

EIA BRIEFING: KEY PRIORITIES AND RECOMMENDATIONS FOR SC74

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INTERPRETATION AND IMPLEMENTATION MATTERS

SC74 Doc. 26: National laws for implementation of the Convention

EIA is disappointed that Doc.26 does not highlight ongoing shortcomings in Nigeria's national legislation in the context of wildlife crime and calls on SC74 to draw attention to the following matters that warrant a review and downgrading of Nigeria's listing as "Category 1" (fully compliant) in the National Legislation Project.

Since 2011, Nigeria has been listed as "Category 1" (fully compliant) under the National Legislation Project, suggesting that the country's legislative framework is aligned with the CITES Convention.¹ However, this categorisation was based on regulations passed in 2011 which elevated the penalties applicable to import/export of endangered species to a maximum of three years' imprisonment, and not, worryingly, on the passage of solid legislation and recordable criminal offences.² Furthermore, Nigeria's ineffective responses to its central role in illegal wildlife trade, as highlighted by the CITES Secretariat and Standing Committee over the past two decades and most recently in the Secretariat's recommendation to Parties to suspend all trade with Nigeria in CITES-listed specimens due to non-compliance with CITES (SC74 Doc 28.2.4; SC74 Doc. 28.4) indicate Nigeria is facing significant legal challenges.

Key findings of a recent comprehensive analysis of the criminal justice framework in Nigeria which was conducted by the EIA and Africa Nature Investors in consultation with various key national agencies in Nigeria as well as the UNODC in Nigeria³ highlight inaccuracies with Nigeria's self-assessed NIAP progress report in December 2018, which reported that the passage of the "the National Wildlife Species Protection Act – Endangered Species (Control of International Trade and Traffic) Amendment Act 2015" elevated penalties relating to international trade offences and made a limited number of offences "serious crimes" under UNTOC. Nigeria appended the law to its 2018 NIAP progress report claiming that it had made significant progress in securing legal reform.

The EIA-ANI legal analysis revealed that this law was in fact never passed – and therefore does not exist and is not in force. An amendment passed in 2016 related only to an elevation of fines contained in the 1985 Endangered Species Act, therefore suggesting that while a new bill was indeed drafted, it has never been enacted and the statutory framework regarding offences relating to wildlife remains a mixture of federal statutes, which hold inherent contradictions and inconsistencies, and state laws, most of which date back to the 1950s/1960s.

The lack of transparency surrounding the existence and/or revision of important legislation related to wildlife crime is extremely concerning and EIA calls for a revision to Nigeria's position as a Category 1 country in the National Legislation Project. Downgrading would encourage the country to continue revising and updating its legal framework to better respond to wildlife trafficking and upgrading should be reconsidered only once legislative reforms have resulted in measurable impact such as increased prosecutions.

Furthermore, in the National Biodiversity Strategy and Action Plan 2016 to 2020, it was noted that current biodiversity-related laws are 'obsolete, non-implementable and are totally ignored (or not regarded) by customary, sharia and other courts' – a worrying indictment from Nigeria's own Ministry of Environment.⁴

¹ https://cites.org/eng/news/pr/2011/20110826_nigeria.php

² <https://eia-international.org/wp-content/uploads/Combating-Wildlife-Crime-in-Nigeria-single-pages-for-print.pdf>

³ <https://eia-international.org/wp-content/uploads/Combating-Wildlife-Crime-in-Nigeria-single-pages-for-print.pdf>

⁴ <https://www.cbd.int/doc/world/ng/ng-nbsap-v2-en.pdf>

At the federal level, laws governing international wildlife trafficking in Nigeria are relatively weak as compared to jurisdictions in East and Southern Africa. The draft law attached to Nigeria's 2018 NIAP progress report represents an improvement and support to pass it should be a priority, though it will require review alongside the draft Forestry Law and the draft National Park Act to ensure harmonisation in terms of criminal offences at the very least. As it stands, the best laws for prosecuting cases involving large-scale wildlife seizures are to be found not in Nigeria's wildlife-specific laws but its customs and money laundering laws. At the state level, the disparity between states and their wildlife-specific laws is significant.

EIA calls on SC74 to:

- **Request the Secretariat to review and downgrade Nigeria's categorisation under the National Legislation Project and reconsider upgrading when legislative reforms result in measurable impact**
- **Encourage Nigeria to prioritise and review the draft Endangered Species (Control of International Trade and Traffic) Amendment Act 2015 in order to:**
 - **address the range of offences provided within the draft;**
 - **ensure a sufficient range of investigative, and ancillary powers are available;**
 - **ensure all relevant offences qualify for extradition mutual legal assistance;**
 - **to harmonise, at a minimum, the range of offences with those contained within the draft Forestry Act and draft National Park Services Act**

SC74 Doc. 28.2.1: Application of Article XIII in the Lao People's Democratic Republic

Lao PDR, (hereafter referred to as Laos), has received CITES Secretariat Missions on compliance matters for over ten years⁵, with the current Article XIII procedure initiated in 2016. EIA remains extremely concerned that after a degree of high-level political attention to address the concerns raised by the Secretariat and Parties in 2018⁶, that progress has not only stalled in relation to some of the CITES recommendations, but that wildlife criminals are still allowed to operate with impunity.

Laos's history of weak legislation, enforcement and non-compliance with CITES has long been exploited by Vietnamese and Chinese transnational organised crime networks^{7,8,9}. Investigating, prosecuting and disrupting these networks not only requires skills, training and on paper, the mandate. It also requires support from the highest levels of government given the political patronage enjoyed by some of the persistent criminal enterprises occupying Laos.

Tiger farming and trade continues

This is most evident in relation to the ongoing keeping, breeding and trade in tigers in contravention of CITES Decision 14.69. In 2019, TRAFFIC estimated that 90% of tigers seized in Viet Nam were suspected to have originated from or through Laos¹⁰. In 2020, Viet Nam convicted Nguyen Huu Hue, a Vietnamese partner

⁵ <https://cites.org/sites/default/files/eng/com/sc/67/E-SC67-12-01.pdf>

⁶ <https://cites.org/sites/default/files/eng/com/sc/70/E-SC70-27-03-01.pdf>

⁷ <https://www.nytimes.com/2013/03/04/world/asia/notorious-figure-in-animal-smuggling-beyond-reach-in-laos.html>

⁸ <https://www.theguardian.com/environment/2016/sep/26/bach-brothers-elephant-ivory-asias-animal-trafficking-network>

⁹ <https://www.theguardian.com/environment/2016/sep/27/revealed-how-senior-laos-officials-cut-deals-with-animal-traffickers>

¹⁰ https://www.traffic.org/site/assets/files/12344/skin_and_bones_unresolved-web-1.pdf

in Laos' Say Nam Theun/Thurn tiger farm for trafficking dead tiger cubs^{11,12}. This was one of the tiger farms that was supposed to have converted to a "zoo", but was documented breeding, killing and selling tigers prior to and during the official tiger farm audit¹³. Vietnamese authorities sought support from Laos counterparts during the course of the investigation but were not successful. Again in 2021, there were significant seizures of tigers in Viet Nam suspected to have originated from Laos farms and an opportunity for Laos authorities to investigate the cases^{14,15}.

There are still five¹⁶ tiger farms in Laos and the businesses behind them have all been implicated in criminal activity¹⁷. The most egregious example of this is the Kings Romans Group of companies, registered in Hong Kong and owned by Zhao Wei, which has an 80% share in the Golden Triangle Special Economic Zone (GTSEZ) in northern Laos. The Laos government holds the remaining share and Laos officials are on the SEZ management board. In 2018, the US Department of Treasury declared Zhao Wei and other Kings Romans officials an organised crime group¹⁸ for their role in drug, human and wildlife trafficking, money laundering and bribery. More recently Laos authorities have had to rescue Laotian women held against their will and forced into sex trade at the GTSEZ¹⁹.

Illegal wildlife trade and tiger farming at the GTSEZ has been documented repeatedly^{20,21,22,23} and while there has been a public burning²⁴ of confiscated wildlife products, no one has been convicted of illegal wildlife trade. In 2015/2016, there were 26-35 tigers and 38 Asiatic black bears at the original animal enclosures at the GTSEZ, those numbers are estimated to have doubled.

Illegal wildlife traders continue to operate online

Chinese-owned retail businesses with outlets in Vientiane, involved in trading tiger bone wine, ivory, tiger teeth, bear bile products, rhino horn and other illegal wildlife, have been reported to Laos authorities repeatedly by EIA and other organisation since 2016. These businesses have WeChat accounts that enable resident and visiting consumers to purchase items remotely and have them sent by courier²⁵. No action has been taken against these companies and they continued to operate during the pandemic.

EIA calls on SC74 to:

- **Adopt the Secretariat's recommendations in para 49 but impose compliance measures at this meeting that may be lifted following evidence of progress against the actions below:**
 - **Immediately establish the stripe pattern database from the tiger farm audit photographs**
 - **Conduct inspections to verify the current captive tiger population against the 2019 baseline using the stripe pattern database, investigate any anomalies**

¹¹ <https://vir.com.vn/man-receives-six-year-jail-term-for-transnational-wildlife-trading-73268.html>

¹² <https://e.vnexpress.net/news/news/three-jailed-for-trafficking-tiger-carcasses-from-laos-4042953.html>

¹³ https://www.washingtonpost.com/graphics/2019/investigations/tiger-farms-poaching-laos/?utm_term=.ce9702fdda69

¹⁴ <https://vietnamnews.vn/environment/1005062/tigers-saved-from-illegal-wildlife-traffickers.html>

¹⁵ <https://env4wildlife.org/2021/08/17/a-major-breakthrough-in-combating-illegal-tiger-trafficking-in-nghe-an/>

¹⁶ In 2019 there were six, but one, Samlem Kham, was a holding facility for the new tiger and bear farm at the GTSEZ <https://eia-international.org/wp-content/uploads/EIA-document-Tiger-trade-in-Lao-PDR-and-call-for-trade-suspensions-at-CITES-SC71.pdf>

¹⁷ <https://eia-international.org/wp-content/uploads/On-the-Butchers-Block-Tigers-Mekong-Report-2020-SCREEN-SINGLE-PAGES.pdf>

¹⁸ <https://home.treasury.gov/news/press-releases/sm0272>

¹⁹ <https://www.rfa.org/english/news/laos/rescues-escapes-02082022170241.html>

²⁰ <https://karlammann.com/2014/04/20/inside-tiger-farming-a-long-chain-of-profiteers/>

²¹ <https://www.straitstimes.com/asia/notes-from-a-banana-field>

²² <https://eia-international.org/wp-content/uploads/EIA-Sin-City-FINAL-med-res.pdf>

²³ <https://link.springer.com/article/10.1007/s12117-021-09408-z>

²⁴ <https://eia-international.org/blog/sin-city-wildlife-raids-a-start-but-what-about-the-long-term/>

²⁵ <https://eia-international.org/wp-content/uploads/On-the-Butchers-Block-Tigers-Mekong-Report-2020-SCREEN-SINGLE-PAGES.pdf>

- **Initiate collaboration with Vietnamese authorities regarding seizures of tigers known and suspected to have originated in Laos, including using the stripe pattern database and, when available, the DNA profiles of audited tigers**
- **Suspend breeding of tigers in all captive facilities**
- **Convene a meeting of an advisory group on tiger farm phase out, including organisations with expertise in managing captive tigers for non-commercial purposes**
- **High level intervention from the Lao PDR Government to assert jurisdiction and take enforcement action against criminal operations at the GTSEZ**

SC74 Doc. 28.2.4: Application of Article XIII in Nigeria

EIA urges support for the Secretariat's assessment in Doc.28.2.4 that Nigeria's progress with the implementation of the 17 recommendations adopted by the Standing Committee at SC70 is not satisfactory, especially in light of its ongoing role as the primary export hub for illegal wildlife to Asian markets. EIA encourages the Standing Committee to adopt the Secretariat's recommendation to suspend commercial trade in specimens of all CITES-listed species from Nigeria until the recommendations of the Standing Committee have been implemented to the satisfaction of the Secretariat.

