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POLICY DEPARTMENT
ECONOMIC AND SCIENTIFIC POLICY **A**

Economic and Monetary Affairs

Employment and Social Affairs

**Environment, Public Health
and Food Safety**

Industry, Research and Energy

Internal Market and Consumer Protection



**EU Accession to CITES
-Main Issues and
Positions for the 17th
COP**

In-depth Analysis for the ENVI Committee

EU Accession to CITES -Main Issues and Positions for the 17th COP



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POLICY DEPARTMENT A: ECONOMIC AND SCIENTIFIC POLICY

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IN-DEPTH ANALYSIS

Abstract

This briefing was commissioned by Policy Department A at the request of the Committee on the Environment, Public Health and Food Safety. It provides an overview of the legal implications of the European Union's recent accession to the Convention on International Trade in Endangered Species (CITES) and implications for its participation in the 17th Meeting of the Conferences (COP17). Key issues as well as the positions of selected Parties and NGOs are also outlined. The briefing concludes with recommendations for the ENVI Delegation.

This document was requested by the European Parliament's Committee on the Environment, Public Health and Food Safety.

EXTERNAL AUTHORS

McKenna DAVIS, Ecologic Institute
Lucy O. SMITH, Ecologic Institute
Ennid ROBERTS, Ecologic Institute
Stephan SINA, Ecologic Institute

INTERNAL AUTHOR

Dagmara STOERRING

EDITORIAL ASSISTANT

Eva ASPLUND

LINGUISTIC VERSIONS

Original: EN

ABOUT THE EDITOR

Policy departments provide in-house and external expertise to support EP committees and other parliamentary bodies in shaping legislation and exercising democratic scrutiny over EU internal policies.

To contact Policy Department A or to subscribe to its newsletter please write to:
Policy Department A: Economic and Scientific Policy
European Parliament
B-1047 Brussels
E-mail: Poldep-Economy-Science@ep.europa.eu

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LIST OF ABBREVIATIONS

- CITES** Convention on International Trade in Endangered Species
- COP** Convention of Parties
- DMM** Decision-Making Mechanism
- EIA** Environmental Investigative Agency
- EU** European Union
- ICCWC** International Consortium on Combating Wildlife Crime
- IUCN** International Union for the Conservation of Nature
- IWMC** World Conservation Trust
- NIAP** National Ivory Action Plans
- NGOs** Non-Governmental Organization
- REIO** Regional Economic Integration Organizations
- SC66** 66th Meeting of the Standing Committee
- UNODC** United Nations Office on Drugs and Crime
- U.S.** United States of America
- WWF** World Wildlife Fund

EXECUTIVE SUMMARY

The objective of the briefing is to provide ENVI Members with an overview of the key issues at stake at the upcoming 17th CITES COP in Johannesburg, South Africa, and present the new role of the EU which will participate for the first time as a Party.

As result of the EU´s accession to CITES in 2015, the EU and its member states will speak with one voice at the COP17. Amendments to the Rules of Procedure suggested by the CITES Secretariat propose that the EU will have the right to exercise its right to vote on matters within its competence with a number of votes equal to the number of its Member States, but it is disputed whether all Member States must be duly accredited and present at the same time. The CITES Secretariat has suggested that this should be a requirement at COP17. Furthermore, the EU is invited to take the floor before each vote to indicate whether it will exercise its own right to vote or whether the Member States will exercise their right.

COP17´s key agenda points focus on wildlife crime, rural communities and their livelihoods, and discussions about species of key concern. Party proposals on wildlife crime include demand reduction and enforcement, anti-corruption, clearer labelling rules, reporting on illegal trade, as well as the use of tools developed by the International Consortium on Combating Wildlife Crime (ICWC). Several Party proposals highlight the importance of rural communities in relation to species conservation and the implementation of the Convention, as well as their dependence on CITES-listed species of their livelihoods. Finally, this briefing identifies species addressed in novel, controversial or potentially impactful propositions, including elephants, pangolins, sharks, rays, and rosewood.

The priorities of the reviewed Parties (EU, U.S., China, South Africa and Russia) predominantly overlap with the aforementioned key issues. The EU, U.S. and China are largely aligned in their support for the closure of domestic ivory markets, reductions in domestic demand for illegal wildlife products, and the destruction of illegal ivory stockpiles. South Africa favours a review of the ban on ivory trade and opposes the destruction of illegal stockpiles. While the EU and U.S. favour focusing on National Ivory Action Plans (NIAP), South Africa underlines the importance of a decision-making mechanism (DMM) for processing trade in African elephant ivory. The EU has also submitted a groundbreaking resolution on corruption and other proposals seeking to improve transparency and good governance. Russia has not submitted or co-sponsored any proposals.

Regarding NGOs´ positions, a review of the International Union for the Conservation of Nature (IUCN) and TRAFFIC, World Wildlife Fund (WWF), IWMC World Conservation Trust (IWMC) and Environmental Investigation Agency (EIA) documents revealed similar priority species, but conflicting stances. IWMC rejects the inclusion of sharks and rays, while supporting a reclassification of African elephants – which the IUCN/TRAFFIC and WWF both oppose. The WWF and EIA further prioritise the anti-corruption draft resolution and a closure of domestic ivory markets, while emphasising the importance of focusing efforts on the NIAP process and not on the DMM.

At COP17, the EU could encourage cooperation between source, transit and consumer countries while continuing to recognize and better understand the role of its own marketplace in illegal trade by focusing on identified key issues such as demand-reduction. Commitment to continue improving the implementation and enforcement of existing CITES rules (i.e. concerning captive-breeding), support for newly developed CITES tools to monitor illegal trade (i.e. ICWC Toolkit and Indicator Framework), the improvement and implementation of NIAPs, and the support of efforts to protect marine species within the Convention and to combat illegal timber trade are further priority topics to ensure their uptake and use in practice. Finally, the EU could strive

to generate support for decisions and resolutions aiming to improve transparency, good governance and address corruption.

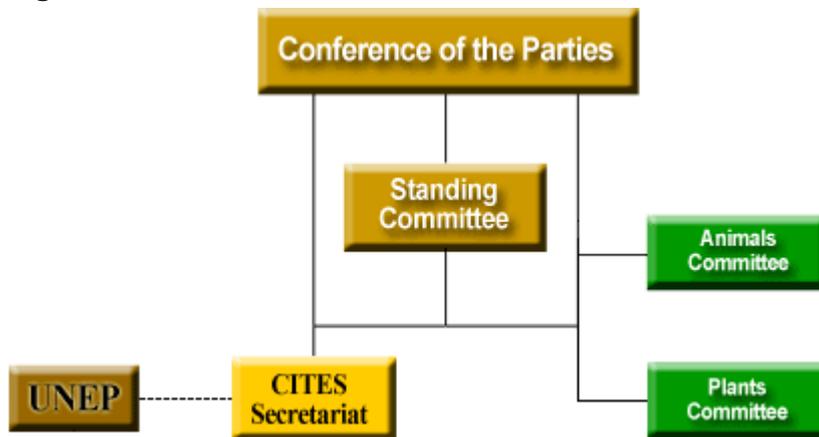
1. THE CITES FRAMEWORK

1.1. The CITES framework

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) was signed in Washington, D.C., on 3 March 1973 and entered into force on 1 July 1975. It is also known as the Washington Convention. Currently, there are 181 Parties to CITES¹. The EU is the most recent party to CITES. After joining CITES on April 9, 2015, the Convention entered into force for the EU on July 8, 2015². However, even before joining CITES as a party, the EU and its Member States have for long been -standing active players in the context of wildlife crime. Before the EU's accession to CITES, the EU's involvement and its Member States' actions were based on the Regulations (EC) No 338/97 and (EC) No 865/2006, governing the implementation of CITES at EU level.

