratic governing.

The composition of the national scientific committees is regulated by Regulation 338/1997/EC. We realize that this Regulation is presently not under discussion, but nevertheless we would like to use this opportunity to express our concern in this respect. According to this Regulation Art. 13.2 the members of this committee should have “appropriate qualifications”. In daily practice we seen, e.g. in the Netherlands, but also in other Member States that persons working for zoos are part of the committees. In several cases the same zoos are directly involved in trade in zoo animals. We have also seen board members of animal protection organizations as members of scientific committees, the same organizations which also signed petitions against trade in pet animals or animals taken from the wild. It worries us that an attempt to have person working for the pet industry, who is also an ichthyologist, was refused for the committee with the argument that he was too much involved in the trade. It seems that this argument is only used in one direction. One should furthermore consider that a specialist in pet trade certainly does have “appropriate qualification” for a committee deciding on trade in pets.

The same is true for many national scientific committees. Of course it is possible to fight decisions in court but who brings a government agency on which you strongly depend for your further business to court?

Furthermore, we do not understand why such information is not available. If there is good justification for the decisions then what is there to hide? The industry will support justified decisions. At present the industry often cannot understand the decisions and questions the capability of the committee who apparently is afraid to justify itself.

We would highly welcome a change in the Regulations which deals with transparency in the making of decisions and publications of justifications on the SRG level and on national levels without the need to bring the case to court.

We furthermore would highly welcome a policy where a scientifically educated person would also qualify for a position in the national scientific committee despite a link to a trade association and in addition changes which lead to structural stakeholder consultation for all decisions directly affecting the industry.

Outdated bureaucracy

A very large portion of violations of the EU Cites legislation is the result of unintentional errors with the application of permits, errors in the permits issued and errors inherent in the legislation itself.

Filling in application forms by hand causes many errors in interpretation by management authorities which result in errors in permits but for which the applicant is still liable. An electronic format for application of permits would at least prevent many reading errors, even if it were just a system to be filled in on-line and then printed out for the official application. If such an application would be linked to a comprehensive database, it could also prevent applications for which no permits would be issued, saving time both to applicant and management authority.

Currently the period between application for an import permit and the actual issue of the permit is set at maximum of one month, except for situations where the management authorities need to consult third parties. This part of the legislation causes by far the most complaints of importers as in a high percentage of cases this one-month period is exceeded. In situations where third parties are consulted the period of often exceeded with a considerable time, regularly leading to the situation where the validity of the export permit is exceeded before the import permit is issued.

In consultation with national management authorities we learned that one of the reasons for this delay is the lack of response from third countries. Although it is very easy to pick up a phone nowadays, to receive a prompt answer, it seems that scientific authorities expect full reply on normal mail, and on some cases on e-mail and then wait. These kind of procedures are difficult to digest to imports, who live in a modern world with daily phone contact all over the world. Of course this difference in approach originates in the difference between business and bureaucracy.

We would highly welcome more modern and efficient means of communication. An on-line application facility for permits would contribute much to more efficient procedures of application processing and issuing of permits, especially if linked to the comprehensive database which we indicated to in above chapter on transparency.

We sincerely hope that such measures also contribute to a higher percentage of permits issued well within the 30 days as has been set for it and especially that more efficient

communications with third parties could lead to a reduction of time needed for such a consultation.

In situ breeding projects

In many places in the world in situ breeding projects have been started up. In situ breeding for export purpose, under strict control of the national authorities, is seen as a good method to not only protect the natural resources of the country, it is also a way of creating an income for the countries from its natural resources. Although appreciated by many, it is still a huge challenge to give the investments in this direction support by allowing importation of such animals into the European Union due to practical obstacles.

For corals and *Tridacna*'s, for instance, the producers in tropical countries sell the offspring of stocks which have been harvested from the wild. In the case of *Tridacna*'s the F1 generation can be extremely plentiful. It is preferable to sell a part of this abundant offspring to avoid collecting from new wild stock and to avoid waiting many years the F2 generation. The duration of the reproductive cycle is a major obstruction as many years of maintenance without production is economically not feasible.. With corals the production is the result of vegetative growth of the colonies, and not of sexual reproduction. In both cases the proper filling in of export certificates seems to be an obstacle for imports in some EU Members States.

For other animals like Dendrobatid frogs, in situ breeding has already resulted in loss of investments of the breeders as they were not allowed to export their production to the European Union which is the major market for these animals. Apparently the CITES authorities of the countries involved are not trusted in their efforts to ensure sustainable breeding of such animals. Perhaps there are valid reasons for this. The strange situation develops, however, that if e.g. Surinam species would be captive bred in say Peru, the breeder would probably easily would be allowed to export to the EU, whereas a breeder of the same species in Suriname would not be able to export to the EU. This way the EU puts pressure towards a production which might easily lead to the introduction of alien species in the wild of third countries. This can never be the aim of CITES legislation.

Unfortunately discussions with national management authorities and also with the SRG have up to now often resulted in hiding behind articles rather than considering the general aim of the legislation: protect that which needs protection but allow trade in what can be traded.

We would highly welcome a more positive approach of in situ breeding projects, bringing an income to export countries with sustainable use of their natural resources. Perhaps even constructive assistance could be provided to ensure the non-detrimental production of animals for import into the European Union.

Comments from Ornamental Aquatic Trade Association

From: Keith Davenport [mailto:keith@ornamentalfish.org]

Sent: Friday, December 05, 2008 4:27 PM

To: NI MHURCHU Neasa (ENV)

Subject: Re: EC Legislation on Wildlife Trade - Summary report of the Consultation meeting on current and future EC legislation with interested stakeholders - Brussels, 29 September 2008

Hello Neasa,

Thanks for this report.

I thought the meeting was very useful and came away encouraged by the reactions our views got from you all.

On September 18th I did send a brief list of concerns. At least the final point about identifying the conservation benefit of a considerable expenditure on stricter domestic measures remains unanswered.

"given the expenses incurred each year by official services and traders in permitting Annex B imports, and other stricter measures than required by CITES introduced by EC Regulations, can a list of on the ground conservation benefits be identified. (By this I mean clear in situ benefits. I estimate these measures whether charged for or not may well cost well in the region of 12-15 million Euro's a year, hence since 1997 they may easily have cost well over 100 million Euro's. What is the identified conservation benefit of that expenditure?)"

European Commission
Head of Unit ENV.E.2
Environmental Agreements and trade
Directorate E
1049 - BRUXELLES
Belgique

Paris, le 25 septembre 2008

Service : Secrétariat général
N/Réf. :
V/Réf. :
Affaire suivie par : Luc LADONNE
Ligne directe : 01 40 40 25 04
Portable : 06 20 79 28 37
Fax : 01 56 72 96 61
E-Mail : luc.ladonne@prodaf.org

Objet : EC Meeting on Wildlife Trade – Brussels, 29 September 2008

Dear Sirs,

It is a pleasure for us, as the French national pet trade association "PRODAF" to give our point of view from the traders' side after reading the "Study on the effectiveness of the EC Wildlife Trade Regulations" published by TRAFFIC.

Following are our comments :

- Internal intra-community trade on Annex B species:

We are totally opposed to certification between EU member states for Annex B species. These are the reasons :

- Wholesalers based in one EU member state supply many different retail stores based all over the EU. For example, a coral wholesale trader based in France imports 500 *Acropora spp.* from Indonesia. He applies to the French CITES authority for just one import permit. The French wholesaler will re-sell 5 pieces of *Acropora spp.* to 100 retail stores based in UK, Germany, Spain, Italy, etc... This means that ONLY for this species he will have to apply to the French CITES authority for 100 re-export CITES permits and

his retail store customers will also have to apply for 100 import CITES permits from their national CITES authority.

- Everybody is already concerned about the amount of time it takes to deliver import CITES that must be delivered every day to EU wholesalers for their import of Annex B species from third countries. If you now require re-export / import CITES on internal intra-community trade on Annex B, it will require 500 times more permits being issued! From our point of view, this is totally unrealistic and in opposition to the aim of reducing work and time spent to issue CITES permits at CITES authorities.
- It goes against free trade between EU member states.
- Waiting one month to get a re-export CITES from one member state and waiting another month to get an import CITES from the importing member state is absolutely impossible.

It is extremely important that permits and certificates issued by one Member State remain valid throughout the Community.

- **SRG ON ANNEX B:**

We are not in agreement with the SRG on non-detriment finding.

