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EU trade policy and the wildlife trade

INTA



STUDY

EU trade policy and the wildlife trade

ABSTRACT

The wildlife trade is one of the most lucrative trades in the world. The legal trade into the EU alone is worth EUR 100 billion annually, while the global illegal wildlife trade is estimated to be worth between EUR 8 and 20 billion annually. The trade is highly complex and its legal and illegal forms are often connected. The illegal wildlife trade cannot be tackled via the use of trade policy alone; instead trade instruments need to be used in conjunction with broader means of addressing the wide range of reasons why wildlife is traded illegally first place. This includes the need to reduce poverty and inequality in source countries, demand reduction in consumer countries and tackling corruption, organised crime, poor enforcement and low penalties in many source, transit and end user markets. The EU is also facing some new challenges in the legal and illegal wildlife trade, emanating from the growth of e-commerce, expansion of private mailing centres and the growth of containerisation. The EU already has a strong track record in promoting a legal and sustainable trade, while also attempting to tackle the illegal wildlife trade. The EU already has a legal framework (EUWTR) which sets out stricter arrangements than CITES for trading in wildlife products. It has played an active role at CITES since it joined as a member in 2015, and all 20 EU proposals were accepted at CITES CoP17 in 2016. It now has an opportunity to use trade policy to embed and develop this track record further.

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List of Abbreviations

| | |
|-----------|---|
| ACP | African Caribbean and Pacific Group of States |
| AMLD | Anti-Money Laundering Directive |
| ASEAN | Association of South East Asian Nations |
| Cariforum | Caribbean Forum |
| CBD | Convention on Biological Diversity |
| CBNRM | Community Based Natural Resource Management |
| CITES | Convention on the International Trade in Endangered Species |
| CSR | Corporate Social Responsibility |
| DEFRA | Department for Environment, Food and Rural Affairs |
| DfID | Department for International Development |
| EAC | East African Community |
| EC | European Commission |
| ECD | Environmental Crime Directive |
| EIA | Environmental Investigation Agency |
| EFFACE | European Union Action to Fight Environmental Crime |
| EPA | Economic Partnership Agreement |
| EU | European Union |
| EU-TWIX | EU Trade in Wildlife Information eXchange |
| EUWTR | EU Wildlife Trade Regulations |
| FATF | Financial Action Task Force |
| FIU | Financial Intelligence Units |
| FTA | Free Trade Agreement |
| GIZ | Deutsche Gesellschaft für Internationale Zusammenarbeit |
| GSP | Generalised Scheme of Preferences |
| GTI | Global Taxonomy Initiative |
| GVC | Global Value Chains |
| ICCWC | International Consortium for Combating Wildlife Crime |
| IFAW | International Fund for Animal Welfare |
| Interpol | International Criminal Police Organisation |
| ILO | International Labour Organisation |
| ITC | International Trade Centre |
| IUCN | International Union for the Conservation of Nature |

| | |
|---------|---|
| IUU | Illegal, Unreported and Unregulated |
| LATF | Lusaka Agreement Task Force |
| NDF | Non Detriment Finding |
| ROUTES | Reducing Opportunities for Unlawful Transport of Endangered Species Partnership |
| SADC | Southern African Development Community |
| SDGs | Sustainable Development Goals |
| SMEs | Small and Medium Enterprises |
| TCM | Traditional Chinese Medicine |
| TSD | Trade and Sustainable Development |
| TSI | Trade Support Institutions |
| TTIP | Transatlantic Trade and Investment Partnership |
| Traffic | Trade Records Analysis of Flora and Fauna in Commerce |
| OECD | Organisation of Economic Co-Operation and Development |
| UN | United Nations |
| UNCTAD | United Nations Conference on Trade and Development |
| UNODC | United Nations Office on Drugs and Crime |
| UNTOC | United Nations Convention Against Transnational Organised Crime |
| UNEP | United Nations Environment Programme |
| USAID | United States Agency for International Development |
| WCMC | World Conservation Monitoring Centre |
| WEN | Wildlife Enforcement Network |
| WCO | World Customs Organisation |
| WTO | World Trade Organisations |
| WWF | World Wide Fund for Nature |

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Executive Summary

The wildlife trade is one of the most lucrative trades in the world. The legal trade into the EU alone is worth EUR 100 billion annually, while the global illegal wildlife trade is estimated to be worth between EUR 8 and 20 billion annually. The trade is highly complex and its legal and illegal forms are often connected. This report provides an overview of the main issues and challenges for EU trade policy for the wildlife trade.

The report details how trade policies can facilitate sustainable and legal wildlife trade, whilst tackling illegal or unsustainable trade. The illegal wildlife trade cannot be tackled via the use of trade policy alone; instead trade instruments need to be used in conjunction with broader means of addressing the wide range of reasons why wildlife is traded illegally first place. This includes the need to reduce poverty and inequality in source countries, demand reduction in consumer countries and tackling corruption, organised crime, poor enforcement and low penalties in many source, transit and end user markets. For example, the EU can provide support to local communities in source countries via Aid for Trade or development assistance for capacity building, training and provision of equipment and support their broader aspirations.

The EU is facing some new challenges in the legal and illegal wildlife trade. While the claim that the illegal wildlife trade contributes to global insecurity is widely circulating, the evidence base for this is thin. Rather, key challenges emanate from the growth of e-commerce, expansion of private mailing centres and the growth of containerisation. The EU needs to focus its energies into monitoring, enforcement and demand reduction strategies as the most effective ways of dealing with illegal trading. As these new challenges emerge there is an opportunity for the EU to respond to them via the use of trade policies, including the use of explicit criteria linked to wildlife trading in current and future trade negotiations.

The EU already has a strong track record in promoting a legal and sustainable trade, while also attempting to tackle the illegal wildlife trade. The EU has a legal framework (EUWTR) which sets out stricter arrangements than CITES for trading in wildlife products. It has played an active role at CITES since it joined as a member in 2015, and all 20 EU proposals were accepted at CITES CoP17 in 2016. The EU now has an opportunity to use trade policy to embed and develop this track record further.

Introduction

The wildlife trade has two forms - the legal and illegal - and both are highly valuable global trades. Traffic estimates the legal trade of wildlife products into the EU alone is worth nearly EUR 100 billion¹. The scale of illegal trade is more difficult to estimate because of its clandestine nature. The EU estimates that the global illegal wildlife trade is worth between EUR 8 billion and EUR 20 billion annually², but the range of estimates from different agencies value it between US\$7-23 billion annually (Nelleman, C. et al 2016).

Valuing the trade is even more problematic because it is difficult to separate out legal and illegal trades in particular species, because they are often deeply inter-twined and profiles of demand and supply can change very rapidly (Natusch, D.J. and Lyons, J.A. 2012; Challender, D. et al 2015). For example, a legal trade in python skins is permitted, but it exists alongside an illegal trade. The illegal python skin trade is potentially a highly lucrative business; a single shipment of 10,000 3-metre Reticulated Python skins is estimated to be worth US\$ 900,000 on the international market. Illegally traded pythons skins can be concealed as part of shipments of legally produced skins; or consignments are deliberately mislabelled or misdeclared – for example as captive bred rather than wild caught – to avoid inspection by Customs officers (Kasterine, A. 2012). Furthermore, traders in Singapore often stockpile skins imported from other Asian countries, for re-export to Europe in the future. Indeed a joint report by the United Nations Conference on Trade and Development (UNCTAD) and the Convention on the International Trade in Endangered Species (CITES) recommended that a system be developed to mark all traded python skins to ensure traceability (UNCTAD 2014). Therefore, it is very difficult to value the legal and illegal wildlife trades separately.

The underlying driver of the increases in legal and illegal wildlife trade is that people in wealthier countries have become accustomed to a lifestyle that places heavy demands on wildlife products as sources of food, leather goods, timber, medicines and textiles³. This is evident in the growing demand for reptile skins (such as the South East Asian python) to serve the needs of the global fashion industry, the increases in demand for certain species as pets, the demand for wildlife products as part of Traditional Chinese Medicine (TCM) and consumption of caviar by wealthier communities around the world (see Elliot, L. and Schaedla, W. (eds) 2016).

One of the key challenges is that the wildlife trade covers a very wide range of species, and demand for certain species can change rapidly. Some are high profile and have attracted international attention, such as elephant ivory, rhino horn or tiger skins; however a whole range of other, less recognised species are also traded as whole live animals or as parts/derivatives for the pet trade, for medicines, jewellery, ornaments, as food or clothing (Duffy, R. 2016). The profile of the illegal wildlife trade is distinctive compared with other illicit trade, because the profile of demand is highly variable – it is driven by the demand for medicines, fashion, pets and food (Wyatt, 2016: 129; OECD, 2016: 65). The variability of demand is demonstrated by the ivory trade - the rising demand for ivory in the 1980s almost halved the number of elephants in Sub-Saharan Africa; after the global trade ban under CITES in 1989 demand dropped significantly, and especially in the EU and North America, demand for ivory collapsed immediately after the ban (Duffy, R. 2013). However with rising incomes in East Asia the demand for ivory has risen again since 2009, producing rises in poaching in Africa; for example Traffic estimates that by the early 2010s approximately 30,000 elephants were killed each year and that in Tanzania alone elephant numbers plummeted from 109,051 in 2009 to 43,330 in 2014⁴.

¹'Wildlife Trade' <http://www.traffic.org/trade/> (accessed 13.10.2016); also see Sina S, et al. 2016.

²http://ec.europa.eu/environment/cites/traf_steps_en.htm (accessed 13.10.16); 'Wildlife Trade' <http://www.traffic.org/trade/> (accessed 13.10.2016). Also see Ayling, J. 2013; OECD, 2016: 59; European Union 2016.

³<http://www.traffic.org/trade/> (accessed 13.10.2016).

⁴ <http://www.traffic.org/elephants-ivory/> (accessed 04.11.2016).

The challenges of integrating the Common Commercial Policy with the need to enforce wildlife trade regulation is that for many species a limited, regulated legal trade is permitted; this can act as a cover for illegal trade in the same species. Caviar is a good example of the complexities of the links between legal and illegal wildlife trade. EU member states such as France, Germany and Spain are amongst the world's largest importers of caviar (Sina, S. et al, 2016, 32). All species of sturgeon and paddlefish were listed by CITES in 1998 which means all shipments must be accompanied by CITES permits; CITES further recommended that a universal labelling system should be adopted to allow law enforcement agencies to track the origin and legality of caviar shipments. In May 2006, the EU adopted Commission Regulation (EC) No. 865/2006, amended by Regulation (EC) No. 100/2008, which made the labelling of all caviar containers obligatory in all EU Member States⁵. Caviar (or sturgeon and paddlefish) is one of the few examples of a CITES split listing. The European Sturgeon and Shortnose Sturgeon are listed under CITES Appendix I, which translates into a total trade ban on caviar obtained from them, while all other types are listed under Appendix II, which allows for a managed legal trade (Engler, M. and Parry-Jones, R. 2007: 33; Sellar, J. 2014). This is further complicated by the fact that wild caught caviar is subject to CITES determined quotas, and trade in farmed caviar is also permitted from producers licensed by the national CITES Management Authority; this has raised concerns that illegally caught wild caviar can be deliberately mislabelled as farmed and legal, allowing illegal caviar to be laundered through the legal trade (Jahrl, J. 2013: 39; the issue of mixing legal and illegal shipments is discussed further in this report in relation to South East Asian python skins). This means it can often be very difficult to enforce CITES regulations because illegally fished caviar can be disguised and then traded as legally produced caviar (Jahrl, J. 2013, 34).

Detection and enforcement are also fraught with complex challenges; for instance identification of large, charismatic animals may be easy; however, the majority of organisms are insects, plants, fungi and microorganisms, and require expert skills for correct identification⁶. Many are traded as medicines (e.g. powdered rhino horn), jewellery and ornaments (e.g. hawksbill turtles), and as food (e.g. pangolins) or clothing (e.g. reptile leather shoes)⁷. The Global Taxonomy Initiative (GTI) of the Convention on Biological Diversity (CBD) is intended to address the problem of inadequate taxonomic data to allow national authorities, including customs agencies to determine if a species is traded illegally or not. However, the progress made by each CBD member state was reviewed and published by the CBD in 2016, which indicated that some members had made no progress thus far⁸.

Finally, illegal trading in flora and fauna is resistant to regulation and enforcement by states, international organizations and NGOs precisely because it is a very profitable enterprise (Ayling, J., 2013). The illegal wildlife trade is not exclusively a problem of extracting high value wildlife products to generate profits for organized criminal networks. It is also important to note that the trade is central to livelihood strategies in some of the poorest and most marginalised communities in the world (Roe, D. et al, 2014). The wildlife trade provides varying levels of economic support to different communities across the world; for some it is a regular source of income, for others it is a safety net or a lucrative business (TRAFFIC, 2008; Roe, D. et al, 2014).

⁵ *Black Gold: The Caviar Trade in Western Europe* (Traffic International) <http://www.traffic.org/publications/black-gold-the-caviar-trade-in-western-europe.html> (accessed 04.11.2016).

⁶ The CBD Global Taxonomy Initiative <https://www.cbd.int/gti/problem.shtml> (accessed 30.09.2016).

⁷ For a list of specific examples see <http://www.worldwildlife.org/threats/illegal-wildlife-trade> (accessed 13.10.2016) Also see Wyatt 2016, 129; OECD 2016, 65.