CITES was established as a response to growing concerns that over-exploitation of wildlife through international trade was contributing to the rapid decline of many species of plants and animals around the world. Therefore CITES' **basic approach** is to regulate international trade, defined as the 'export, re-export, import and introduction from the sea' (Article I(c) CITES), in specimens of species, in order to protect these species from over-exploitation and against extinction.

Figure 1: The structure of CITES



Source: CITES, The structure of CITES, <https://www.cites.org/eng/disc/org.php>.

1.1.1. CITES Secretariat

CITES has a secretariat, which is located in Geneva, Switzerland, and provided by the Executive Director of the United Nations Environment Programme (UNEP) (see Article XII.1 CITES). In addition to carrying out organisational functions such as arranging for meetings of the Parties, the Secretariat may also, for example, undertake scientific and technical studies in accordance with programmes authorized by the COP which contribute to the implementation of CITES, study the reports of Parties, prepare annual reports to the Parties on its work and on the implementation of CITES or make recommendations for the implementation of CITES' aims and provisions (see Article XII(2) CITES).

¹ CITES, Member countries, <http://www.cites.org/eng/disc/parties/index.php>.

² CITES, List of contracting Parties, <http://www.cites.org/eng/disc/parties/chronolo.php>.

1.1.2. Conference of the Parties (COP)

The Parties (Member States) to CITES are collectively referred to as the Conference of the Parties (COP). The COP is the **governing, decision-making body of CITES** and comprises all its Member States. Every two to three years, the Conference of the Parties meets to review the implementation of the Convention. These meetings last for about two weeks and are usually hosted by one of the Parties. They provide the occasion for the Parties to:

- review progress in the conservation of species included in the Appendices;
- consider (and where appropriate adopt) proposals to amend the lists of species in Appendices I and II;
- consider discussion documents and reports from the Parties, the permanent committees, the Secretariat and working groups;
- recommend measures to improve the effectiveness of the Convention; and
- make provisions (including the adoption of a budget) necessary to allow the Secretariat to function effectively.

On a more informal level, the meetings provide an opportunity for participants to make or renew relationships and to discuss problems and successes. Meetings of the Conference of the Parties are attended not only by delegations representing CITES Parties but also by observers. These include representatives of States that are not party to CITES, of United Nations agencies and of other international Conventions. Observers from non-governmental organizations involved in conservation or trade are also allowed to participate at the discretion of the Parties. Although they may participate in the meeting, they have no vote (see Article XI). Members of the public may also attend as visitors, although they are not able to participate in the discussions.

Dates and venues of meetings of the Conference of the Parties	
CoP17	Johannesburg (South Africa), 24 September - 5 October 2016
CoP16	Bangkok (Thailand), 3-14 March 2013
CoP15	Doha (Qatar), 13-25 March 2010
CoP14	The Hague (the Netherlands), 3-15 June 2007
CoP13	Bangkok (Thailand), 2-14 October 2004
CoP12	Santiago (Chile), 3-15 November 2002
CoP11	Gigiri (Kenya), 10-20 April 2000
CoP10	Harare (Zimbabwe), 9-20 June 1997
CoP9	Fort Lauderdale (United States of America), 7-18 November 1994
CoP8	Kyoto (Japan), 2-13 March 1992
CoP7	Lausanne (Switzerland), 9-20 October 1989
CoP6	Ottawa (Canada), 12-24 July 1987
CoP5	Buenos Aires (Argentina), 22 April - 3 May 1985
CoP4	Gaborone (Botswana), 19-30 April 1983
CoP3	New Delhi (India), 25 February - 8 March 1981
CoP2	San José (Costa Rica), 19-30 March 1979
CoP1	Bern (Switzerland), 2-6 November 1976

Parties regulate international trade of CITES species through a system of permits and certificates that are required before specimens listed in its appendices are imported, exported or introduced from the sea. Each party is required to adopt national legislation and to designate two national authorities, namely, a **Management Authority** responsible for issuing permits and certificates based on the advice of a **Scientific Authority**. These two national authorities also assist with CITES enforcement through cooperation with customs, police and other appropriate agencies.

Parties maintain trade records that are forwarded annually to the CITES Secretariat, thus enabling the compilation of statistical information on the global volume of international trade in appendix-listed species.

1.1.3. Permanent committees

The COP has established permanent committees with different functions:

- **The Standing Committee:** The Standing Committee provides general policy guidance and operational direction on the implementation of CITES. It oversees the management of the Secretariat's budget, coordinates and oversees the work of other committees and working groups, oversees compliance, may consider sanctions and carries out tasks given to it by the COP (Resolution Conf. 11.1 (Rev. CoP15); Wijnstekers 2011; European Commission 2010).
- **The Animals Committee and the Plants Committee:** The COP also established the Animals Committee and the Plants Committee (Resolution Conf. 11.1 (Rev. CoP15); Wijnstekers 2011). According to the Terms of Reference of the Committees, their main tasks are, inter alia, to provide scientific advice and guidance to the COP, other committees, working groups and the Secretariat, deal with nomenclatural issues, undertake periodic reviews of species, and providing advice and recommendations in case of unsustainable trade³.

1.2. Member State obligations relating to Appendices I, II and III

CITES has **three appendices**, which list **categories of species** depending on the degree of protection required, i.e. depending on how threatened they are by international trade. The appendices contain approximately **5,600 species of animals and 30,000 species of plants**, protecting them against over-exploitation through international trade⁴. The categorisation of species may vary, depending on the region and the respective conservation needs of the regional population of a species⁵. Specifications appear next to the name of the species or in the Interpretation section⁶. In all Appendices, species are referred to by the name of the species or as being all of the species included in a higher taxon or designated part thereof (Appendices I, II and III, para. 1).

Member State obligations under CITES are determined to a large extent by the requirements set out in the provisions relating to the respective Appendix. In the context of the Appendices, CITES obliges its Member States to take concrete action regarding the **control of international trade by issuing export and import permits** (Von Bogdandy et al. 2010). Pursuant to Article II(4) CITES, Member States

³ CITES, Animal and Plants Committees, https://www.cites.org/eng/disc/ac_pc.php.

⁴ CITES, The CITES species, <https://www.cites.org/eng/disc/species.php>.

⁵ For example, Appendix I includes the *Canis lupus* (grey wolf) but only the populations of Bhutan, India, Nepal and Pakistan; all other populations are included in Appendix II.

⁶ CITES, The CITES Appendices, <https://www.cites.org/eng/app/index.php>.

are obliged to prohibit trade in specimens of species in contravention of CITES. The details of obligations depend on the category of species concerned in the respective constellation. These obligations will be explained below.

1.2.1. Appendix I

Appendix I lists species that are **threatened with extinction** and which are or may be affected by trade. Pursuant to Article II.1 CITES, 'trade in specimens of these species must be subject to particularly strict regulation in order not to endanger further their survival and must only be authorized in exceptional circumstances.'

According to Article III CITES (Regulation of trade in specimens of species included in Appendix I), the **export** 'of any specimen of a species included in Appendix I shall require the prior grant and presentation of an export permit' (emphasis added). Such an export permit shall only be granted under the following four conditions:

- 'a Scientific Authority of the State of export has advised that such export will not be detrimental to the survival of that species;
- a Management Authority of the State of export is satisfied that the specimen was not obtained in contravention of the laws of that State for the protection of fauna and flora
- a Management Authority of the State of export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment; and
- a Management Authority of the State of export is satisfied that an import permit has been granted for the specimen.' (Article III.2 CITES)

The **import** of Appendix I specimens of species requires 'the prior grant and presentation of an import permit and either an export permit or a re-export certificate.' An import permit may be granted under similar conditions as set out for the export permit⁷.