For the past 20 years, Nigeria's poor implementation of CITES has been a recurrent problem noted at Standing Committee meetings and at various Conferences of the Parties. Owing to a combination of weak enforcement, high levels of corruption and the presence of highly organised transnational criminal networks, Nigeria has emerged as the primary export hub for illicit wildlife sourced across West and Central Africa and has one of the highest criminal market scores for fauna crime on the entire continent.²⁶ Nigeria has been the subject of a recommendation for trade suspension three times since the country was first flagged for potential non-compliance with the Convention in 2001. Nigeria is currently subjected to a trade suspension in *Pterocarpus erinaceus* since SC70 in light of major mismanagement of CITES export permits to China.

EIA shares the Secretariat's concern that ongoing large-scale seizures of ivory and pangolin shipments from Nigeria is evidence of the involvement of organised criminal networks. Since the start of 2021, over 6200 kg of ivory and 25,245kg pangolin scales have been seized linked to Nigeria.²⁷ The recommendations of the Standing Committee have not been implemented forcefully enough to generate effects on the ground and weak enforcement and corruption continue to allow criminals to exploit Nigeria as a transit and/or source country for illegal wildlife trade. In its 2018 compliance assessment to SC70, the CITES Secretariat concluded that Nigeria is facing significant challenges with respect to the effective enforcement of CITES and the fight against transnational organized wildlife crime. The assessment highlighted the need for capacity building in terms of criminal intelligence including exchange of intelligence, container controls at sea and airports, risk-based management, wildlife crime investigations, and financial investigations linked to wildlife crime cases and progress to address these matters has since been unacceptably slow.

Nigeria has been a part of the NIAP process since 2014, owing to its role in the illegal ivory trade. In 2018, Nigeria's categorisation was revised to that of "highest concern" (Category A), in light of the massive scale illegal trade of pangolin and ivory scales from its shores that continued unabated due to a lack of institutional capacity and low enforcement. Under the NIAP process, Nigeria has repeatedly failed to abide

²⁶ Global Initiative Against Transnational Organised Crime, Organised Crime Index 2021; <https://www.state.gov/2020-end-wildlife-trafficking-report/>

²⁷ EIA Global Environmental Crime Tracker <https://eia-international.org/global-environmental-crime-tracker/>

by its reporting duties under the procedure, including failing to submit a progress report in time for SC66, SC70 and now SC74, which has continuously impeded the Secretariat's ability to conduct an assessment of the country's implementation of NIAP activities [see pg.7 below on Doc.28.2.4 on NIAPs].

Furthermore, in another illustration of Nigeria's non-compliant reporting, Nigeria has failed to submit annual trade reports in 2017, 2019 and 2020.²⁸ Though the pandemic may have contributed to delays in reporting, it is important to note that failure to submit an annual report for three consecutive years without providing adequate justification could lead to the Standing Committee recommending to all Parties to suspend trade with the Party concerned.

In addition to the concerns about Nigeria's national legislation for the implementation and enforcement of the Convention (see section above), other gaps that hinder Nigeria's capacity to comply with the Convention include extremely low levels of awareness of the applicable federal laws and state laws amongst prosecutors. Coordination between prosecutors and Customs, NESREA, the police, National Park Service (NPS) or state-level reserve officers is also non-existent in the context of wildlife crime. There are limited reports of seizures and even fewer reports of court outcomes. Out of 80 recorded ivory and pangolin seizure incidents in the EIA Global Environmental Crime Tracker which took place in Nigeria between 2001 and 2021, only 49 are known to have resulted in an arrest, of which a mere 13 resulted in a conviction.²⁹ Two possible explanations for this include the lack of law enforcement effort in terms of seizures or prosecutions or, in rare cases where there are outcomes following seizures, the results are not easily accessible to the public. This is a clear gap as the absence of such information makes it difficult to evaluate the implementation and impact of relevant legislation and directives given by CITES, and to adopt improvements.

There also appears to be significant conflict and overlap regarding the mandate, roles, and responsibilities of key national law enforcement agencies such as the Nigeria Customs Service, Nigeria Police Force and NESREA. Other factors that undermine multi-agency cooperation include a complex federal framework, wide-spread corruption, and failure to prioritise counter wildlife trafficking efforts, exacerbated by limited public awareness of the problems of wildlife trafficking.

EIA calls on SC74 to:

- **Adopt the Secretariat's recommendations to suspend commercial trade in specimens of all CITES-listed species from Nigeria until the recommendations of the Standing Committee have been implemented to the satisfaction of the Secretariat.**
- **Adopt the Secretariat's recommendations regarding trade in specimens of *Pterocarpus erinaceus*; legislation and law enforcement; issuance of export permits and information systems; handling and disposal of seized stockpiles of CITES-listed species; and on collaboration with Nigeria and monitoring progress.**
- **Encourage Nigeria to request assistance under the CITES Compliance Assistance Programme**

SC74 Doc. 28.4: National ivory action plans process: Report of the Secretariat

EIA is concerned that a number of country-specific and procedural concerns relating to the National Ivory Action Plan process require urgent attention at SC74 to ensure effective implementation of NIAP activities and to contribute to a reduction in elephant poaching and illegal ivory trade.

²⁸ <https://cites.org/eng/parties/country-profiles/ng/reports>

²⁹ EIA Global Environmental Crime Tracker <https://eia-international.org/global-environmental-crime-tracker/>

Procedural

EIA is concerned that NIAP Parties are not systematically reporting on progress against the specific measurable indicators that were included in the amendment made to the NIAP Guidelines in Res. Conf. 10.10 at CoP18 which request NIAP countries of concern to report on progress made against specific indicators such as elephant poaching levels; number of ivory seizures; successful prosecutions; impact of demand-reduction initiatives; changes to legislation; and any relevant indicators from the ICCWC Indicator Framework for Combating Wildlife and Forest Crime. EIA calls on SC74 to remind Parties of the necessity to demonstrate progress against these indicators to prevent the NIAP process from becoming a tick-box exercise.

Another key challenge which is undermining the efficacy of the NIAP process is that the Secretariat, which plays the lead role in evaluating progress of CITES Parties, is almost entirely reliant on self-assessments presented in Party's NIAP reports. Amendments adopted to the NIAP Guidelines at CoP18 encourage the Secretariat to consult relevant experts at every step of the NIAP process including Step 1 (identification of NIAP Parties), Step 3 (assessing adequacy of NIAPs), Step 4 (monitoring NIAP progress) and Step 5 (exit from the NIAP process). EIA continues to encourage the Secretariat to pro-actively engage relevant experts including non-government organisations with expertise about ivory trafficking in relevant NIAP countries. EIA suggests SC74 to consider amending the language in the Guidelines to clearly direct the Secretariat to engage relevant experts at every step of the NIAP process – this can be done by deleting phrases which make such consultation discretionary (for example “may, if needed” under Step-1; “if needed” under Step-3 and Step-4; “encouraged to engage” under Step-5).

Nigeria

In addition to calling for support for the Secretariat's recommendation of Article XIII compliance proceedings for Nigeria's persistent non-compliance with CITES, EIA urges SC74 to adopt the Secretariat's recommendation to issue a consolidated Notification to the Parties recommending all Parties to suspend commercial trade in all CITES-listed species with Nigeria due in accordance with Step 4, paragraph f), of the Guidelines to the NIAP process and Resolution Conf. 14.3 (Rev. CoP18) on CITES compliance procedures.

Nigeria did not submit a NIAP progress report for SC66, SC70 or SC74 as requested by the NIAP Guidelines. In 2019, Nigeria's overall NIAP ranking was changed from Category B to that of highest concern- Category A- given rampant illegal trade in and from Nigeria, as well as the country's weak enforcement. Though Nigeria submitted a revised and updated NIAP in May 2020 as requested by SC71, EIA remains concerned that the new NIAP does not sufficiently address Nigeria's role as the main entrepôt and exit point for illegal ivory from West, Central and even East Africa to Asia. Additionally, Nigeria's most recent progress report on NIAP activities, submitted in December 2018, contains several gaps including several unverified claims, that highlight issues with the slow implementation of NIAP activities, the accuracy of Nigeria's reporting and the need for external assessment of countries' evaluation of progress under the NIAP process. Please see p.2 (Doc.26) for a detailed analysis of Nigeria's inadequate national legislation; p.4 for additional details on Nigeria's general non-compliance and EIA's standalone NIAP briefing for more information on failures to tackle corruption, international cooperation and inadequate ivory stockpile management.

Nigeria's revised and updated NIAP does not provide any measures to introduce legislative or regulatory measures to close the domestic legal ivory market and therefore hampers international efforts to clamp down on illegal ivory trade. Legislative loopholes that support domestic trade in ivory continue to exist under several state level laws. For example, Lagos state's Wildlife Preservation Law of 1959 (as amended

in 1972) provides that permits can be granted to hunt, kill, and trade in protected species like elephants, rhinos, and pangolins. The law does not prohibit trade or transit of endangered species or their derivatives and makes no reference to CITES permits.

Nigeria has failed to align the Endangered Species Act with UNTOC requirements designating IWT as 'serious crimes' and there is no indication that this is being planned for. A further significant weakness in Nigeria is the lack of prosecutions. Though Nigeria Customs Service has made several seizures, prosecution resulting in appropriate sentencing has not taken place. There does not appear to have been a single successful prosecution for ivory offences in recent years.

The revised NIAP does not set out concrete steps to showcase how the competing legislative mandates of key governmental agencies to harmonise inter-agency cooperation. EIA is also concerned that wildlife crime has not been included in the national training curriculum for judges, investigators or prosecutors, though acknowledges that some training is available for senior staff in a non-systematic format.

Several gaps were identified in Nigeria's most recent NIAP progress report of December 2018, including several unverified claims that highlight issues with the slow implementation of NIAP activities, the accuracy of Nigeria's reporting and the need for external assessment of countries' evaluation of progress under the NIAP process.

The progress report lacks measurable/verifiable outcomes for matters assessed as "achieved" or "partially achieved". For example, the progress report suggests that the country "achieved" the task of establishing a database, geared towards the collection of information on prosecutions. However, there is no evidence that this database exists. The NIAP progress report therefore may not provide a reliable measure of Nigeria's progress under the NIAP process.

Further, despite being a clear stipulation in the Guidance provided to Parties developing and implementing NIAPs, Nigeria's progress report fails to report any progress made to institutionalise the collection of forensic analyses of seized samples as part of the evidence gathering process towards prosecution and convictions. It will be especially important to assess whether this activity has since been implemented considering the numerous large-scale ivory seizures in 2021 alone.³⁰

Viet Nam

EIA urges SC74 to query the Secretariat's overall rating of "partial progress" for Viet Nam considering serious gaps in the Party's progress report. The ETIS report submitted to CoP18 noted that the situation in Viet Nam "*has worsened considerably*" and that the country was now the "*leading destination for illicit ivory, surpassing China (including Hong Kong SAR)*".³¹ The ETIS report also highlighted concerns about ivory processing in Viet Nam and the role of Vietnamese wildlife trafficking networks in Africa.