⁸ <https://www.cbd.int/gti/review.shtml> (accessed 30.09.2016).

1 The trade in wildlife in the European Union

The trade in wildlife into the EU has both legal and illegal forms. This section provides an overview of the profile of the trade, including major routes and estimated volumes of trade. The value of EU imports of CITES-listed animals and animal products (excluding caviar extract) in 2014 was estimated at ~EUR641 million (USD717) million, with animal exports (excluding caviar extract) estimated to be more than double, at approximately ~EUR 1.1 billion (USD1.2 billion). For plants, imports were valued at ~EUR 261 million (USD286 million) while exports were valued at ~EUR 91 million (USD102 million). Just under 95 000 import transactions of CITES-listed species of wild fauna and flora were reported in 2014 by the EU. Live plants, leaves and stems were the most highly traded commodities, followed by reptile skins and timber. The majority of imports were wild-sourced. The EU also reported just under 200 000 (re-)export transactions of CITES-listed species of wild fauna and flora in 2014, more than twice the number of imports, these were predominately re-exports for commercial purposes⁹.

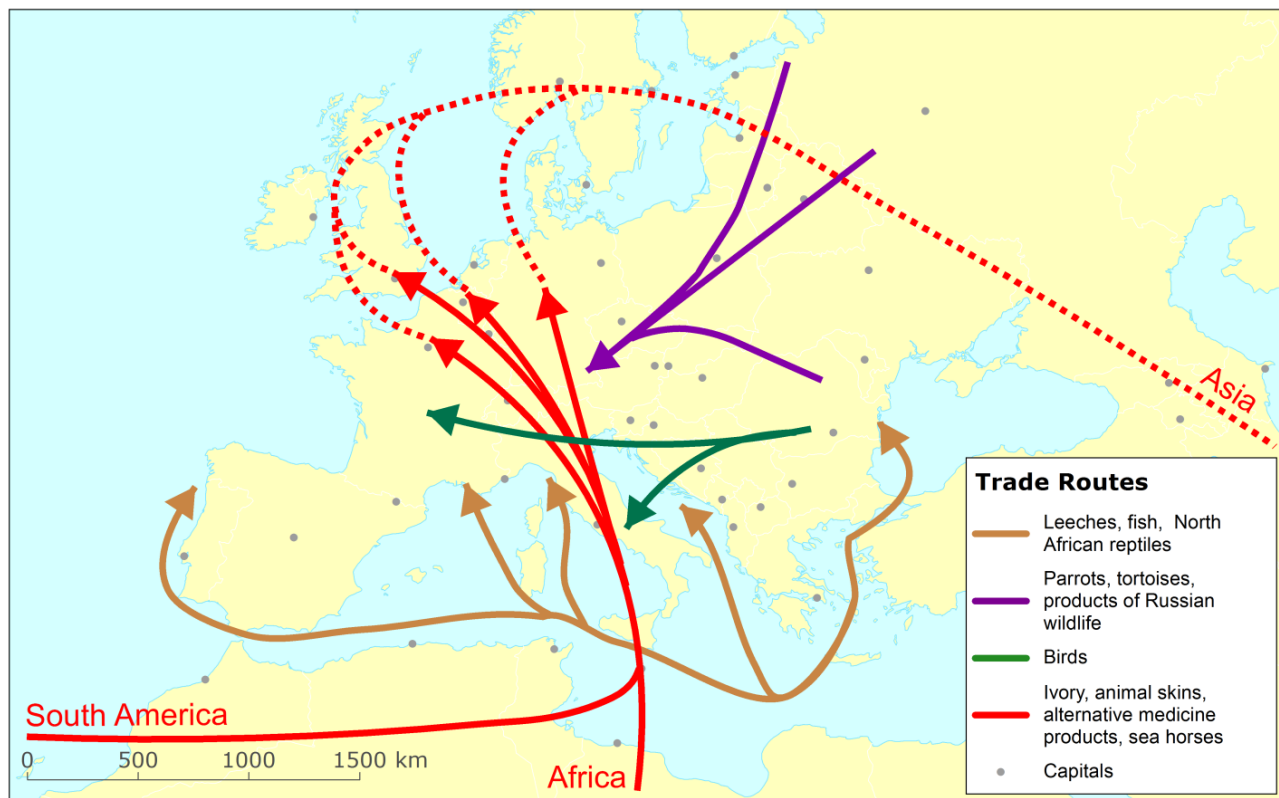
Drawing on information provided by the EU Trade in Wildlife Information eXchange (EU-TWIX) database, Sina, S., et al, identified the following four important legal and illegal trade routes into the EU:

1. *Africa to major trade hubs*: The EU has several major trade hubs for African wildlife and wildlife products (eg skins, ivory, medicine products and sea horses. These include major airports (e.g. Zaventem-Belgium, Paris Charles de Gaulle, Frankfurt a. M.) and major ports (e.g. Antwerp) African wildlife or products from that wildlife. In this trade the EU is a transit region and the products are re-exported to Asian countries like China, Korea and Vietnam.
2. *Coastal smuggling*: The wildlife trade is also conducted via coastal shipping to import illegal wildlife into the EU. This is especially the case for Spain, Portugal, Italy, Greece and EU countries with a Black Sea coast (Bulgaria and Romania). The most main products in these trade routes are leeches, fish and caviar and also North African reptiles. These products are largely to serve demand from within the EU, especially for live animals as pets.
3. *Bird trade in South Eastern Europe*: There is a trade in endangered birds within Europe from South Eastern Europe (e.g. Bosnia and Romania) to Italy or France.
4. *Eastern European land routes*: Statistics on these routes are less reliable but several reports point out that the Eastern European land borders of the EU play an important part in the illegal import of parrots, tortoises and wildlife products of Russian wildlife (e.g. polar bears, brown bears and caviar).

The figures below indicate the main trading routes into the European Union, the size and location of seizures and the types of wildlife and wildlife products which are most commonly seized in the EU, based on data derived from the EU-TWIX database.

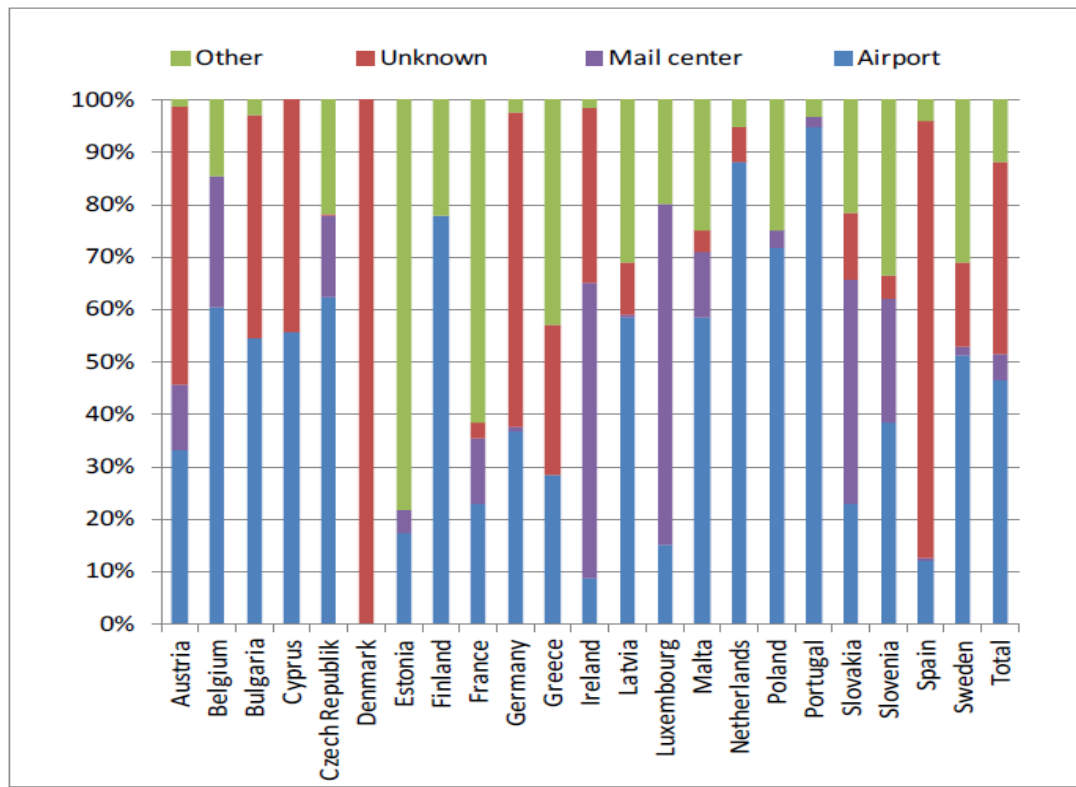
⁹http://ec.europa.eu/environment/cites/pdf/reports/Analysis_of_EU_annual_reports_to_CITES_2014.pdf (accessed 04.11.2016).

Figure 1: Major trade routes of illegal wildlife trade in Europe

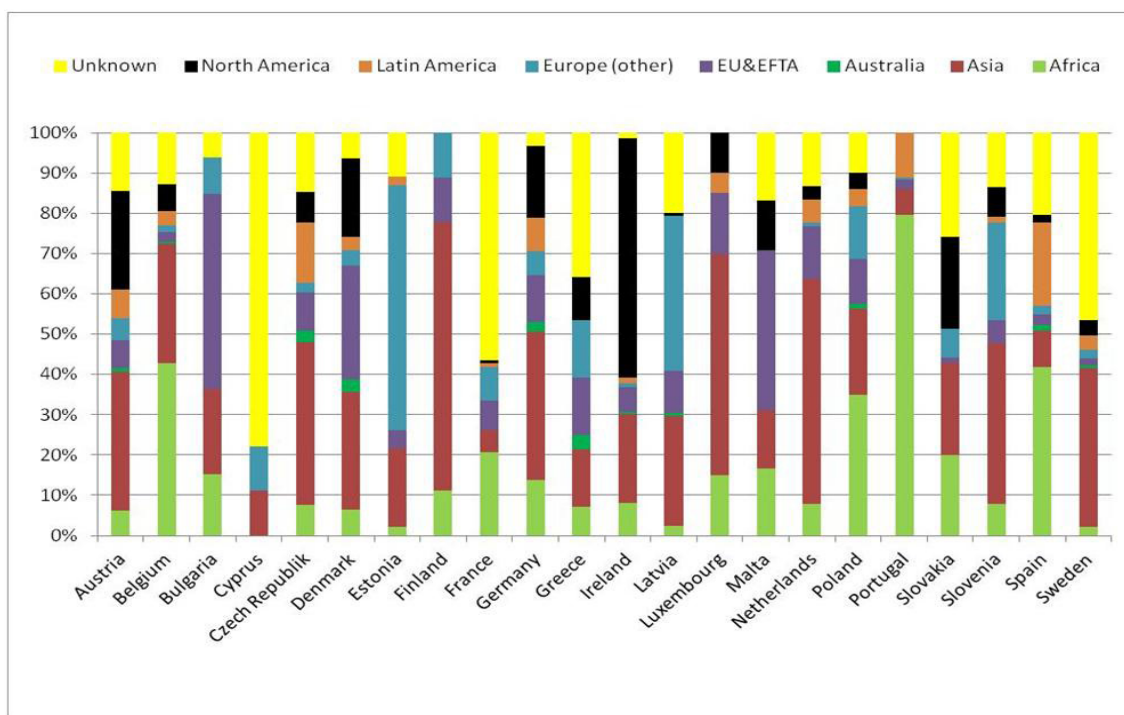


Source: Sina, S. et al 2016, 62.

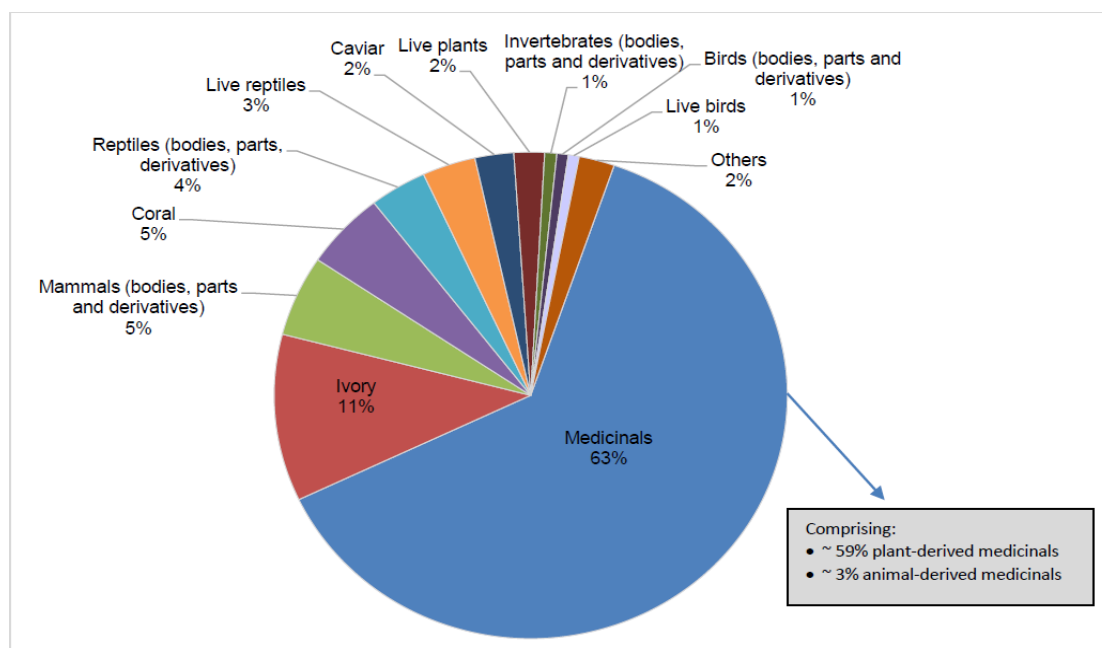
Figure 2: Proportion of seizures by location (EU-TWIX).