Under Article III.4 CITES, the **re-export** of any specimen of a species included in Appendix I shall require the prior grant and presentation of a re-export certificate. Such a re-export certificate may only be issued if the import of the specimen complied with the CITES provisions and, in the case of a live animal or plant, if an import permit has been issued⁸. In the case of a living specimen, it must be prepared and shipped to minimize any risk of injury, damage to health or cruel treatment (Article III.4(b) CITES)⁹.

1.2.2. Appendix II

Appendix II lists species that are **not necessarily threatened with extinction but may become so** unless trade in specimens of such species is subject to strict

⁷ The following three import permit requirements are set out in Article III.3 CITES: '(a) a Scientific Authority of the State of import has advised that the import will be for purposes which are not detrimental to the survival of the species involved; (b) a Scientific Authority of the State of import is satisfied that the proposed recipient of a living specimen is suitably equipped to house and care for it; and (c) a Management Authority of the State of import is satisfied that the specimen is not to be used for primarily commercial purposes.'

⁸ CITES, How CITES works, <https://www.cites.org/eng/disc/how.php>.

⁹ CITES, How CITES works, <https://www.cites.org/eng/disc/how.php>.

regulation (Article II.2 CITES). Thus, trade in specimens of these species is permitted but regulated to ensure the listed species do not become endangered.

Unlike for Appendix I specimens of species, no import permit is needed for Appendix II specimens of species (unless required by national law). Instead, the **import** of any specimen of a species included in Appendix II requires the prior presentation of either an export permit or a re-export certificate (Article IV.4 CITES, emphasis added).

The **export** of Appendix II specimens of species requires an export permit or re-export certificate issued by the Management Authority of the State of export or re-export. An export permit shall only be granted on the condition that the specimen was legally obtained and if the export will not be detrimental to the survival of the species (Article IV.2 CITES).

The **re-export** of any specimen of a species included in Appendix II shall require the prior grant and presentation of a re-export certificate. Such a re-export certificate may only be issued if the import of the specimen complied with the CITES provisions (Article IV.5 CITES). In the case of a living specimen, it must be prepared and shipped to minimize any risk of injury, damage to health or cruel treatment (Article IV.5(b) CITES)¹⁰.

1.2.3. Appendix III

Appendix III lists species that are **protected in at least one country**, which has asked the other CITES Parties for assistance in controlling the trade for the purpose of preventing or restricting exploitation¹¹.

Export requirements of species listed in Appendix III depend on the countries involved:

- export from a State that included the species in Appendix III: this requires the prior grant and presentation of an export permit, which may be issued under the conditions set out in Article V.2 CITES;
- export from any other State: requires a certificate of origin (Article V.3 CITES). The **import** of Appendix III specimen of a species generally requires the prior presentation of a certificate of origin and, where the import is from a State which has included that species in Appendix III, an export permit (Article V.3 CITES).

A **re-export** certificate issued by the State of re-export is required in the case of re-export (Article V.4 CITES).

1.2.4. Regulations for export, import and re-export and the introduction from the sea of specimen of a species (Appendices I and II)

In addition, CITES contains permit and certificate regulations for export, import and re-export and the introduction from the sea of specimen of a species. These permits and certificates may only be issued under certain conditions and must be presented when entering or leaving a country.

¹⁰ CITES, How CITES works, <https://www.cites.org/eng/disc/how.php>.

¹¹ CITES, How CITES works, <https://www.cites.org/eng/disc/how.php>.

Amendments of Appendices

Amendments to Appendices I and II may be carried out only by the COP (see Article XV CITES); in contrast, Parties may unilaterally add or remove species from Appendix III¹².

Exceptions

Article VII CITES stipulates that Parties may make certain exceptions to the principles described above. These exceptions concern the following cases:

- **specimens in transit or being transhipped** through or in the territory of a Party while the specimens remain in Customs control (Article VII.1 CITES; see also Resolution Conf. 9.7, Rev. CoP15¹³;
- so-called **pre-Convention specimens**, i.e. specimens that were acquired before CITES provisions applied to them (Article VII.2 CITES; see also Resolution Conf. 13.6, Rev. CoP16¹⁴;
- **specimens that are personal or household effects** (Article VII.3 CITES; see Resolution Conf. 13.7, Rev. CoP16¹⁵;
- **animals that were 'bred in captivity' for commercial purposes** (Article VII.4 CITES; see also Resolution Conf. 10.16¹⁶;
- **plants that were 'artificially propagated' for commercial purposes** (Article VII.4 CITES; see also Resolution Conf. 11.11, Rev. CoP15¹⁷;
- specimens that are destined for **scientific research** (Article VII.5 CITES);
- **specimens which form part of a travelling zoo, circus, menagerie, plant exhibition or other travelling exhibition** (Article VII.6 CITES; see also Resolution Conf. 12.3, Rev. CoP16¹⁸.

Special rules and requirements apply to these cases and a permit or certificate is generally still required¹⁹.

In addition, Member States have the right to enter reservations with respect to species listed in the Appendices in line with Articles XV, XVI or XXIII CITES²⁰.

Other Member State Obligations

As parties to CITES, its Member States are, first of all, responsible for implementing the Convention. Parties must take appropriate measures to **implement and enforce** CITES provisions; this includes having to determine penalties. National legislation is

¹² CITES, The CITES Appendices, <https://www.cites.org/eng/app/index.php>.

¹³ CITES, Resolution Conf. 9.7 (Rev. CoP15), Transit and transshipment, <https://www.cites.org/eng/res/09/09-07R15.php>.

¹⁴ CITES, Resolution Conf. 13.6 (Rev. CoP16), Implementation of Article VII, paragraph 2, concerning 'pre-Convention' specimens, <https://www.cites.org/eng/res/13/13-06R16.php>.

¹⁵ CITES, Resolution Conf. 13.7 (Rev. CoP16), Control of trade in personal and household effects, <https://www.cites.org/eng/res/13/13-07R16.php>.

¹⁶ CITES, Resolution Conf. 10.16 (Rev.), Specimens of animal species bred in captivity, <https://www.cites.org/eng/res/10/10-16C15.php>.

¹⁷ CITES, Resolution Conf. 11.11 (Rev. CoP15), Regulation of trade in plants, <https://www.cites.org/eng/res/11/11-11R15.php>.

¹⁸ CITES, Resolution Conf. 12.3 (Rev. CoP16), Permits and certificates, <https://www.cites.org/eng/res/12/12-03R16.php>.

¹⁹ CITES, How CITES works, <https://www.cites.org/eng/disc/how.php>.

²⁰ CITES, The CITES Appendices, <https://www.cites.org/eng/app/index.php>.

required for the implementation of certain articles (e.g. Articles III and IV CITES) (Von Bogdandy et al. 2010).

Furthermore, they must establish **Management Authorities** for the purposes of the Convention. Management Authorities are national authorities designated in accordance with Article IX CITES (Article I(g) CITES). Accordingly, Management Authorities have the competence to grant permits or certificates on behalf of the respective Party.

Trade between Parties and non-Parties

When a specimen of a CITES-listed species is transferred between a country that is a Party to CITES and a non-Party, the Party may accept documentation equivalent to the permits and certificates described above²¹.

CITES and illegal trade

CITES only deals with **legally traded products**. Thus, it does not offer tools directly tackling illegal trade (Aguilar 2013). However, Article VIII.1 CITES recommends the adoption of domestic criminal sanctions for the violation of CITES norms, so it establishes '1. The Parties shall take appropriate measures to enforce the provisions of the present Convention and to prohibit trade in specimens in violation thereof. These shall include measures: (a) to penalize trade in, or possession of, such specimens, or both; and (b) to provide for the confiscation or return to the State of export of such specimens.' CITES CoP11 specified that 'Parties should advocate sanctions for infringements that are appropriate to their nature and gravity' and the International Consortium on Combating Wildlife Crime adopted a toolkit dedicated to wildlife and forest offences to help the States to comply with these provisions (UNODC 2012).

