

Response from the Wildlife Conservation Society (WCS) to the European Commission Roadmap for an EU Action Plan against Wildlife Trafficking

Introduction to WCS

WCS is a non-profit, non-governmental organisation established in 1895 with a mission to *save wildlife and wild places worldwide through science, conservation action, education, and inspiring people to value nature*. With long-term conservation commitments in dozens of landscapes, a presence in more than 60 countries, and experience in helping to establish and manage over 150 protected areas across the globe, WCS has amassed the biological knowledge, cultural understanding and partnerships to ensure that vibrant, intact wild places and wildlife thrive alongside local communities. WCS is actively engaged across the globe in working to end illegal wildlife trade and the poaching that supplies it, at four levels: documenting the crisis, stopping the killing, stopping the trafficking, and ending the demand for high value products. WCS welcomes the attention the European Commission is giving to the important issue of wildlife trafficking through the publication of this Roadmap and the stated intention to develop an EU Action Plan against Wildlife Trafficking. We would also like to offer our expertise and signal our willingness to contribute to the development and implementation of an EU Action Plan.

We are pleased to provide the following comments and recommendations in response to the Roadmap:

A. Context, Subsidiarity Check and Objectives

We very much agree with the comprehensive information provided by the Commission in this section, outlining the seriousness of the wildlife trafficking crisis and the legal and policy basis for the EC to take further action on this issue. We would however like to underline the seriousness of the ivory poaching crisis in particular and the threat this poses, both to the survival of elephants in the wild and to long-term peace and security, especially within Central Africa. Poaching for ivory is the main reason for the dramatic decline in African elephants. A study led by WCS (Maisels et al 2013)¹ showed that the population of African forest elephants declined by 65% between 2002 and 2013 and lost over 30% of its geographical range. As well as representing a crisis for the species, this precipitous decline is likely to have a number of knock-on impacts on humans because of the important ecosystem services elephants provide by dispersing seeds, maintaining forest clearings, and redistributing soil nutrients over vast areas. Recent research suggests that elephant decline and the loss of associated ecosystem services may lead to declines in soil fertility and loss of agricultural productivity across Africa, as has already happened in South America (Doughty et. al. 2013² and Doughty et. al. 2015³). Finally, large trees, the seeds of which are typically dispersed by elephants and great apes, are disproportionately important for carbon sequestration (Stephenson et. al., 2014⁴). This is because animal-dispersed tree species generally exhibit higher wood density (Brodie & Gibbs

¹Maisels F., Strindberg S., Blake S., Wittemyer G., Hart J., Williamson E.A., et al. (2013). Devastating Decline of Forest Elephants in Central Africa, *PLoS ONE*, 8(3): e59469. doi:10.1371/journal.pone.0059469

²Doughty, C.E., Wolf, A., Malhi, Y., (2013). The impact of large animal extinctions on nutrient fluxes in early river valley civilizations. *Ecosphere*, 4:art148. <http://dx.doi.org/10.1890/ES13-00221.1>

³Doughty, C.E., Wolf, A., Baraloto, C. Malhi, Y., (2015). Interdependency of plants and animals in controlling the sodium balance of ecosystems and the impacts of global defaunation, *Ecography*, DOI: 10.1111/ecog.01589. n/a-n/a

⁴Stephenson, N.L., Das, A.J., Condit, R., Russo, S.E., Baker, P.J., Beckman, N.G., et al. (2014). Rate of tree carbon accumulation increases continuously with tree size. *Nature*, 507, 90-93.

2009⁵) and thus contribute a high proportion of the overall carbon-storage capacity of tropical forests. Furthermore, an increasing body of evidence shows the links between elephant poaching and the financing of terrorist and militia groups such as the Lord's Resistance Army and the Janjaweed in Sudan, which fuels insecurity and instability as shown in a new undercover report by National Geographic⁶, making it even more urgent to tackle the problem.