At CITES SC71, it was noted that further efforts were required from Viet Nam in view of the country's "*major role in the illegal trade chain for ivory and rhinoceros horn*".³² The Standing Committee adopted a recommendation requesting Viet Nam to include in its next NIAP progress report "*information on arrests, prosecution and convictions as well as details on the outcome of cases and administrative penalties*

³⁰ <https://eia-international.org/news/huge-ivory-and-pangolin-scale-bust-in-nigeria-is-a-chance-to-disrupt-wildlife-crime-networks/>; <https://eia-international.org/news/nigeria-seizes-seven-tonnes-of-pangolin-scales-as-study-launches-to-help-it-fight-wildlife-crime/>;
<https://www.premiumtimesng.com/news/top-news/488150-nigeria-customs-intercepts-pangolin-scales-worth-n1-7-billion.html>

³¹ CoP18 Doc.69.3(Rev. 1)

³² SC71SR

*imposed for offences involving illegal trade committed at both border points and domestic markets in Viet Nam.*³³

Viet Nam's July 2020 NIRAP demonstrates that important progress in tackling wildlife crime has been made, both in terms of improving as well as implementing national legislation. However, several substantial and concerning gaps remain. Please see p.15, p.22 and p.24 below for detailed analysis of other gaps including domestic markets, stockpile management and illegal pangolin trade. Also see EIA's standalone briefing on NIAPs for further information including failures to tackle international cooperation, corruption, stockpile management and absence of investigations.

Absence of prosecutions for any ivory or pangolin scale seizure at seaports

A review of wildlife seizures made at air and seaports in Viet Nam since 2018 highlighted that, not a single ivory and pangolin scale seizure at seaports in Viet Nam has resulted in arrests, prosecutions or convictions, suggesting that investigations have been inadequate, possibly enabled by corruption within Customs.³⁴ This includes the world's largest known ivory smuggling incident where over nine tonnes of ivory were seized in Da Nang in 2019. As shown in Table 1 below, there have been at least 12 large-scale seizures of ivory and/or pangolin scales made at seaports in Viet Nam since 2018 amounting to over 15 tonnes of ivory and 42 tonnes of pangolin scales. It appears that many if not all investigations related to these seizures have been suspended, therefore it is critical that investigations are re-opened/expedited for all the large seizures mentioned as follows:

Table 1: Prosecution outcomes of all large-scale (500kg and over) seizures of elephant ivory (I) and pangolin scales (PS) made at seaports in Viet Nam since 2018

No.	Ivory/Pangolin Scales	Date	Weight	Seaport	Conviction status
1	Pangolin Scales	Apr 2018	3,750 kg	Cat Lai	No conviction
2	Pangolin Scales	May 2018	3,300 kg	Sai Gon	No conviction
3	Ivory and Pangolin Scales	Oct 2018	1,803.7 kg (I); 6,334.2 kg (PS)	Tien Sa	No conviction
4	Pangolin scales	Nov 2018	528 kg	Hai Phong	No conviction
5	Ivory and Pangolin Scales	Jan 2019	515 kg (I); 1,541 kg (PS)	Hai Phong	No conviction
6	Ivory and Pangolin Scales	Jan 2019	109 kg (I); 1,339 kg (PS)	Hai Phong	No conviction
7	Ivory	Mar 2019	9,124 kg	Tien Sa	No conviction
8	Pangolin Scales	Mar 2019	8,340 kg	Hai Phong	No conviction
9	Ivory and Pangolin Scales	Apr 2019	3,446 kg (I); 3,977 kg (PS)	Hai Phong	No conviction
10	Pangolin scales	May 2019	5,264 kg	Cai Mep	No conviction
11	Ivory and Pangolin Scales	Dec 2019	330 kg (I); 1796.1 kg (PS)	Hai Phong	No conviction
12	Ivory and Pangolin Scales	Jan 2022	456 kg (I); 6,200 kg (PS)	Tien Sa	No conviction
Total weight seized			15,783.70kg ivory and 42,369.30kg pangolin scales		

³³ SC71SR

³⁴ EIA (UK). 2018. Running out of Time: Wildlife Crime Justice Failures in Vietnam; see also <https://www.gov.uk/government/publications/overseas-business-risk-vietnam/overseas-business-risk-vietnam>

Lack of international cooperation to disrupt wildlife trafficking networks

There is very little information available on effective international collaboration by Viet Nam. Decision 18.111 adopted at CoP18 specifically requests Viet Nam to strengthen law enforcement cooperation with other relevant countries "*including by pursuing the initiation of joint investigations and operations aimed at addressing members of organized crime networks across the entire illegal trade chain, and to report to the Secretariat on any activities conducted in this regard, in time for consideration by the Standing Committee.*"

In particular, there is little evidence of cooperation with source and export countries in Africa to conduct intelligence-led investigations into large-scale shipments of ivory and pangolin scales made at Vietnamese seaports since 2018 and Vietnamese networks running wildlife trafficking operations in several African countries.³⁵ On the contrary it appears that Vietnamese authorities, including certain Vietnamese embassies in Africa, are failing to co-operate and are hindering ongoing active investigations by other countries.³⁶

In 2018, Mozambique and Viet Nam adopted a bilateral Mutual Legal Assistance Treaty (MLAT) to strengthen law enforcement cooperation between the two countries; though evidence of implementation of the MLAT is scarce, though large volumes of illicit wildlife continue to be exported to Viet Nam from Mozambique by Vietnamese criminal networks. Similarly, in 2012, South Africa and Viet Nam signed a Memorandum of Understanding aimed at strengthening cooperation between the two countries on wildlife trafficking and other biodiversity issues, though there appears to have been very little bilateral cooperation, except for the provision of samples of rhino horn which were transferred to South Africa from Viet Nam for DNA testing. Further, the ETIS Report to CoP18 and the 2020 UNODC World Wildlife Crime Report have identified Nigeria and Viet Nam as the largest export hub and import hubs respectively of ivory and pangolin scales; yet there is little information on law enforcement collaboration between these two countries.

EIA calls on SC74 to:

- **Adopt the Secretariat's recommendation to issue a consolidated Notification to the Parties recommending all Parties to suspend commercial trade in all CITES-listed species with Nigeria in accordance with Step 4, paragraph f), of the Guidelines to the NIAP process and Resolution Conf. 14.3 (Rev. CoP18) on CITES compliance procedures.**
- **Query the Secretariat's overall rating of 'partial progress' regarding Viet Nam's implementation of its NIRAP. At minimum, EIA recommends that SC should request Viet Nam to report on ivory trafficking prosecution and conviction outcomes for large-scale ivory shipments (500kg and over) at Vietnamese seaports since 2018 by SC75.**
- **Remind Parties to demonstrate progress against measurable indicators as laid out in the amended Guidelines to highlight the *impact* that is resulting from their NIAP activities.**
- **Not accept oral updates by Parties who have not submitted progress reports in time for SC74, as recommended by the Secretariat, as this will not provide the SC adequate opportunity to consider the responses and formulate any resultant recommendations and is not fair to the Parties that did provide written reports to the Secretariat in time. At minimum, SSN recommends that SC request updates be submitted as Inf. Docs for record-keeping purposes and to allow sufficient time to assess actual progress made.**
- **Recommend compliance proceedings for Angola, Cameroon, Ethiopia, Nigeria, Togo and**

³⁵ EIA (UK). 2021. Vietnam's Footprint in Africa: An analysis of the role of Vietnamese criminal groups in wildlife trafficking.

³⁶ EIA (UK). 2018. Exposing the Hydra: The growing role of Vietnamese syndicates in ivory trafficking; Al Jazeera. 2012. Vietnam ranks worst in wildlife crime.

Mozambique in the absence of written updates of NIAP progress at SC74 or within 60 days of the conclusion of the meeting in accordance with Step 4, paragraph f), of the Guidelines to the NIAP process and Resolution Conf. 14.3 (Rev. CoP18) on CITES compliance procedures.

- **Issue a reminder to NIAP Parties that they are required to report on progress in accordance with the NIAP Guidelines to facilitate an assessment by the Secretariat.**

SC74 Doc.28.5: Totoaba (*Totoaba macdonaldi*): Report of the Secretariat (Decision 18.295)

Decision 18.293 requested that Mexico implement seven actions³⁷ to address the illegal fishing of totoaba and trafficking of swim bladders to protect the vaquita, of which there are fewer than ten animals remaining on the planet. Mexico has failed to make adequate progress on implementing four of the actions, and EIA urges SC74, pursuant to 18.295(b), to recommend a suspension in the commercial trade of CITES-listed species consistent with Res. Conf. 14.3. At minimum, EIA calls on SC74 to confirm that the issue will be addressed as a compliance matter in accordance with Article XIII and Res. Conf. 14.3 and, if not satisfied with Mexico's response, at SC75 decide on appropriate compliance measures, including a trade suspension.

Specifically, Mexico has failed to:

- "... effectively prevent fishers and vessels from entering the Vaquita Refuge area."³⁸ As the Secretariat concluded, Mexico's "zero tolerance policy" against illegal fishing is not "being applied in the vaquita refuge and zero tolerance area" providing an opportunity for fishers to engage in illegal fishing, "... the continued presence of fishers in the vaquita refuge and zero tolerance area is the single most important factor that significantly undermines the efforts of Mexico and the progress made by Mexico on other fronts," and that addressing this deficiency "remains an utmost priority."³⁹

Despite Mexico's claim of thousands of enforcement personnel in the area, illegal fishing remains rampant. According to the IUCN, during a vaquita survey conducted between 17 October and 3 November 2021, "[m]any gillnets were observed being deployed within the ZTA (zero tolerance area) and the "ability to survey the ZTA was hindered by the numbers of pangas and gillnets."⁴⁰ On 3 November 2021, 117 vessels were counted inside the ZTA engaged in illegal fishing using gillnets that kill vaquita, and "[n]o enforcement vessels were recorded in the area." IUCN documented similar levels of illegal fishing in 2019 and 2020.⁴¹ The failure to prevent fishers and vessels from entering the ZTA, given the perilous status of the vaquita, warrants urgent, decisive, and meaningful action by SC74.

- establish and operationalize the trilateral enforcement group called for in Decision 18.293(a)(iv) with China and the United States. To date, 30 months after the Parties agreed to the totoaba Decisions at CoP18, Mexico has only completed a draft of the terms of reference for the trilateral enforcement group.
- secure sufficient resources to expand gillnet removal efforts to maintain the Vaquita Refuge, including the zero-tolerance area, as a net free zone. (Decision 18.293(b)) The Secretariat concluded

³⁷ See <https://cites.org/eng/dec/index.php/42103>

³⁸ [Decision 18.293\(a\)\(i\)](#)

³⁹ [\(SC74 Doc. 28.5 at 33\)](#)

⁴⁰ See <https://iucn-csg.org/wp-content/uploads/2022/02/Survey-report-for-Vaquita-research-2021-final.pdf>

⁴¹ See <https://iucn-csg.org/wp-content/uploads/2020/03/2020-Vaquita-Field-Report.pdf> and <https://iucn-csg.org/vaquita-update-october-through-december-2020/>

that "... the measures and activities deployed needs to be further scaled up to deter the activities of fishers in the zero-tolerance area, to enable maintaining the Vaquita Refuge area as a net-free zone." (SC74 Doc. 28.5, Annex 1 at 13) According to the net retrieval data in SC74 Doc. 28.5 Annex 1, from September 2019 to October 2021, at least 314 illegally set fishing gears (primarily of illegal gillnets) totaling nearly 53,000 meters in length were removed from the sea; clear evidence that Mexico has failed to achieve a net free zone.