For example, in coral trade, *Catalaphyllia jardinei* that are banned in Europe are in Indonesia's export CITES quota anyway and all specimens that cannot be exported to the EU are exported to the others countries in the world such as USA, Japan, etc...

In the end, the quantities collected from the wild are not less with the SRG non-detriment finding.

The SRG also causes huge problems for traders. Suddenly, species can be banned with immediate effect. Traders are making a living from these species and a ban from the SRG at any time can result in a loss of income. Traders cannot invest in new equipments, new warehouses etc ... as they cannot plan that their financial income will be the same in 5 years time as the SRG opinion on species they are making a living with can suddenly change.

Is it also important to mention that the national scientific authority takes some months to give an opinion on one species/origin. Quite often, the export CITES has expired when the scientific authority has given his opinion !

- **ORIGINAL DOCUMENTS LOST BY THE AIRLINE COMPANY :**

To be cleared by customs, the importer have to present the original export CITES as well as the original import CITES to customs. Regularly, the airline company forget the original documents during transit for example and bring them on the next flight. These delays in bringing original CITES export documents can cause the death of the live

animals. We would like if customs were authorized in some exceptional conditions to accept to release the shipment with only CITES copies.

For example, if the airline can supply a letter stating that they have forgotten the original documents in transit and certify that they will be delivered on the next flight, then customs should agree to release the shipment.

CITES is already strongly monitoring the wildlife trade and is less complicated than EU regulation. We are convinced that CITES is more efficient than EU regulation as even the CITES Authority are lost with the quantity of information and difficult requirements imposed by the 338/97.

In a period where global economy is extremely difficult for all traders, we expect consideration and more realistic regulation on wildlife trade by the CITES team of the European Commission.

Best regards.

Luc LADONNE
Secrétaire-général

A handwritten signature in black ink, appearing to be 'Luc Ladonne', written in a cursive style.

Humblebaek 18th October 2008

European Commission, Directorate-general Environment

Att. Ms. Lucy Swan

Ref.: EC Legislation on Wildlife Trade, Consultation meeting on current and future EC legislation with interested stakeholders- Brussels, 29 September 2008

Dear Ms Swan

Thank you for the invitation and opportunity to comment on European Commission study on the effectiveness of the existing EC Wildlife Trade Regulations.

General comments

Our Society and other Danish conservation NGOs with whom we work closely share the concern expressed by SSN in relation to the process and methods used for compiling the above mentioned study.

Denmark joined CITES in 1977 and had fully implemented and enforced CITES before the negotiations on the EC Regulations started. It is our experience that the implementation and enforcement in Denmark then closely followed the requirements of CITES, while the implementation and enforcement in particular in more recent years according to the EC Regulations have lead to a serious weakening of the enforcement. We Danish conservation NGOs and animal welfare organizations represent a large number of consumers that share our concerns.

CITES underlines that "wild fauna and flora in their beautiful and varied forms are an irreplaceable part of the natural systems of the earth which must be protected for this and future generation to come". The CITES preamble also notes "the ever growing value of wild flora and fauna from aesthetic, scientific, cultural, recreational and economic points of view". It is further noted "that international cooperation is essential for the protection of certain species of wild fauna and flora against over-exploitation through international trade".

It is therefore in our opinion clear that the key objective of CITES is protection of wild species through regulation of trade, and that this so far has not been sufficiently taken into account in the EC effectiveness study.

We finally firmly believe that in order to improve enforcement in the EU, further public awareness campaigns are need and as well thorough training of enforcement staff enabling them to do the day to day controls of the wildlife trade. Further and better expertise as well is needed at the implementation and as well the enforcement level for appropriate identification of CITES specimens in trade.

Specific comments

1) Late implementation of CITES COP decisions on listing of species.

We are concerned that EU does not meet the requirements of CITES for implementing new listing decisions 90 days after the COP decision is taken. Denmark always met this deadline before the EC regulations came into being. We have therefore got the parliament in Denmark to request that the Danish Ministry of Environment put pressure on EU in order to speed up the process. Taking into account that the proposed changes are well known long before COPs, we are convinced that a proper preparation would enable EU to implement COP decisions by the required 90 days deadline.

We do not agree with the TRAFFIC report in that the way forward for timely implementation is to abandon stricter measures by EU implementing CITES Appendices directly as they are and abandon the Annex system of EU.

2) Requirement of import permits for Annex A as well as Annex B

To ensure an effective enforcement Denmark from the very beginning required import permits for all CITES specimens and not only as required by CITES for those listed in Appendix I. This legislation was drafted based on negotiations with customs and aimed at enabling an efficient enforcement. Management Authorities for CITES receive continued information on export restrictions, lost CITES permits, particular problems related to countries and or species etc. It is not possible in an efficient manner to communicate all this information to border points so that customs there are able to do a qualified control of a CITES export permit. By requiring CITES import permits, this task of keeping fully updated is left for the Management Authority which at the time of issuing the import permit can give helpful instructions for customs on particular issues which might be needed in relation to controlling that particular shipment on arrival.

Exemptions from such general permit requirements only create extra work load for customs at the border and leads to confusion both for the general public and the authorities. Exemptions therefore should be kept at an absolute minimum.

We firmly believe that EU cannot undertake a due enforcement in relation to Annex B if the import permits were not anymore to be required.

3) Marking and registration

Marking and registration is an important “must” in order to help enforcement. This should be a requirement not only for Annex A species but as well for all live Annex B species, at least those that are not commonly in trade, are not easy to keep and /or are not easy to breed in captivity. This would give a burden of work in the start, but would afterwards in relation to enforcement and as well in relation to issuing permits and certificates ease the work then and thereby lead to a more smooth and efficient process.

4) Certificate requirements for internal transactions.

In order to facilitate a better enforcement in the EU, better controls should cover Annex B specimens as well and certificates should as a rule be required for transactions inside EU. When implementing, exemptions could after careful consideration be made for example in the case of crocodile watchstraps and similar items being in trade inside EU.

5) Personal and household effects

In Denmark (as in many other countries) the CITES possibilities for exemptions for movement of personal and household effects were interpreted and enforced so that permits always were required but the procedure for issuing the permits and requirements for documentation was different and easier to fulfill in case of household (and as well pre-convention, antiques etc). We find that as the rules are now within the EU it leaves a large loophole for illegal trade.

An example: Movement of 13 narwhal tusks to Denmark - some of these freshly taken still with tissue on, where a person have been spending only 3 months in Greenland, should require full CITES procedures for permits, and not be allowed due to the existing import ban in EU. We note that many Narwhal tusks are being sold in Denmark without any controls, some of them fetching up to 10.000 EURO for one tusk.

We recommend that CITES permits be required and transactions of personal and household items again set under control.

6) Souvenirs and trophies

An appropriate enforcement in our opinion is possible only if CITES export as well as import permits are required.

Kind regards

Birgith Sloth, CITES consultant

Society for the Conservation of Marine Mammals, Denmark



SSN comments: Review of EU Regulation 338/97 on wildlife trade

Since the EU regulation 338/97 *on the protection of species of wild fauna and flora by regulating trade therein* entered into force, experience has revealed a number of loopholes. With 27 Member States the EU not only faces particular challenges with regard to regulation of its large internal wildlife market and the consistent enforcement of regulations but also carries particular responsibility for the conservation of species threatened by trade. The Species Survival Network (SSN) would like to submit the following recommendations on the revision of the EU regulations on wildlife trade.

1. Ensure application of the precautionary principle when making non-detriment findings

The EU is one of the biggest importers for many CITES listed animal and plant species as well as products thereof. The EU therefore carries particular responsibility in ensuring that wildlife trade is not detrimental to the species concerned. Many species listed in Annex B of Regulation 338/97 are imported into the EU although their wild populations are declining, *inter alia* because of capture or collection for trade. According to Article 4 of EU Regulation 338/97 an import permit must only be issued, *"when the competent scientific authority, after considering any opinion by the Scientific Review Group (SRG), has advised that the introduction into the Community would not have a harmful effect on the conservation status of the species or on the extent of the territory occupied by the relevant population of the species"*. However, in actual practice, import permits are often issued until evidence demonstrates in retrospect, that populations have declined and the Scientific Review Group (SRG) recommends suspension of imports of a certain species from a certain country. Before imports of wild birds into the EU were suspended because of the risk of spreading avian influenza and other diseases, the trade in wild birds provided ample and well documented evidence for this: Between 2000 and 2003 the EU imported 93 % of all CITES listed wild birds in international trade (UNEP/WCMC 2005). The most commonly traded parrot species is the African Grey Parrot (*Psittacus erithacus*). Although the EU prohibits imports from several range states, suspensions have often only been established in retrospect, when evidence of serious population declines could no longer be ignored: For example, the EU only suspended imports from Guinea, Guinea-Bissau, and Nigeria after reports became available demonstrating that trade was unsustainable and populations had collapsed (Clemmons 2003; McGowan 2001). With regard to import of Grey parrots from Cameroon the SRG took a "positive opinion" in June 2006 while just one month later the 22nd CITES Animals Committee decided that trade from Cameroon was of urgent concern and should be suspended. Another example are imports of various parrot species from Nicaragua into the EU, which continued for years after reports commissioned by the Nicaraguan CITES authorities in 1999 and subsequent years concluded that populations had declined (Wiedenfeld and Lezama 1999; Herrera Scott 2001; Lezama et.al 2004). The EU's current procedures governing imports are contrary to the precautionary principle and therefore contribute to the decline of many species.