²¹ CITES, How CITES works, <https://www.cites.org/eng/disc/how.php>.

2. EU ACCESSION TO CITES

Until 2015, the European Union was not a Party to the Convention on International Trade in Endangered Species (CITES) given that the initial Convention text only allowed states to assume this role. This text was modified with the implementation of the Gaborone Amendment to the text of the Convention's Article XXI in 2013. While the amendment was proposed in April 1983, it only entered into force in 2013²², thereby dictating that CITES is open for accession by regional economic integration organizations (REIOs) constituted by sovereign states which have competence in respect of the negotiation, conclusion and implementation of international agreements in matters transferred to them by their member states and covered by CITES. Against that background, EU accession to CITES took place via "Council Decision (EU) 2015/451 of 6 March 2015 concerning the accession of the European Union to the Convention on International Trade in Endangered Species of Wild Fauna and Flora". The EU became the 181st Party and the first REIO to adhere to CITES, which entered into force for the EU on 8 July 2015 (CITES, 2015).

2.1. Consequences for the representation of the EU at COP17

2.1.1. Common positions

Overall, EU accession is not expected to have major substantive implications or affect the way common positions are communicated at the COP. Even before the accession of the EU to CITES, all 28 EU member states were already a party to CITES in their own right. Furthermore, the EU had adopted legislation covering matters governed by CITES (the "Wildlife Trade Regulations"²³) with which it had exercised its internal shared competence in the area of environmental protection (see Art. 192 TFEU) and thus excluded the EU member states from acting unilaterally in this field. Upon its accession, the EU has thus declared that it is responsible for those CITES obligations which are covered by the relevant EU legislation (see FDFA, 2015) and will speak on these issues of EU competence at CITES COPs.²⁴ Like before the EU's accession to CITES, the EU member states will decide on a common position. These "[...] common positions for CITES COPs will continue to be decided with EU member states, through a Council Decision."²⁵ Before the EU's accession to CITES, the common position was put forward by the Presidency of the Council, e.g. Sweden in 2010, who spoke "on behalf of the European member states acting in the interest of the European Union" (CITES, 2010). Now, the common position could also be expressed by the European Commission "on behalf of the European Community and its member states" as an "EU

²² CITES, Gaborone amendment to the text of the Convention, <https://cites.org/eng/disc/gaborone.php>: "the Gaborone amendment entered into force on 29 November 2013, 60 days after 54 (two-thirds) of the 80 States that were party to CITES on 30 April 1983 deposited their instrument of acceptance of the amendment."

²³ Relevant EU legislation includes the "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 "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".

²⁴ European Commission (2015): "Accession to the Convention by the Union will enable it to play a role in the work of the Convention and will legally bind the Union to implement and enforce the Convention in matters falling within its competence."

²⁵ European Commission (2015): "Accession will not affect the way in which the positions for the CITES Conference of the Parties are agreed by the Union and its MS, within the fields of their respective competences, in accordance with the Treaties".

position”.²⁶ A list of proposals has already been put forward “by the EU and its member states for consideration at COP 17” (European Commission, 2016a).

2.1.2. Voting

In procedural terms, EU accession to CITES affects representation of the EU member states at COP17 and its implications are debated in particular with regard to the calculation of the necessary quorum and to the right to vote, including the number of valid votes.

Given that voting rules under CITES are somewhat unique in that they allow majority votes (i.e. two-thirds majority for amendments of, for example, the Convention, see Art. XVII), voting is a particularly important issue (CITES Secretariat 2016, para. 9). As for the EU’s right to vote as a REIO at COP17 certain changes may thus be implemented as a result of the EU’s accession to CITES and it is likely that the Rules of Procedure will be amended at least at some point in the future. In preparation of COP17, the CITES Secretariat has already proposed amendments to the Rules of Procedure but suggests that these proposals be adhered to only during COP17 to give Parties a basis for permanently adapting the Rules of Procedure after the COP (CITES Secretariat 2016, p. 32). The CITES Secretariat’s proposals resemble the language found in other international environmental agreements to which REIOs have acceded (CITES Secretariat 2016, para. 26).

Generally, the CITES Secretariat expects that EU member states will exercise their right to vote individually only in matters that fall outside EU competence and has suggested, for practical purposes, that the EU announces before each vote whether it will exercise its right to vote itself, or whether the member states will exercise their right to vote. Yet when the EU votes within the field of its competence, the CITES Secretariat suggests that the number of votes shall equal the number of its member states, i.e. amount to 28. The EU has merely declared that it “[...] will cast 28 votes on issues falling under EU competence” in case of vote (European Commission, 2016a). Against that background, the relevant amendments to the rule on the right to vote proposed by the CITES Secretariat read as follows (highlighted in *italics*):

- “1. Each Party shall have one vote, *except as provided for in paragraph 3 of this Rule.*
2. The duly accredited Representative of a Party shall exercise the voting rights of that Party.
3. *In the fields of their competence, regional economic integration organizations shall exercise their right to vote with a number of votes equal to the number of their member states which are Parties to the Convention. Such organizations shall not exercise their right to vote if their member states exercise theirs, and vice versa.*

²⁶ Cf. Proposal for a Council Decision establishing the position to be adopted on the European Union’s behalf with regard to certain proposals submitted to the 17th meeting of the Conference of the Parties (COP 17) to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), Johannesburg, South Africa, 24 September – 5 October 2016, Brussels, 1.7.2016 COM(2016) 437 final 2016/0200 (NLE): “The present document sets out the Commission’s proposal for an *EU position* on items on the agenda of the COP” (*emphasis added*); cf. also European Parliament (2014): “Accession of the European Union to CITES will enable [...] the Commission, on behalf of the European Union, to lead negotiations and to be a catalyst in achieving a balanced compromise between the 28 Member states’ positions.”

4. In advance of each vote, each regional economic integration organization that is a Party to the Convention shall be invited to announce whether it will exercise its right to vote in accordance with paragraph 3 of this Rule or whether its member states will exercise their right to vote."

Concerns have been raised with regard to the **number of EU member states properly accredited at the COP** and the number of votes submitted by the EU. The Convention itself is not clear in this respect. Israel has noted, for example, that the language of the Rules of Procedure should ensure that the number of votes by the EU does not automatically count as 28 votes but should rather be equal to the number of EU member states actually present and properly accredited. Furthermore, according to Israel's proposal, the Rules of Procedure should ensure that the EU itself does not get an extra vote, i.e. a vote in addition to the votes of its member states. Against that background, the relevant text proposed by Israel reads as follows: "The number of votes cast by a regional economic integration organization shall be limited to the number of its member states that are present at the meeting and have been duly accredited at the time of the actual vote. In order to avoid duplication, the electronic voting system shall be set at each vote to ensure that it will only accept votes from either the representative of the regional economic integration organization or from its accredited member states, and not both" (Israel, 2016, para. 5). The CITES Commission has suggested, for practical purposes and "without setting a precedent", that the "EU will only exercise its right to vote if all 28 EU Member states are represented at the meeting and [...] their delegations are duly accredited" (CITES Secretariat, 2016, p. 34). Furthermore, "to avoid any confusion", the Secretariat has proposed that "a delegate can only act as the Representative and vote on behalf of *one* Party at the meeting" (CITES Secretariat, 2016, p. 33, *emphasis added*).