EIA calls on SC74 to:

- **Strengthen the Secretariat's recommendations and recommend a suspension in commercial trade in all CITES-listed species.**
- **At a minimum, confirm that totoaba will be addressed as a compliance matter in accordance Article XIII and Res. Conf. 14.3 and, if not satisfied with Mexico's response, at SC75 decide on appropriate compliance measures, including a trade suspension.**
- **Propose timebound Decisions to CoP19 to track, monitor and provide oversight of this situation.**

SC74 Doc. 35: Wildlife crime enforcement support in West and Central Africa

EIA welcomes the efforts made by WCA Parties to tackle wildlife crime but is concerned that the "emergency" referred to in Doc. 35.3 is not reflected by the pace of activities undertaken since CoP18. Progress to date has largely related to policy and strategic development, and has been mainly preparatory which, while necessary, is some steps away from tackling the present serious and organised criminal entities trafficking wildlife from WCA to (predominantly) Asia.

EIA is concerned that the timeline of the draft Decisions in Doc.35.3 may delay enforcement and cooperation implementation until after CoP20 and would remind SC74 that existing mechanisms such as the services of INTERPOL and the World Customs Organization and reporting under CITES can and should be used immediately.

EIA shares West African Parties' extreme concern about the high levels of wildlife crime across the region (Doc.35.3) and considers wildlife crime as "an emergency for the region". Further, EIA agrees that there are inadequate measures in place to tackle the issue, and that collaboration with other implicated regions continues to be limited. EIA urges support for the Secretariat's conclusion (Doc.35.2) that West Africa Parties should pursue rapid and full implementation of the West Africa Strategy on Combatting Wildlife Crime (WASCWC), by strengthening efforts improve CITES implementation and enforcement.

EIA cautiously welcomes the draft Decisions proposed by Senegal and Nigeria to establish a Working Group to make recommendations to CoP20 on measures to promote collaboration between source, transit and destination countries but would urgently encourage WCA Parties to employ existing mechanisms including mutual legal assistance to avoid unnecessary delays.

Concerning Doc.35.1.1, the Report of the Plants Committee, Decision 18.92 b) requires SC to consider a report from the Plants Committee on the inclusion of *Pterocarpus erinaceus* in the Review of Significant Trade and make recommendations as required. The RST process is ongoing and a new report commissioned by the Secretariat in December 2021 is scheduled to be completed in early February 2022. The report will then be circulated to the PC Members to begin Stage 3 recommendations for the eight "action is needed" countries, Benin, Burkina Faso, Gambia, Ghana, Guinea-Bissau, Mali, Nigeria, and Sierra Leone.

The Plants Committee invites SC to address the problems not related to the implementation of Article IV 2 a) or 3. These issues include the documented, widespread and pervasive illegal trade in the species, which the PC identified in their report and included in SC74 Doc. 28.24 on the Article XIII review of Nigeria, and SC74 Doc. 35.1.2 report of Senegal.

Regarding Doc.35.1.2, the Report by Senegal, provides information on ongoing illegal trade on *P. erinaceus*, the most traded rosewood species, and Regulations related to harvest and export of *P. erinaceus* in West Africa (Annex). The “Boom and bust” cycle of overexploitation is bringing *P. erinaceus* to the point of commercial extinction in West Africa. Between January 2017 and November 2021, China alone imported on average 63,000 tons per month of *P. erinaceus* from West Africa, equivalent to ~109,571 trees per month.

EIA calls on SC74 to:

- **Endorse draft decisions in Annex 1 and 2 to Doc.35.3 for consideration at CoP19 (while noting concerns over the proposed timeframe) and recommend that Decisions proposed include encouragement for West and Central Africa Parties, and other Parties implicated in trafficking from the region, to tackle illegal wildlife trade as a matter of urgency using *existing mechanisms*.**
- **Encourage Parties to use the existing services of INTERPOL and the World Customs Organization to share and collate information on illegal trade activities in the region including smuggling incidents and methods, exchange intelligence and issue Notices.**
- **Establish an in-session working group to consider:**
 - Documents under agenda item 35;
 - Recommending Parties to not accept exports or re-exports of *P. erinaceus*; and
 - Consider related Decisions 18.88 – 18.93, and whether they should be maintained, amended or new Decisions drafted
- **Recommend a suspension in trade of *Pterocarpus erinaceus* until exporting Parties make non-detriment findings and legal acquisition findings to ensure trade in compliance with the Convention to the satisfaction of the Plants Committee and Standing Committee.**
- **Request the Secretariat undertake a consolidated Article XIII review for *P. erinaceus*, to include the ongoing compliance investigations and Article XIII reviews of Guinea, Mali, Nigeria, and Viet Nam, as well as other major exporting and principal importing Parties (Benin, Burkina Faso, China, Gambia, Ghana, Guinea-Bissau, and Sierra Leone), and report to the 77th Meeting of the Standing Committee.**

SC74 Doc.36: Asian Big Cats (Felidae spp.): Report of the Secretariat

Tigers and other Asian Big Cats continue to be subject to population declines with poaching and trafficking for international illegal trade a primary threat. Populations of tigers have gone extinct in three range states in the last 12 years and leopards are rapidly disappearing across southeast Asia. Since 2019, a minimum of 432 tigers and 704 leopards have been seized⁴².

It is extremely disappointing that only five of the 31 Asian big cat range states have provided reports to the CITES Secretariat in response to Notification 2020/039. It is precisely because of a history of a lack of reporting that the Parties to CITES have twice Directed the Secretariat to conduct a review of implementation of Res. Conf. 12.5 (Rev CoP18). These substantive reviews are available in SC65 Doc 38

⁴² <https://eia-international.org/global-environmental-crime-tracker/> (excluding India, statistics from India used from <http://www.wpsi-india.org/wpsi/index.php>)

Annex 1⁴³ and CoP18 Doc 71.1 Annex 4⁴⁴. Under Dec 17.227, the Standing Committee was to consider whether any time-bound, country-specific recommendations were required arising from the review contained in CoP18 Doc 71.1 Annex 4, and this was reiterated in Decision 18.109.

The fact that no such recommendations have been presented in SC74 Doc 36, despite the wealth of information available is troubling and does not convey the urgency with which Parties should be acting to address trade-related threats to these species. In the event the Working Programme for SC74 does not allow for an in-session Working Group to draft time-bound, country-specific recommendations, the Standing Committee is urged to call for an inter-sessional Working Group to prepare such recommendations for SC75 or Direct the Secretariat to prepare recommendations for consideration at SC75.

There are some urgent steps that can be taken by relevant Parties that EIA draws to the attention of the Standing Committee:

Targeted investigation by Laos and Viet Nam

Regarding Decision 18.100, given significant seizures of tigers in Viet Nam, known and suspected by authorities to have originated from Lao PDR⁴⁵, these two Parties should be urged to collaborate more effectively to investigate and disrupt that trade chain and report on progress to CoP19.

Wildlife trade tourism destinations

Regarding Decision 18.101, whilst COVID travel restrictions have reduced the footprint of tourists in Parties where physical retail markets cater to wildlife consumers, established retailers with parallel online retail platforms (e.g. via WeChat), have continued to offer tiger and other illegal wildlife parts and derivatives for sale to be delivered by courier. This includes retail outlets in Lao PDR that have previously been reported to national authorities⁴⁶, catering largely to customers from China. Laos should be urged to demonstrate action it has taken to stop the manufacture and trade of tiger bone wine, and sale of tiger teeth from known persistent trade outlets, and report by SC75.

China's domestic market for leopard bone

Leopards are among the most traded of Asian big cats with at least 6,675 specimens seized since 2000, with China as the primary destination country. Leopard, clouded leopard and snow leopard are still used in the licensed production of "leopard" bone medicine in China⁴⁷, despite a lack of verification of legal acquisition⁴⁸. Regarding Decision 18.105, 18.106 and para 1) c) of Res Conf 12.5 (Rev CoP18), EIA asks the Standing Committee to urge China to take steps to close its domestic market by CoP19.

Using stripe pattern profiles to facilitate enforcement

Regarding Decision 18.103, SSN notes that since CoP17, 530 tiger specimens (skins, live animals, carcasses & taxidermy specimens) have been seized in 27 Parties (excluding India and Thailand)⁴⁹, from which photographs of stripe patterns could have been obtained and shared with India and Thailand for cross-referencing against their databases. Sending relevant images does not require the transmission of

⁴³ <https://cites.org/sites/default/files/eng/com/sc/65/E-SC65-38.pdf>

⁴⁴ <https://cites.org/sites/default/files/eng/cop/18/doc/E-CoP18-071-01.pdf>

⁴⁵ <https://vir.com.vn/man-receives-six-year-jail-term-for-transnational-wildlife-trading-73268.html> AND <https://vietnamnews.vn/environment/1005062/tigers-saved-from-illegal-wildlife-traffickers.html>, AND <https://env4wildlife.org/2021/08/17/a-major-breakthrough-in-combating-illegal-tiger-trafficking-in-nghe-an/>

⁴⁶ <https://eia-international.org/wp-content/uploads/On-the-Butchers-Block-Tigers-Mekong-Report-2020-SCREEN-SINGLE-PAGES.pdf>

⁴⁷ <https://eia-international.org/report/bitter-pill-to-swallow-chinas-flagrant-trade-in-leopard-bone-products/>

⁴⁸ <https://www.nbim.no/en/the-fund/news-list/2021/decisions-on-exclusion-and-revoking-of-exclusion/>

⁴⁹ <https://eia-international.org/global-environmental-crime-tracker/>

sensitive information, nor is it costly to take and send high resolution images of seized specimens according to the guidance from India and Thailand. It is not clear what the obstacle is, given that law enforcement agencies release images to the media at the time of seizure and this would simply require taking images of individual specimens.

Tiger “farms” and CITES Missions

Regarding Decision 18.102 and 18.108, EIA is aware that the NGO 4PAWs and the UK⁵⁰ are currently considering funding for CITES Missions under Decision 18.108. EIA urges the Standing Committee to Direct the Secretariat to prepare a Terms of Reference that includes a risk-assessment approach to conducting the Missions and the secondment of appropriate experts to the Mission team. In August 2021, 52 NGOs and technical experts provided the CITES Secretariat with guidance to this effect, which is available at Annex 1 to this document⁵¹. A similar approach should be adopted by Parties in implementation of the recommendations in para 44 a) and b) of SC74 Doc. 36.

It is disappointing that China and South Africa have not welcomed a mission from the CITES Secretariat. EIA notes that in its report to CoP18, China reconfirmed it allows domestic trade in the skins of captive bred tigers^{52,53}. China should be urged to take steps to close its domestic market for captive bred tiger skins and destroy State and private stockpiles of skins, bones and other body parts that are no longer required for judicial purposes, and report on progress by CoP19. The lack of any response from South Africa is particularly troubling given the growth of captive tiger facilities, the trade in parts and derivatives of captive bred tigers^{54,55}, and the role of Vietnamese criminal networks.