The revised EU Regulation should clearly shift the burden of proof: Such that before import permits are granted, the exporting country must provide a scientifically-based management plan for the species, positively demonstrating that the use of the species is biologically sustainable and well below the level at which the species might become threatened with extinction. The management plan should provide data on a set of clear and specific requirements relating to the status and biology of the source population (including, *inter alia*: current and historical distribution of the species, population data and trends, age structure, sex ratio, reproductive success, and annual loss from natural mortality, from offtake and other threats) and the status and trends of the habitat upon which the species depends. The plan must also address implementation issues, control of illegal trade and other threats to the species.

2. Prevent exceeding of export quotas

For many CITES listed species export quotas have been established by the exporting country either voluntarily or based on a recommendation of the CITES Committees or by the CoP. However, these quotas are often exceeded. **The EU should only issue import permits for species for which a scientifically based export quota has been established and if the export permit contains the quota for the species concerned and the total number of specimens already exported in the current year (including those covered by the permit in question).**

3. Suspend imports of species suffering high mortality during transport or in captivity

Article 4(6)c of EU regulation 338/97 provides for import restrictions of Annex B species *"... which have a high mortality rate during shipment or for which it has been established that they are unlikely to survive in captivity for a considerable proportion of their potential lifespan"*. However, this important provision has not been implemented to date. In 2003 and 2004 the SRG was tasked with considering guidelines for the implementation of Article 4(6)c. Despite its conclusion, that "many species have poor survival rates in captivity", the SRG chose to severely limit the scope of Article 4(6)c and ultimately concluded that it was not applicable. SSN does not agree with this conclusion and believes that the extent of the problem and the wealth of data already available on high mortality rates in trade and in captivity must no longer be ignored. Article 4(6)c clearly is a precautionary measure aimed at regulating trade when potential detrimental impacts to a population can be inferred from a high level of mortality during transport or in captivity. Last but not least the CITES Strategic Vision's Action Plan goal No. 1.1.6 calls on Parties to *"develop further regulations to prevent unnecessary loss during catching, storage and transportation of live animals"*.

As the SRG obviously experienced difficulties in implementing Article 4(6)c as it currently stands, we recommend that the article is amended to establish clear guidelines detailing inter alia from which level mortality during transport and in captivity is not acceptable. SSN strongly believes that a comprehensive consideration of mortality in trade must include mortality during all stages *pre* export (capture, transport and storage in the exporting country) and *post* export (quarantine, transport and captivity in the importing country) as well as during international shipment and that this should be reflected in the EU regulation. **In summary, the revision of regulation 338/97 should redefine the wording of Article 4(6)c, ensuring it can be adequately implemented and taking into account the precautionary principle and that all stages of trade (pre- and post shipment) and captivity are covered.**

4. Prevent laundering of wild-caught specimens / improve control of captive production systems

To circumvent existing trade bans or prevent establishment of new ones, wild-caught animals are often mislabelled to have been bred in captivity in accordance with Res. Conf. 10.16 (Rev.) (Source Code C) or to originate from some other "controlled" environment (Source Code R or F). This is illustrated by the trade in thousands of wild specimens of the Critically Endangered Yellow-crested Cockatoo (*Cacatua sulphurea*), that were claimed to have been "captive-bred" after CITES recommended an import suspension for wild specimens.

To halt the laundering of falsely labelled specimens, the revised EU Regulation **should explicitly require provision of detailed documentation demonstrating on a case by case basis that the exporting facility is actually able to produce the species in question in captivity.** This documentation should include all the information required in Annex 1 of CITES Res. Conf. 12.10 (Rev.CoP14).

Another example for the misuse of source Codes is the export of 38.000 "ranchered" parrots from Nicaragua between 1994 and 2003, although no ranching programmes exist in Nicaragua and although the trade has had a detrimental impact on many species (see above). According to UNEP-WCMC trade data the EU imported 83% of the Nicaraguan parrots in international trade in this decade. **Imports of "ranchered" specimens (source code R) should only be accepted if documentation has been provided by the exporting facility in question, demonstrating that all requirements of Res.Conf.11.16 (Rev. CoP14) are complied with.**

CITES has not set out a clear definition or requirements for specimens labelled as “F” other than that animals must be born in captivity (F1 or subsequent generations) but do NOT fulfill the definition of ‘bred in captivity’ in Res. Conf.10.16 (Rev.). To prevent that wild caught specimens are laundered into trade using this loophole, **“F” specimens should not be accepted until a clear and enforceable definition has been agreed in a CITES Resolution** and again documentation has been provided by each exporting facility, that all requirements are met.

Moreover, import and export of specimens originating from any captive production system should only be permitted if **specimens are uniquely marked** and the type and number of the mark are indicated on the document authorizing the trade. For import as well as export of all captive bred birds marking with a **closed seamless ring** with country code and unique number should be required. In addition, we urge the EU to finally **implement CITES Res. Conf. 12.10 (Rev. CoP14) on “Guidelines for a procedure to register and monitor operations that breed Appendix-I animal species for commercial purposes”** and only permit import and export of Annex A specimens if these originate from a facility registered with the CITES Secretariat. Likewise all intra-community movements or use of such Annex A species (except those listed in Annex VIII (Article 32 (a))) should require a prior CITES certificate which should be issued only when the specimen originates from such a registered facility.

5. Establish criteria defining “non-commercial purposes”

EU Regulation 338/97 currently lacks clear guidelines defining when a specimen is not traded for “primarily commercial purposes” and therefore when the exemptions permitting for trade in Annex A specimens apply. The Regulation provides for the following exemptions from the prohibition to trade Annex A specimens commercially 1) under exceptional circumstances for the advancement of science or for essential biomedical purposes and other scientific purposes, 2) for breeding or propagation purposes from which conservation benefits will accrue to the species concerned, 3) for research or education aimed at the preservation or conservation of the species or 4) other purposes which are not detrimental to the conservation of the species.

To prevent that these exemptions are misused, it is essential that strict definitions and criteria are established, providing for consistent implementation in all EU Member States. The prohibition of trade in strictly protected species for primarily commercial purposes is one of the fundamental requirements of CITES and the EU Regulation. CITES Res. Conf. 5.10 defines primarily commercial purposes, stressing “the term commercial purposes should be defined by the country of import as broadly as possible” and that “all uses whose non-commercial aspects do not clearly predominate shall be considered to be primarily commercial in nature”. However, there are clearly commercial aspects involved in the import and display of many Annex A specimens. For example, import permits for Annex A specimens are not only granted for scientific institutions, sometimes permits have been granted to entertainment parks with clearly predominating commercial purposes or to private persons. Display of high profile Annex A specimens does reportedly attract paying visitors and donors and can generate increased income. Several entertainment parks and dolphinariums even charge additional entrance fees for shows in which Annex A specimens are displayed.

With regard to the exemption for breeding or propagation purposes, production of offspring in itself is not sufficient to satisfy the requirement that conservation benefits must arise for the species concerned. To justify the import of a wild-caught Annex A specimen, a breeding project can not simply be directed at maintaining a captive population per se. Instead, it must not only compensate for the offtake of wild animals but also specifically contribute to the conservation of the species *in-situ*. This can only be achieved by **qualified and coordinated breeding programmes, aiming at the re-introduction of captive bred animals into the wild**. However, facilities importing wild-caught Annex A specimens for breeding purposes often do not live up to these requirements: Breeding success in captive facilities is often considerably lower than in the wild and captive bred offspring is only very rarely being reintroduced into the wild. Often importing facilities do not even fulfil the most basic conditions for successful breeding that could result in the re-introduction of animals into the wild. Instead, many programmes aim merely at “self-sustaining” captive populations; the genetic diversity of the breeding stock is too low even for a viable *captive* population, let alone for eventually re-stocking the wild population; co-operation with regard to coordinated breeding programmes and genetic exchange is inadequate; specimens from different sub-species or sub-populations are mixed etc..