Source: Sina, S., et al, 2016, 60).

Figure 3: Country of Origin of seized wildlife according to EU-TWIX

Source: Sina, S., et al 2016, 61).

Figure 4: Distribution of 2497 international seizure records reported by EU Member States across commodity groups, 2015

Source: 2015 Overview of important international seizures in the European Union January to December 2015 (compiled by Traffic April 2016) ¹⁰.

¹⁰http://ec.europa.eu/environment/cites/pdf/2015_overview_important_seizures_in_EU.pdf (accessed 18.10.2016).

From the above figures it is clear that the EU constitutes a major importer, exporter and transit region for the legal and illegal wildlife trades. For example, Europol identified France, Belgium, the UK, the Netherlands and Germany, as the more commonly used wildlife trafficking transit hubs (Traffic 2013, cited in Sina, S., et al. 2016, 62-67; OECD 2016, 69). The legal and illegal trade is largely conducted via the main trade hubs (notably airports and ports). The European Union Action to Fight Environmental Crime (EFFACE) project confirmed that Heathrow is a major entry and transit point for wildlife (Sollund, R. and Maher, J. 2015). A study by Chaber, A-L. et al. (2010) also identified Paris Charles de Gaulle Airport as an important hub for bushmeat coming from Africa. However, new trade hubs are emerging, including via smaller European airports with direct connections to Africa and Asia (Sina, S., et al. 2016: 1-27).

The demand for wildlife as part of the pet trade has both legal and illegal forms, depending on the specific species (Wyatt, 2016: 130). EU member states are important consumers and importers of wildlife as part of the international pet trade as well, especially of reptiles and birds (see later discussion of the psychedelic rock gecko). As Sina, S. et al (2016, 1-27) point out, this trade is largely conducted Eastern European land borders, the Mediterranean and Black Sea, rather than air transport hubs. However, data on the pet trade is not reliable - up to date information to determine the volumes and value of the wild pet trade into the EU is insufficient to make any judgement about its impact. The RSPCA estimates that between 5.9 and 9.8 million live reptiles were imported into the EU in 2009 alone, a substantial rise from the 1.6 million imported in 2005.¹¹ According to the ENDCAP Coalition¹², the EU lacks a consistent approach to legislation or licensing requirements relating to the trade in and keeping of wild pets. Many species are not covered by CITES (because they are not endangered and therefore not listed) or trade legislation. For example the Trade Control and Expert System TRACES¹³, and the EC Eurostat¹⁴ database do not record the origin of wild animals imported into the EU.

However, while data on seizures are often used to map out the volume and flows of the illegal trade, such information does need to be approached carefully. The overall trend in wildlife crime measured in the number of seizures has been roughly constant in recent years. The most frequently seized species are reptiles, mammals, flowers and corals. Seizures are concentrated in countries with large overall trading volumes, so overall the UK, Germany and Netherlands were responsible for more than 70% of seizures in 2007-2014. However, the high number of seizures may also be attributable to well developed enforcement efforts in these countries (Sina, S. et al. 2016, 8). These data also indicate that it is not possible to identify specific EU member states as particular problems for enforcement - rather these data indicate that all EU member states could improve their record on the illegal wildlife trade.

1.1 EU regulations on the wildlife trade

The trade and main instrument that the EU can use to address the illegal wildlife and monitor and control the legal wildlife trade is CITES. The legal trade in non-CITES listed species is governed by more general trade agreements, such as the Free Trade Agreements (FTAs) discussed in section 2.2, but as discussed above, much of it goes underreported or under-recorded. A full overview of the EU wildlife trade regulations can be found at

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

¹¹ RSPCA figure cited in <http://endcap.eu/wp-content/uploads/2013/02/Report-Wild-Pets-in-the-European-Union.pdf> (accessed 04.11.2016).

¹² ENDCAP, short for 'End Captivity'; The ENDCAP Coalition produced a report on the wild pet trade into the EU which can be accessed at <http://endcap.eu/wp-content/uploads/2013/02/Report-Wild-Pets-in-the-European-Union.pdf> (accessed 04.11.2016).

¹³ http://ec.europa.eu/food/animals/traces_en (accessed 04.11.2016).

¹⁴ <http://ec.europa.eu/eurostat/web/environment/biodiversity> (accessed 04.11.2016).

Furthermore, the EU has specific regulations on the legal importation of sport hunting trophies or wildlife specimens as personal effects. This allows for a legal trade, including of species listed under CITES Appendix II, in accordance with obligations under CITES. A full outline is at http://ec.europa.eu/environment/cites/info_personal_en.htm.

The EU is the most recent party to CITES. It joined on 9 April 2015 and the Convention entered into force for the EU on 8 July 2015 (Sina, S., et al. 2016, 10). CITES was established in 1973, came into force in 1975 and covers 30,000 species of flora and fauna¹⁵. It has developed the *CITES Strategic Vision 2008-2020*, which has two purposes: to improve the working of the Convention, so that international trade in wild fauna and flora is conducted at sustainable levels; to ensure that CITES policy developments are mutually supportive of international environmental priorities; and to take into account new international initiatives, consistent with the terms of the Convention (CITES 2008). Until the EU joined as a member in 2015, CITES operated on the basis of national level implementation authorities, even though the Gaborone Amendment in 1983 permitted regional organisations to become signatories to the Convention (Sina, S., et al 2016, 24-27).

However, the EU also developed an EU level legal architecture prior to its membership. The EU Wildlife Trade Regulations (EUWTR) provide a common legal framework for the implementation of CITES across the EU (Sacre, V. 2016, 478). The two main implementing Regulations for CITES are: (1) Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein (EU Wildlife Trade Regulation 338/97) and (2) Commission Regulation (EC) No 865/2006 of 4 May 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 (Sina, S., et al. 2016, 24-27). These Regulations implement CITES in a stricter manner than is required by the Convention itself. For instance they include certain non-CITES species, and also contain provisions to prohibit or restrict imports of species that are considered to be a threat to native EU fauna and flora (Sina, S., et al. 2016, 24-27). Under the EU Habitats Directive¹⁶ and the EU Birds Directive¹⁷, member states also have an obligation to protect listed species. The Directives intersect with and support EU commitments to CITES. On 13 October 2016 the European Parliament's Environment Committee also voted to back a full and immediate EU-wide ban on ivory and rhinoceros horn trade, and to support EU wide sanctions against illegal wildlife trade¹⁸. An overview of the role and importance of CITES is detailed in the report for ENV1 on *Wildlife Crime* (Sina, S., et al. 2016), the *EU Action Plan Against Wildlife Trafficking* and the EFFACE report on *Environment Crime and the EU* by Gerstetter, C., et al. 2016). This report is intended to intersect with the Wildlife Crime report.

In 2016 the EU also published the *EU Action Plan Against Wildlife Trafficking*. The Action Plan sets out the following three priorities:

1. Preventing illegal wildlife trafficking and addressing its root causes
2. Implementing and enforcing existing rules and combating organised wildlife crime more effectively
3. Strengthening the global partnership of source, consumer and transit countries against wildlife trafficking (European Union 2016).

¹⁵<http://www.cites.org> (accessed 16.08.2016).

¹⁶ EU Habitats Directive http://ec.europa.eu/environment/nature/legislation/habitatsdirective/index_en.htm (accessed 30.09.2016).

¹⁷ EU Birds Directive http://ec.europa.eu/environment/nature/legislation/birdsdirective/index_en.htm (accessed 30.09.2016).

¹⁸<http://www.europarl.europa.eu/sides/getDoc.do?type=IM-PRESS&reference=20161010IPR46488&language=EN&format=XML> (accessed 18.10.16).

These three priorities are then operationalised via a series of objectives, which are relevant to trade policy and they are discussed under appropriate sections in this report.

One of the most important EU instruments in relation to environmental crime is the Environmental Crime Directive (ECD). It requires EU Member States to criminalise certain acts that breach EU environmental legislation or national provisions that implement EU environmental legislation. Within the EU the DG Justice is responsible for the implementation of the Environmental Crime Directive. It also provides judicial training, develops instruments for mutual cooperation on criminal matters and issues studies on environmental crime. The DG Environment deals with improving inspections in Member States, can initiate infringement proceedings in the case of Member States and works on the implementation of legislation against crimes like illegal wildlife trafficking or logging.

Individual Member States have also developed their own national level initiatives. Two good examples are Germany and the UK. The German Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH and Federal Ministry for Economic Cooperation and Development ran a two year programme (2013-2015) on *Combating Poaching and the Illegal Wildlife Trade in Africa and Asia*. The UK Government has also taken a lead in promoting responses to the illegal wildlife trade. The London Declaration was signed in February 2014 by 46 countries including 15 African states attending the London Conference on the Illegal Wildlife Trade. It called for four basic actions: eradicating the market for illegal wildlife products; ensuring effective legal frameworks and deterrents; strengthening law enforcement; and sustainable livelihoods and economic development. The Declaration was followed up by a GBP 15 million Illegal Wildlife Trade Challenge Fund, and two international conferences (Botswana in March 2015 and Vietnam in 2016¹⁹).

However, in their review of CITES, Sina, S. et al suggest that Traffic identified a widespread assumption that EU regulations relating to wildlife trade were overly complex, while a European Commission report in 2014 found that the majority of respondents felt that the existing legislation should not be changed (Sina, S. et al. 2016, 24-27). Furthermore, a recent Eurojust(2014) report on environmental crime notes 'the more instruments are in force, the more complicated the situation at national level becomes for practitioners'. Indeed, from an EU perspective, the mixture of old first pillar instruments and third pillar instruments that have now, since the Lisbon Treaty, fallen under the area of freedom, security and justice, with much more weight than before, is challenging from a practical implementation point of view. For instance, only experts can determine with certainty if species found are indeed endangered, the category under which they fall, and whether a penal response to the illegal trade has been triggered' (Eurojust2014, 12). Legal arrangements at global, EU and national levels can cross cut each other and have the capacity to both support and undermine each other. As discussed in the section on enforcement, adherence and enforcement remain the key problems, rather than a need for the development of new regulations.

1.2 EU at CITES CoP17

CITES holds a Conference of Parties every three years, and the most recent was the Seventeenth Conference of Parties of CITES (hereafter CITES CoP17), 24 September to 5 October 2016 in South Africa. The EU participated for the first time as a Party, alongside all 28 Member States²⁰. The EU prepared a number of proposals aimed at supporting legal and sustainable trade in wildlife, whilst also leading on proposals to 'up list' some species to Appendix I (in effect a total trade ban) because of concerns that trade might drive those species to extinction. There is not space to cover all the efforts of the EU at CITES

¹⁹ DEFRA/DfID Call for funding applications, <https://www.gov.uk/government/publications/the-illegal-wildlife-trade-challenge-fund> (accessed 15.09.2016).

²⁰ http://ec.europa.eu/environment/cites/pdf/cop17/Cites_outcome_news_release.pdf (accessed 15.10.2016).

CoP17, and a full breakdown of the proposals submitted by the EU to CITES CoP 17 are listed by the EU Environment Directive at

http://ec.europa.eu/environment/cites/events_en.htm and covered in the report by Davis, M. et al. 2016.in preparation for CoP17. All 20 proposals put forward by the EU were adopted²¹.

Two indicative examples are useful to examine in more detail since they demonstrate the ways that the EU can and does work with CITES to meet its obligations as a member of the Convention. First, the EU submitted a proposal (CoP17 Docs 39.1) to tighten regulations on trophy hunting in order to respond to concerns that trophy hunting (and trade in resultant wildlife trophies) might have a negative impact on the long term survival of certain species. It stated that well-managed and sustainable trophy hunting is an important conservation tool which provides both livelihood opportunities for rural communities and incentives for habitat conservation, and generate profits which can be invested for conservation purposes. However, because concerns were raised about the impact of trophy hunting on some species, in 2013 and 2014, the European Union and its Member States conducted a comprehensive assessment of imports into the EU of hunting trophies of species listed in Appendix II (UNEP-WCMC 2014) and in 2015 adopted new rules for the import of hunting trophies of six taxa (African lion, polar bear, Southern White rhino, African Elephant, hippo and argali sheep) for which it was demonstrated that there were concerns regarding the sustainable or legal origin of trophies imported from certain exporting countries. Imports in the EU of trophies of these taxa are now subject to the issuance of import permits²². At CoP17 the CITES Secretariat asked the European Union to work with South Africa to develop a joint document on trophy hunting (South Africa has submitted a similar proposal). The result of this co-operation was CoP17 Inf.68. The European Union explained they believed it was time for CITES to have a clear framework on hunting trophies and that they had worked with South Africa to produce a new proposal for Parties to consider. The Chair of the Fifth Committee proposed establishing a drafting group, using document CoP17 Inf. 68 as a basis to generate new text for the Committee's consideration. The group was co-chaired by the European Union and South Africa, and include Botswana, Canada, Kenya, Namibia, the United States of America, Zimbabwe, the Conservation Alliance of Kenya and Humane Society International²³.