EIA calls on SC74 to:

- **Consider time-bound, country-specific recommendations at this meeting or agree a mechanism to prepare such recommendations for SC75**
- **Urge China to take urgent action to close domestic markets for leopard and tiger**
- **Urge China and South Africa to welcome a Mission under Dec 18.108**
- **Direct the Secretariat to take a risk-based approach to conducting the Missions under Dec 18.108, as per the NGO and technical expert guidance in Annex 1 to this document**
- **Support the recommendations in paragraph 44 of SC74 Doc 36 and urge relevant Parties to draw on the guidance in Annex 1 to this document in implementing 44 a) and b)**
- **Ensure the retention of Decisions 14.69, 17.226, 18.100 to 18.109 at CoP19**

SC74 Doc.37: Rhinoceroses (Rhinocerotidae spp.): Report of the Secretariat

CITES Rhinoceros Enforcement Task Force

It has been nearly a decade since the last CITES Rhinoceros Enforcement Task Force convened to develop strategies and improve international cooperation to address poaching and rhino horn trafficking, bringing together 52 representatives from 21 countries and producing 29 enforcement strategies and actions to protect rhinos from the illegal rhino horn trade.⁵⁶

⁵⁰ Para 47 <https://cites.org/sites/default/files/eng/com/sc/74/E-SC74-28-02-01.pdf>

⁵¹ See Annex I to this document, Proposed Terms of Reference for CITES Missions, from 52 NGOs

⁵² CoP18 Doc 71.1 Annex 5 <https://cites.org/sites/default/files/eng/cop/18/doc/E-CoP18-071-01.pdf>

⁵³ Page 26-28, <https://eia-international.org/wp-content/uploads/EIA-Briefing-Document-CITES-CoP18.pdf>

⁵⁴ https://www.unodc.org/documents/data-and-analysis/wildlife/2020/World_Wildlife_Report_2020_9July.pdf

⁵⁵ <https://media.4-paws.org/a/e/4/4/ae445daeb7163daba12521cc1c79a6a71b8fc1e0/FOUR%20PAWS%20Year%20of%20the%20Tiger%20Report.pdf>

⁵⁶ <https://cites.org/sites/default/files/notif/E-Notif-2014-006A.pdf>

While significant progress has been made since this last meeting, poaching and illegal trade remain major threats to the world's rhinos. Some range states have managed to significantly reduce rhino poaching while in others rhino poaching continues at alarming levels. For instance, Doc. 37 Annex 1 reports that from 2017 to 2020, South Africa's white and black rhino populations declined by 7.7 and 7.1 percent, respectively. These losses have been concentrated primarily in Kruger National Park, which lost more than two-thirds of its white rhino population from 2011 to 2019 primarily to poaching.⁵⁷

EIA recommends SC74 to call on CoP19 to direct the Secretariat to reconvene the CITES Rhino Enforcement Task Force in 2023 to reassess the current state of rhino poaching and international rhino horn trafficking, including identifying progress that has been made as well as longstanding and emerging challenges, and to develop updated strategies and commitments to improve international cooperation on addressing rhino poaching and rhino horn trafficking.

Decision 18.111 Directed at China, Mozambique, Myanmar, Namibia, South Africa, and Viet Nam

Namibia, South Africa, and Viet Nam provided detailed written responses to the Secretariat on their implementation of Decision 18.111 which provide useful information on their efforts to address rhino poaching and illegal trade. China, Myanmar, and Mozambique did not submit responses and the Secretariat has recommended that these Parties provide oral reports to SC74. China subsequently provided a quite brief response in SC74 Inf. 4, however more detailed reporting to the Standing Committee would be useful. Oral reports will not provide the Standing Committee adequate opportunity to consider the information provided and formulate recommendations as appropriate. China, Myanmar, and Mozambique should be directed to provide written responses detailing their implementation of Decision 18.111 in time for review by SC75.

EIA welcomes the progress Viet Nam has made regarding prosecution of rhino horn trafficking crimes and its application of the revised Penal Code to secure convictions with strong deterrent sentences. EIA is also encouraged by Viet Nam's multilateral engagement with other Parties affected by rhino horn trafficking, including the sharing of forensic DNA samples with South Africa and issuing and responding to Mutual Legal Assistance requests.

Despite this progress, Viet Nam remains a major destination and transit point for poached rhino horn due to the involvement of Vietnamese-led transnational rhino horn trafficking networks. Most prosecutions and convictions relating to the illegal trade in rhino horn reported by Viet Nam pertain to lower-level criminals, including those arrested in possession of rhino horn at Vietnamese ports of entry. Viet Nam has not made commensurate progress in conducting post-incident or intelligence-led investigations into the organized criminal networks involving Vietnamese nationals, both in Viet Nam and abroad, that are responsible for much of the international illegal rhino horn trade. Additional comments on Viet Nam's international wildlife trafficking enforcement efforts can be found in the NIAP section of this briefing on pg. 8.

EIA appreciates the information provided by South Africa in response to Decision 18.111 (Doc. 37 Annex 3) and shares South Africa's frustration that other Parties are not regularly sharing forensic DNA samples of rhino horn seizures with South Africa for analysis and application to support investigations.

However, South Africa has received rhino horn DNA samples from seizures made in several countries in Africa, Europe, and Asia (see SC74 Doc. 37; SC70 Doc. 56 Annex 14). It is unclear how South Africa is using rhino horn DNA samples received from other Parties to "enhance" and "complement further investigation

⁵⁷ <https://eia-global.org/blog-posts/20210129-drastic-kruger-rhino-decline>

efforts."⁵⁸ South Africa also does not regularly share the provenance of rhino horn seized abroad (e.g., from national parks or private lands; poached rhino horn or stockpiled horn, etc.), and this information could be especially valuable for Parties and relevant stakeholders in developing anti-poaching and anti-trafficking strategies and interventions. EIA is also concerned by the termination of the partnership between the South African Police Service and the University of Pretoria Veterinary Genetics Laboratory, which manages the Rhino DNA Indexing System (RhODIS),⁵⁹ which is the most comprehensive rhino DNA database in existence and is a valuable resource for all enforcement agencies tackling rhino poaching and trafficking.

EIA is concerned that Zimbabwe did not collect DNA samples for any of the 41 rhinos reportedly poached in Zimbabwe from 2019-2021 and notes that Zimbabwe did not provide any details on the outcomes of cases described in Doc. 37 Annex 5 (e.g., prosecution, acquittal, case dismissal).

EIA appreciates the detailed information provided by Namibia in Doc. 37 Annex 2 and supports the Secretariat's recommendation for Namibia to build on the activities it has conducted to date and actively pursue strengthening and expanding its engagement with other countries affected by rhino horn trafficking, especially transit and destination countries in Asia.

Closure of Rhino Horn Markets that Contribute to Poaching or Illegal Trade (Decision 18.116)

Domestic markets for high-value illegal wildlife products like rhino horn stimulate demand, complicate enforcement, present laundering opportunities, and can contribute to illegal international trade. At CoP18, Parties adopted Decision 18.116 directed at Parties where illegal markets for rhino horn exist to encourage Parties to develop demand reduction programs and to close those markets that contribute to poaching or illegal trade. The decision was not accompanied by a reporting requirement and as a result very little information is contained in Doc. 37 about implementation of the Decision, and no information was provided on the closure of legal domestic rhino horn markets that contribute to poaching or illegal trade.

South Africa maintains a domestic rhino horn market that has been shown to contribute to illegal trade. In one high-profile example, the South African authorities seized 181 rhino horns and arrested two individuals in a failed domestic trade transaction that involved forged documentation falsely authorizing transportation of the horns to "South East Asian markets".⁶⁰ A spokesperson for South Africa's Department of Forestry, Fisheries, and the Environment stated in June 2020 that the legal domestic rhino horn trade is being "closely investigated" and that "a number of investigations are under way in relation to the illegal activities that have been detected."⁶¹

Botswana

Botswana, once considered a haven for rhinos, has suffered severe poaching of its wild rhinos that has resulted in catastrophic declines of white and black rhinos in the Okavango Delta. According to the IUCN and TRAFFIC, in 2017 Botswana's total rhino population stood at an estimated 502 rhinos (452 white, 50 black) about half of which could be found in the Okavango Delta.⁶² From 2006-2017 Botswana experienced very low levels of poaching, with no more than two rhinos poached each year and several years with no recorded rhino poaching incidents.

⁵⁸ <https://cites.org/sites/default/files/eng/com/sc/74/E-SC74-37-A3.pdf>

⁵⁹ <https://www.iol.co.za/saturday-star/news/anti-poaching-tool-contract-not-renewed-38048872>

⁶⁰ <https://www.dailymaverick.co.za/article/2020-06-14-i-want-my-horns-back-says-sa-rhino-baron-after-trade-deal-goes-pear-shaped/>

⁶¹ <https://www.iol.co.za/saturday-star/news/controversial-rhino-breeder-temporarily-calls-off-court-action-to-recover-rhino-horns-seized-by-law-enforcement-officials-49783964>

⁶² <https://cites.org/sites/default/files/eng/cop/18/doc/E-CoP18-083-01.pdf>

Rhino poaching began to increase in Botswana in 2018, with as many as 13 rhinos poached. Rhino poaching figures rose dramatically in 2019 and 2020 with an estimated 30 and 62 rhinos poached, respectively, according to official government figures,⁶³ though the true poaching figures may be significantly greater.⁶⁴

Botswana's anti-poaching tactics have consisted primarily of dehorning wild rhinos in the Okavango and a hard-line response to border incursions that has resulted in the deaths of at least two dozen alleged poachers since 2019. These actions have been largely ineffective at curbing rhino killings as poaching continued unabated. In October 2021 Botswana announced a decision to capture any remaining wild rhinos and relocate them to "sanctuaries".⁶⁵ It is unclear what, if any, joint investigations Botswana has undertaken to dismantle the poaching and rhino horn trafficking syndicates responsible for the destruction of the Okavango Delta's rhino population.

Despite the deeply concerning rhino poaching situation in Botswana, no information was provided to the Secretariat by Botswana on any measures and activities it is implementing to address rhino poaching and illegal rhino horn trade in accordance with Decision 18.110.

EIA calls on SC74 to:

- **Recommend CoP19 adopt a decision to reconvene the CITES Rhinoceros Enforcement Task Force in 2023, 10 years after the last meeting of the Task Force**
- **Support the recommendations in paragraph 53 with the exception of b)**
- **Direct China, Mozambique, and Myanmar to provide written responses to the Secretariat detailing their implementation of Decision 18.111 in time for review by SC75**
- **Recommend CoP19 renew and amend Decision 18.116 to including a requirement for Parties to report on implementation in time for review by SC77**
- **Direct Botswana to report on any measures and activities it is implementing to address rhino poaching and illegal trade in accordance with Decision 18.110, including any intelligence-led joint investigations into organized criminal networks, to the Secretariat in time for review by SC75**
- **Direct Viet Nam to provide an update to its report contained in Doc. 37 Annex 4 to SC75 focused on investigations into organized criminal networks responsible for trafficking rhino horn into the country, including details on prosecutions and convictions**
- **Direct South Africa to provide information to SC75 on how it utilizes rhino horn DNA samples received from other Parties to support investigations, including how such samples contributed to successful prosecutions**
- **Request Zimbabwe to explain why no DNA samples were retrieved from any of the 41 rhinos reportedly poached from 2019-2021 and to provide details on the outcomes of cases described in Doc. 37 Annex 5 in time for review by SC75**
- **Recommend Namibia increase collaboration with destination countries associated with illegal rhino horn trade and to report to SC75 on any activities conducted in this regard**

SC74 Doc. 38 and SC74 Inf. 2: Domestic markets for frequently illegally traded specimens

EIA supports the recommendations in SC74 Doc. 38 and would draw the attention of the Standing Committee to these additional points of concern:

⁶³ <https://www.facebook.com/614453431965665/photos/a.1410466085697725/4558698134207822/>

⁶⁴ https://www.voanews.com/a/africa_botswana-denies-120-rhinos-poached-18-months/6202757.html

⁶⁵ <https://www.bloomberg.com/news/articles/2021-10-23/botswana-moves-rhinos-out-of-okavango-delta-as-poaching-worsens>

China

EIA is concerned that the current laws and regulations of China allow the sale and utilisation of seized parts and derivatives of CITES Appendix I species, thus reaffirming the commercial value of such items and sustaining the market. We are aware that in November 2021, the Chinese government published a draft management guideline for seized and confiscated wildlife specimens, for public consultation. Standing Committee should seek an update at SC75.