Similar questions must be raised with regard to imports for research or education aimed at the conservation of the species: Is the design of the research or education project primarily aiming at and able to produce results that are meaningful for the conservation of the species in the wild (as required by the EU Regulation)? Do the projects have any direct relevance to threats the species is facing in the wild? Are they suited to produce results that are scientifically sound?

6. Require a certificate whenever Annex B specimens are used for commercial activities or transported between EU Member States

When Annex B specimens are used and traded commercially within the EU or transported between the 25 Member States, currently no CITES permit or other authorization is required. The fact that the EU has abolished national border controls in its large internal market and does not require a certificate to proof the legality of specimens, makes it virtually impossible for national enforcement authorities to distinguish between legal and illegal trade in Annex B specimens. This results in a situation where illegal specimens are laundered at the “weakest point” and then traded unhindered within the Community.

Article 8 and 9 of regulation 338/97 should be amended to require a certificate whenever Annex B specimens are transported between EU Member States or used for commercial activities. In addition, unique marking of these specimens should be required (consisting of closed rings for birds or microchips for other live animals).

7. Amend Article 7 on personal and household effects

For the import of Annex B “personal and household effects” no import permit and no non-detriment-finding are required. Accordingly, no import suspensions can be applied, even if there is proof that these imports are detrimental to the survival of the species. For example, there is clear evidence that sport hunting can have a significant negative impact on populations of Annex B species such as lions in West and Central Africa (where populations consist of 10 to 200 animals) or polar bear populations. Because of declining populations and questionable hunting quotas the US Fish & Wildlife Service has long been prohibiting imports of polar bear trophies from certain Canadian polar bear populations. Other well documented examples are the import of hunting trophies of lion from Ethiopia or the import of tourist souvenirs produced from narwhal tusks. In December 2004 the SRG suspended imports of Narwhal products from Greenland. However, despite serious concerns with regard to sustainability the majority of trade in narwhal products continues, as it is for tourist souvenirs and therefore exempted from the import ban.

The exemptions for personal and household effects from Article 4 should be removed from the EU Regulations. Moreover, Article 7 should be amended to limit the number of specimens that one person is permitted to import as a “personal and household effect”. It should also be clarified that the derogation only applies to situations where CITES specimens are part of the household of a private person that moves to or from the EU and that the exemption does not apply in the case of live animals.

8. Prevent issuance of retrospective permits

Article 15 of the implementing regulation 865/2006 allows retrospective permits to be issued “exceptionally”, including for Annex A species. However, customs and enforcement authorities report that this practice is open to abuse and can seriously hamper their work. **This provision should therefore be deleted or at least be severely limited in order to be in accordance with Res. Conf. 12.3 (Rev. CoP14), to the following effect:**

Exceptions from the recommendations must not be made with regard to Appendix-I specimens, and be made with regard to Appendix-II and -III specimens only where the Management Authorities of both the exporting (or re-exporting) and the importing countries are, after a prompt and thorough investigation in both countries and in close consultation with each other, satisfied that: *inter alia*, the irregularities that have occurred are not attributable to the (re-)exporter or the importer or, in the case of specimens imported or re-exported as personal or household effects

enforcement authority, is satisfied that there is evidence that a genuine error has been made and that there was no attempt to deceive. Where retrospective permits are issued for personal effects, provisions for penalties and restrictions on subsequent sales must be made to prevent abuse and retrospective permits must not be afforded to repeat offenders.

Although SSN recommends stopping the issuance of retrospective permits, if the EU decides to allow such permits to be issued then it should also establish a procedure requiring retrospectively issued permits to be submitted to all EU CITES authorities immediately.

9. Issuance of CITES import permits for Annex A specimens

It is required that for trade in Annex A (CITES Appendix I) species a prior import permit is issued based on which the exporting third country issues the CITES export permit. It should be clarified that if the export permit does not meet the requirements it is the obligation of the importing EU Member State to revoke the import permit and to confiscate and penalize.

10. Improve the reporting of trade data

Regulation of trade in parts and derivatives of wildlife requires quantities to be reported in a fashion that allows accurate assessment of the number of individual animals or plants involved in the trade so that accurate non-detriment findings can be made as required by Article IV. However, often reports of quantities of parts and derivatives traded, especially those that are worked such as carvings, are not sufficiently precise. This lack of specificity makes it difficult to determine the extent of international trade in these species and the impact of trade on wild populations. Although the CITES Guidelines on the Submission and Preparation of Annual Reports require reports to be submitted "in standard units of measure and never in non-standard units such as "boxes", "cartons" or "bales", Parties report trade in non-standard units such as 'ivory products' or 'sets of carvings' without providing quantitative or qualitative details (such as the number of carvings in the set, or their size or weight). As for example a carving or ivory product could be anything from a small carved bead to a three metre long engraved tusk, failure to report specific details of the item(s) traded makes it impossible to determine how many specimens contribute to the trade. Furthermore, it is not possible to identify from the trade data whether a carving is from a tusk, tooth or bone.

When granting permits for parts and derivatives (e.g. skins, hunting trophies, carvings, pieces etc.) the EU should require the number of specimens and two standards unit of measure, as well as the number of individuals affected by the trade be reported. Shipments in non-standard, non-quantifiable units such as 'boxes', 'cartons' or 'bales' should not be accepted.

To further improve the quality of reporting it should be specified that each EU Member State must lay down clear administrative procedures and ensure training of customs personnel, including feedback to the CITES MA on the quantities of specimens imported or exported.

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Taxidermy in the Netherlands and The Dutch Taxidermists Association.

A bit of history.

Due to social sentiments at the time, according to which the profession of taxidermists was considered as obsolete and outdated and had to be terminated through altering of legislation, the Dutch Taxidermists Association (NVP) was brought into existence in 1981.

The main objective of the NVP was to prevent the extermination of the taxidermist's profession by the government. 27 years later we can state that the NVP not only has operated successfully in protecting the existence of taxidermy as a profession in the Netherlands, but furthermore has promoted the profession to the public, and has established an appreciation and acceptance of the profession with the managing authorities of the government.

The NVP has done so by "coming out of the closet". In the "old days" a taxidermist was an obscure type of person whose activities were hidden in shady sheds and lofts. He prepared dead animals for clients as poachers and hunters; this was the general opinion with not only the public, but especially with the controlling authorities. The NVP, knowing that the general public had a basic sympathy for nature, and convinced of the value of taxidermy for science, education and preservation and protection of nature, presented the profession to the public.

The NVP organized taxidermy demonstrations in museums, nature visiting centers, fairs and conventions. Also the NVP started in 1999 with the organization of the so called NVP-workshop-weekends. Since then 17 of those weekends took place. At the onset there were 30 participants, but at the youngest 3 workshop-weekends there were each time nearly 60 applicants for the maximum of 45 participants who could be admitted. The general interest in taxidermy has been and is still rapidly increasing, specially with younger people, due to the activities of the NVP.

Regulation of taxidermy in the Netherlands.

Since 2002 the Netherlands know one overall legislation for the protection and conservation of nature: the Flora & Fauna Act, which is a comprehension of the former Hunting Act, Birds Act and Nature Protection Act.

In the F&F-Act the provisions and regulations of European legislation like the Basic Regulation, the Implementing Regulation, the Habitats directive, the Birds directive, the Bern Convention, the Bonn Convention and the Ramsar Agreement are implemented; although at the moment not quite to the full satisfaction of the European Committee.

Taxidermy is represented in the F&F Act in a special paragraph. The preparation of protected animal species is forbidden, unless a taxidermy permit can be shown. This prohibition is surrounded by numerous exemptions, based on lists of indicated species, but this is the general pattern.

Also is regulated in the F&F Act that an examination has to be undergone and passed, to be issued a taxidermy permit. In the General Measures of Governance and General Regulations that derive from the F&F Act has been formulated what the subjects, contents and standards of examination must be. Mind you: the total contents of this examination consists of theoretical subjects, such as legal knowledge, knowledge of animal species, basic biological, ecological and chemical knowledge.

The actual organization of the examination has been charged to a Foundation with a special consignment. The NVP as a participant in this Foundation is involved in the construction and composition of the actual examinations for taxidermists.