A second example, is that the EU also jointly tabled a motion with Vietnam to uplist the psychedelic rock gecko to Appendix I, because of concerns about the impact of a growing demand from the pet trade (primarily on the internet). Since 2013, the major importers of this rare Vietnamese lizard were member states of the European Union and the Russian Federation; anecdotally, live pairs were offered for approximately EUR 2500-3500 at reptile shows in Europe and the Russian Federation²⁴. The EU-Vietnam proposal on the gecko was accepted and the decision to uplift the species to Appendix I effectively outlawed trade in this species²⁵. This is a good example of EU leadership in developing joint efforts to tackle the ways that international trade might affect the long-term survival of wildlife.

²¹ibid.

²² Interpretation and Implementation of the Convention: Hunting Trophies from Species Listed on Appendix I or II <http://ec.europa.eu/environment/cites/pdf/cop17/Res%20+%20dec%20hunting%20trophies.pdf> (accessed 13.10.2016).

²³https://cites.org/sites/default/files/eng/cop/17/Com_1/SR/E-CoP17-Com-I-Rec-05.pdf (accessed 13.10.2016).

²⁴Full text of the proposed resolution is at

<http://ec.europa.eu/environment/cites/pdf/cop17/Cnemaspis%20psychedelica.pdf> (accessed 13.10.16).

²⁵<https://www.iucn.org/news/iucn-informs-key-decisions-cites-conference-wildlife-trade> (accessed 13.10.2016).

1.3 Europol, Eurojust and Interpol

Two of the most important organisations, especially regarding the cross-border dimension of environmental crime in Europe, are EUROPOL and EUROJUST, created for police and judicial cooperation respectively. Europol in particular, has also gained importance in this area; in 2013, it issued a *Threat Assessment on Environmental Crime in the EU*, which noted the emerging threat posed by trafficking in endangered species in terms of impact, high value, *modus operandi* and dimension, in the EU as well as worldwide (Eurojust 2014, 12). According to Chapter 4 of the Lisbon Treaty, the role of Eurojust is to support and strengthen coordination and cooperation between national investigating and prosecuting authorities in relation to serious crime affecting two or more Member States, and to tackle crimes that affect the financial interests of the EU²⁶.

Interpol has 190 member countries and each member has a National Central Bureau; however, it does not have policing powers of its own, instead it acts as a coordinating agency; its Environmental Crime Programme and has been a co-ordinating hub to respond effectively to the illegal wildlife trade. It also developed the Ecomessage system to facilitate information exchange between members to analyse trends in environmental crime and better target enforcement (Pink, G. 2016, 444-449). In cooperation with Europol, Interpol supports enforcement and has an Environmental Crime Committee and an Environmental Compliance and Enforcement Committee. Environmental NGOs are also important actors in monitoring the wildlife trade and enhancing enforcement efforts by Europol and Interpol. For example, International Fund for Animal Welfare (IFAW) and Environmental Investigation Agency (EIA) cooperate with Interpol on Project Wisdom and Project Worthy, which include provision of training for enforcement agencies dealing with wildlife trafficking²⁷.

2 EU Trade Agreements and the Wildlife Trade

The Organisation for Economic Co-Operation and Development (OECD) (2012) states that economic incentives can only work fully in a framework of good governance and law enforcement. Otherwise they risk exacerbating illegal activity, creating new opportunities for it, or shifting it to other regions or countries. Furthermore, OECD points out that economic incentives to reduce illegal wildlife trading will only work if they are part of a co-ordinated range of interventions, including the provision of alternatives to illegal trading (OECD 2012; Wyatt, T. 2016, 139).

As the OECD notes, when designing national environmental policy measures it is imperative that the potential for encouraging illegal behaviour (including trade) is considered, so that the consequences can be assessed and considered (OECD 2012; also see Challender, D. et al, 2015). The use of trade instruments can be useful, but only when they are part of a wider, more holistic approach which tackles the underlying reasons for poaching, trafficking and unsustainable harvesting in the first place (as discussed in Chapter 6 on sustainable livelihoods.) On a more positive note, these complex drivers also mean that interventions by the EU aimed at reducing corruption or tackling organised crime and money laundering can have spin of benefits for producing a sustainable legal trade and preventing unsustainable illegal trade in wildlife products.

²⁶<http://www.eurojust.europa.eu/> (accessed 13.10.2016).

²⁷<http://www.ifaw.org/united-kingdom/our-work/wildlife-trade/ifaw-and-interpol-working-together-fight-wildlife-crime> (accessed 13.10.2016).

2.1 Common Commercial Policy / Customs Union

The Common Commercial Policy²⁸ offers harmonised approaches across EU member states, including the removal of trade barriers between EU member states, and the development of a single customs union with a common external tariff. This can help to facilitate a legal and sustainable wildlife trade. However, the Customs Union also presents additional enforcement challenges; as the Eurojust report notes, environmental crime also often involves a cross-border dimension, and the increase of international trade and the abolition of border controls within the Schengen area add to the scope of the problem (Eurojust 2014, 4). Returning to the example of caviar, since the Common Commercial Policy allows for free movement of goods within the Union, the opportunities to intercept and detect these shipments is reduced. As Jarhl, J. suggests effective enforcement is a vital and this requires tight inland and border controls – especially at the external frontier of the EU i.e. to Moldova, Ukraine and Turkey – and good national and cross border cooperation within the EU itself (Jarhl, J. 2013, 42; Sina S., et al, 2016, 32). In a comprehensive report on the caviar trade in Romania and Bulgaria, Jahrl, J., demonstrates that illegally fished caviar is transferred on ferries and ships which cross the Black Sea into Bulgaria and Romania, where it is sold in restaurants or processed, repackaged, and mislabelled thus joining the international legal trade in caviar (Jahrl, J. 2013, 34). If additional checks are not carried out by customs within the EU, this reduces opportunities to intercept illegal shipments. This is relevant for a wider range of CITES listed species, not just caviar. Under WTO rules additional checks and regulations are permitted in cases where trade could negatively affect the environment.

2.2 The EU Trade for All Strategy

The *EU Trade for All Strategy* aims to provide the underlying principles/approach to allow for new economic opportunities and promote trade in ways that support ‘European values’; Chapter Four details the aims with regard to good governance, sustainable development and human rights (European Union 2015, 20-27). For example it states that the EU’s trade and investment policy must respond to consumers’ concerns by reinforcing corporate social responsibility initiatives and due diligence across the production chain (European Union 2015, 20). Regulatory cooperation can also help promote high standards via exchange of ideas and best practices and promotion of EU standards (European Union 2015, 20). The strategy also aspires to use EU trade and investment policy to develop inclusive growth in trading partners (European Union 2015, 22). Furthermore, chapter four of the strategy against corruption and promoting good governance can also be used to support attempts at enforcement and implementation of CITES. For example the strategy states that Free Trade Agreements (FTAs) can be used to monitor efforts to combat corruption and that the EU will pursue good governance and anti-corruption as themes in Trans-Atlantic Trade and Investment Partnership (TTIP) negotiations (European Union, 2015, 26). rough which the EU can support legal and sustainable trade in wildlife, however its potential is as yet untested because it is a recent development and is a set of principles to guide trade rather than having binding powers on member states.

²⁸<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV%3Aa20000> (accessed 19.10.2016).

2.3 EU Free Trade Agreements (FTAs)

The EU aims to conclude Deep and Comprehensive Free Trade Agreements (DCFTA) that remove tariffs, open up markets on services, investment, public procurement and include regulatory issues²⁹. The EU has completed FTA's with South Korea, has agreed (but not yet implemented) FTAs with Vietnam and Singapore, and is currently negotiating an FTA with Japan. To date FTA agreements tend not to refer specifically to the legal or illegal wildlife trade, with the exception of the FTA with Vietnam. The inclusion of specific objectives linked to supporting a legal and sustainable wildlife trade, or preventing an illegal wildlife trade could be an area for development in future FTA negotiations.

The EU-South Korea FTA entered in to force in 2011; it was the first trade deal between the EU and an Asian country, and a review of its performance is due in 2017³⁰. One of the aims of the agreement is to liberalise trade in a way that is sustainable, and open opportunities for foreign direct investment in ways that do not reduce environmental standards. The agreement contains specific chapters on sustainable development - especially with regard to sustainable fishing and preventing deforestation. It includes provisions for cooperation in promoting the development and implementation of multilateral environmental agreements and trade favouring sustainable development, but these are focused on eco-labelling and energy efficient products, rather than the trade in wildlife *per se*. Eco-labelling schemes are perhaps the most relevant for the wildlife trade, and can be a means of developing systems to ensure that wildlife products are being traded in a sustainable and legal way (European Commission 2016(c), 315).

The EU-Vietnam FTA has been agreed, but is yet to be implemented. It includes a chapter on sustainable development, and it is a requirement that all parties adhere to CITES and that Domestic Advisory Groups be developed to allow a range of interested stakeholders to share their views on the intersections between the FTA and sustainable development (European Commission 2016(b), 8-10). The EU-Vietnam FTA explicitly acknowledges that Vietnam faces important challenges in the illegal wildlife trade, and that the Government has taken steps to address this – including the adoption by the Prime Minister of a directive recognising the seriousness of the issue and requesting all the relevant ministries to adopt a series of measures against wildlife trafficking (in February 2014). Vietnam adopted the Forest and Wildlife Crime Toolkit developed by the ICCWC, which lays out in a comprehensive and structured manner what needs to be done to eradicate wildlife trafficking. The EU stated that it supports these important initiatives and that continued support depends on their effective implementation (European Commission 2016(b), 13; European Commission 2016(a)).

The EU-Singapore FTA was agreed in 2014, and is yet to be implemented. Even though Singapore is a leading importer, re-exporter and consumer of wildlife products, both legal and illegal, the wildlife trade is not specifically referred to in the FTA. Instead the text which refers to products derived from animals is concerned with sanitary issues and biosafety – only wild meat is mentioned specifically³¹. Biosafety is important in the legal and illegal wildlife trades because of capacity for wildlife and wildlife products to spread diseases to humans and domesticated animals. Chapter Thirteen of the FTA is concerned with trade and sustainable development, and as with other FTAs it reiterates the need to ensure that trade liberalisation is compatible with environmental sustainability, via for example supporting the obligations of members to multilateral environmental agreements³².

The EU-Japan FTA is still under negotiation, but it does not specifically refer to the legal or illegal wildlife trade. The main environmental concerns under the FTA are the trade in fisheries including Illegal,

²⁹<http://ec.europa.eu/trade/policy/countries-and-regions/agreements/> (accessed 10.10.2016).

³⁰<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2011:127:FULL&from=EN> (accessed 10.10.2016).

³¹http://trade.ec.europa.eu/doclib/docs/2013/september/tradoc_151740.pdf (accessed 10.10.2016)

³² Ibid.

Unreported and Unregulated (IUU) fishing, and the trade in timber (European Commission 2016(f), 215), rather than the legal or illegal wildlife trade. In 2016 the European Commission published the final report of the Trade Sustainability Impact Assessment of Free Trade Agreement between the European Union and Japan; it concluded that while the potential economic gains could be substantial, the environmental and social risks are negligible, or offset by new technologies and opportunities provided by the agreement (European Commission 2016(f), 19).

FTAs could offer productive routes through which to support legal wildlife trade, and prevent illegal wildlife trade. As new FTAs are developed, there is an ideal opportunity to include provision relating to the wildlife trade where appropriate– as was the case in negotiations for the EU-Vietnam FTA. Eco-labelling, as detailed in the EU-South Korea FTA might offer a useful route through which the EU can support the development of a legal and sustainable trade in wildlife products. More broadly, the importance of trade for sustainable development in the FTAs (to date) can provide a wider context in which the EU can support attempts to develop a legal wildlife trade, whilst tackling illegal and unsustainable trade. The example of the negotiations towards an EU-Japan FTA provide a useful illustration. The Trade Sustainability Impact Assessment in 2016 notes the need to support the attempts by the EU and the Japanese government to maintain Japan’s environmental performance, which equals many EU member states. The Sustainability Impact Assessment notes that the main impacts of the FTA on the forest products sector and on forests will arise primarily from the general expansion in economic activity consequent on the FTA, rather than from any direct impacts on bilateral trade; furthermore those impacts will be felt in countries from which timber is sourced, rather than in Japan (European Commission 2016 (f), 233-240).

2.4 EU Generalised Scheme of Preferences (GSP+)

The EU GSPs provide additional trade incentives to developing countries to implement the core interests of conventions on human rights, labour rights, sustainable development and good governance (European Union 2015, 23)³³. While the general GSP arrangement (Standard GSP) generally grants tariff reductions or suspensions to developing countries on about 66% of EU tariff lines, the GSP+ offers additional advantages through complete duty suspensions for essentially the same goods (European Commission 2016(c), 7). When a country applies for a GSP+, it is required to have already ratified and effectively implemented the 27 core international conventions listed in Annex VIII of the GSP Regulation. These conventions cover human and labour rights, environmental protection, and good governance, and one of them is CITES (European Commission 2016(c), 12).