B. Option Mapping

With regard to the options outlined by the European Commission in the roadmap, and given the urgent need for an EU Action Plan on Wildlife Trafficking, we support Option 3, which combines a new EU Action Plan in the form of a Commission Communication to the European Parliament and Council and new legislative proposals. However, as an Action Plan is urgently needed in the short-term, we would like to underline that we fully support the adoption of a new EU Action Plan (as mentioned under Options 2 and 3) and stress that this should not be delayed by the development of new legislation which could take place as a longer-term process. We believe that the EC roadmap clearly explains why an EU Action Plan needs to be developed and implemented as soon as possible. We have stated our preference for option 3 because we believe that two of the priority areas we highlight below as requiring attention within a new EU Action Plan on Wildlife Trafficking, (namely, point 4 on treating wildlife crime as a serious crime and 5 on improving EU controls on ivory), may require new legislation to be adopted at EU level. We also believe that the issue should be on the agenda of a future EU Environment Council meeting, with Council conclusions adopted. We would like to highlight the following issues as priorities for inclusion within the Action Plan:

1. **Full and Effective Implementation of CITES:** We appreciate the strong support the EU gives to CITES. We urge the EU to take a leadership role in ensuring CITES is effectively implemented and enforced by all other Party governments and to take action, up to and including sanctions if necessary, when governments fail to implement their CITES obligations and commitments. We also consider that the EU Council Regulation 338/97, adopted in 1996, on the protection of species through regulating trade is critically important, and believe the annexes should be reviewed to assess whether there is a need for them to be updated.
2. **Establishment of a High Level Working Group at the EU Level:** In order to secure the necessary political buy-in and internal coordination, we recommend that the EU sets up a suitable mechanism, such as a high-level working group, that involves all relevant EC Directorates-General (e.g., DG ENV, DG DEVCO, DG MARE, DG TRADE, DG INTERNAL MARKET, DG JUSTICE, and the European External Action Service), as well as other stakeholders with relevant expertise, such as EUROPOL, EUROJUST, EU Member State representatives and non-governmental organisations.
3. **Earmarking EU Development Aid to Combat Wildlife Trafficking:** Given that the illegal wildlife trade is the single most serious threat to many African wildlife species, particularly African elephants and rhinos and that has it devastating consequences for local communities and sustainable development by financing militia and terrorist groups, causing the tragic killing of many park rangers, and undermining economic development such as wildlife related tourism, we believe that the EU Action Plan must underline the need for a considerable scaling-up of EU development aid to tackle the crisis. This illegal wildlife trade include not just animal parts and

⁵Brodie, J.F. & Gibbs, H.K. (2009). Bushmeat Hunting As Climate Threat, *Science*, 326, 364-365.

⁶<http://www.nationalgeographic.com/tracking-ivory/article.html>

products: there is a significant, but poorly quantified, demand for live animals for the pet trade, which is having an impact on species from apes, big cats (particularly cheetahs), and parrots to herpetofauna where trade in chameleons, freshwater turtles, and snakes is threatening some species with extinction. Based on our extensive field-based experience in Africa, we believe that financing the comprehensive EU-funded study 'Larger than elephants: Input for an EU Strategic Approach for African Wildlife Conservation' would be a game-changer for the situation on the ground. **The EU should therefore fund this study through the establishment of effective, sustainable and substantive financing mechanisms to reduce wildlife crime, in particular by working with partners to create a Trust Fund (as established under Article 187[i]) to help leverage fund from other donors and deploy funding rapidly.** As well as recommending the creation of a Trust Fund for African wildlife, the Action Plan should also include commitments by DG DEVCO to extend the 'Larger than Elephants' study to cover freshwater and marine areas, and to fund and publish similar studies in other regions, so that EU development aid also contributes to combating wildlife trafficking in Central and South America and in Southeast Asia. Increasing funding for wildlife internationally is important for the EU and its Member States if they are to meet existing commitments under the CBD Aichi target 20 and action 18a of the EU Biodiversity Strategy to 2020. Furthermore, the EU Action Plan should recognise that effective management of and enforcement in protected areas, both marine and terrestrial, is key to stopping poaching and trafficking at the source. For elephants, for example, we recommend a scaling up of enforcement in the 50 key landscapes in Central and Eastern Africa that currently harbour some 285,000 elephants, two thirds of the continental total. Support is also required to expand the implementation of SMART, the Spatial Monitoring and Reporting Tool (www.smartconservationsoftware.org), which helps protected area rangers fight illegal hunting by identifying poaching hotspots, improving rapid response measures, and calculating the impact of anti-poaching efforts in order to maximize results. In addition to funding protected areas management and law enforcement at the site level, a recommendation within the Action Plan to promote the use of SMART within EC funded projects and programmes would assist greatly in tackling wildlife trafficking.