Once a candidate has passed this examination he can apply for the taxidermy permit with the Ministry of Agriculture's Managing Authority. He is issued a registry ledger and a package of 100 taxidermy labels, for which he has to pay € 1,-- a piece.

These labels are individually and consecutively numbered and come in pairs: an A-label and a B-label, both with an identical number.

From this moment on forward he is licensed to accept orders and commissions from any individual or institution for the preparation of specimens of protected animal species.

The labels must be attached to dead specimens of indigenous and foreign animal species which come from the wild by other means than legal hunting or trade. Therefore they must be attached to animal victims of traffic, oil pollution, window screens, high-tension cable lines etc. They are not to be attached to dead specimens which are from other legal origin, such as legal hunting or trade.

The function of these taxidermist's labels is therefore to establish the legal origin of dead animal specimens next to the already existing system of establishing legal origin by documents (CITES), closed leg rings, or hunting labels.

Due to many exemptions in many different lists of indigenous or foreign species under the F&F Act, there is very much confusion among taxidermists and others (e.g. managing officials) as to whether a taxidermist's label is required or not. A significant number of species have been exempted from the prohibition of possession, in different periods of the year, and in different provinces of the country, and are therefore sometimes freely available for taxidermy by anyone, while the same species in an other period of the year or at an different location is only available for taxidermy by registered taxidermists.

Firstly the NVP had advised its associated members to attach the taxidermy labels to all specimens they deliver to clients, although this is not required in many cases, to avoid any misunderstanding about the legal origin of the specimen.

Secondly the NVP would plead to introduce and embody this practice not only in national legislation (F&F Act) but also in European legislation (Basic Regulation).

The modus operandi with the taxidermy labels is as follows:

- When a private person acquires a protected specimen, which has not been killed by legal hunt or detriment control, a declaration of transfer has to be obtained at the nearest police station.
- At the police station an officer of "Special Laws" has to examine the specimen to establish the fact that the specimen has found death, without the guilt or knowledge of the holder.
- When such a declaration of transfer is issued to the holder, he/she must transfer the specimen to the taxidermist of his/her choice, whose name has been specified on the declaration of transfer, within three days after the date of issue.
- At the address of the taxidermist the holder first presents the declaration of transfer to the taxidermist.
- The taxidermist registers the specimen's species name, the date, the name of the holder/client, and the number of the declaration of transfer in his registry ledger, after examining the specimen for faults or damage.
- The taxidermist forthwith attaches the A-label inextricably to the specimen, and ads the number of the label to his registry ledger. The B-label remains in his administration till the moment of delivery of the prepared specimen back to the holder.
- The taxidermist prepares the specimen. This can take from several hours to several months, depending on the working schedule of the taxidermist.
- Once the specimen has been completed, the A-label is removed by damaging it and replaced by the B-label, which is also inextricably attached to the specimen.
- The prepared specimen is handed over to the holder, who pays the agreed price to the taxidermist, for the preparation labor he did on the specimen.

- The taxidermist notes the date of delivery of the specimen to the holder in his registry ledger.
- N.B. From this moment on forward the holder is the owner of a prepared specimen of a protected animal species, which he can not sell, or offer for sale.

As can be understood from the above, in the Netherlands everyone can practice taxidermy, provided the disposal of a taxidermy permit. Mind you: contrary to many other European countries there is no need to exploit a business or company to be allowed to practice taxidermy activities.

This situation is appreciated by the NVP, as the NVP supports the point of view that everybody should be able to get acquainted with the magnificent work of taxidermy. The general interest and love of nature which has been proven to be widely spread among the public, can thus be the source and the badly needed support platform for the consciousness of the need of nature protection and preservation, through taxidermy. Education is the keyword.

This is the reason why 85 % of the NVP's members are hobbyists. Of the some 200 NVP-members about 100 dispose of a taxidermy permit. 30 of them are professional taxidermists, of whom many exploit a larger fulltime or smaller part-time business. The other 100 members are in the course of obtaining the taxidermy permit through self-study, attending the NVP-workshop weekends or following the 2-year taxidermy training course which is organized by a third party under the auspices of the NVP.

Main concerns regarding taxidermy in the Netherlands.

- The overwhelming complexity of legislation regarding protected species, especially from outside the European Union, is incomprehensible for the average common taxidermist, both professionals and hobbyists. To establish what is allowed and prohibited in which circumstances, depending on what list of species, is simply impracticable for them. The consulting of written sources or the internet provides the texts of legislation, but doesn't make them understandable, and does not provide guidance to how to act in a specific situation.
A system of guidance in the form of e.g. a determination schedule as it is used in botanical floras could be very useful. It could take the user through the motions and present him with the needed information and documents in a given specific situation.
- The (Dutch) declaration of transfer does present many problems in the taxidermy practice. First of all the expert knowledge of the officers at the police station lacks. Not only do they not dispose of the adequate knowledge of the animal species, they also are unable to determine the legality of the specimens presented to them. And last but not least, they are often not very keen on handling a dead animal specimen.
Therefore the effectiveness of the declaration of transfer as an instrument of control and maintenance of legislation is extremely limited.
Our proposal would be to assign the competence to establish cause of death and legal origin of the presented specimens to the taxidermists.
We are aware of the possible risks this change could present, for example where laundering is concerned. The NVP hold the view that this is already the case under the present circumstances. These infringements will not increase because of this change. Bureaucratic burden for both the public and taxidermists will diminish, and the effectiveness of control and maintenance could even improve. Through a survey of the Ministry of Agriculture that was carried out in 2006-2007 has been established that the vast majority of the Dutch taxidermists are very willing to abide by the law, and are very proud and pleased to have the taxidermy permit at their disposal. They would gladly accept a regime of stricter control and heavier punishment in case of trespassing.
- The prohibition of all commercial activities with legally acquired animal specimens is to many taxidermists a thorn in the side.
Based on the principal consideration of the F&F Act wild animals do not have any economic

value. Therefore all animal specimens acquired from the wild by other means than legal hunting cannot be sold, resold, rented, etc. In other words: no commercial activities can be carried out with them, according to the law.

Basically The NVP appreciate and support this principal: wild animals should not be treated as assets for trade. But once the legal origin of a specimen has been confirmed and registered, by the taxidermist or otherwise, there should be no further objection against commercial activities regarding the – prepared – specimen by the taxidermist. The price clients pay to the taxidermist is not to buy the prepared specimen from the taxidermist, but to reimburse the labor of the taxidermist on the specimen. In this perspective it should be permitted for taxidermists to use their prepared specimens for expositions, rental occasions, demonstrations, promotion activities etc. Therefore taxidermists should also be allowed to sell items that have been worked on but have been abandoned, rejected or left behind by clients. Furthermore this would be in line with other – economically and commercially based – requirements taxidermists have to meet, e.g. in regard to the provisions they have to take for the disposal of the organic waste of their business. The NVP hold the view that the cost of labor should be resalable for the taxidermist, all this provided that the legal origin has been established by the taxidermist's label, and can be retrieved by controlling and managing authorities.

- Article 8 from the Taxidermy Regulations of the F&F-Act lists a number of species which cannot be prepared at all, even though a taxidermist is the holder of a permit. In the NVP's view this article, that derives from European legislation is based on mistrust towards the taxidermy trade, as allowing these species to be prepared by taxidermists would endanger the natural population. Besides this has never been proven, and is based on doubtful assumptions, it demonstrates the neglect of the simple fact that also these animal species do die at some point in time of natural or unfortunate causes, and then could serve an educational, scientific, or other socially accepted purpose. These animal species need special protection, so they should be excluded from hunting etc. But there is no need what so ever to exclude them from taxidermy, provided their legal origin has been established. How this can be done by the assignation of permits to certified taxidermists and by the application of the taxidermy labeling system has been described before.
- From the above explained can be understood that – in the NVP's view – the taxidermist's professionalism should be taken more seriously by both the national and European government. If only because of its educational significance in reference to the preservation and protection of nature, still apart from the other reasons mentioned.

To bring about these improvements the NVP would plead for the Europe wide introduction of the – extended – Dutch labeling system of taxidermy items, together with the removal of unnecessary impediments to intra-communitarian transfer, e.g. for championships, expositions, demonstrations etc.

Self regulation within the trade, together with an upgrade of the taxidermist's competency, in combination with strict control and management and according prosecution and conviction, could improve not only the sanity of the business but also the quality of products in taxidermy, as well as the effectiveness of maintenance.