Several of the countries covered by either GSP or GSP+ are consumers and exporters of wildlife. There is an opportunity to support attempts to curb illegal wildlife trafficking by making enforcement an explicit criterion. However, as with all forms of conditionality linked to aid and trade, such instruments need to be carefully considered prior to implementation. The example of the Philippines, is useful because it is recognised by CITES as a country with very high levels of biodiversity and it has agreed a GSP+ with the EU. As part of its obligations under GSP+ and under its membership of CITES it has reported on numerous activities, including the enactment of the Wildlife Resources Conservation and Protection Act and measures to tackle wildlife trafficking through training wildlife enforcement officers, the establishment of a task force, Philippine Operations Groups on Ivory and Illegal Wildlife Trade, the destruction of 4 tonnes of smuggled elephant ivory, filing of criminal complaints, carrying out buy-bust operations on illegal wildlife traders and law enforcement operations, carrying out capacity-building activities; and the celebration of World Wildlife Day. However, it also reported constraints on meeting its obligations including a limited budget to sustain enforcement operations, lack of cooperation among the local

³³ EU Generalised Scheme of Preferences, http://ec.europa.eu/trade/policy/countries-and-regions/development/generalised-scheme-of-preferences/index_en.htm (accessed 04.08.2016).

government units in the enforcement of laws; and rules and regulations governing wildlife (European Commission 2016(c), 281).

2.5 Transatlantic Trade and Investment Partnership (TTIP)

The EU might consider the current TTIP negotiations. The EU states that sustainability is a key concern which will be part of TTIP. Much of the material here draws on the negotiating texts of the EU in TTIP, and as such is based on the possible approaches favoured by the EU since the negotiations are yet to be concluded³⁴. The Chapter on Trade and Sustainable Development (TSD) in TTIP is especially important for the wildlife trade. Initial statements about TTIP, and the TSD particularly, point out that one of the aims is to enhance trade in legal and timber, fish, or wildlife products as well as other issues related to biodiversity and ecosystems³⁵. The EU position on TTIP is that it should contribute to sustainable development via conservation of biodiversity. It will also support and encourage greater levels of information exchange on trade between TTIP parties, which could assist in regulating the legal trade and curbing the illegal trade³⁶. It is hoped that these provisions will include CITES obligations and enhance environmental protection. However this is not a universal view, and Green 10, a group of ten leading environmental organisations within the EU (including Greenpeace, WWF, Birdlife International and Friends of the Earth-Europe) have also openly expressed concerns that TTIP could undermine the ability of the EU to meet its obligations to sustainability as agreed under other conventions, if trade considerations were to be accorded primacy over environmental considerations (Green 10 2014).

2.6 Trans-Pacific Partnership (TPP)

The Trans-Pacific Partnership (TPP) was signed in 2016 between Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the US and Vietnam. TPP still needs to be ratified by each member before it can enter into force. Even though it does not include the EU, much can be learned from the negotiations and the challenges produced by its implementation as the EU negotiates TTIP. Under TPP agreements parties are required to be signatories of a number of multilateral environmental agreements, including CITES. Article 20.17 of TPP specifically states that signatories must also be parties to CITES and commit to implementation of the Convention. TPP includes detailed statements on the need to prevent wildlife trafficking, and the need for mechanisms to co-operate between signatories to combat wildlife crime. However, the removal of trade barriers also allows for development of a sustainable legal trade in wildlife products³⁷. For example article 20.13 of TPP states that 'each Party shall promote and encourage the conservation and sustainable use of biological diversity, in accordance with its law or policy'³⁸. It will be important to retain these criteria as TTIP is finalised. However, merely being a signatory to CITES is not, on its own, sufficient since it relies on adequate levels of enforcement.

However, it is not just the stipulations linked to the illegal wildlife trade which are important. TPP specifically identifies the need to address transnational environmental crimes, including wildlife trafficking - but also data sharing on illegal fishing of sharks and turtles as well as IUU of commercial fish species. Furthermore, TPP's focus on transparency and anti-corruption can also support the efforts by TPP signatories to address wildlife trafficking. The TPP chapter on environment includes commitments to

³⁴ EU position paper on TTIP, 2014, <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1230> (accessed 04.08.2016).

³⁵ Trade and Sustainable Development Chapter/Labour and Environment: EU Paper outlining key issues and elements for provisions in the TTIP, at http://trade.ec.europa.eu/doclib/docs/2015/january/tradoc_153024.pdf (accessed 13.10.2016).

³⁶ Trade and Sustainable Development Chapter/Labour and Environment: EU Paper outlining key issues and elements for provisions in the TTIP, at http://trade.ec.europa.eu/doclib/docs/2015/january/tradoc_153024.pdf (accessed 13.10.2016).

³⁷ Full text of the TPP chapter on environment can be found at <https://ustr.gov/sites/default/files/TPP-Final-Text-Environment.pdf> (accessed 03.11.2016).

³⁸ <https://ustr.gov/sites/default/files/TPP-Final-Text-Environment.pdf> (accessed 03.11.2016).

combat any illegal trade in wildlife, plants and fish, regardless of whether they are listed under CITES. TPP also encourages sharing of information on investigations into wildlife trafficking ³⁹.

2.7 EU Economic Partnership Agreements

The EU can consider proactively using the EU Economic Partnership Agreements (EPAs), the EU-China Investment Agreement as well as other bilateral FTAs to tackle the illegal trade in wildlife, but also to support legal trades which sustain livelihoods in poorer communities and/or countries. The EU has entered into EPAs with regional groupings of African, Caribbean and Pacific (ACP) states including the Caribbean Forum (Cariforum), the East African Community (EAC) and the most recent agreement is with the Southern African Development Community (SADC), which entered into force in 2016. The EU has also signed EPAs with several ACP countries that are sources of wildlife products and/or consumers of them. These include Cameroon, Madagascar, Zimbabwe, Zambia and Ivory Coast. In brief, these agreements are ultimately based on the Cotonou Agreement in 2000 which contains provisions on human rights, sustainable development and dialogue with civil society ⁴⁰. However, in general the legal and illegal wildlife trades are not core areas of concern⁴¹. Instead the legal wildlife trade can be dealt with under existing provisions under EPAs linked to trade facilitation to allow partner countries full access to the EU market.

The EU signed an EPA on 10 June 2016 with the SADC EPA Group comprising Botswana, Lesotho, Mozambique, Namibia, South Africa and Swaziland. Angola has an option to join the agreement in future. The other six members of SADC region – the Democratic Republic of the Congo, Madagascar, Malawi, Mauritius, Zambia and Zimbabwe – are negotiating Economic Partnership Agreements with the EU as part of other regional groups (Central Africa or Eastern and Southern Africa). The text of the agreement does not refer to the wildlife trade *per se* but is more focused on agriculture, investment and services amongst other things.⁴²

3 International Frameworks

This section sets out some of the main international frameworks that facilitate legal and sustainable wildlife trade, while tackling illegal wildlife trading. It is by no means exhaustive.

3.1 World Trade Organisation (WTO)

In 2015 CITES and the WTO produced a joint statement to cement co-operation between them. WTO and CITES agreed that the well-being of economies, habitats, and societies are inextricably linked. This led CITES and the WTO to embark on more active forms of cooperation to assist governments (including periodic institutional and policy dialogues, and joint technical assistance and capacity building activities) (WTO and CITES 2015, 1-2).

In 1994 the WTO ministers agreed to set up the Committee on Trade and Environment (CTE) and CITES has been a permanent observer at CITES since 1997. To date there have been no disputes between WTO and CITES (WTO and CITES 2015, 4). Although the WTO primarily acts as a regulatory framework to facilitate international trade, members can adopt measures aimed at protecting and conserving natural resources, and meeting obligations under CITES is often the underlying rationale for requests to

³⁹ A summary and full text of TPP can be found at <https://ustr.gov/tpp/#text> (accessed 03.11.2016).

⁴⁰ <http://ec.europa.eu/trade/policy/countries-and-regions/regions/sadc/> (accessed 03.11.2016).

⁴¹ http://ec.europa.eu/trade/policy/countries-and-regions/agreements/#_other-countries (accessed 10.10.2016)

⁴² <http://ec.europa.eu/trade/policy/countries-and-regions/regions/sadc/> (accessed 03.11.2016).

implement such measures; indeed the WTO formally accepts that exceptions to free trade rules are very important in environment related issues (WTO and CITES 2015, 7-8). At the WTO, discussions on the relationship between the WTO and MEAs are part of the Doha round of multilateral trade negotiations (for further discussion of the Doha Round see Wilkinson, R., Hannah, E. and Scott, J. 2016). However, little progress has been made to date⁴³.

The WTO takes the view that trade facilitation can contribute to the goals of sustainable development via conservation and sustainable use (WTO and CITES 2015, 12). Furthermore, 66 members of the WTO have agreed to the WTO Trade Facilitation Agreement, which will come into force once it reaches two-thirds majority. The Agreement allows for simplification of trade formalities, including streamlining of border procedures and automation of border processes in order to make international trading easier⁴⁴. This is consistent with one of the objectives of the *CITES Strategic Vision: 2008-2020*: "cooperation with relevant international environmental, trade and development organisations is enhanced" (WTO and CITES 2015, 11; CITES 2008).

The International Trade Centre (ITC) is a joint initiative of the WTO and UNCTAD⁴⁵. It works with small and medium enterprises (SMEs) and trade support institutions (TSIs) to develop sustainable trade in biodiversity-based products⁴⁶. It aims to mainstream sustainability into Aid for Trade programming. ITC designs Aid for Trade projects that enable poor communities to derive income from the sustainable management of their biodiversity resources. In Madagascar, ITC supports women's associations of raffia producers to improve climate-adaptation measures, product quality and business capacity. ITC also works with the International Union for Conservation of Nature (IUCN) and the private sector to strengthen sustainable sourcing of python and crocodile skins for the luxury fashion industry (Cooney, R. et al. 2015,i).

3.2 UN System and the SDGs

The EU is committed to the implementation of the Sustainable Development Goals (SDGs) announced in 2015, which also has a significant bearing on its approach to both the legal and illegal trade in wildlife. Sustainable Development Goal 15 is to 'protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss. Goal 15.7 specifically refers to the illegal wildlife trade and is to 'Take urgent action to end poaching and trafficking of protected species of flora and fauna and address both demand and supply of illegal wildlife products', while 15.c is to 'Enhance global support for efforts to combat poaching and trafficking of protected species, including by increasing the capacity of local communities to pursue sustainable livelihood opportunities'⁴⁷. Therefore, the EU has obligations to tackle illegal wildlife trade, but also to help support the development of sustainable alternative livelihoods for poorer communities, which can include the development of sustainable legal trade of wildlife products.

The United Nations highlighted the links between the legal and illegal wildlife trade and biodiversity losses and sustainability in successive UN summits and reports. For example, The World Summit on Sustainable Development, Johannesburg 2002, endorsed the target to achieve, by 2010, a significant reduction of the rate of biodiversity loss at global, regional and national levels as a contribution to poverty alleviation and to the benefit of all life on earth. In 2012 the United Nations published the *Future*

⁴³ http://ec.europa.eu/environment/integration/trade_en.htm (accessed 13.10.2016).

⁴⁴ <http://www.wcoomd.org/en/about-us/what-is-the-wco/customs-environment.aspx> (accessed 02.08.16). Also see WTO and CITES 2015: 1-2).

⁴⁵ <http://www.intracen.org/default.aspx> (accessed 02.08.2016).

⁴⁶ <http://www.intracen.org/itc/sectors/biodiversity/> (accessed 02.08.16).

⁴⁷ UN Sustainable Development Goal 15, <https://sustainabledevelopment.un.org/sdg15> (accessed 22.09.2016).

We Want as a follow up report to the 1987 *Brundtland Report*; it stressed the importance of implementing the Strategic Plan for Biodiversity 2011-2020, and achieving the Aichi Biodiversity Targets adopted at the Tenth Conference of the Parties to the CBD⁴⁸.

3.3 International Consortium for Combating Wildlife Crime (ICCWC)

The ICCWC was established in 2010 because of the increasing sophistication/involvement of organised crime networks in wildlife crime, as well as the fractured or inadequate responses at national, regional and international levels (van Asch, E. 2016, 469). It was an initiative of Interpol, CITES, the World Bank, The World Customs Union and the UN Office on Drugs and Crime, and all five organisations are equal partners. One of the first initiatives of the ICCWC was the Wildlife and Forest Crime Analytic toolkit in 2012. The purpose is to provide co-ordinated support to national wildlife law enforcement agencies, as well as regional networks, so for example ICCWC provided specialised training for national agencies in 2013⁴⁹. ICCWC support countries at the national level, for example by deploying a Wildlife Incident Support Team to Madagascar, Sri Lanka and UAE (van Asch, E. 2016, 473). CITES CoP17 in 2016 also held the first ever Global Partnerships Coordination Forum, convened by the ICCWC⁵⁰.

3.4 Regional Initiatives

A range of other regional initiatives seek to address the wildlife trade in ways that recognised there is a need for a multi-sectoral approach. For example, The Lusaka Agreement Taskforce (LATF) was launched in 1996 and specifically focuses on combating the illegal wildlife trade in Sub-Saharan Africa. It facilitates cooperation between the wildlife agencies of Congo, Kenya, Tanzania, Uganda, Zambia and Lesotho⁵¹. There are also regional Wildlife Enforcement Networks (WENs), such as the Association of South East Asian Nations (ASEAN) WEN, which takes a regional and multi-sectoral approach⁵².

