

Your Voice In Europe: ROADMAP feedback for Action Plan against Wildlife Trafficking

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HSI/Europe response to European Commission Roadmap towards an Action Plan Against Wildlife Trafficking

Humane Society International/Europe warmly welcomes the publication of the European Commission's Roadmap towards an Action Plan against Wildlife Trafficking. It is imperative that the Commission demonstrates global leadership in the fight against the illegal wildlife trade and delivers a comprehensive plan with clearly defined actions upon which it can deliver within a specified timeframe. Below please find our comments on several aspects of the Roadmap.

Part A. Context, Subsidiarity Check and Objectives

Issue

HSI/Europe would contest the Commission's assertion that "EU and Global rules on wildlife trade are generally considered as adequate...". This sweeping statement glosses over the shortcomings of the existing measures in protecting wildlife. Firstly, with regard to the global rules on wildlife trade, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) only applies to the species to which the Parties have agreed to accord a specific level of protection. There are many wildlife species that are in trade, which are not listed under CITES since they are not presently categorised as being sufficiently threatened.

The other problem is that preparing proposals to list species, and successfully lobbying Parties to support those proposals is an onerous task; this essentially means that many species that should be listed under CITES are not. These species are nonetheless protected by laws and regulations in their countries of origin but are being poached and traded internationally illegally. A good example of these are the many species of Central and South American amphibians and reptiles, some of which have been successfully proposed for listing in recent years (for example, *Agalychnis* spp.); these represent only the tip of the iceberg in terms of species needing CITES protection, that are poached and trafficked but not protected under CITES.

We also note that rather than relying on global rules, it is up to individual countries to stop wildlife trafficking by closing down domestic markets for wildlife and its parts and products, and by ensuring that they are not used as easy transit points for trafficked wildlife headed from one part of the globe to another. The EU represents a major market for wildlife, such as ivory, and since it is impossible to know if such items are legal or illegal, more should be done to discourage the public from purchasing items made from wildlife and shutting down such markets where possible. The EU also represents a major transit point for poached and trafficked wildlife, particularly from Africa destined for Asia. For example, in April 2015, Viet Nam seized a shipment of ivory tusks and rhino horn on flight arriving from France.¹ The EU must do more to inspect and intercept illegal wildlife shipments transiting through the Union.

Secondly, the EU wildlife trade legislation, which implements CITES, only partly regulates wildlife trade. While it does, in some cases, list various non-CITES species, there are cases where certain wildlife species are explicitly protected from export in range or exporting countries, but the species are not covered under CITES or EU Regulations. This means that species can be imported and traded legally in the EU, despite the fact that they were caught and/or exported illegally from

¹ <http://www.dailymail.co.uk/wires/afp/article-3043146/Vietnam-customs-make-massive-seizure-rhino-horns-elephant-tusks.html>



their country of origin. HSI/Europe notes that this is a growing issue and requires new measures within the EU. In the short-term, we recommend that trade in the most vulnerable species is suspended and that the species be included in the Annex of EU Regulation 338/97. As a long-term solution, new EU legislation must be passed (or existing legislation amended) and one instructive model is the US Lacey Act.²

In addition, we also observe that there are multiple loopholes within the existing legal framework that still need to be addressed and eliminated. The first loophole concerns the trade in ivory, which is legal for antique (pre-convention) products. Moreover, many traders, in Europe and China, for example, pass off elephant ivory as that of mammoths or other non-protected species. A second loophole pertains to the derogation in the EU Council and Commission Regulations on trade of wildlife bred in captivity. Traders often pass wild-caught animals as those bred in captivity. The burden of proof in this case should transfer from authorities to the applicants who must present evidence that animals are captive-bred. A third loophole allows import of wildlife products for non-commercial purposes and “personal and household effects” like hunting trophies. This can encourage fraudulent commercial trade in wildlife under the guise of hunting trophies.

Stakeholder Mapping

HSI/Europe laments that animal protection NGOs have been omitted from the list of stakeholders, while they are actively involved in the issue of combating wildlife trafficking and routinely participate in both Commission and international fora concerning both legal and illegal wildlife trade. The significant impact of wildlife trafficking on animal welfare should not be overlooked.

Subsidiarity check

HSI/Europe notes that the Roadmap omits any reference to Regulation 1143/2014 on the prevention and management of the introduction and spread of invasive alien species. This legislation could potentially be relevant given that it creates the possibility of prohibiting the trade in certain wildlife species. It is also pertinent to cite Article 13 of the Treaty on the Functioning of the European Union, which requires full regard to be paid to animal welfare in EU policymaking.

Part B. Option Mapping

It is clearly evident from the Roadmap that the Commission’s preference is for Option 2. HSI/Europe is inclined to concur with this choice.

Option 1

Option 1 would run the risk of maintaining the status quo and would be insufficient to comprehensively address the issue of wildlife trafficking. It is indeed vital for the enforcement of the wildlife trade rules to be strengthened, but would require the clear political buy-in from Member States to make wildlife trafficking a priority.

² U.S. Fish and Wildlife Service, International Affairs, Lacey Act <http://www.fws.gov/international/laws-treaties-agreements/us-conservation-laws/lacey-act.html>.



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Option 2

In contrast, Option 2 would increase political attention for wildlife crime. It proposes actions that would be outlined in a Communication with the Council and Parliament, which would seek to address the root causes and multidimensionality of the problem, and tackle the issue effectively. Following the existing model of Action Plans drawn up by the Commission to deal with human trafficking and trafficking in firearms also makes sense.

With respect to the list of commendable actions proposed, we would like to single out the strategy of including ambitious commitments in Free Trade Agreements with respect to the implementation of relevant multilateral environmental agreements (MEAs). HSI/Europe is a strong advocate of this.

We note that there are already numerous international mechanisms in place to conserve biological diversity, including MEAs and Regional Fisheries Management Organisations. However, the implementation and enforcement of these initiatives is often weak and depends heavily on the ability of member nations to achieve high-level political support, mobilise resources, and acquire necessary technological and other help.

HSI/Europe believes, for example, that the Transatlantic Trade and Investment Partnership (TTIP) and its sustainable development/environment chapter, if drafted appropriately, allocated necessary resources, and subject to trade sanctions in case of violation, can be an effective platform for both the EU and US to demonstrate global leadership in protecting biological diversity and take strides to tackle the problem of wildlife trafficking. TTIP must build on and exceed the commitments made this year in the Trans Pacific Partnership (TPP) agreement, with obligations including but not limited to: effective enforcement of environmental laws; implementation of CITES obligations; non-derogation from environmental laws in the interest of trade/investment; commitments on fisheries management and illegal, unregulated, and unreported fishing; prohibitions on harmful fish subsidies; combatting wildlife trafficking; and general cooperation on enforcement.

Option 3

Although, in our view, Option 3 would give the most comprehensive set of deliverables, including legislative proposals, it is HSI/Europe's view that choosing this option could lead to the delay in developing and implementing the non-legislative components that have been outlined in Option 2. This would be unacceptable given the need to take rapid and effective action to tackle the issue of wildlife trafficking.

HSI/Europe, however, notes that this should not preclude the possibility for the Commission to pursue legislative proposals at a later date. In particular, we would urge the Commission to adopt legislative measures to address the problem outlined above with respect to the legal trade in the EU in species, which have been caught and/or exported illegally from their country of origin.

Part C. Data collection and Better Regulation Instruments

Consultation approach

There is insufficient information given in the Roadmap with respect to the timeline for further public consultation with all stakeholders.