As for the necessary **quorum**, the CITES Secretariat has suggested that, for the time being and "to avoid any complications and complex situations", the EU will not be counted individually for the purpose of calculating the quorum at COP17. Instead, only the EU member states will be counted (CITES Secretariat, 2016, comments on Rule 9).

3. KEY ISSUES OF COP17

Many agenda items of COP17 stem from the work conducted at previous COPs and intersessional meetings carried out by the CITES Animals, Plants and Standing Committees. Proposals relating to CITES resolutions and decisions as well as to amend species' classifications in the Appendices to the CITES Convention have been submitted by the Convention Parties. This briefing is based on an extensive review of the aforementioned documents, meeting documentation, position papers and reports from governments, NGOs and other key stakeholders and coverage in reputable news and reporting sources. In order to avoid partiality, and recognizing that each country and stakeholder group has unique species priorities, only those species are presented that are also reflected in proposed resolutions or decisions, as well as Appendices proposals that are novel, controversial or whose inclusion or denial could significantly impact the population they address.

3.1. Wildlife crime

The topic of wildlife crime has received increasing attention following a spike in the illegal killing of African elephants and rhino for their ivory and horn and came to the political foreground at COP16 (CITES, 2016a & b). COP16 consequently evoked unprecedented levels of international cooperation to combat wildlife crime, particularly in relation to the elephant and rhino but also regarding a number of other species²⁷ (Scanlon, 2013). Numerous global declarations and commitments to address wildlife trafficking have followed, such as the UN General Assembly Resolution 69/314, the London and Kasane conferences, and the Sustainable Development Goal Target 15.7 (WWF, 2016).

COP17 builds on this momentum, offering an opportunity to **strengthen future action in tackling illegal trade and tackle impediments relating to CITES implementation**. The key issues for COP17 relating to wildlife crime are demand reduction and enforcement, which includes anti-corruption and clearer labeling rules and improved compliance through the use of tools developed by the International Consortium Combating Wildlife Crime (ICWC). Key issues for COP17 also include the need for cooperation with rural communities and recognition of livelihoods, advancement in reporting procedures for illegal trade, and discussions about species of key concern.

3.1.1. Demand reduction

Recognizing that tackling illegal trade involves taking action at the various levels of the trade chain, a draft resolution and a suite of decisions to promote demand reduction have been submitted to the COP17. The U.S. proposed a draft resolution urging Parties to **develop evidence-based demand reduction strategies** where there is a significant market for illegal wildlife products (Doc. 18.1). Five African countries²⁸ proposed a suite of decisions calling for the development and sharing of **demand reduction guidelines** (Doc. 18.2).

While demand reduction has been included as a component of previous CITES resolutions, decisions and programmes (e.g. National Ivory Action Programmes (NIAP) COP16), it is the first time demand reduction exists as a standalone strategic agenda

²⁷ Action taken to abate illegal trade in other species at COP16 included decisions on Asian big cats, great apes, pangolins, freshwater turtles and tortoises, certain timber species and the Tibetan antelope.

²⁸ Submitted by Gabon, Guinea, Nigeria, Senegal and Togo.

item. These two proposals mark a shift indicating the perceived value, by both source and consumer countries, in investing in not only enforcement interventions, but also in holistic strategies (e.g. awareness raising campaigns) that address the entire trade chain.

3.1.2. Strengthened enforcement

Strengthened enforcement to combat wildlife crime has been identified as a priority issue for COP17, with proposed actions to improve the implementation and enforcement of the Convention, tools to improve self-monitoring and detect illegal trade and proposed action to address corruption as it relates to trans-national wildlife trafficking.

Implementation-related issues

The Secretariat and the Standing Committee emphasize the importance of **reporting on illegal trade and wildlife crime** in addition to legal trade activities. The **Review of Reporting Requirements** (Docs. 35.1 & 35.2) is a proposal urging all Parties to submit mandatory annual reports on illegal trade in CITES specimens, based on seizures, arrests and prosecutions. The proposal calls for better implementation of reporting in illegal trade agreed to at the intersessional 66th meeting of the Standing Committee (SC66) through use of a template and adherence to a deadline. It complements the United Nations Office on Drugs and Crime's (UNODC) World Wildlife Crime Report²⁹, which demonstrates the UNODC's willingness and ability to analyze data on illegal trade and provide analysis for CITES COPs and Standing Committee meetings.

Following requests at the SC66 for COP17 to review and develop a process to monitor species claimed to have been bred in captivity, the SC submitted a proposal for a **review mechanism in captive-bred and ranched specimens** (Doc. 32). In the Review of Significant Trade³⁰ at past COPs, the volume of captive-bred species was found to sometimes spike following restrictions implemented on wild caught specimens, indicating potential illegal activity where specimens taken from the wild are traded as if they were bred in captivity.

Tools to improve self-monitoring and detect illegal trade

In addition to the adoption of better standards and clearer rules, a key issue at COP17 is the **provisioning of practical guidance**. Recognizing the difficulty in detecting and effectively addressing wildlife and forest crime, the International Consortium on Combating Wildlife Crime (**ICWC**)³¹ was created to support national wildlife law enforcement agencies and sub-regional and regional networks. At the SC66, the ICWC launched its Strategic Programme 2016-2020 as well as a **ICWC Toolkit** (UNODC, 2016a) and the **ICWC Indicator Framework**, both developed by the UNODC (CITES, 2016c). The toolkit and framework were developed for use by Parties to measure and monitor the effectiveness of their own national law enforcement and criminal justice response to wildlife and forest crime, and highly praised by NGOs such as the World Wildlife Fund (WWF) and Environmental Investigative Agency (EIA) (WWF, 2016; EIA, 2016a). For COP17, the Secretariat has put forward a draft decision

²⁹ Available online: https://www.unodc.org/documents/data-and-analysis/wildlife/World_Wildlife_Crime_Report_2016_final.pdf.

³⁰ The Review of Significant Trade is the net trade in wild-collected fauna and flora listed on CITES Appendix II.

³¹ The ICWC is a collaborative effort of five inter-governmental organisations (CITES Secretariat, INTERPOL, UNODC, World Bank, and World Customs Organisation).

to **encourage the use of the two tools** (Doc. 14) in conjunction with the World Wildlife Crime Report that was developed for COP17 by the UNODC with the support of ICCWC providing analysis on legal and illegal markets and products (UNODC, 2016b & c).

3.1.3. Corruption

Corruption throughout the wildlife trade chain is increasingly recognized to negatively affect efforts to combat wildlife and forest crime (Scanlon, 2015). While concerted attention was paid to tackling wildlife and forest crime at COP16, less attention was placed on addressing the associated widespread corruption and the need to tackle this phenomenon as a serious crime in itself (EIA, 2016a). The EU and Senegal noted this gap and have responded with a proposal for a standalone **resolution on corruption** (Doc. 28), which if accepted, would be a first of its kind. Corruption is also included in the **working document on enforcement matters** (Doc. 25) and is emphasized in the World Wildlife Crime Report (UNODC, 2016b) developed for COP17 by the UNODC with the support of the ICCWC (see Doc.14.2). The Secretariat recommends that Parties adopt the draft resolution as well as the draft decisions presented in Annex 1 to COP17 (Doc. 25) on **enforcement matters**.

3.2. Rural communities, food security and livelihoods

The importance of rural community engagement for implementing CITES and recognized dependence of some communities on CITES-listed species for their livelihoods was raised at COP16 and continues to be a priority for COP17. Following the adoption of a resolution on **CITES and Livelihoods** at the previous COP, Parties requested that the Secretariat facilitate the organization of workshops and side events to showcase successful livelihood experiences at COP17 (Doc. 16). Furthermore, a resolution proposal on food security and **livelihoods** (Doc. 17) by Antigua and Barbuda, Cote d'Ivoire and Namibia urges Parties to take food and livelihood security as well as cultural identity into account when making proposed amendments to the Appendices. Another document submitted by Namibia, the United Republic of Tanzania, Zambia and Zimbabwe calls for the establishment of a Rural Communities Committee (Doc. 13).