Although this has become a rather elaborate discourse, we hope you will take the time to read and comprehend our arguments explained here. The taxidermy business for us not only is a profession or livelihood. In many cases it is an activity to which we dedicate lots of energy, effort and inspiration. We are determined to make and keep taxidermy sound, prosperous and beautiful for both ourselves and for the public and society in general, as we are convinced of its significance and value on many many levels, and in many many respects.

On behalf of the Dutch Taxidermy Association, NVP,

Jan van Hout (secr.)

Section	Issue	Option Presented	UNEP-WCMC Comments
3.2.2	Resource intensive issues for Scientific Authorities: SAs may have insufficient resources to undertake areas of work including monitoring of trade trends, research for non-detriment findings	Member States identified a possible solution at Vilm to reduce time processing reptile leather products	Any SA which feels that further research for NDFs could be required can suggest species for future review to Commission. These may be prioritised by SRG and reviewed by UNEP-WCMC.
3.3.2.1	There is an administrative burden in processing applications for reptilian leather products	Allow pre-issued import permits for SRG agreed list of sp/country/product combinations of LPS/LPL (possible amendment to Commission Regulation)	Conservation risk is that non-detriment findings may not be regularly made – UNEP-WCMC could review EC trade in reptile sp/ country/product combinations at regular intervals (e.g. 2 years)
3.3.2.2	Measures to reduce SA resource allocation for imports of live specimens and hunting trophies	No SA referral required where an opinion formed by the SRG, or SA has provided recent advice and no change in circumstances has occurred	Where SRG has formed an opinion, UNEP-WCMC could systematically review SRG opinions after an agreed period. This would enable the SRG to check that non-detriment findings at recent trade levels could continue to be made, even if there is no referral to SAs. However a significant number of SRG opinions are made at every meeting - this would have resource implications. Prioritisation of species would be required. [The same is not true for `recent` referrals to SA – risk here is that SA decisions are maintained for long periods without re-referral and reference to trade levels, unless `recent` is clearly defined]
3.3.2.2	Time consuming import permits	Creation of web tool to add species information for non-detriment findings to CIRCA to avoid duplication of effort by individual SAs	This is an interesting suggestion and it is something that could be taken on board when further developing the SRG e-library. Under the current contract with the Commission, UNEP-WCMC will explore ways of making information concerning one-off decisions/non-detriment findings available through the electronic library either by developing and indexing links to CIRCA or databasing such information. Additionally, ways of making information generated through UNEP-WCMC species reviews more accessible could be explored.

3.6.14.1	Regarding MAs and SAs – opinion of SAs on imports	Annual reports of EC Countries could be discussed at SRG as well as Committee if accompanied by UNEP-WCMC analysis	Presentation on 2006 analysis was given for SRG45 – this is also intended for future meetings.
3.8.1.1	Function of the SRG - SRG inconsistency with decisions in particular hunting trophies	Worth reconsidering whether SRG should take a less rigorous approach to trophy species listed on Annex A due to listing on EC Directives	SRG45/12 addressed this issue. UNEP-WCMC could review trophy species listed on Annex A due to listing on EC Directives for future SRG meeting
3.8.2	Criteria for SRG opinions – trade routes can shift as a result of negative opinions	Suggest imposing a `cap` or import quota for EC ensuring overall reductions in trade for species of concern, subject to WTO rules, to prevent shifts in unsustainable trade following negative opinions. This would require immediate response internet technology.	Development of an internet based pilot project to share CITES trade data in near-real time is an activity included in the current UNEP-WCMC contract with the European Commission.
3.8.2.1	Validity of SRG opinions	Positive and negative opinions should be reviewed periodically (perhaps every five years) to determine if opinion still valid – and prioritised against the need for other species reviews	This is a significant task for UNEP-WCMC; some prioritisation is likely to be required. A web based information tool described above may negate the need for re-review of some species.
4.5	Personal and household effects	Annex B trophy imports do not require an import permit but imports continue despite negative opinions in some instances, ie the opinion has no impact on personal trade	UNEP-WCMC could review trade to EC in Annex B species as reported by exporters with purpose code P to clarify scale of this trade, and prioritise species to review where there are negative opinions (esp. trophy imports and other species of concern e.g narwhal).

**Recommendations of the Whale and Dolphin Conservation Society (WDCS) and the
International Environmental Law Project (IELP) for Revision of Council Regulation (EC)
No 865/2006: Issues Related to the Personal and Household Effects Derogation**

Maintain stricter domestic measures:

The drafters of CITES intended that the provisions of the Convention set merely a baseline for preventing the overexploitation of species due to trade. Article XIV(1) of CITES explicitly provides that the Parties may enact domestic measures that are stricter than the requirements of the Convention for trade in any species, regardless of whether the species is included in the CITES Appendices.

The EC CITES regulations are laudable in that they interpret the exemption provided for personal and household effects (PHE) from the basic permit scheme more strictly than CITES requires. Simple, narrow interpretation of all derogations is necessary to limit loopholes that can be exploited for illegal trade and to truly give effect to the primary purpose of the exemptions—easing administrative burdens.

WDCS and IELP encourage the EC to maintain its role as a conservation leader by maintaining its narrow interpretation of the PHE derogation. And, in the cases where the EC regulations are less strict than the Convention text or Resolution Conf. 13.7, WDCS and IELP urge the EC to adopt regulations that endorse a precautionary approach to implementing CITES.

Definition of Personal and Household Effects

As written currently, the complete definition of the types of specimens that qualify as “personal and household effects” spans a provision of 338/97 and a provision of 865/2006. Article 2(j) of Regulation 338/97 states that “personal or household effects shall mean dead specimens, parts and derivatives thereof, that are the belongings of a private individual and that form, or are intended to form, part of his normal goods and chattels.” Articles 57(1) & 58(1) elaborate on this definition by indicating that the derogation for PHE does not apply to “specimens used for commercial gain, sold, displayed for commercial purposes, kept for sale, offered for sale, or transported for sale.” TRAFFIC suggests that the definition contained in Res. Conf. 13.7 (Rev. COP14) is much clearer. It provides that “personal or household effect” means “specimens that are a) personally owned or possessed for non-commercial purposes; b) legally acquired; and c) and at the time of import, export, or re-export, i) worn, carried, or included in personal baggage; or ii) part of a household move.”

WDCS and IELP agree that aspects of the definition provided in Res. Conf. 13.7 are clearer. The definition of PHE in Res. Conf. 13.7 provides a number of reasonably clear criteria against which to judge whether a particular specimen is in fact a PHE. As TRAFFIC notes, the phrase “form, or intended to form, part of his normal goods and chattel” may be confusing or not entirely without definitional problems of its own. The EC regulations could clarify this language by incorporating the relevant language from Res. Conf. 13.7, i.e. that the specimen must be “owned or possessed for non-commercial purposes” by a private individual. EC Regulation

865/2006 provides further meaning to this phrase in the language included in Articles 57(1) and 58(1), which indicates that the derogations do not apply to “specimens used for commercial gain, sold, displayed for commercial purposes, kept for sale, offered for sale or transported for sale.” For ease of administration and understanding, EC Regulation 865/2006 should be redrafted to include the language Res. Conf. 13.7 and of Articles 57(1) and 58(1) into a clearer definition of PHE.

In addition, as TRAFFIC notes, the CITES definition specifically indicates that personal and household effects must be legally acquired. Typically, whether a specimen is acquired legally is an export permit condition. Thus, when the EC requires an export permit for import of personal and household effects, which it generally does, the EC ensures that a PHE specimen has been legally acquired; however, in cases for which an export permit is not required, as in the case of the derogations listed in Article 57(5), the EC regulations do not require that the specimens be legally acquired. Thus, the EC should add to its definition of “personal and household effects” that specimens must be legally acquired.

Finally, the definition in Res. Conf. 13.7 provides that PHE must be “worn, carried, or included in personal baggage” or “part of a household move.” EC Regulation 865/2006 also contains similar restrictions but they are not included as part of the definition of PHE. Thus, the EC’s definition of PHE may be construed as significantly broader than the CITES definition. Moreover, Res. Conf. 13.7 does not include hunting trophies shipped at a later date, whereas the EC’s interpretation indicates that these hunting trophies, even though not carried in personal luggage, are eligible for the EC’s PHE derogation.

Thus, while WDSCS and IELP agree that the EC’s definition must be more closely aligned with the definition provided in Res. Conf. 13.7, WDSCS and IELP also suggest a number of additions to the definition that will better implement a precautionary approach to wildlife trade and thus better support wildlife conservation.