As noted in SC74 Inf. 2, the revision of China's Wildlife Protection Law was initiated in 2020 but no progress has been made since the public consultation of the first draft in 2020. The trade exemption for "scientific research, captive breeding, public exhibition or performance, heritage conservation, or other special purposes" in the effective Law continues to permit commercial overexploitation of CITES Appendix I species such as leopards and pangolins for medicinal use.

Thailand

EIA notes that Thailand is now addressing the issue of non-native CITES-listed species which are excluded from the list of 'controlled species' by publishing a draft Ministerial Regulation that expands the list of protected species. However, this list remains incomplete and does not guarantee protections in line with Decisions 17.87 and 17.88.

Regarding paragraph 183 in SC74 Inf. 2, regarding proof of legal origin for possession and domestic trade, EIA is concerned that even legal avenues for import may create opportunities for illegal activity. For example, facilities designated as "zoos" can import Appendix I species for 'conservation' purposes, but in fact may be used for commercial purposes given that Thai law does not distinguish between 'primarily non-commercial' and 'commercial' purposes. This omission in regulations was previously noted in relation to the export of CITES Appendix I species by Thailand⁶⁶. This ties closely to other issues linked to Thai "zoos", such as intentional breeding portrayed as 'natural breeding', which has implications for further exploiting CITES Appendix I species.

EIA calls on SC74 to:

- **Urge China to abolish the exemptions that allow domestic trade in CITES Appendix I species for medicinal and ornamental use, and any exemptions that enable the sale of confiscated Appendix I species, and report to SC75**
- **Urge Thailand to expand the 'controlled list' to all CITES-listed species in Thailand, including non-native and hybridised Appendix I species, which are currently not protected, and report on progress to SC75**

SC74 Doc. 39: Closure of domestic ivory markets: Report of the Secretariat

Paragraph 3 of Resolution Conf. 10.10 (Rev. CoP18) recommends that all Parties and non-Parties in whose jurisdiction there is a legal domestic market for ivory that is contributing to poaching or illegal trade, take all necessary legislative, regulatory and enforcement measures to close their domestic markets for commercial trade in raw and worked ivory as a matter of urgency. At CoP18, a decision was taken by consensus requesting Parties that have not closed their domestic ivory markets to report to the Secretariat

⁶⁶ <https://cites.org/sites/default/files/eng/cop/12/doc/EI2-33A.pdf>

by SC73 and SC74 on the measures they are taking to ensure that their domestic ivory markets are not contributing to poaching or illegal trade.

Japan

Japan's ivory market was scrutinized at CoP18 with Parties expressing concern about illegal exports of ivory from Japan to China. The available evidence, including ivory seizure data, clearly indicates that Japan's legal market is contributing to international *illegal* ivory trade. EIA has recorded over 5.4 tonnes of illegal ivory exported from Japan since 2000, with the vast majority seized by China Customs. Between January 2018 and December 2020 there were at least 76 seizures of Japanese ivory made abroad, primarily in China but also in Taiwan and Viet Nam.⁶⁷ EIA encourages the MIKE and ETIS Technical Advisory Group (TAG) to report on its analysis and interpretation of the detailed data on seizure cases related to Japan before SC75 so Parties can examine Japan's role in the international illegal trade in ivory.

In addition to being a market contributing to illegal international trade, the domestic market is also open to abuse. As EIA has highlighted repeatedly, Japan's domestic ivory market controls are riddled with regulatory loopholes that enable unregistered, and thus illegal, ivory to easily make its way onto the market.⁶⁸ Despite amendments to Japanese law in 2018 aimed at improving ivory trade controls, significant loopholes remain that facilitate illegal trade, the most egregious of which apply to cut pieces of ivory, which do not need to be registered and thus can easily be laundered.

The United Kingdom of Great Britain and Northern Ireland (UK)

The UK passed a ban on ivory trade in December 2018 following EIA investigations that revealed the UK as the world's leading exporter of antique ivory, particularly to China and Hong Kong SAR- two trade hotspots for illegal ivory. The ban has yet to come into force and EIA urges SC74 to call on the UK to rapidly implement the ban in recognition of the fact that endangered elephants are still being poached and it has been a three-year period since the Act received Royal Assent.

The European Union (EU)

EIA welcomes recent announcement on revised legislation and new guidance on restricting trade in both raw and worked ivory from the European Commission in December 2021. However, we remain concerned that most of the new restrictions are not legally binding and it is the responsibility of each EU State Members to implement them, though there are no monitoring provisions in place to evaluate this.

As long as domestic ivory markets remain open, specific reporting to ensure that markets are not contributing to poaching or illegal trade will be critical. As such, EIA feels the conclusion that Decisions 18.117-18.119 have been fully implemented is inappropriate and that further reporting is needed. Additionally, EIA does not support the Secretariat's conclusion in para 28 that "it may be advisable to limit recommendations on legal ivory domestic markets within the scope of the Convention." There is established precedent that demonstrates recommending or urging the closure of domestic markets falls within the scope of the Convention.

EIA calls on SC74 to:

- **Oppose the Secretariat's recommendation to agree that Decisions 18.117-18.119 have been fully implemented and recommend updating these Decisions**

⁶⁷EIA. (2020) Japan's Illegal Ivory Exports. Available at: <https://eia-global.org/japansillegalivoryexports>

⁶⁸EIA. (2018) Persistent Problem: Japan's Domestic Ivory Trade including Infographic on Japan's Ivory Trade Loopholes. <https://eia-global.org/reports/20190807-persistent-problem-japan-domestic-ivory-trade>

- Direct the MIKE and ETIS Technical Advisory Group to report on its analysis of seizures related to Japan before SC75
- Request CoP19 to adopt a decision urging Parties with legal domestic ivory markets that contribute to illegal trade or poaching, including Japan, to close their markets urgently
- Direct the UK to implement its Ivory Act as a matter of urgency
- Direct the European Commission to include provisions to monitor the implementation of the new restrictions by EU Member States.
- Direct Nigeria to introduce legislative and regulatory measures to close the domestic legal ivory market, in particular closing loopholes in Lagos state's Wildlife Preservation Law of 1959 (as amended in 1972)

**SC74 Doc. 59.1 Registration of the operation Earth Ocean Farms. S. de R.L. de C.V. (Mexico)
breeding *Totoaba macdonaldi***

EIA urges SC74 to deny or delay the registration of captive breeding EOF for totoaba for the following reasons.

It is biologically reckless and inappropriate to authorise the commercial trade in totoaba when illegal fishing and trade in totoaba from Mexico is ongoing and rampant⁶⁹ and when another Appendix-I species, the vaquita porpoise, is near extinction (approximately eight animals remain⁷⁰), largely due to entanglement in illegally-set totoaba gillnets. Illegal totoaba trade is being considered as a compliance issue at SC74 and EIA firmly believes that SC74 should not simultaneously authorise trade in the species. Legal trade of captive-bred totoaba could provide cover for laundering of illegally caught, wild totoaba and complicate law enforcement efforts.

Mexico's application has been highly unusual and could set a dangerous precedent if approved. Mexico made a significant, critical change to its original registration request, raising concerns about consistency with Resolution Conf. 12.10's procedural requirements. The original application proposed trade in totoaba including swim bladders, and now asserts that "[a]t the moment the commercialization and export of the maw (or swim bladder) is not contemplated" while indicating its desire for "possible future commercialization" of maw.⁷¹ Yet Mexico has not amended its application to confirm this change or begun the process anew. EIA believes this inconsistency places SC members in the untenable position of making decisions about commercial trade in an Appendix-I species based on vague assurances from Mexico that are not included in the official application. Moreover, Mexico states it will only destroy its current maw stockpile if the EOF registration is approved and will thereafter only destroy maws until Mexico, with the endorsement of the Standing Committee ... establishes a safe procedure" for bladder storage.⁷² It is unclear how the SC would provide such endorsement.

The conservation benefit of the facility has not been demonstrated.⁷³ Mexico's report concedes that "the final recruitment success of the released juveniles is not known" and the results of a project assessing the

⁶⁹ <https://iucn-csg.org/vaquitas-seen-in-autumn-2021-survey/>

⁷⁰ <https://iucn-csg.org/wp-content/uploads/2022/02/Vaquita-Expert-Elicitation-2021-Report-Final.pdf>

⁷¹ SC74 Doc. 59.1.2 at 9, 11.

⁷² *Id.* at 11.

⁷³ Resolution Conf. 12.10 (RevCoP15), Annex 1 at 15.

purported conservation benefits are expected in “the second half of 2022.”⁷⁴ There is presently no evidence that EOF is contributing to the conservation of totoaba in the wild.

Authorising legal commercial trade in totoaba conflicts with CITES Decision 18.292 directing parties to reduce demand for totoaba products and CITES Decision 18.294 to study the implications of a legal trade in totoaba. SC71 delayed a decision on the EOF registration because, in part, “it would be imprudent to make a decision before the results of ... the study analyzing the potential impact of legal trade in totoaba could be considered in detail.”⁷⁵ That study is still not complete and approving the registration remains premature and imprudent.

Concerns raised by the United States and Israel’s objections to the registration remain unresolved, including the adequacy of the proposed marking system and inspection and monitoring procedures.⁷⁶ Specifically, Mexico’s inspection and monitoring procedures have either not been implemented or are not sufficient “to confirm the identity of the breeding stock and offspring and to detect the presence of unauthorised specimens ... being exported.”⁷⁷ Mexico admits genetic analysis of samples will only be a “back-up for special operations ... and will not be done continuously.”⁷⁸ Mexico also does not appear to have the forensic capacity to conduct such analyses, it has not implemented relevant capacity building or finalised protocols for joint enforcement actions, which is particularly troubling given Mexico’s failure to enforce other totoaba trade controls.⁷⁹

EIA calls on SC74 to:

- **Deny the registration of Operation Earth Ocean Farms (Mexico) Breeding *Totoaba macdonaldi*.**

SC74 Doc 61: Ivory stocks and stockpiles (elephant ivory)

Paragraph 7 of Resolution Conf. 10.10 (Rev. CoP18) urges “*those Parties in whose jurisdiction there is an ivory carving industry, a legal domestic trade in ivory, an unregulated market for or illegal trade in ivory, or where ivory stockpiles exist, and Parties designated as ivory importing countries to maintain an inventory of government-held stockpiles of ivory and, where possible, of significant privately held stockpiles of ivory within their territory, and inform the Secretariat of the level of this stock each year before 28 February*”.

Decision 18.182 adopted at CoP18 requested SC73 to “review and consider for approval the practical guidance prepared by the Secretariat for the management of ivory stockpiles, including their disposal”. However, due to a lack of time, this agenda item was not discussed at SC73, though some input from certain Parties was received. The Working Group on ivory stockpiles has taken this feedback on board and revised the document which was first drafted by the Secretariat. As a result, a final version of the document including “Practical guidance on ivory stockpile management” and “Review of elephant destruction methods” was made available.

Viet Nam

⁷⁴ SC Doc. 59.1.2 at 10.

⁷⁵ SC71 Summary Record at 14 at 17.

⁷⁶ Resolution Conf. 12.10 (Rev. CoP15), Annex 1 at 12-13, 14.

⁷⁷ *Id.*, Annex 1 at 13.

⁷⁸ SC74 Doc. 59.1.1 Annex 4a at 5e.

⁷⁹ *Id.*, Annex 4a at 5e, 7.

Since 2014, Viet Nam has failed to submit regular annual reports to the CITES Secretariat on its ivory stockpile as required under Resolution Conf. 10.10 (rev. CoP18)⁸⁰ due to the absence of an adequate inventorying and management system for ivory and other illegal wildlife. Viet Nam's NIRAP does not also include commitments to tackle security concerns related to its stockpiles.