3.3. Species specific issues

In addition to the working documents that propose new resolutions and decisions, or amendments to existing ones, Parties can also propose amendments to the listings of individual species on the CITES Appendices I and II. Parties can propose new inclusions, or increased protection by suggesting the upgrade of a species to Appendix I for more strict conservation; or the relaxation of trade on a species by moving it from Appendix I to Appendix II. This briefing mentions several Appendices proposals that are novel, controversial or whose inclusion or denial could significantly impact the population they address. It is not comprehensive of the proposals to amend Appendices.³²

3.3.1. Elephants

Elephant-related issues are highly publicized and controversial going into COP17, following the high profile of elephant poaching at COP16 and continued population

³² Proposals to amend Appendices: <https://cites.org/eng/cop/17/prop/index.php>

declines despite strengthened protection under CITES (CITES, 2016a). Key proposals are **National Ivory Action Plans (NIAP) Process** (Doc. 24), **closure of domestic markets of elephant ivory** (Doc. 57.2), and a **decision-making mechanism (DMM)** for a process of trade in ivory (Docs. 84.2 and 84.3).

The **continued development and implementation of the NIAPs** in selected countries that are heavily implicated in illegal trade in ivory is a key tool to put into place targeted and timely action and monitor compliance. The NIAPs, introduced under CITES, outline measures these countries committed to take to address ivory trafficking and include legislation enforcement, public awareness, and specific timeframes for implementation. At SC66 - following a recommendation from the EU - the Standing Committee suspended trade of all CITES listed species with Nigeria, Angola and Laos because they failed to submit reports on the progress of their NIAPs.

The **closure of domestic ivory markets** is a semi-contentious issue, supported by major players such as the U.S. and China, which have issued a statement on plans to halt their respective domestic markets earlier this year (U.S. White House, 2015). The EU, however, has sparked public controversy (Doc. 57.2), as the recently adopted EU Action Plan Against Wildlife Trafficking contains an exception allowing trade in antique ivory (European Commission, 2016c).

The reopening of debate on the **decision-making mechanism**, which would allow for the future commercial trade in ivory³³, is a contentious issue that was shelved at the SC66 for discussion at COP17 after strong disagreement between Parties.³⁴ The importance of DMM is amplified because the moratorium on ivory trade for Appendix II species will expire in 2017 after 9-years.

There are also several proposals to the Appendices related to elephants that could negatively affect the conservation of the species. Two proposals from Namibia and Zimbabwe call for the removal of an annotation in Appendix II, which would in effect allow ivory trade. These proposals are opposed by Traffic, WWF, and EIA. Eleven African countries³⁵ proposed also to move all elephant species to Appendix I listing; the populations in Appendix II do not meet the criteria for this transfer however and political disagreement on the issue could distract Parties from focusing on the action plans developed in the NIAP Process, which would have to be revised (WWF, 2016).

3.3.2. Pangolins

Pangolins are the most heavily trafficked species and are considered to be at high risk of extinction (IFAW, 2016). There is strong support amongst the Parties and NGOs for improving the protection of pangolins, and a working document submitted by the Standing Committee calls for improved capacity building, better oversight of captive breeding, improved enforcement efforts, demand reduction work and international cooperation in this regard. There is also a draft Decision (Doc. 64) calling for the ICCWC to commission a report on the pangolin trade for SC69. Five proposals submitted by diverse Parties suggest the **transfer of all eight pangolin species from Appendix II to I**.

³³ The decision-making mechanism has been debated for six years at CITES and would eventually allow for legal trade. There is disagreement between Parties on the issue and COP17 will determine if the mechanism should continue to be developed or not.

³⁴ The vast majority of the SC members including the U.S. EU, India and several Central and West African countries supported the suspension of discussions of DMM which would establish whether or not to allow trade in ivory. It was opposed by Japan, South Africa, Zimbabwe and Norway.

³⁵ i.e. Benin, Burkina Faso, CAR, Chad, Kenya, Liberia, Niger, Nigeria, Senegal, Sri Lanka and Uganda

3.3.3. Marine species

The Secretariat and the Animals Committee submitted standalone agenda items on **sharks and rays** (Doc. 56.1), following the slow ascension of their inclusion on Appendices listings since 1994. Since an historic inclusion of five species at COP16, there has been increased activity to improve CITES management of these species. A working group on shark and ray issues was established and three recent regional workshops held in Casablanca, Dakar, and Xiamen prior to COP17 to set out issues, challenges and activities for Parties to discuss. Sri Lanka, the Maldives and Fiji **propose to list three species of thresher, silky sharks and nine mobula rays in Appendix II**. These species have declined significantly and campaigns for their inclusion have garnered widespread attention on social media and among CITES Parties. Over 50 countries, including the EU and many African countries, have agreed to co-sponsor one or more of the Appendix II listing proposals marking an unprecedented call for action (PEW, 2016).

3.3.4. Timber species

The international trade in high value tropical timber species has resulted in the call for additional listings and increased protection, with 10 proposals on tree species to be discussed and potentially 250 additional tree species to be included in Appendix II and one tree species in Appendix I (UNODC, 2016c). Identification and traceability remain key challenges in relation to the regulation of timber trade. The UNODC has submitted a working document on Timber Identification (Doc. 48) with a set of decisions to improve timber identification of CITES listed trees and look-alike species. The ICCWC Toolkit and the ICCWC Indicator Framework (CITES, 2016c) are designed for both wildlife and forest crime.

Of the timber-related proposals, the review identified **rosewood** to be of particular importance to COP17 as there is large concern about current levels of overexploitation, especially due to illegal trade (European Commission, 2016e). The species profile is particularly high because compliance issues with Madagascar could lead to the implementation of trade sanctions, setting a precedent in relation to timber (EIA, 2016c). At COP16, Madagascar agreed to an Action Plan on Malagasy rosewoods that banned them from international trade with a zero export quota since 2013 (CITES, 2016g). Close evaluation by the Plant Committee, Standing Committee and Secretariat since then highlight the lack of implementation of main actions. As a result, **Madagascar could face widespread CITES sanctions.**

4. OVERVIEW OF MAIN PARTY POSITIONS

This section summarizes the main positions of five CITES Parties – i.e. the European Union, United State of America, (U.S.), China, South Africa and Russia – as well as several NGOs leading up to COP17.

4.1. European Union

In line with the priorities of the EU Action Plan against Wildlife Trafficking, the EU supports 14 proposals to amend the CITES Appendices and seven additional draft resolutions and decisions. These proposals prioritise the following objectives: prevent wildlife trafficking and address its root causes, implement and enforce existing rules and combat organised crime more effectively, and strengthen the global partnership of source, consumer and transit countries against wildlife trafficking (European Commission, 2016c).

To **prevent its marketplace from being used to import exotic wildlife species of unsustainable or illegal origin**, the EU supports a transferral of the Barbary macaque and grey parrot from Appendix II to Appendix I and suggests to include several gecko, lizard and ornamental fish species in Appendices I and II (i.e. crocodile lizard, arboreal alligator lizards, Banggai cardinal fish, psychedelic rock gecko, turquoise gecko and the Masobe gecko) (European Commission, 2016d). The EU also prioritises the use of CITES to **regulate international trade in marine and timber species**. As such, they co-sponsor Appendices proposals to include thresher sharks, silky shark and devil's ray as well as Gabon's and Senegal's proposals to include Senegalese rosewood and kevanzingo rosewood in Appendix II to ensure that they can only be traded if logged sustainably and legally. As protection of these species is a priority for the EU, it has submitted two working documents suggesting to review (1) the biological status and threats posed by international trade in rosewood timber which are not yet protected under CITES (Doc. 62, Rev. 1) and (2) the status of eel species with a view to making recommendations to ensure their sustainable trade (Doc. 51).