First, the definition of PHE should specifically exclude specimens considered raw or still in their natural state, such as raw ivory, including whole tusks or parts thereof, unfinished wood products, or other uncured specimens. Excluding these types of specimens from the definition of PHE supports the EC’s current rule that specimens may not be imported as PHE and then sold or distributed within the Community for commercial gain. When raw, natural, unfinished, or un-worked specimens are imported as PHE, they can be easily transformed into myriad trinkets and other items that have great commercial value and are difficult to link to the import of the raw, natural, unfinished, or un-worked specimens specimen from which they originate. WDSCS and IELP suggest that the EC include as a criterion for determining whether a specimen qualifies as a PHE that it must be “significantly altered from their natural state for jewellery, adornment, art, utility, or musical instruments.” This language mirrors the language that defines “worked specimen” in Council Regulation 338.97, Article 2(w) and should not therefore raise new questions related to interpretation.

Second, and along the same lines, specimens that qualify as PHE should be limited to quantities normal for personal consumption. As currently written, neither the EC’s legislation or Res. Conf. 13.7, except regarding the list of quantitative restrictions for caviar, crocodilian

specimens, queen conch shells, and rainsticks etc., provide any guidance on how many specimens may be imported or exported at a time and still qualify for the PHE derogation. While “normal for personal consumption” is a vague standard, it nonetheless provides customs officials with discretion to question instances of trade marked as PHE, but are in quantities that might suggest an underlying commercial intent.

Finally, WDCS and IELP urge the EC to prohibit those specimens for which the SRG has given a negative opinion from being considered PHE. This is an important step in the implementation of the SRG’s work. Currently, even when the SRG gives a negative opinion, it only prohibits the import of that species for commercial purposes. However, in some cases, it is personal trade that is really the conservation concern. The TRAFFIC report highlights two such instances: trade in narwhal from Greenland (*Monodon monoceros*) and trade in hunting trophies of lions (*Panthera leo*) from Ethiopia. Trade data since the SRG’s negative opinion on narwhal and the EU’s commercial import ban for narwhal in 2004 supports this. In 2005, 94 percent of trade in narwhal carvings and almost 99 percent of trade in narwhal tusks was marked as personal trade. In 2006, 100 percent of narwhal carvings and 100 percent of narwhal tusks exported by Greenland to the EU were for personal purposes.

Like TRAFFIC, WDCS and IELP suggest that the EC adopt a definition of PHE that is more in-line with the definition found in Res. Conf. 13.7. However, unlike TRAFFIC, WDCS and IELP urge the EC to incorporate a clearer definition directly into 865/2006. The EC should adopt clear criteria against which the public and customs officials can easily assess whether a specimen is a PHE. This can easily be done with a few adjustments to 865/2006, including some reorganization—it does not necessitate re-opening 338/97. Such an approach significantly simplifies and clarifies what some consider an overly complex and difficult regulation, but it does not sacrifice the importance of narrowly construing the exemption provided in Article VII of CITES. WDCS and IELP suggest the following changes (deletions are stricken through and additions are underlined):

Article 57

1. The derogations from Articles 4 and 5 of Regulation (EC) No 338/97 for personal or household effects, provided for in Article 7(3) of that Regulation, shall ~~not~~ only apply to specimens ~~used for commercial gain, sold, displayed for commercial purposes, kept for sale, offered for sale or transported for sale.~~ when the following conditions are met:

~~That derogation shall only apply to specimens, including hunting trophies, if they meet one of the following conditions:~~

(a) specimens must be owned or possessed by a private individual for noncommercial purposes and shall not apply to specimens ~~used for commercial gain, sold, displayed for commercial purposes, kept for sale, offered for sale or transported for sale;~~

(a**b**) they are ~~are~~ contained in the personal luggage of travelers coming from a third country; or (b) ~~they are~~ contained in the personal property of a natural person transferring his

normal place of residence from a third country to the Community or from the Community to a third country;

(c) legally acquired;

(d) significantly altered from their natural state for jewellery, adornment, art, utility or musical instruments;

(e) of a quantity that is normal for personal consumption or use; and

(f) not subject to a negative opinion by the SRG that is currently in force.

~~(e) they are hunting trophies taken by a traveller and imported at a later date.~~

Article 58

~~1. The derogation from Article 5 of Regulation (EC) No 338/97 for personal and household effects, provided for in Article 7(3) of that Regulation, shall not apply to specimens used for commercial gain, sold, displayed for commercial purposes, kept for sale, offered for sale or transported for sale.~~

~~That derogation shall apply to specimens only if they meet one of the following conditions:~~

~~(a) they are contained in the personal luggage of travellers going to a third country;~~

~~(b) they are contained in the personal property of a natural person transferring his normal place of residence from the Community to a third country.~~

~~2.1. In the case of export, the derogation from Article 5 of Regulation (EC) No 338/97 for personal or household effects . . .~~

Export Permit Requirement

Article 57(3) provides that the first introduction of an Annex B specimen that qualifies as a PHE does not require the presentation of an import permit, so long as the original export or re-export permit and a copy thereof is presented at the time of import. While this is a derogation from the EC regulations, which otherwise require an import permit for specimens of Annex B species, it is stricter than the PHE derogation set out in CITES. Article VII(3)(b) of the Convention text provides that PHE of Appendix II species may be traded without permits, in certain circumstances, unless the country of export requires issuance of an export permit. CITES Parties have struggled for years with implementation of Article VII(3)(b) and have at various times concluded that Parties should operate on the presumption that all exporting countries require export permits or that no Party requires an export permit for trade in PHE of Appendix II

species, unless the exporting country has notified the Secretariat. Res. Conf. 13.7 currently requests that Parties assume no export permit is required.

WDCS and IELP commend the EC for its precautionary approach to interpreting Art. VII(3); by requiring export permits from all exporting countries, the EC has narrowed a potentially gaping loophole in the CITES permit scheme. Requiring export permits ensures that permitted trade is the norm, not the exception—it prevents the exception from swallowing the rule. Moreover, requiring export permits ensures that a majority of PHE trade is recorded in Member States annual reports and thus is included in the UNEP-WCMC CITES trade database, which is an important collection of trade-related information. In most cases, trade in PHE is not included in the database because it is not accompanied by a CITES permit of any kind. Obviously, this is problematic because any trade data culled from the database then underestimates true levels of trade and thus could delay or thwart necessary conservation decisions. The EC is a leader on incorporating the precautionary approach into its wildlife legislation, and WDCS and IELP encourage the EC to maintain its position by retaining the requirement that all Annex B personal and household effects be accompanied by an export permit. Finally, requiring export permits for trade in Annex B PHEs is a much simpler and clearer approach than that provided for under the CITES rules; a uniform rule decreases the burden on customs officials who otherwise would have to determine whether a permit is required or not, and it narrows the scope for public confusion.

The List of Species-specific Derogations in Article 57(5)

WDCS and IELP recommend maintaining a precautionary approach to granting derogations from the basic permit requirements and thus urge the EC to delete the species-specific derogations listed in Article 57(5). As the TRAFFIC report suggests, these derogations further complicate implementation of Articles 57 and 58 and customs officials are unhappy about them. If the EC decides to maintain the derogations, it should clarify certain outstanding issues. For example, if a traveler returns to the EU with 4 rainsticks in her suitcase, how many of those rainsticks now require permits, only one or all four? Furthermore, are the specimens imported under these derogations recorded so that they are entered into the UNEP-WCMC database? Finally, WDCS and IELP disagree with TRAFFIC's assertion that in the case of rainsticks and queen conch shells the derogations are warranted because the specimens are merely by-products of a commercially valuable product. On the contrary, both rainsticks and queen conch shells, just like ivory trinkets and other tourist souvenir items, have value independent of the remainder of the specimen. They are highly sought-after tourist effects and should be regulated as such.

Personal and Household Effects and Purpose Codes

TRAFFIC identifies a number of issues related to the use of purpose codes and it uses hypothetical examples to illustrate some of the confusion. WDCS and IELP agree that confusion exists regarding the use of purpose codes, but like most Member States, WDCS and IELP urge the EC to continue to use purpose codes for trade in Appendix II specimen. The purpose codes generate useful information, including the types of trade that may be threatening a species which might indicate whether a species requires uplisting or downlisting. Moreover, WDCS and IELP suggest that the confusion exists primarily due to a lack of clear definitions of each purpose

code, sufficient codes to accurately distinguish types of trade, and general guidelines on the use of the codes.