4 The Role of the Private Sector

Objective 1.3 of the *EU Action Plan Against Wildlife Trafficking* is to increase business sector engagement in efforts to combat wildlife trafficking and encourage sustainable sourcing of wildlife products (European Union 2016). This encompasses the transport sector, private mailing centres and e-commerce.

4.1 Private Sector and Sustainability

Over the period 2004-2014 the EU has provided an average of EUR 350 million per year for private sector development⁵³. In so doing, the European Commission states that it will look for new ways of harnessing the potential of the private sector as a financing partner, implementing agent, advisor or intermediary to achieve more effective and efficient delivery of EU support, not only in the field of local private sector development, but also in other areas of EU development cooperation such as sustainable energy, sustainable agriculture and agribusiness, digital and physical infrastructure, and the green and social sectors⁵⁴. Such commitments are important for the development of small scale businesses in the legal

⁴⁸<https://sustainabledevelopment.un.org/topics/biodiversityandecosystems> (accessed 22.09.16); also see <https://sustainabledevelopment.un.org/futurewewant.html> (accessed 22.09.2016).

⁴⁹see <http://www.cites.org/eng/prog/iccwc.php>; <http://www.Interpol.int/Crime-areas/Environmental-crime/International-Consortium-on-Combating-Wildlife-Crime> (accessed 13.10.2016).

⁵⁰https://cites.org/eng/news/pr/CoP17_hosts_first_ever_wildlife_crime_partnerships_forum_26092016 (accessed 13.10.2016).

⁵¹<http://lusakaagreement.org/> (accessed 03.09.2016).

⁵²<http://www.asean-wen.org/> (accessed 03.09.2016).

⁵³European Commission Communication COM(2014)263 - *A Stronger Role of the Private Sector in Achieving Inclusive and Sustainable Growth in Developing Countries* <http://ec.europa.eu/europeaid/node/37440> (accessed 22.09.2016), p.2.

⁵⁴Ibid p.3.

wildlife trade and the strategic use of grants and funds under the rubric of Development Assistance from the EU (and its individual member states) could be targeted at small and medium scale businesses which seek to engage in the legal wildlife trade. For example, the European Commission can deliver support through training and capacity building for producer associations, cooperatives and social enterprises (as in the trade in baobab products discussed below).

The approach of aid blending (a mechanism which combines EU grants with loans or equity from public and private financiers) can also be used to enhance private sector cooperation and engagement in tackling the illegal wildlife trade as well as engaging in a legal wildlife trade. For example, private sector finance and support can be harnessed to encourage the creation or further development of sustainable and legal wildlife trading businesses⁵⁵.

4.2 Corporate Social Responsibility (CSR)

Briefly the EU defines CSR as ‘the responsibility of enterprises for their impacts on society’⁵⁶. CSR in the EU’s terms then encompasses respect for applicable legislation, and for collective agreements between social partners. In order to meet the definition of CSR, the EU considers that enterprises should have in place a process to integrate social, environmental, ethical, human rights and consumer concerns into their business operations and core strategy⁵⁷.

The EU CSR strategy provides an excellent basis for responsible engagement between European companies and legal wildlife traders, as well as providing a framework for developing approaches to tackle the ways illegal traders might use their business (see the section on transport and shipping companies). The Commission encourages companies to adhere to internationally recognised guidelines and principles, including the UN Global Compact, the UN Guiding Principles on Business and Human Rights, the International Labour Organisation (ILO) Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy, the ISO 26000 Guidance Standard on Social Responsibility and the OECD Guidelines for Multinational Enterprises⁵⁸.

One area for the development of CSR is in the complex web of private companies which process wildlife products to turn them into the commodities which consumers demand; a good example are the furrier companies which process furs and turn them into fashion items. As Wyatt points out, because the illegal trades in these products is mixed in with legal trades, the companies and individuals involved in processing could be critical to curbing illegal supply because illegal traders are also likely to be engaged in legal trading as well (Wyatt, T. 2016, 131).

⁵⁵European Commission Communication COM(2014)263 - A Stronger Role of the Private Sector in Achieving Inclusive and Sustainable Growth in Developing Countries, <http://ec.europa.eu/europeaid/node/37440> (accessed 22.09.2016).

⁵⁶A renewed EU strategy 2011-14 for Corporate Social Responsibility [COM(2011) 681 final]. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0681:FIN:en:PDF> (accessed 22.09.2016), p.6.

⁵⁷Ibid.

⁵⁸Ibid.

4.3 Global Value Chains

The development of Global Value Chains (GVC), in which different countries across the globe add value to a product as it is developed and transported from raw material/source to final product/consumer⁵⁹ has important implications for legal wildlife trading. The OECD Initiative on Global Value Chains, Production Transformation and Development aims to improve measurement and evidence on new trends in global organisation of trade and production; and identify concrete policy recommendations to implement effective policies to promote development through better integration into GVCs⁶⁰. It is commonly argued in conservation circles that poaching, smuggling and illegal wildlife trading is driven by poverty in source countries, and that effective conservation and sustainable use of wildlife resources is best served via the development of local level initiatives which allow communities to derive economic benefits from wildlife in their area (Duffy, R. et al. 2015). This runs counter to GVC approaches to legal wildlife trading.

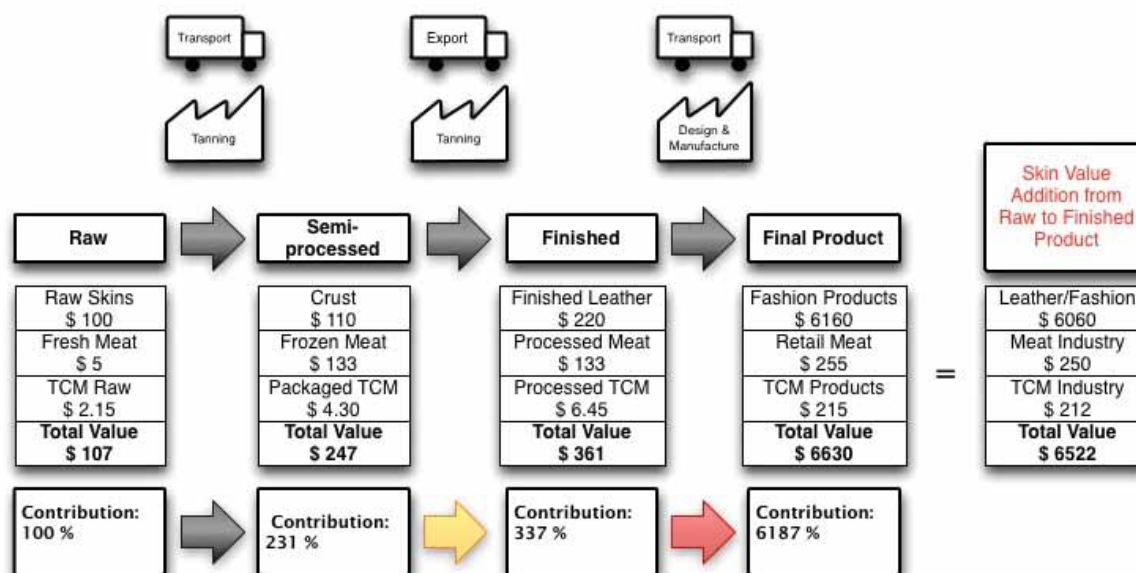
In the legal wildlife trade, the role of GVCs is evident in the processing and preparation of reptile skins. South East Asian pythons are listed under CITES Appendix II which means that a legal, monitored trade is permitted if the Scientific Authority in the country of origin can demonstrate that trade does not pose a risk to the survival of the species; under CITES this is referred to as a Non Detriment Finding (NDF)⁶¹ (Kasterine, A. et al. 2015, 5). The Commission Regulation (EC) No. 865/2006 (the Implementing Regulation) for CITES in the EU permits import of captive bred animals and animal parts with the appropriate permits. The EU is the primary destination for South East Asian python skins; the trade services the fashion industry and has been important for more than 50 years. For example, each year approximately 350,000 reticulated pythons are traded from Indonesia and Malaysia alone; however, 73% are sourced from the wild, rather than being captive bred (Kasterine, A. et al. 2015, 13; UNCTAD 2014). There is little information available on how the python supply chain operates, and so the Boa and Python Specialist Group of the International Union for Conservation of Nature (IUCN) and Traffic commissioned a report in 2015; the report examined the flow of trade, value-addition stages, loopholes in the permitting system that allow illegality, sustainability of harvests and animal welfare issues.

The figure below shows the value addition along the supply chain. For example, a hunted snake sold for slaughter for US\$ 30 represents around 0.5% of the final value of a high-end python skin handbag (Kasterine, A. et al. 2015, 26). Value is added when the animal is slaughtered and the skin is dried, ready for processing; further value is added at the tannery stage, then at the stage of manufacturing and retail. Manufacturers are located mainly in Italy, France, Switzerland, Germany and Spain. An estimated 30% of the manufacturers are based in the United States, the Republic of Korea, Japan, Mexico and Brazil. A leather bag made from only half a skin can be sold by a luxury fashion retailer for between US\$ 5,000 to US\$ 10,000 (Kasterine, A. et al, 2015, 27-35; UNCTAD 2014).

⁵⁹ Global Value Chains, OECD <http://www.oecd.org/sti/ind/global-value-chains.htm> (accessed 22.09.2016).

⁶⁰ OECD Initiative on Global Value Chains, Production Transformation and Development <http://www.oecd.org/dev/abouttheinitiative.htm> (accessed 22.09.2016).

⁶¹ NDF is difficult to establish because many source countries do not have adequate baseline population surveys which act as the basis for accurate estimates of what would constitute a sustainable offtake in wild populations; also see Challender, D. et al. 2015: 141; Nijman, V. 2010.

Figure 4: The Global Value Chain for South East Asian Python Skins

Source Kasterine, A. et al. 2015, 26.

The EU could offer support to local level initiatives to allow them to develop and capture more of the 'added value' of the wildlife in their area (eg capacity building to assist local communities to derive more income from processing skins and hides). Returning to the example of South East Asian python skins, UNCTAD (2014) recommended that 'benefit sharing' could and should be enhanced; for example, that the fashion companies using python skins could engage in a 'matched funding' programme for source countries, to build up capacity amongst local organisations to ensure a sustainable trade and develop best practice for captive breeding and slaughtering (UNCTAD 2014, 47).

4.4 The Transport Sector

The growth both in the volume of international trade and, as the OECD points out, in containerisation renders it increasingly difficult to detect illegal trade. Licensing schemes can be an important tool in helping to detect and regulate flow and are an attempt to regulate particularly problematic trading sectors in the context of increasing removal of trade barriers (OECD 2012, 5-6; UNEP 2014, 26-29). The challenge of meeting obligations not to engage in illegal wildlife trading has been recognised by the transport and shipping industries themselves, often in conjunction with concerned NGOs. For example, in 2016 the CEOs and senior figures of airlines, shipping firms, port operators, signed the Declaration of the United for Wildlife International Taskforce on the Transportation of Illegal Wildlife Products. The signatories include China COSCO Shipping Co. Ltd, Kenya Airways, International Air Transport Association, International Association of Dry Cargo Shipowners, International Chamber of Shipping, International Maritime Organisation and James Fisher Everard⁶². It also produced the Buckingham Palace Declaration which set out the commitments to support private sector attempts to prevent transport and shipping of illegal wildlife products⁶³.

⁶² See <http://www.unitedforwildlife.org/#!/2016/03/what-is-the-transport-taskforce> (accessed 22.08.2016) for a full list of signatories.

⁶³ <http://www.unitedforwildlife.org/#!/2016/03/the-buckingham-palace-declaration> (accessed 22.08.2016)

There are other important new initiatives in the transport sector as well. In 2015 USAID committed to five years of funding for the ROUTES (Reducing Opportunities for Unlawful Transport of Endangered Species) Partnership, led by Traffic. The partnership is to enhance collaboration and implementation of activities to assist the transport sector in efforts to reduce wildlife trafficking via land, sea and air. The partnership is between the Freeland Foundation, the International Air Transport Association, Traffic, USAID, Center for Advanced Defense Studies and WWF⁶⁴. As with the Transport Taskforce, ROUTES is very recent and is still developing so it is difficult to determine how successful they are.

4.5 E-Commerce

E-commerce is rapidly developing in terms of value and volume. The WCO acknowledges that cross-border e-commerce is increasing because of advancing internet technology, economic development in developing countries, the expansion of express delivery services and mobility of labour force. According to estimates made by UNCTAD in 2013, business-to-business e-commerce was valued at about US\$ 15 trillion and business-to-consumer e-commerce at more than US\$ 1 trillion, with the latter growing faster in the last few years⁶⁵. Sina, S. et al concluded that the growing importance of internet-based trade should be taken into account, for example, by developing EU guidelines to the private sector active in this area or by taking a consistent and collective approach to monitoring the internet (Sina et al, 2016: 106). The internet will have an increasingly significant role in both legal and illegal wildlife trading. For example, the internet is increasingly important in terms of linking up consumers and producers of wildlife products (Sollund, R. and Maher, J. 2015; UNEP 2014, 26-29).