Prioritising an improved implementation of CITES, the EU supports the adoption of two Resolutions to **prohibit, prevent and counter corruption facilitating activities** (Doc. 28) conducted in violation of the Convention and encourage **transparency and accountability** (Doc. 8). The later aims to make the COP voting process more transparent by consolidating the support provided by donors through a "**Sponsored Delegates Project**" programme (WWF, 2016). The initiative is run by the CITES Secretariat to fund the participation of delegates from developing countries (European Commission, 2016d).

Regarding **elephant and rhino poaching and horn trafficking**, the EU supports a reinforcement of the NIAPs and increased scrutiny of their implementation by the Parties concerned as well as trade sanctions in cases of persistent failure to take positive action. The EU **does not support proposals to re-open international trade in ivory, praises the destruction of stockpiles** and considers supporting proposals for the **establishment of domestic trade bans** in some cases. While the EU has already banned domestic ivory trade, they **grant exemptions for ivory acquired before 1990** (Vella, 2016). Noting the **lack of progress on the decision-making mechanism** to date, the EU does not consider agreement on such a mechanism at COP17 as a priority. Moreover, the EU does not believe that the **Appendix status of the African elephant** should be changed given the failure to meet the Convention's scientific criteria for such a transfer.

Finally, the EU supports the establishment and reinforcement of standards applying to **international trade in hunting trophies of species** listed in Appendix I or II (Doc. 39.1). Multiple CITES Resolutions are in place regarding hunting trophies of individual species listed in Appendix I³⁶, but the prescribed conditions are limited to a small number of species.

4.2. United States

The U.S. Fish and Wildlife Service submitted 11 documents and co-sponsored several others to be considered at COP17. Regarding amendments to the CITES Appendices, the U.S. supports a transfer of the Indian, Philippines, Sunda and four African **pangolins** as well as the African **grey parrot** and **fishhook cacti** from Appendix II to Appendix I and the inclusion of the following species in Appendix II: **nautilus, devil rays, African pygmy chameleons**. Documents on **agarwood and holy wood** have also been submitted for consideration.

Asian turtles were a key focus of the U.S. in COP16, but as these species are becoming depleted and as their trade is increasingly restricted, other turtle sources are now being tapped to meet commercial demands. Accordingly, the U.S. has proposed that six species of **African/Middle-Eastern native soft-shell turtles** be included in Appendix II.

In addition to species proposals, the U.S. and South Africa have jointly submitted a document (Doc. 20) to **encourage youth engagement and participation** in CITES. The document highlights the planned Youth Forum on People and Wildlife, which will meet directly prior to the COP, as well as the establishment of a Youth and Conservation Programme as a legacy programme to South Africa's hosting of COP17.

In line with President Obama's 2013 Executive Order on Combating Wildlife Trafficking (U.S. White House, 2013), the U.S. has prioritised an increase in efforts to this end and submitted a document to **encourage increased global anti-trafficking action** (Doc. 27). The proposal follows recent joint action by China and the U.S. to halt the domestic commercial trade of ivory. More specifically, the U.S. Fish and Wildlife Service enacted a near-total ban on the commercial trade of ivory in most contexts within the country on 2 June 2016³⁷. Prior national actions against wildlife trafficking focused primarily on preventing ivory imports (particularly hunting trophies) and restricting ivory sales. Leniency was previously granted to ivory already in the country which originated from elephants hunted before the animal was listed in CITES or elephants documented as having died of natural causes. The new regulation bans the sale of elephant ivory across state lines and expands restrictions on international ivory sales, making only limited exceptions for antiques more than 100 years old and items containing very small amounts of ivory (such as pianos or ivory handled guns). The submitted document recommends that other CITES members follow suit and also close their domestic ivory markets.

The U.S. also prioritises **reducing the demand for illegal wildlife products**, and has submitted a related document (Doc. 18.1). A draft resolution is included which would urge countries to develop campaigns for raising awareness amongst consumers

³⁶ For example, Resolution Conf. 10.10 (rev. COP16) on trade in elephant specimens, Resolution Conf. 10.14 (rev. COP16) on quotas for leopard hunting trophies and skins for personal use, Resolution Conf. 10.15 (rev. COP14) on the establishment of quotas for hunting trophies, and Resolution Conf. 13.5 (rev. COP14) on the establishment of export quotas for black rhinoceros hunting trophies.

³⁷ Revision of the 4(d) rule for the African elephant under the U.S. Endangered Species Act (see https://www.fws.gov/news/ShowNews.cfm?ref=administration-takes-bold-step-for-african-elephant-conservation:-&_ID=35686)

of the impact of illegal wildlife trade on wild populations, thereby influencing their purchasing decisions.

Several further issues were considered for submission by the U.S., but ultimately no support was provided. This includes abstaining from supporting a document on the **movement of non-commercial musical instruments** (Doc. 42), which has been submitted by the EU and its member states (US FWS, 2016).

4.3. China

China submitted one proposal and co-sponsored another to amend the CITES Appendices. The **Hong Kong warty newt** is already protected within its breeding area in Hong Kong as it falls under the International Union for the Conservation of Nature (IUCN) Red List Status of “nearly threatened”. The proposal aims to include the species in Appendix II to prevent extensive collection for international pet trade (Wai, Lau, and Bosco, 2004). China, the European Union and Vietnam additionally propose the transfer of the **Chinese crocodile lizard** from Appendix II to Appendix I. While the species is already protected under the Wild Animal Protection Law in China, a shift to Appendix I would reduce the current pressure stemming from human poaching and trading for pets, food, medicine, and specimens within the country (Huang et al., 2008).

Regarding thematic priorities, the ivory trade is of central relevance to China. Following its commitment to phase out domestic **trading in legal ivory**, China has announced that it wants to ban trade in antique ivory until the end of the decade (Cruise, 2016). An official CITES workshop on demand-side strategies for curbing illegal ivory trade was held in January 2015 in Hangzhou to address the speculative nature of the demand for illegal ivory in China (Cruise, 2016) in lead-up to the COP.

4.4. South Africa

In line with its National Environmental Management Biodiversity Act of 2004 (Republic of South Africa, 2004), South Africa submitted three Appendix amendment proposals including: transfer of the **Cape Mountain zebra** from Appendix I to II; transfer of the African **pangolin** species from Appendix II to I; and inclusion of **Natal Ginger** in Appendix II. Several additional submitted working documents prioritise the themes of illegal international trade in wildlife, hunting trophies, as well as a decision-making mechanism for the process of ivory trade (co-proposed with Namibia and Zimbabwe) (Doc. 84.3).

South Africa’s stand against illegal international trade in wildlife is a key position for CoP17. Accordingly, the country appeals in a working document for further guidance to CITES Parties regarding **cross-border and international cooperation and collaboration on illegal trade** and **proposes an annual report on illegal trade** to give insight on wildlife numbers to ensure accountability and means for transparent international cooperation (Doc. 26). The country is also involved in **the phasing out of illegal rhino horn trade**, in part due to being home to over 90% of Africa’s southern white rhino population (CITES 2016d, 7). Notably, Swaziland submitted the proposal towards limited regulated trade in rhino horn, not South Africa.