As of January 2022, based on EIA seizure data, it is estimated that Viet Nam's seized stockpile includes at least 72 tonnes of ivory (excluding 2.2 tonnes of ivory destroyed in 2016).⁸¹ Due to inadequate control and security measures, nearly 240 kg of ivory were stolen in 2017.⁸² On 23 July 2020, Prime Minister Nguyen Xuan Phuc issued Directive No. 29/CT-TTg under which the Ministry of Finance and Ministry of Agriculture and Rural Development have been tasked to develop plans for the destruction of Viet Nam's large stockpiles of confiscated ivory and rhino horn and Viet Nam's implementation of this directive should be monitored.⁸³ This is a positive step, though EIA calls on SC74 and Viet Nam to ensure that stocks are only destroyed following a comprehensive and transparent audit.

Nigeria

Since 2014, Nigeria has failed to submit reports on its ivory stockpiles to the CITES Secretariat.⁸⁴ In its revised NIAP, there has been little information regarding sharing access and information with independent third parties to ensure that growing ivory stockpiles and other contraband wildlife do not leak into the market. As of January 2022, according to EIA seizure data, Nigeria seized a stockpile of at least eight tonnes of ivory and 47 tonnes of pangolin scales.

Nigeria's stockpile management is opaque and is believed to be held by multiple agencies including the Federal Ministry of Environment, National Environmental Standards and Regulations Enforcement Agency (NESREA), Nigeria Customs Service, and Nigeria Postal Service. While there is an initiative underway to inventory the ivory stockpiles, this is understood to be limited to a small portion of the seized ivory maintained by the Federal Ministry of Environment. Stockpiles held by Customs are expected to be inventoried in 2022 and it is vital this information is made available for transparency and analysis. In addition, there is also a need to have a transparent corruption-proof CITES certification process to prevent ivory stockpiles from leaking into the market.

EIA calls on SC74 to:

- **Adopt the two documents “Practical guidance on ivory stockpile management” and “Review of elephant destruction methods” as suggested by the Working Group**
- **Request Viet Nam to submit its report on management of ivory stockpiles in accordance with Resolution Conf. 10.10 (rev. CoP18) by SC75**
- **Request Nigeria to submit its report on management of ivory stockpiles in accordance with Resolution Conf. 10.10 (rev. CoP18) by SC75**

SPECIES SPECIFIC MATTERS

⁸⁰ CoP17 Doc.57.6 (Rev.1) Annex

⁸¹ <https://www.reuters.com/article/us-vietnam-wildlife/vietnam-destroys-mass-rhino-horns-and-elephant-ivory-idUSKBN1370G8>

⁸² <https://www.traffic.org/news/former-hanoi-customs-officer-gets-16-years/>

⁸³ <https://english.luatvietnam.vn/chinh-sach/chi-thi-29-ct-ttg-2020-giai-phap-cap-bach-quan-ly-dong-vat-hoang-da-187252-d1.html>

⁸⁴ CoP17 Doc.57.6 (Rev.1) Annex

SC74 Doc. 68: Implementation of Res Conf 10.10 (Rev. CoP18): Report of the Secretariat

EIA urges SC74 to note that ivory trafficking is still ongoing, despite an apparent drop in the seizure of (worked) ivory as noted in the ETIS report in Doc. 68. Indeed, seizures of raw ivory have remained high indicating that the ivory supply chain is still very active. An apparent drop in 2020, especially in worked ivory, has likely been affected by the Covid-related reduction in international travel. It is important to note that wildlife crime networks have continued to source, stockpile and export large volumes of ivory from Africa to Asia, as exemplified by the seizure of approximately six tonnes of ivory in Nigeria in 2021 alone, and EIA urges caution in prematurely concluding that poaching or trafficking is declining. Regarding the African Elephant Expert Group report on the status of African elephants, EIA encourages the SC to note the Red List assessment of Endangered and Critically Endangered for savanna and forest elephants respectively.

SC74 Doc. 69: CITES Big Cats Task Force (Felidae spp.): Report of the Secretariat

EIA welcomes the report of the Secretariat and the revised Terms of Reference and would welcome the opportunity to participate as a member of the Task Force. We would echo the detailed recommendations prepared by the Species Survival Network⁸⁵ and request that the Standing Committee ensure that the ToR and *modus operandi* address:

- The role of domestic markets in driving illegal trade and stimulating demand
- The trade in live animals as well as parts and derivatives
- The need for the Task Force report to subsequent Standing Committee meetings in addition to SC75

EIA calls on SC74 to:

- **Consider amending the ToR and modus operandi of the Big Cat Task Force to include key elements as outlined in Annex 2 of this document and the Species Survival Network's Digest for SC74**

SC74 Doc.73: Pangolins (*Manis* spp.)

Conservation status of pangolin species

There is extreme uncertainty surrounding the numbers of pangolins in the wild owing to the lack of field surveys, difficulties in detecting pangolins in their habitat and extremely high levels of illegal trade in pangolin scales. This gap highlights the urgency with which policymakers and law enforcement authorities must act to save the species from extinction.

EIA calls on SC74 to:

- **Direct Parties and pangolin range states to dedicate resourcing and capacity to the assessment and monitoring of in-situ pangolin populations, as per Resolution Conf. 17.10**
- **Propose an amendment to Conf. 17.10 to instruct Parties to regularly report on the status of pangolins in the wild, their conservation and trade controls in place and on implementation of Resolution Conf. 17.10 for each Standing Committee and Conference of Parties**

China's legal commercial trade in pangolin scales

⁸⁵ Provided as Annex 2 to this document

The 2020 World Wildlife Crime report concludes that 71 per cent of pangolin scale seizures that took place between 2007 and 2018 were destined for China to meet consumer demand for traditional Chinese medicine (TCM) containing pangolin scales. This pattern has continued and between 2019 and 2021- there were 13 large-scale shipments (weighing more than 500kg each) with a total weight of 55 tonnes seized either in or en-route to China.⁸⁶ Given China's position as the world's largest consumer of pangolin scales, EIA is unsatisfied with the level of consideration for the role of legal domestic markets in Resolution Conf. 17.10 in driving the illegal trade in pangolin scales.

Despite the removal of raw pangolin scales from the Pharmacopeia of the People's Republic of China in 2020, medicines containing pangolin scales continue to be manufactured and sold. As of 2020, a minimum of 165 medicines containing pangolin scales were publicly available online for sale in China.⁸⁷ Further, exemptions in China's Wildlife Protection Law (2018), such as Article 27, allow for the commercial use of species subject to special State protection. This exemption gives provincial forestry departments the authority to permit pharmaceutical companies and hospitals to use pangolin scales from Government verified but privately held stockpiles in the manufacture of TCM products.

In October 2020, the Chinese Government issued a draft revised version of its Wildlife Protection Law⁸⁸; yet this revised version maintains existing exemptions allowing for the commercial use of species subject to special State protection, such as pangolins (in Article 30). As of February 2022, the revisions have not been adopted by China's National People's Congress. This is an opportunity for stakeholders to urge the Chinese Government to end the use of pangolin scales in TCM.

EIA calls on SC74 to:

- **Propose an amendment to Resolution Conf. 17.10 to incorporate language calling for the closure of domestic markets as per the example of Resolution Conf. 12.5 (Rev. CoP18) on Asian big cat species and Resolution Conf. 10.10 (Rev. CoP17) on elephant ivory**
- **Propose an amendment to Resolution Conf. 17.10 to encourage Parties with high levels of consumer demand for pangolin scales such as China to take steps towards eliminating this demand, including by closing legal domestic markets, and encourage such Parties to report on these measures to SC75 and CoP19.**

Pangolin scale stockpile management

China

Since 2008, China has operated a legal stockpile distribution system of pangolin scales for traditional Chinese medicine manufacture. As of 2014, there has been no data published regarding pangolin scale allocations or stockpile volume.⁸⁹ According to SC74 Doc. 73, China's response to Notification to the parties No. 2014/059 declared an unknown volume of pangolin scale stockpiles. Stockpile management is not centralised as private holdings are permitted. Furthermore, traceability of the origins of stock is difficult as there exists no requirement to declare sources during the stages of trading, processing and sale. This poor

⁸⁶ EIA Global Crime Tracker

⁸⁷ EIA Smoke and Mirrors

⁸⁸ EIA. 2020. Translation of China's 2020 draft Wildlife Protection Law

⁸⁹ EIA Smoke and Mirrors

management of stockpiles leaves the system vulnerable to exploitation and leakage, as demonstrated in the case of a Beijing pharmaceutical company that laundered 1,491kg of illicitly sourced pangolin scales.⁹⁰

Viet Nam

CoP18 Doc.75⁹¹ noted that pangolin trafficking is taking place at an industrial scale, and Viet Nam plays a key role in this trade. The 2020 World Wildlife Crime Report also identified Viet Nam as the world's largest import hub for pangolin scales arriving from Africa and as a conduit for illicit pangolin specimens entering China. As of February 2022, based on EIA data, it is estimated that Viet Nam's seized stockpile includes at least 60 tonnes of pangolin scales though there is no adequate system for inventorying and managing confiscated pangolin scales in Viet Nam.

EIA calls on SC74 to:

- **Urge Parties including China and Viet Nam to practice transparency as to the amount, sources, uses and management of the stockpiled pangolin specimens and to destroy such specimens as soon as possible in accordance with Resolution Conf. 17.10**

Law enforcement issues

Since 2019, at least 171 tonnes of pangolin scales have been seized globally.⁹² Despite numerous high-level commitments made to combat pangolin trafficking in Africa and Asia, only a few jurisdictions have these filtered down to strategic and well-coordinated criminal justice responses. Furthermore, some countries, for instance Nigeria, lack well-developed wildlife legal frameworks and clear institutional arrangements through which to combat transnational pangolin trafficking. This prevents effective multi-agency coordination between relevant agencies such as wildlife, police, customs, financial intelligence, anti-corruption and prosecutorial authorities.

Regarding international cooperation, there has been limited effective cooperation between countries due to a lack of coordinated multi-/bi-lateral intelligence sharing regarding pangolin trafficking networks. Despite its role as the world's largest import hub for pangolin scales, Viet Nam has limited cooperation with source and transit countries in Africa such as Nigeria to conduct investigations into seizures of pangolin scales. Since 2018, there have been at least 11 large-scale seizures (500kg and over) amounting to 42 tonnes of pangolin scales made at seaports in Viet Nam (see Table 1, page 9); yet none of them have resulted in any arrests or prosecutions.

Public and private sector corruption across the Africa to-Asia supply chain also plays a key role in enabling the trafficking of pangolins and their parts and derivatives.⁹³ Resolution Conf. 17.6 on 'Prohibiting, preventing, detecting and countering corruption' recognises the role of the UN Convention Against Corruption (UNCAC) in providing signatories with options to prevent corruption. Significant potential exists for countries experiencing high levels of pangolin trafficking such as Nigeria, Democratic Republic of Congo (DRC) and Viet Nam to better uphold their commitments under UNCAC. However, progress to address the corruption that facilitates pangolin scale trafficking remains unacceptably slow.