4. **Treating Wildlife Crime as a Serious Crime:** The EU Action Plan needs to ensure a more level playing field across EU Member States concerning sanctions for wildlife trafficking (including of fish and timber), and to recognise that wildlife trafficking involving organised criminal groups is a serious crime, punishable with a maximum sanction of at least four years' imprisonment. The EC should commission a study to determine whether Member States have sufficiently transposed all EU legislation that relates to wildlife crime into their national laws, whether they have adopted fines and penalties that will act as substantial deterrents to criminal activity, and the status of implementation of this, with a view towards beginning infringement proceedings against countries with insufficient legal frameworks. Furthermore data should be collected on the effectiveness of laws and prosecution rates, to determine which Member States should be targeted for further action to clamp down on wildlife trafficking. We believe that this issue should be dealt with through the forthcoming review of Directive 2008/99/EC on the protection of the environment through criminal law, and may warrant the development of new legislation at EU level.
5. **Stronger EU Controls to Address the Illegal Ivory Trade:** Enforcement of EU laws and regulations to prevent wildlife trafficking is significantly hindered in cases where legal markets for a wildlife product provide cover for the illegal trade. While not necessarily the case for all wildlife products, it is true in the case of ivory as it is generally not possible to distinguish antique or pre-convention legal ivory from illegal products, so offenders cannot be prosecuted. There is also good evidence that the continued presence of legal domestic ivory markets stimulates further trafficking. Furthermore, efforts to close domestic ivory markets that continue to drive poaching, whether in range, transit or consumer countries, are undermined by the continued presence of legal domestic markets in the EU. We welcome the joint letter sent by the Environment Ministers of Germany, France, the Netherlands, the UK, Sweden and Austria in March 2015 calling on their counterparts

in other EU Member States to ban currently legal exports of raw pre-convention ivory. We strongly support this action but would urge the European Commission and Member States to go further and implement article 11 of the European Parliament resolution on wildlife crime, adopted in January 2014, which called on EU Member States to *“introduce moratoria on all commercial imports, exports and domestic sales and purchases of tusks and raw and worked ivory products until wild elephant populations are no longer threatened by poaching”*. Furthermore, we recommend that the EU Action Plan calls for the destruction of ivory stockpiles, as called for in article 12 of the European Parliament resolution which calls on Member States *“to join other CITES Parties in sending out a clear signal against wildlife trafficking and demand for illegal wildlife products by destroying their stockpiles of illegal ivory”*. This would send a strong signal that the EU and its Member States do not tolerate trafficking in ivory and by implication the poaching that the trade drives. It would also place the EU in a strong position to encourage other governments to follow suit, which is important in countries where stockpile ‘leakage’ is problematic.

6. **Increasing International Political Attention:** The EU should raise the issue of wildlife trafficking at the highest political levels through existing bilateral discussions with key countries. This will require close liaison with the European Commission Service for Foreign Policy Instruments (FPI) and the European External Action Service (EEAS), which are not usually involved in this issue but could be very helpful. EU delegations and missions overseas should facilitate the development of wildlife crime strategies, assist in leveraging commitment from partner countries to tackle the issue, and support host governments and local and international NGO partners in their efforts to stop poaching and eliminate wildlife trafficking. In particular the Action Plan should recommend that the issue of wildlife trafficking is high on the agenda of future EU-China Environment Policy Dialogue meetings and other EU-China and EU-Viet Nam high level dialogues. To facilitate this process, we recommend that the European Commission holds preparatory meetings with international NGOs with extensive experience in working on relevant issues in China and Southeast Asia.
7. **Support Demand Reduction in Key Consumer Countries:** The EU should work with key market countries for illegal wildlife products, to encourage the development of effective national demand reduction programmes. To ensure that funds are used effectively, we recommend resources are deployed in partnership with governments and NGOs with on-the-ground expertise in consumer countries and that the focus is on achieving evidence-based behaviour change.
8. **Eliminate Illegal, Unreported and Unregulated Fishing (IUU):** The Action Plan should reinforce efforts to prevent, deter and eliminate IUU fishing, through a redoubling of efforts to implement EU Regulation 1005/2008 on IUU, adopted in 2010 and a recommendation that EU bilateral Sustainable Fisheries Partnership Agreements (SFPAs) make provisions to limit EU fleet actively 'targeting bycatch' as there is evidence that this is escalating and that some national fleets are catching shark (for their fins) from the waters of countries with an FPA but landing them in other countries.
9. **Integrating Wildlife into the EU FLEGT Policy:** The Action Plan should recommend that the review of the EU Forest Law Enforcement, Governance and Trade policy (FLEGT) results in the integration of wildlife protection with the FLEGT policy, particularly as a key requirement within the definitions of legality within Voluntary Partnership Agreements (VPAs). EU Council regulation 2017/2005 that establishes a Forest Law Governance, Enforcement and Trade (FLEGT) licensing scheme for timber imports, adopted in 2005, provides a strong legal tool for combating illegal logging, but the potential for sanctions and penalties is not being used and its implementation needs to be stepped-up.