The development of e-commerce via internet and social media can provide a route for local communities to sell legally produced and sustainable wildlife products direct to consumers in ways that allow them to capture a greater share of the benefits than if they operate using 'middlemen'. However this is only viable if communities have the necessary skills and capacity as well access to relevant infrastructure including regular and reliable postal and shipping services (for further discussion of the challenges in community based natural resource management (CBNRM) see Dressler, W. et al 2013). It is important to approach such local level schemes in their wider context, rather than in isolation; for example it requires prior identification of viable markets for the wildlife products and here must be adequate infrastructure and systems to move the goods reliably and quickly from producer to consumer.

The illegal wildlife trade is increasingly conducted via new technologies, including the internet and social media. Project Web, a collaboration between Interpol and IFAW identified the internet as an important means of trading ivory illegally, yet the legislative framework at the CITES and EU level is not capable of addressing it (Sina, S. et al 2016, 37; Hernandez-Castro, J. and Roberts, D.L.2015; Milliken, T. and Shaw J. 2012, 147; Hinsley, A. et al. 2016). Greater use of social media has also facilitated illegal trading of wildlife (Hinsley, A. et al. 2016), and such trading presents additional challenges when compared with the major internet auction sites such as eBay. For example, Traffic has worked with WeChat⁶⁶, one of the world's largest social media organisations, and with Ali Baba⁶⁷, an internet trading platform. WeChat and Ali Baba are both significant for internal and external trade in China. In 2012 IFAW also persuaded Baidu, a Chinese-language on-line forum, to shut down 13 forums which discussed the illegal wildlife trade, and as early as 2008 the Chinese on-line trading platform, Taobao.com, banned the trade of tiger bone, ivory, rhino horn, bear bile, turtle shell, pangolin scale and shark on its site⁶⁸. China's black market in illegal wildlife products is roughly estimated at US\$10 billion per year (Jiao, Y. 2016, 256). The high profile

⁶⁴<http://www.traffic.org/routes/> (accessed 23.08.16).

⁶⁵<http://www.wcoomd.org/en/about-us/what-is-the-wco/customs-environment.aspx> (accessed 03.08.16).

⁶⁶<http://www.wechat.com/en/> (accessed 02.08.2016).

⁶⁷<http://www.alibaba.com> (accessed 02.08.2016).

⁶⁸<http://www.ifaw.org/international/our-work/wildlife-trade/reducing-markets-wildlife-products-china> (accessed 20.10.16).

wildlife products illegally traded to China include bear paws, leopard pelts, tiger pelts and bones, ivory, pangolin scales and meat, snakes, tortoises and rhino horn, and the main suppliers are Indonesia, Malaysia, Myanmar, Vietnam, Thailand, DRC, Kenya, South Africa, Tanzania, India and the Russian Far East (Jiao, Y. 2016, 257-8). The role of social media, such as WeChat, in illegal wildlife trading is likely to increase and this is an important area for the EU to consider for the future, at least in terms of cooperating with social media organisations to prevent illegal trading via their systems.

The increasing volume of mail as a result of e-commerce also represents a challenge for enforcing wildlife trade regulations and especially for Customs authorities. Not only is the number of smaller and medium sized parcels growing, but private contractors increasingly offer mail systems and mailing centres. Such mailing centres might be sites for the private sector to develop systems and greater possibility for detecting illegal shipments of wildlife products, and for enforcing wildlife trade regulations more broadly; this would fit with the *Trade for All Strategy* to encourage corporate social responsibility in the private sector to support sustainable development. Furthermore it would be useful for Customs officials to be able to inspect privately owned mailing centres, in order to enforce regulations to prevent illegal wildlife trading. Under the remit of the Common Commercial Policy and the sustainability sections of the *Trade for All Strategy* the EU could offer greater incentives and support to the private sector to develop such structures and initiatives.

5 Training and Enforcement

Tackling the illegal wildlife trade is rendered even more difficult by the lack of trained officers with dedicated responsibility in many states (Sina, S. et al. 2016, 72). Most Member States who replied to the Questionnaire launched by Eurojust began by recognising the low number of cases they are dealing with in terms of trafficking in endangered species. They also generally recognised that this was not because such crimes do not exist, but rather that such crimes are not labelled as 'serious' at the national level (Eurojust 2014, 11). The European Union Action to Fight Environmental Crime (EFFACE) funded by the EU brings together researchers and think tanks to assess the impacts of environmental crime. The wildlife research policy brief recommends to the EU a review of member states' regulations, fortification of borders, empowering of the criminal justice system, intelligence gathering, increasing synergy among relevant institutions, and the need for research-based approaches to reducing demand for wildlife products (Sollund, R. and Maher J. 2015, 2)

Many Member States do not have specialised police forces, prosecutors' offices and judges to deal with environmental crime, including wildlife crime. This means environmental crimes are dealt with via the general police forces, which lack of specialisation, are unlikely to be able to adequately detect environmental crimes through proactive monitoring. Furthermore, prosecutors may not accord environmental crime a high priority. For example a recent Eurojust report stated that 'generally speaking, despite binding EU legislation both from a protection and criminal law point of view, cases of trafficking in endangered species only lead to very lenient sanctioning....The lack of awareness of the impact and scope of this crime should be corrected at national level, and be followed by clear, practical enforcement changes.' (Eurojust 2014, 13).

Sina, S. et al recommended the adoption of national action plans for coordination of enforcement, that all relevant enforcement agencies should have adequate financial and personnel resources for the enforcement of Regulation (EC) No 338/97, and that penalties for infringements of Regulation (EC) No 338/97 act as a deterrent against wildlife trade crime (Sina, S. et al. 2016, 24-32).

One good example is Operation Cobra III in May 2015. It was the biggest ever coordinated international law enforcement operation targeting the illegal trade in endangered species. It included law enforcement teams and agencies from 62 countries in Europe, Africa, Asia and the United States. Europol

facilitated it via information exchange and coordination of police, customs, forestry and other law enforcement authorities from 25 participating EU Member States. The operation was organised by the regional organisations Association of Southeast Asian Nations Wildlife Enforcement Network (ASEAN-WEN) and the Lusaka Agreement Task Force (LATF) (Europol 2015; Sina, S. et al. 2016, 47).

5.1 Customs Agencies

In 2015 The European Commission adopted a new Union Customs Code, which comes into force in 2016. Its aim is to integrate the EU customs system, support cross border trade and allow for a greater degree of co-operation⁶⁹. The WCO recognises the importance of customs authorities in tackling the illegal wildlife trade. In its Declaration on the Illegal Wildlife Trade in 2014 the WCO declared its support for the principles of the Marrakech Declaration (a 10-point Action Plan to Combat Illicit Wildlife Trafficking adopted in May 2013), the London Declaration on the Illegal Wildlife Trade adopted in February 2014, and other international instruments dealing with this issue. The declaration also highlights the need for greater coordination and cooperation between customs agencies, and the need for zero tolerance on corruption in customs (WCO 2014).

The Green Customs Initiative brings together the secretariats of the relevant multilateral environmental agreements (Basel, Cartagena, CITES, Montreal, Rotterdam Stockholm), Interpol, the Organisation for the Prohibition of Chemical Weapons, UNEP and the WCO. It aims to facilitate the legal and sustainable trade in environmentally sensitive commodities, and crucially to enhance detection and prevention of illegal and damaging trade⁷⁰. It produced a Green Customs Guide which is intended to be a training manual for customs authorities (UNEP 2014).

Despite the commitment from WCO, and various initiatives to assist Customs agencies, they still face significant challenges when dealing with the wildlife trade. As a report by Eurojust (2014) points out wildlife and wildlife products can easily be moved between EU Member States without monitoring due to the absence of internal border controls (also see Sina, S. et al. 2016, 38). For example Customs authorities in a particular country may be aware that certain freight forwarding companies are used by illegal wildlife traders to move products from source to destination markets; however, national customs authorities may not pass this information on to the authorisation the destination county to assist them in targeting checks on particular shipments.

5.2 Data Sharing

Several mechanisms exist for data sharing between EU Member states on illegal wildlife trafficking, however the systems of tracking legal trade in non-CITES listed species are lacking, as discussed in the section on the pet trade above. At this point, the main challenge revolves around ensuring that different agencies full use of the data sharing mechanism that are available, such as EU-TWIX. UNEP states that monitoring the legal trade and curbing the illegal trade in wildlife requires good information exchange and cooperation, involving importing, exporting and transit countries. Therefore, UNEP recommends that mechanisms need to be enhanced to facilitate rapid exchanges of intelligence between enforcement agencies (UNEP 2014).

Monitoring activity for the legal and illegal wildlife trade is carried out by national authorities, NGOs and inter-governmental organisations. These include relevant Government Ministries, the national authorities

⁶⁹ Union Customs Code

http://ec.europa.eu/taxation_customs/customs/customs_code/union_customs_code/ucc/index_en.htm (accessed 06.08.2016).

⁷⁰Green Customs Initiative <http://www.greencustoms.org/index.htm> (accessed 06.08.16).

responsible for CITES, EU-TWIX database, national police forces, Interpol and Traffic International amongst others. For example, the WCMC-CITES database reports all records of import export and re-export of CITES-listed species as reported by Parties⁷¹. The range of organisations involved in monitoring and data collection means there is a need for greater degrees of coordination and information sharing to support the legal trade and enhance enforcement efforts against the illegal trade. There are several existing mechanisms to encourage greater degrees of information exchange on the illegal wildlife trade. The key challenge is implementation and enforcement rather than the creation of additional platforms for data exchange, since the mechanisms already exist.

CITES has developed guidelines for the implementation of electronic permits which are available through the CITES e-permitting toolkit. The guidelines are included in the World Customs Organisation data model, a global standard on cross-border data exchange for the release and clearance of goods through customs. The data model is often used in the development of 'Single Window' systems, which allow traders to submit all import, export, and transit information required by regulatory agencies via a single electronic gateway or window, instead of submitting the same information numerous times to different government entities for processing. The incorporation of CITES e-permit guidelines into the World Customs Organisation (WCO) data model makes it possible to include CITES e-permits in Single Window systems (WTO and CITES 2015, 12).

One of the most important sources of data for the EU is the EU-TWIX database⁷², which was established in 2005, it is funded by the European Commission and is currently managed by Traffic (Brussels office) which runs it for use by EU enforcement officials. It uses CITES Alerts for rapid exchange of information on seizures in member states. Access to the data is normally restricted to enforcement officials. One example of the benefits of effective information exchange is that in 2010 Customs Officials in Guyana arrested a Dutch national who was smuggling humming birds, and the information was shared with French Customs; the customs authorities in France then shared the information via EU-TWIX which allowed Dutch authorities to trace a wider network of criminals smuggling exotic birds (Sacre, V. 2016, 480-481).

6 Wildlife Trade, Development and Sustainable Livelihoods

The recently announced *EU Action Plan Against Wildlife Trafficking* (2016-2020) identified the need to engage with rural communities and address the root causes of the illegal wildlife trade. Objective 1.2 of the Plan is to ensure that rural communities in source countries are more engaged. This is an area which EU trade policy could support local communities in their attempts to engage in a legal and sustainable trade in wildlife conservation, and ensure that they benefit more from it (European Union 2016). The Aid for Trade programme could assist in designing and strengthening natural resource management and the outcomes for biodiversity and the poor (Cooney, R. et al. 2015, 2-3). Indeed, one good example is the development of baobab trade by PhytoTrade Africa. What the case indicates is that significant resources were invested in getting the EU to agree to allow the plant to be traded into the EU – it needed to meet stringent consumer safety tests⁷³. In a similar initiative the case of Baobab Products Mozambique indicates that communities need significant levels of support and assistance to ensure they are able to capture the full value of the products they provide; in the case of BPM community members were trained

⁷¹<http://www.unep-wcmc.org/citestrade>. (accessed 13.10.2016).

⁷²EU-TWIX database, <http://www.eutwix.org/>, (accessed 04.08.2016).

⁷³'Baobab- trading the once forbidden fruit', <http://www.new-ag.info/en/developments/devItem.php?a=640> (accessed 23.08.2016).

to prepare and process baobab products in order to capture more of their economic value at the local/source level⁷⁴. Furthermore, the ITC supports for baobab trade from Southern Africa as well (Cooney, R. et al. 2015, 19).

The legal wildlife trade can be an important livelihood strategy for some communities. Cooney, R. et al (2015) point out that the structure of the supply chain has strong bearing on the incentives for conservation and the opportunities for poor people to participate and benefit from the trade. For example, the costs of production may be a barrier to entry for the poor; longer supply chains may mean that benefits are more widely distributed, with fewer returns to communities involved in the early stages of harvest and processing; concentrated market power may favour or hamper community livelihoods, depending on which stage of the supply chain is monopolised (Cooney, R. 2015, 16; Roe, D. 2008; Clemente-Munoz, M.A. 2016).

Provision of economic alternatives for those engaged in unsustainable and/or illegal wildlife trade may also only be part of the solution. Cooney et al argue that property rights governing the use of land and wildlife resources can have significant implications for the commercial viability of a legal wildlife trade, for the incentives for sustainable use and the associated livelihood benefits. One successful case as reported by Cooney et al is that of the legal trade in the yellow anaconda (*Eunectes notaeus*) in 2003 alongside a regional community management scheme in Argentina. The scheme has improved wetland management and population sustainability, and has provided supplementary income to around 300 local people from La Estrella Marsh (Cooney, R. et al 2015, 15; Brashares, J.S. et al. 2014).