EIA calls on SC74 to:

⁹⁰ http://www.legaldaily.com.cn/index/content/2021-05/18/content_8508546.htm

⁹¹ CoP18 Doc.75

⁹² EIA Global Crime Tracker

⁹³ Targeting Natural Resource Corruption. 2020. Corrupting trade: An overview of corruption issues in illicit wildlife trade

- **Urge Parties to resource and conduct post-seizure and intelligence-led investigations into transnational pangolin trafficking networks operating, including the use of ancillary legislation such as those for anti-money laundering and organised crime in accordance with Resolution Conf. 17.10**
- **Urge Parties to conduct international law enforcement investigations and action, particularly within and between the African and Asian continents in accordance with Resolution Conf. 17.10**
- **Urge Parties to implement anti-corruption measures to combat wildlife trafficking in accordance with Resolution Conf. 17.6**

SC74 Doc. 78: Saiga antelope (*Saiga spp.*): Report of the Secretariat and the Animals Committee

EIA is disappointed by the poor response to the Secretariat's request for information on implementation of Decisions 18.270 and 18.271 paragraph d) by saiga range states, none of which provided any information, and by important consumer and trading countries of saiga parts and derivatives. China, Hong Kong SAR, and Japan provided responses to the Secretariat, however at time of writing, Annex 4 containing their complete responses has not been published on the CITES website.

According to the Secretariat's summaries of the responses received from China, Hong Kong SAR, and Japan, none provided any information on the size of government and/or significant privately held saiga stockpiles. EIA is concerned that Hong Kong SAR is unable to provide any information on the size and nature of its saiga stockpiles because licenses are not required to possess saiga parts and derivatives.

A lack of transparency on the size, management, and consumption (including domestic consumption and export/re-export) of saiga stockpiles significantly constrains efforts to determine the degree to which these stockpiles contribute to the illegal trade of saiga specimens. The Fourth Meeting of the Signatories of the Memorandum of Understanding concerning Conservation, Restoration and Sustainable Use of the Saiga Antelope (*Saiga spp.*) identified a failure to monitor stockpiles as one of the conservation challenges and threats to saiga. As reported in Doc. 78, saiga range states stopped commercial exports of saiga specimens "around 2005", and it is concerning that multiple tonnes of saiga specimens continue to be exported and re-exported despite there having been no legal source for stockpile replenishment in trading and consumer states available for 17 years. Information on stockpile size and consumption should be provided in any review of saiga stockpiles.

Range and consumer states continue to seize saiga horn, often in large quantities, underscoring the continued risk that illegal saiga horn trade presents to the survival wild saiga populations. For example, in 2019 China made what was reportedly its largest saiga horn seizure ever when it recovered 5,041 saiga horns weighing a total of 1,005.76 kg in a warehouse belonging to a pharmaceutical company in Jilin province.⁹⁴

EIA is seriously concerned by the export of nearly 1.5 tonnes of saiga horn from Ukraine to China in 2019. As Ukraine is not a saiga range state, it is unclear how it could have amassed such a large quantity of saiga horn for export. EIA welcomes the Secretariat's inclusion of Ukraine in its upcoming review of stockpile management practices and encourages the Standing Committee to invite Ukraine to provide more information on the nature of its saiga horn exports to SC74.

EIA calls on SC74 to:

⁹⁴ http://qyj.365jilin.com/pad/paper/c/202011/26/content_21337.html

- **Support the draft decisions in Annex 2 and the proposed amendments by the Secretariat in paragraph 41 and recommends draft decision 19.BB(b) be further amended to read “...management of stockpile specimens; size of government stockpiles and significant privately held stockpiles; review processes and practices...”**
- **Invite Ukraine to provide more information on the nature of the nearly 1.5 tonnes of saiga horn exported to China in 2019**
- **Urge Hong Kong SAR to make the necessary changes to its domestic legislation so that it is able to effectively monitor the management and size of its saiga horn stockpiles, and to report any activities conducted in this regard to the Standing Committee**

Annex 1 NGO suggestions on the implementation of CITES Decision 18.108

Recognizing implementation of Decision 18.108 has been impeded by Covid restrictions our organizations propose the following approach to help fulfil this Decision. The Secretariat, in consultation with the Standing Committee, should:

1. Develop a Terms of Reference (ToR) through a consultative process led by enforcement experts, including those with prior experience conducting inspections of captive big cat facilities, as well as experts in running not-for-profit sanctuaries / rescue centers and international scientific conservation breeding studbook programs, IUCN Cat Specialist Group members and other stakeholders with expertise in tiger and other Asian big cat conservation and trade issues.
2. Ensure those Terms of Reference (ToR) / Guidance for the Missions under Dec 18.108 will enable the missions / Secretariat to:
 - 2.1 Assess the outcome / impact of legal proceedings or other actions against facilities of concern previously identified as being implicated in domestic and international trade in Asian big cats, their parts and derivatives.
 - 2.2 Develop and apply a series of trade opportunity and risk indicators relating to facilities of concern and their:
 - 2.2.1 business practices including, for example: a clear articulation of what the primary purpose of the facility is/ registered as; whether it is open to the public or private; cases of retrospective issuance of licences ; information needed to determine the economic and financial feasibility of the stated purpose (standard operating procedures, location of facility, ticket sales, infrastructure for catering for visitors); onsite sale of products which may be produced using captive Asian big cats (i.e. “special bone wine”, “tiger bone glue”, teeth, claws, skins); affiliated businesses (other facilities keeping tigers / Asian big cats, wineries, taxidermists, bone glue processing, restaurants, supply of tiger / Asian big cat parts and products to retail / wholesale /hospitals etc); other species kept, bred and sold; and other financial accounting
 - 2.2.2 environment, security and husbandry practices including, for example: greater detail on how records are kept, data management and reporting done; greater detail in terms of how the stock/inventory system is run and how it is audited; security in terms of transport, storage and disposal; the photographic, marking/tagging, DNA forensics and other identification systems used to monitor individual specimens during their lifetime (birth, death, transfer, sale, disposal); whether the tigers are part of a regional / international scientific accredited studbook breeding programme for

conservation (maintaining genetic diversity, protecting natural behaviour traits); whether the facility is a bona fide sanctuary (prohibiting breeding, buying, selling, handling of tigers / Asian big cats by visitors); how many cubbing dens present; are sexes separated or sterilized; are tigers / Asian big cats managed in such a way as to indicate they are not being kept or bred for conservation purposes (e.g. kept in unnatural groups or exhibiting unnatural behaviours; habituated to people, handled by visitors, handled unnecessarily by staff, inadequate veterinary care and welfare standards)

- 2.3 Assess the national legal frameworks, information management techniques and inspection protocols currently in place, including, for example: whether legislation restricts who can keep and breed tigers and other Asian big cats to conservation purposes, how that is defined and monitored; whether legislation enables domestic trade in parts and derivatives and/or if any existing trade bans are clear and unequivocal; whether legislation is sufficient to prohibit domestic trade in derivatives that are claimed to be or marketed as containing tiger and other Asian big cats; status of national centralized systems for recording individual identifier information (e.g. DNA, photographic, tag number), births, deaths, transfers, sales, disposal and how that information is used during audit processes; how is this information used to support national or international enforcement efforts; which agencies have authority to conduct scheduled and unannounced inspections; is there a time-bound action plan for phasing out captive tiger facilities that run counter to Decision 14.69 and 17.226;
- 3 The missions should be conducted at the earliest opportunity allowed by COVID-19 restrictions and include appropriate experts. In the event a lack of funding or COVID-19 travel restrictions persist, the Secretariat in consultation with the Standing Committee should develop and disseminate a comprehensive questionnaire for countries with facilities of concern, adapted from the ToR for the missions, as an interim measure to inform interim SC recommendations until such time as missions can be completed.
- 4 Following the missions, or the questionnaire, in order to determine if additional interim approaches are required, the Secretariat should:
 - 4.1 Provide a report / compiled responses from the questionnaire, for review and input from the membership of the IUCN SSC Cat Specialist Group, CITES Animals and Standing Committees, other Parties, NGOs and IGOs with expertise on tigers, enforcement experts and individuals with experience inspecting tiger farms and keeping captive Asian big cats for rescue and conservation purposes;
 - 4.2 consult with experts as above to:
 - 4.2.1 prepare a report for the next Standing Committee meeting⁹⁵ with any time-bound, country-specific recommendations required to implement Dec 14.69, 17.226 and para 1 (h) of Res Conf 12.5 (Rev CoP18), for the Committee to consider;
 - 4.2.2 prepare guidance for Parties to assist the phase-out of captive facilities in compliance with Dec 14.69 and assist law enforcement and other authorities in monitoring captive facilities to prevent trade during the phase-out.

⁹⁵ In the original letter to the CITES Secretariat in August 2021, this was CITES SC74

Animals Asia Foundation

Animal Defenders International

Animal Welfare Institute

Aaranyak

Bagh Aap Aur Van (including Dr Raghu Chundawat, member of the IUCN SSC Cat Specialist Group)

Big Cat Rescue

Born Free Foundation

Born Free USA

Cat Action Treasury (including Kristin Nowell, member of the IUCN SSC Cat Specialist Group)

Center for Biological Diversity

Centre for Wildlife Studies, Bangalore (including Dr Ullas Karanth, member of the IUCN SSC Cat Specialist Group)

China Biodiversity Conservation and Green Development Foundation (Biological and Scientific Ethics Committee, BASE)

David Shepherd Wildlife Foundation

Ecojust

Education for Nature Vietnam

EMS Foundation

Environmental Investigation Agency

Fauna and Flora International

Fondation Brigitte Bardot

Fondation Franz Weber

Four Paws

Freeland Foundation

Humane Society International

International Fund for Animal Welfare

Japan Tiger and Elephant Fund

Japan Wildlife Conservation Society

Monitor Conservation Research Society (including Dr Chris Shepherd, member of the IUCN SSC Cat Specialist Group)

Pan African Sanctuary Alliance

Panthera (including Dr John Goodrich, member of the IUCN SSC Cat Specialist Group)

Performing Animal Welfare Society

Pro Wildlife

Re:wild

Robin des Bois

Sanctuary Nature Foundation

Satpuda Foundation

Save Wild Tigers

Species Survival Network

The Corbett Foundation

Tiger Watch

WildAid

WildCrime

WildTiger

Wildlife Conservation Society

Wildlife Conservation Trust

Wildlife Friends Foundation Thailand

Wildlife Friends International

Wildlife Justice Commission

Wildlife Protection Society of India (including Belinda Wright, member of the IUCN SSC Cat Specialist Group)

Wildlife Society of Orissa

Wildlife Trust of India

World Animal Protection

WWF

Annex 2: Species Survival Network, recommendations regarding SC74 Doc. 69 CITES Big Cat Task Force

Noting that there are domestic markets that license the manufacture and sale of leopard bone medicines⁹⁶, that Decision 14.69 stipulates that “tigers should not be bred for trade in their parts and derivatives”, and that Decision 18.245 does not restrict the scope of Task Force activities to practical enforcement matters alone, consideration should be given to the connections between domestic markets, legal frameworks and illegal trade. The following text should be included as an additional Activity: x) consider in its deliberations any interrelatedness between both legal and illegal domestic markets and associated legal frameworks, and their potential role in driving illegal trade and stimulating demand.

Reference to demand reduction in 1(h) is only in connection with parts and derivatives, but since cheetah is a priority species under the Task Force and the trade of highest concern is in live specimens, ‘live big cats’ should be included in demand discussions

In line with the first amend above, an additional Outcome might be: y) an improved understanding of any connections between both legal and illegal domestic markets and illegal trade, and their implications for law enforcement;

In order to facilitate responsiveness and timely action, as well as to synergise Task Force activities with existing CITES processes such as the implementation of Decision 18.109, the following Output should be generated: (z) as appropriate, time-bound, country specific recommendations for consideration by the Standing Committee

The Task Force Meeting Agenda should be developed in conjunction with its membership, and this stipulated under para 14: The meeting agenda will be developed by the Secretariat, in conjunction with the Task Force membership.

The Task Force should keep the Standing Committee informed of its discussions, conclusions and actions via a report to each meeting, rather than to SC75 alone.

⁹⁶ <https://eia-international.org/report/bitter-pill-to-swallow-chinas-flagrant-trade-in-leopard-bone-products/>