10. **Integrating Wildlife Provisions within Free Trade Agreements (FTAs):** The EU should seek strong and binding commitments in FTAs as part of its efforts to eliminate wildlife trafficking and ensure full compliance with CITES decisions. Enhancing the contribution of EU trade policy for biodiversity protection was highlighted as a key action (17.b) in the EU Biodiversity Strategy for 2020 but there has been limited progress to date.
11. **Giving Wildlife Trafficking Higher Priority in Criminal Investigation:** Given the links between wildlife crime and other types of crime, and the increased involvement of transnational organised crime in wildlife trafficking, the EU Action Plan should ensure new engagement with intelligence organisations and networks working on counter-terrorism initiatives and other initiatives on trans-boundary organised crime within EU Member States to ensure that accurate and timely intelligence information is shared, and efforts to stop criminal syndicates are fully coordinated between and within Member States, and with partner governments. Effort is needed to strengthen enforcement against wildlife trafficking networks in EU Member States, and with other governments, through joint-agency (i.e. police, customs, judiciary, CITES authorities) and multi-country training exercises; criminal network analysis; enforcement strategy planning; experience-sharing, to build interest; informal cooperation; and capacity across the key agencies, with a focus on promoting:
 - Greater use of intelligence-led policing techniques to identify and target wildlife criminal networks
 - Profiling and targeting of containers and other transport means used to smuggle illegal wildlife products to increase interception rates.
 - Greater collaboration between law enforcement agencies along the trade chain that would enable wider disruption of international networks, the identification of key entry point for enforcement and key individuals/companies involved.
 - Where appropriate and deemed necessary, formal cooperation agreements or Mutual Legal Assistance Treaties to enable joint-investigations, intelligence-sharing and extradition, for example, with the emergence of the Czech Republic as a transit route for rhino horns to Viet Nam, and the involvement of Czech nationals of Vietnamese origin.
12. **Improved Data Collection and Monitoring:** A number of targets should be set within the EU Action Plan for combating wildlife crime, together with a commitment to improve data collection and monitoring. The International Consortium on Combatting Wildlife Crime (ICCWC) has embarked upon a process to develop a set of global wildlife crime enforcement indicators and we recommend the EU supports this process by convening EUROPOL and key Member States to provide support and inputs to the United Nations Office on Drugs and Crime (UNODC) who are leading on this important effort. EUROPOL could assist by providing annual reports on wildlife trafficking and crime statistics across the EU, so that the extent of the problem is better understood and priorities can be established for future action. Areas under which targets could be developed and data collected, should include:
 - Training for staff working in customs, law enforcement and the judiciary.
 - Use of the ETIS Law Enforcement Effort Ratio (LEER), which helps CITES assess how effective national law enforcement agencies are in intercepting illegal trade in ivory.
 - Arrest:Prosecution:Punishment ratios for wildlife crime cases.
 - IUU fishing, including by advocating for the adoption of International Maritime Organisation (IMO) numbers for all vessels fishing on the high seas.
 - Impact of FLEGT on reducing illegal imports of timber.
 - The quantity of EU development aid spent on projects and programmes that have a measurable impact on reducing wildlife trafficking.