6.1 Demand Reduction

An important approach to tackling the illegal wildlife trade rests on the idea that it is ultimately driven by demand in end user markets. Indeed Sina, S. et al concluded that demand reduction is a key challenge and recommended that the EU should take action to provide adequate information to the public and stakeholders in order to raise awareness about the negative impacts of illegal wildlife trade (Sina, S. et al. 2016, 27-32). One of the three pillars of the EU Action Plan on Wildlife Trafficking is prevention (European Union 2016), which includes measures to reduce demand for and supply of illegal wildlife products, both within the EU and globally. The Action Plan states that the Commission will prepare guidelines by the end of 2016 aiming to suspend the export of old ivory items from the EU and ensuring that intra-EU trade in old ivory items is strictly scrutinised by EU Member States⁷⁵.

Several NGOs and EU member states have demand reduction campaigns and initiatives. For example, NGOs such as IFAW⁷⁶, Humane Society -International and WildAid actively campaign to reduce demand for wildlife products in consumer markets. For example the Human Society International produced a story book and film aimed at Vietnamese children, entitled 'I'm a Little Rhino'⁷⁷. The UK Government has demand reduction as one of the three pillars of its Illegal Wildlife Trade Challenge Fund (discussed earlier in this report); and the fund has been used to support a number of demand reduction projects.

One of the problems challenges with demand reduction is that it can take a very long time to show any results because behavioural change can be slow. Demand reduction needs a whole-society approach which tackles the range of motivations (cultural, health, economic) which shape demand for wildlife products (Ayling, J. 2016). Zain, S. (2012) argues that behavioural change amongst consumers of tiger parts will be an effective response to the threat of tiger extinction because raising awareness will reduce the demand, which will remove incentives for illegal tiger hunters and traders. Such initiatives have been

⁷⁴<https://www.seed.uno/awards/all/2014/1371-baobab-products-mozambique.html> (accessed 23.08.2016).

⁷⁵http://europa.eu/rapid/press-release_MEMO-16-388_en.htm (accessed 13.10.2016).

⁷⁶<http://www.ifaw.org/international/our-work/wildlife-trade/reducing-markets-wildlife-products-china> (accessed 20.10.16).

⁷⁷http://www.hsi.org/issues/rhinoceros_poaching/facts/little_rhino_book.html#id=album-217&num=content-3717 (accessed 20.10.2016).

successful in the past – demand for ivory in Japan has been substantially reduced, and the international trade ban in 1989 effectively ended demand for ivory in Europe and North America (Duffy, R. 2013) number of countries to date such as Japan, South Korea, Taiwan/Chinese Taipei and China. Milliken, T. (2013) states that there is no reason to assume Vietnam will be any different despite the relatively new uses for rhino horn in that country (also see Rademeyer, J. 2013). The estimated price of rhino horn in Vietnam in 2013 was US\$65,000 per kilogram, and even up to US\$ 75,000, prompting headlines that rhino horn was worth more than gold (Ayling, J. 2013, 60; Rademeyer, J. 2013, 274-276; t'SasRolfes, M. 2012, 13).

7 Corruption, Organised Crime and Security

The wildlife trade intersects with corruption, organised crime and security issues, which also shape the effectiveness of attempts to manage it. Objective 1.4 of the *EU Action Plan Against Wildlife Trafficking* is to tackle corruption associated with wildlife trafficking (European Union, 2016). For example, the Eurojust report on environmental crime points out that in cases of wildlife crime the most common links are to offences related to corruption, the fraudulent obtaining of licences or forgery of the latter (including customs official documents), money laundering and, as the case may be, other illegal activities such as drug trafficking (Eurojust 2015, 14). The OECD Taskforce on Charting Illicit Trade, Taskforce on Countering Illicit Trade (TF-CIT) aims to coordinate international expertise in mapping illicit markets to understand trafficking in order to inform more effective policies to tackle it. Its main foci are drugs, arms, persons, toxic waste, counterfeit consumer goods and wildlife. Therefore, it addresses the wildlife trade as part of a wider concern about trafficking, and has begun to aggregate publicly available data in order to map the main trafficking hotspots (OECD 2016, 59). The OECD points out that greater use of economic incentives can complement traditional command and control approaches to regulation, and may help to reduce illegal trade flows; however such mechanisms can only work in a framework of good governance and law enforcement, and as part of a package of measures to address the full range of causes of illegal trade (OECD 2012).

7.1 Organised crime

The Europol threat assessment draws the link between wildlife trafficking and organised crime groups (Eurojust 2014, 15; Europol 2013(a)). Similarly, the UNODC (2010(b)) report *The Globalisation of Crime: A Transnational Organised Crime Threat Assessment* identified environmental crime as a major arena for transnational organised crime networks, this includes trafficking of wildlife and timber. Wildlife trafficking is attractive to organised crime networks because it is perceived to have a low-risk detection and prosecution, but is highly profitable because wildlife is a high-value commodity (Sina, S. et al 2016, 32-34; Wyatt, T. and Kushner, A. 2014; Wyatt, T., 2013). Interpol estimated that in 2013 a significant portion of ivory reaching international markets, especially in Asia, was derived from elephant populations in Tanzania and that the increase in large scale shipments indicated the participation of organised crime, with trafficking syndicates operating in multiple countries simultaneously. These crime syndicates sourced ivory from several hundred elephants for each shipment, and they bore the primary responsibility for the drastic decline of African elephant populations since the late 2000s (Interpol 2014, 1-2). There is a significant gap in literature/policies on money laundering and wildlife crime.

The United Nations Convention Against Transnational Organised Crime (UNTOC) and the United Nations Office on Drugs and Crime (UNODC) provide a framework for approaching transnational organised crime, which includes wildlife and timber trafficking. The role of UNODC⁷⁸ is to support member states in addressing environmental crimes, but its initiatives around wildlife crime are still in their infancy (Broussard, G. 2016, 465). From 2012 all activities to address wildlife and forest crime were brought under

⁷⁸<https://www.unodc.org/unodc/en/wildlife-and-forest-crime/index.html> (accessed 22.08.2016).

the first UNODC Global Programme on Combating Wildlife and Forest Crime, managed by the UNODC headquarters in Vienna (Broussard, G. 2016, 463). The support provided by UNODC under the Global Programme comprises a range of measures including legislative assistance, training and provision of essential equipment. The Programme aims to benefit police, customs, border officials, forestry/wildlife officials, prosecutors, judiciary and community groups⁷⁹.

Furthermore, those involved in illegal wildlife trading often deal in other illegal commodities including drugs, weapons, people and stolen cars. Therefore, measures to tackle these other trades can also have positive spin off benefits which assist the EU in meeting their obligations to prevent illegal wildlife trade. For example, In 2015 the European Parliament and European Council also passed the 4th Anti-Money Laundering Directive (AMLD): Directive (EU) 2015/849 on the prevention of the use of the EU financial system for the purposes of money laundering or terrorist financing (European Commission 2015, 4; Nellesman, C. et al. 2016, 30). The Action Plan aims to develop a list of 'high risk' third countries in 2016, and these may overlap with important sources and destinations of illegal wildlife products, for example the EU has been providing support to the Kenyan Government to implement best practice to prevent money laundering and financing of terrorism, and it is also an important source of illegally obtained wildlife products (notably ivory).

7.2 Security

From approximately 2007 onwards there has been a growing concern about the relationships between wildlife trafficking and terrorist financing (White, N. 2014; Lawson, K. and Vines, A. 2014; Duffy, R. 2014; Wyatt, T. and Kushner, A. 2014). In 2016 the European Commission issued a Communication on the *EU Action Plan on the fight against terrorist financing* (COM (2016) 50 final), which drew a link between the illegal wildlife trade the financing of militia and terrorist groups (European Commission 2016(d); Acharya, N. and Mühlen-Schulte, A. 2016; UNEP et al. 2013: 12). It refers directly to the *EU Action Plan on Illegal Wildlife Trafficking* as a means of targeting sources of funding for terrorism. The Action Plan aims include 'cutting off sources of finance, making it harder to escape detection when using these funds, and using any information from the financing process to best effect can all therefore make a powerful contribution to the fight against terrorism' (European Commission 2016(f), 2; European Commission 2015). It recommends greater exchange of information between the Financial Intelligence Units (FIUs) of different countries and with the private sector (European Commission, 2015(c): 7).

At an international level the work of the Financial Action Task Force (FATF) is also important. The objectives of the FATF are to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system. The FATF is therefore a policy-making body which works to generate the necessary political will to bring about national legislative and regulatory reforms in these areas⁸⁰. Several EU Member States are members of the FATF, and the Commission also participates. Key standards include those embodied in the FATF '40 Recommendations on combating money laundering and the financing of terrorism and proliferation' (European Commission 2016 (d), 2).

However, drawing links between the illegal trade in wildlife and terrorist financing need to be treated cautiously. A recent report from UNEP and Interpol on environmental crime questions the accuracy of the links between ivory and terrorist financing, especially for Al Shabaab. The authors state that claims Al Shabaab was trafficking 30.6 tonnes of ivory per annum (representing 3600 elephants per year) through southern Somalia are 'highly unreliable' and that the main sources of income for Al Shabaab remain charcoal trading and ex-pat finance (Nellesman, C. et al. (eds) 2014, 78-81; Duffy, R. 2016).

⁷⁹<https://www.unodc.org/unodc/en/wildlife-and-forest-crime/index.html> (accessed 22.08.2016).

⁸⁰<http://www.fatf-gafi.org/about/> (accessed 30.09.2016).

8 Conclusions

The legal and illegal wildlife trade are extremely complex and highly valuable trades, and any policy interventions need to be carefully considered because 'one-size-fits-all' approaches are unlikely to be effective, and could even be counter-productive. Nevertheless, EU trade policy can facilitate a sustainable and legal trade, whilst tackling illegal or unsustainable trade. In the case of the illegal trade, such policies need to be used in conjunction with broader approaches to tackle the range of reasons why wildlife is traded illegally in the first place. These include (but are not limited to) poverty and lack of alternative opportunities in source countries, corruption in source, transit and end-user countries, the involvement of organised crime groups and the low penalties associated with wildlife crime. The EU faces growing challenges from the expansion of e-commerce for legal and illegal trading, the complexity of the global transport and shipping systems, the growth of containerisation and use of private mailing centres. As these new challenges emerge there is an opportunity for the EU to respond to them via the use of trade policy.

Trade policies in the EU can be used to support and facilitate a legal and sustainable trade. These can include the explicit use of wildlife trade criteria in the negotiations for new FTAs and GSP+ agreements, greater levels of support to local communities in source countries via Aid for Trade or development assistance for capacity building, training and provision of equipment to allow them to capture a greater degree of the value of wildlife.

Trade policies in the EU can also be used to enhance efforts to tackle the illegal wildlife trade and meet EU obligations to CITES. The EU already has some of the strictest legal frameworks for curbing the illegal wildlife trade, but effective implementation and enforcement remain the key challenges. In the case of the illegal trade, the routes for trafficking illegal wildlife products differ according to species and profile of supply and demand, therefore each requires a tailored approach. Nevertheless, criteria linked to the wildlife trade could be important bargaining chips in EU FTA, TTIP and GSP+ negotiations. The illegal wildlife trade can also be tackled via the use of instruments and criteria not related to wildlife *per se*, but which can still have an important impact. For example, the inclusion of anti-corruption criteria in trade negotiations and agreements can support efforts to implement and enforce measures to curb the illegal wildlife trade.

In sum, the EU has already been active in promoting a legal and sustainable trade, while also attempting to tackle the illegal wildlife trade. The EU now has a range of important opportunities to use trade policy to embed and develop this record further.

9 Recommendations

1. The EU should focus on implementing and enforcing existing commitments to tackling the illegal wildlife trade, rather than developing new legislative frameworks.
2. Efforts should be directed at ensuring data sharing platforms, such as EU-TWIX, are used more effectively
3. The current and future negotiations for FTAs should include provisions linked to legal and illegal wildlife trade, where appropriate.
4. Enforcement of regulations to curb the illegal wildlife trade should be made a more explicit criterion of GSP+ agreements.
5. The EU should include explicit criteria related to tackling the illegal wildlife trade and facilitating a legal and sustainable trade in current and future TTIP negotiations.
6. The EU should deliver support through training and capacity building for producer associations, cooperatives and social enterprises to allow local communities to develop and capture more of the 'added value' of wildlife products.
7. Aid blending can be used to enhance private sector co-operation and involvement.
8. The Aid for Trade programme should be used to assist in designing and strengthening natural resource management and the outcomes for biodiversity and marginalised or poorer communities.
9. The EU should support the development of e-commerce to support sustainable legal wildlife trade via direct selling from producers to consumer; the EU should also co-operate with social media organisations to curb the illegal wildlife trade.
10. The EU should develop guidelines for private sector actors actively involved in the legal wildlife trade - these include transport, shipping and mailing companies.
11. The EU should develop greater powers to inspect private mailing centres to discourage their use by illegal wildlife traders.
12. The EU should engage in and support demand reduction initiatives as the most effective solution to illegal trading of endangered species.

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