Within wildlife trafficking, elephant-related issues are a central topic for South Africa as the government has historically been controversial in favouring a **review of the ban on trade in ivory** and **opposing the destruction of illegal ivory stockpiles**. South Africa thus co-proposed a working document together with Namibia and Zimbabwe underlining the importance of the implementation of a **decision-making**

mechanism for process of trade in African elephant ivory (Doc. 84.3), though this mechanism is highly questioned by other parties and was tabled at the SC66.

Finally, South Africa also submitted a document on **trade in hunting trophies of species** listed on Appendix II (Doc. 39.2), which the Secretariat recommends to combine with Doc. 39.1 (submitted by the EU).

4.5. Russia

Russia neither submitted nor co-sponsored any proposals to be considered at the COP. However, two submitted proposals refer to species that are present on Russian territory and could thus potentially affect the member country stand in negotiations (CITES, 2016b), namely the *Bison bison athabascae* and the Western Tur. While the effects of the first proposal would be marginal, the latter could evoke a legislative conflict given that 300 to 320 hunting permits are reportedly issued in Russia every year, though only half are used and hunting is mainly undertaken by foreign visitors (IUCN, 2016).

The COP17 priority issue of ivory trade and China's recent ivory ban is an important topic for Russia, as almost **all raw mammoth ivory in international trade originates from the Siberian tundra** (Doc. 57.5). Since the mid-1990s China has been the largest importer, accounting for 95% of Russia's ivory exports, which rose from 17.3 tonnes in 1995 to 105 tonnes in 2014 (Doc. 57.5).

4.6. Non-governmental organisations

The **International Union for the Conservation of Nature (IUCN) and TRAFFIC, World Wildlife Fund (WWF), IWMC World Conservation Trust (IWMC) and Environmental Investigation Agency (EIA)** have released key position papers leading up to COP17. While most of these organisations have conducted extensive reviews of the individual amendment proposals, the focus of this summary rests on those species identified in the previous chapter as being key to COP17, or those identified by the organisations themselves as a priority.

IUCN and TRAFFIC conducted a technical review to provide an assessment of each amendment proposal against the requirements of the Convention, the listing criteria elaborated in Resolution Conf. 9.24 (Rev. COP16) and other relevant CITES Resolutions and Decisions. Notably, they recommend to reject Proposals 14, 15 and 16, which suggest to amend the Appendix **listing of African elephant populations**, and to accept Proposals 9 – 12 on **pangolins**.

WWF draws attention to the importance of maintaining the momentum since COP16 in the fight against wildlife crime, and the potential for COP17 to solidify strong measures on **trafficking, corruption, demand reduction and compliance issues** (WWF, 2016). The NGO stresses that countries must be held accountable under CITES, including facing trade suspensions should they fail to meet their commitments. WWF prioritises African elephant issues, emphasising the need for a stronger focus on **countries identified as playing a role in illegal ivory trade** and to **close domestic ivory markets**³⁸. While they recognize the National Ivory Action Plan process as a positive first step emerging from COP16, WWF strongly underline the need for further action and support to strengthen the process. They also call for a

³⁸ The WWF does, however, recognise that "pragmatic exemptions could be made where it is clearly demonstrated that a regulated domestic trade in a narrow category of product would have no impact on the illegal ivory market (e.g. musical instruments)" (WWF 2016: 13).

withdrawal of the Appendix I listing proposal for African elephants and the two counter-proposals to allow ivory trade. Regarding the **destruction of ivory stockpiles**, WWF supports action to put ivory stockpiles – particularly those of illegal or unverifiable origin – beyond use. However, they recommend further research to assess the potential (perverse) impacts of high profile destruction events on consumer behaviour in key demand countries. To successfully address these and other COP17 issues, WWF highlights the **need for significant additional resources** to be made available for the Secretariat and the Committees. Finally, WWF does not consider discussions on the **decision-making mechanism** to be a priority at this time.

IWMC focuses on **sharks and rays, rhinos and African elephants** as priority issues for COP17. They strongly **reject the recommendation to list Thresher sharks, Silky sharks, and Mobula rays** in Appendix II, arguing that while a listing would not produce any effects, it would in fact lead to socio-economic hardships for locals that rely on fishing to secure their livelihoods (IWMC, 2016a). Furthermore, IWMC debates if Swaziland's Appendix Proposal for **limited rhino horn trade** is ethical, as it could be argued that only a complete trade ban would ensure a cap on illegal activity (IWMC, 2016b). With reference to **African elephants**, the IWMC voices strong support for Proposals 14 and 15, but notes that only two out of four elephant species are mentioned in the proposals (IWMC, 2016c). The IWMC also advises to **reject** Proposal 16, which aims to transfer all populations of African elephants to Appendix I.

The EIA prioritises species issues concerning **Asian big cats, elephants, rhinos, pangolins and timber**. Notably, the EIA calls for the **closure of legal domestic ivory markets** following an investigation (EIA, 2016d) which indicated that the sale of ivory to supply a legal domestic ivory market in China actually stimulated demand and resulted in a burgeoning black market. They are **against extending the mandate for a DMM**, but **support the strengthening of the NIAP process**. The EIA further **rejects Proposal 7** on Southern white rhinos by Swaziland, **supports the adoption of all five pangolin proposals** (Prop. 8-12), and – in addition to supporting Doc. 62 – calls for a decision to **assess the international trade on wild rosewood populations**. Beyond species specific issues, the EIA supports the **ICCWC indicator framework for wildlife and forest crime** (Annex 1 to Doc 16.5) and the **anti-corruption draft resolution** (Doc. 28) and calls for the adoption of a decision urging all CITES parties to **submit the illegal trade report** on time and within the given format (Docs. 35.1 & 35.2).

5. CONCLUSIONS AND RECOMMENDATIONS

While the EU's accession to CITES will presumably lead to some amendments of the Rules of Procedure, such as the rules on the right to vote, calculation of the quorum and accreditation of delegates, the EU and its Member States will speak with one voice at COP17. In line with other international environmental agreements, amendments to the Rules of Procedure suggested by the CITES Secretariat propose that the EU has the right to exercise its right to vote on matters within its competence with a number of votes equal to the number of its Member States (i.e. currently 28). It is, however, unclear and disputed whether all 28 Member States must at the same time be duly accredited and present. The CITES Secretariat has suggested that – without setting a precedent for future meetings – this will be a requirement at COP17. Furthermore, the EU is invited to take the floor before each vote to indicate whether it will exercise its own right to vote or whether the Member States will exercise their right. Given these considerations and taking account of the key issues highlighted in the conducted review, the ENVI Delegation at COP17 is encouraged to:

- Encourage Parties to improve the development and implementation of NIAPs when discussing African elephants, rather than concentrating on divisive politicized issues i.e. amendments to Appendices, the DMM, and closing domestic ivory markets
- Support ongoing efforts to protect marine species within the Convention and to combat illegal timber trade as it relates to EU imports of high value species
- Encourage further development and broader uptake of the CITES instruments to combat wildlife crime (e.g. Toolkit and Indicator Framework developed by the UNOCD and ICCWC), both amongst other CITES Parties and within the EU Member States
- Continue to support effective implementation and enforcement of existing rules, including addressing CITES implementation issues (e.g. captive bred specimens) and developing effective responses to non-compliance by Parties
- Support investment to further the understanding of the European Union marketplace's role in wildlife crime and work to identify priority areas for effective action
- Promote global cooperation between source, transit and consumer countries, particularly giving consideration to the draft Corruption Resolution and the Demand Reduction Strategy
- Generate support for decisions and resolutions aiming to improve transparency, good governance and address corruption within the implementation of CITES

The ENVI Delegation could consider using opportunities such as bilateral meetings with delegations from other countries or informal conversations to discuss and promote these aims and reiterate the EU's readiness to cooperate with other Parties towards achieving these goals.

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NOTES

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