The EC should identify a unique purpose code for specimens traded under the PHE derogations. Under the current system of purpose codes, personal and household effects are traded under purpose code “P.” But purpose code “P” identifies both personal trade pursuant to the derogations, for which permits may not have been issued or for which only an export permit has been issued, and personal trade for which permits have been issued. It is important to distinguish between the two types of trade to adequately assess for which trade non-detriment findings have been made and to more clearly identify trends and levels of trade in PHE. In line with the Secretariat’s guidance, Member States should be encouraged to include all instances of trade in all listed specimens in their annual reports, including trade taking place under the PHE derogation using a unique purpose code.

In addition, WDCS and IELP urge the EC to adopt a few clear principles regarding the use of purpose codes. First, the EC should clarify in its implementing legislation that purpose codes identify the purpose of the transaction as it relates to the purpose of import. The purpose of the imports is a meaningful category of data for both Annex A and Annex B specimens, or Appendix I and Appendix II specimens. The hypothetical examples given by TRAFFIC suggest that the exporting countries and importing countries may use different purpose codes to identify a singular instance of trade—this should not be the case. The purpose code on the export permit should be identical to the purpose code on the import permit as the purpose code should simply identify the purpose of the import, i.e. is the import for educational, scientific, medical, or personal purposes. Thus, the EC regulations should state clearly that exporting and importing countries should use identical purpose codes and if a discrepancy exists, the exporting and importing countries should consult.

The Use of Units in Trade Reporting

WDCS and IELP note that although the EC regulations provide clear guidance on the use of units of measurement for different types of specimens in trade, most trade data, as reflected in the UNEP-WCMC database, is not identified by these units. In fact, to the extent measurement units are included, they are in non-standard units such as “sets,” as is commonly used for carvings or other worked specimen. A carving could be anything from a small carved bead to a three-metre-long engraved tusk; moreover, a set of carvings could mean, for example, 14 matching engraved tusks, or 2 small trinkets, both of which have widely disparate conservation impacts. These types of units are not sufficiently precise, and the lack of precision makes it difficult to determine the extent of international trade in these species and the impact of trade on wild populations. In fact, the Secretariat’s Guidelines on the Preparation and Submission of Annual Reports require reports to be submitted “in standard units of measure and never in non-standard units such as “boxes,” “cartons” or “bales.” Furthermore, it is not possible to identify from the trade data whether a carving is from a tusk, tooth, or bone.

Sufficient guidance exists both in the Secretariat’s Guidelines on the Preparation and Submission of Annual Reports and in the EC regulation as to the appropriate types of measurements, but Member States nonetheless fail to use them. Thus, the EC regulations should

specifically mandate that any permit that fails to indicate the unit of measurement of the specimen subject to the permit in a preferred unit, as expressed in the regulation, be subject to consultation between the exporting country and the importing country and, if a preferred unit cannot be properly prescribed, the permit should be rejected. In addition, when granting permits for parts and derivatives (e.g. skins, hunting trophies, carvings, pieces, etc.), the EC should require that the permit indicate the quantity of specimen subject to the permit and one standard unit of measure, either weight, volume, or some size measurement that can be readily and objectively confirmed.

For further information:

Erica Jayne Thorson
Clinical Professor of Law & Staff Attorney
International Environmental Law Project
Lewis & Clark Law School
Portland, Oregon, USA
Email: ejt@lclark.edu

Cathy Williamson
Whale and Dolphin Conservation Society
Chippenham, UK
Email: cathy.williamson@wdcs.org



WWF International
Avenue du Mont Blanc 27
1196 Gland
Switzerland

Dear Mr Schally

Thank you for inviting us to attend the stakeholder consultation on the outcome of the effectiveness study on the EU Wildlife Trade Legislation. We have taken the opportunity to address some of the points you have listed as being potentially problematic where we see potential conservation risks.

Primarily commercial purposes and the advertising of Annex A specimens for sale

We note from the study report that there was some debate as to whether or not an advertiser (a website or a printed classified advertiser) is comprehended within the definition of "offering for sale" under the Council Regulation - and, therefore, guilty of an offence if such offering for sale is prohibited by the Regulations. We are aware that they are guilty of an offence in National law in some in some Member States but not all.

The Commission's reluctance to make a definitive ruling on this issue seemed to stem from the fact that it would be very difficult to enforce this in practice against certain categories of advertisers - such as web-based auction sites - and for relatively obscure species where an advertiser could not have been expected to know that he was being asked to place an advertisement for an Annex A species.

We accept that it is virtually impossible to prosecute someone in practice where they can prove that they could not reasonably have known that they were committing an offence. However, as the study report points out, it would not be in the spirit of the Regulations (to say the least) if a newspaper could advertise tiger medicines, ivory or rhino horn in its classified advertisements.

We accept that this is an issue that can really only be resolved by amendment of the Council Regulation. Nevertheless, we submit that it's one where the Commission's guidance material (the Reference guide and agreed interpretations by the Committee) could offer some direction in the meantime.

Article 60 "Scientific Institutions" and the use of Annex A specimens by non-profit-making zoos

We are not against Article 60 in principle but we do think that there is scope for clarifying it. To begin with, the term is the same as that used for the labeling provisions in the Council Regulation and this is confusing. In practice, zoos are the main

beneficiaries and the UK - who sought the provision – is the Member State that makes the most use of it.

Part of the reason why the provision is not more widely used is that some Member States deem that charitable zoos do not need certificates for displaying Annex A animals to the public. We would question this interpretation, which we regard as a misreading of Article 8(3) of Regulation 338/97 (which requires certification for the uses listed even if the primary purpose is not a commercial one) and Article 8(1) which outlaws the use of Annex A specimens for primarily commercial purposes. In principle, we would prefer to see a situation whereby any enterprise that invites the public to view animals and either charges an admission fee or tries to generate income from shops, catering etc., should be deemed to require either an Article 60 certificate or a standard one issued under Article 8 of Regulation 338/97 if it displays Annex A animals (regardless of the source of those animals). We regard this issue as one where the Commission and/ or the Committee could provide greater guidance.

We would also like to be satisfied that the institutions that benefit from Article 60 in practice are not essentially commercial tourist entertainment venues with a veneer of "educational" benefit. Could the provision apply, for instance, to venues showing dolphins or orcas? Therefore, we submit that the Regulation should set out criteria for the types of institutions that should benefit (and, by implication, those that should not).

Personal and Household Effects

A number of possibilities have been raised here, as follows:

- Whether or not the EU regime should follow that in the Convention;
- Whether or not the provision that allows hunting trophies to be imported at a later date than the arrival of the traveler who shot them should be deleted;
- Whether or not anything can be done to prevent the import of personal effects for species/ countries where there are negative opinions in place (e.g. narwhal from Greenland or lion from Ethiopia); and
- Whether the caviar loophole that has been identified can be closed.

Regarding the first point, we tend to favour the current EU regime. It is simpler than that of the Convention and easier for travelers to understand. Travelers frequently make mistakes as it is and there is little point in complicating things further. However, we are a little concerned at the ever-growing list of categories and quantities of specimens that do not require any papers at all. We believe that the combination of the two approaches makes for confusion.

Before considering the other issues in detail, we would suggest that the Commission ask UNEP-WCMC to profile the reported trade in personal and household effects - find out how much of it really does pose a problem. For instance, does the extra flexibility

regarding hunting trophies lead to scores of lion trophies coming back from Ethiopia - and what is the scale of abuse of the loopholes regarding narwhal, caviar etc.? Such information would inform us as to the need for any revision and the real conservation risks if nothing is done.

Regarding caviar, we note the present loophole whereby caviar that is imported as a personal effect does not require labeling – even if the quantity is greater than that exempted from documentary requirements. We would urge that this loophole be closed as a matter of urgency so that all caviar containers entering the Community, whether as personal effects or otherwise, must be labeled. It should be clearly stipulated that any container without an appropriate label is liable to seizure. We would also ask whether or not it would be possible for the Commission to cap the quantity of caviar that individuals can bring in as personal effects - even with export permits. The Commission may also wish to reflect as to whether or not Regulation 865/2006 should be amended to stipulate that the exemptions regarding categories and quantities of personal effects that do not require any papers should only apply on an individual basis – so that, for example, I could not travel with my wife and 2 children carrying 500 g of caviar on my person and claiming an exemption on their and my behalf?

We look forward to being represented at the meeting and to contributing to the debate on other issues should our contributions be considered useful.

Yours sincerely

Dr Sue Lieberman
Director
Species programme