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signed by Mr Jordi AYET PUIGARNAU, Director

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To: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European
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**COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE
EUROPEAN PARLIAMENT**

on the EU Approach against Wildlife Trafficking

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1. THE NEW FACE OF WILDLIFE TRAFFICKING: A DRAMATIC CHANGE IN NATURE, SCALE AND IMPACT

The world is currently facing a significant surge in illegal cross-border trade in wild fauna and flora (wildlife trafficking). It has become one of the most profitable criminal activities globally. Wildlife trafficking is not a new phenomenon, but its scale, nature and impacts have changed considerably over the last years. A recent UN Resolution¹ identified wildlife trafficking as a "serious organised crime" committed by the same types of global organised criminal groups responsible for activities such as trafficking in human beings, drugs and firearms. With some militia groups using it for funding their activities, there has been recognition by the UN Secretary General and within the Security Council that poaching and trafficking of wildlife are among the factors that fuel instability in Central Africa and menace peace and security in the region.²

Some figures on volume and value of Wildlife Trafficking³

- The number of African elephants illegally killed has doubled over the last decade, and the quantity of ivory seized has tripled, according to estimates. In 2012, poachers killed approx. 22000 elephants. More than 40 tons of illegal ivory were seized in 2013. The population of African elephant, estimated to reach 500 000, is now likely to be in decline in all African sub-regions.
- Rhinoceros poaching has sharply escalated in South Africa. More than 1000 animals were poached in 2013 compared to 13 in 2007. In total, since 2010, about 2500 specimens have been poached in South Africa, which accounts for 80% of the whole population of African rhinoceroses. If poaching continues to increase at the same pace in South Africa, its rhinoceros population will start declining by 2016.
- The world's tiger population has decreased from 100 000 a century ago to less than 3500 today. Poaching accounts for 78% of the deaths of Sumatran tigers.
- The resale value of rhino horn is estimated at around €40.000/kilo (current price of 1 kg gold approx. €31.000) while raw ivory prices reach €620/kilo on the black market. Tiger bones sell for up to €900/kilo.

¹ Adopted at the UN Commission for Crime Prevention and Criminal Justice and endorsed by the UN Economic and Social Council.

² Report of the UN Secretary-General of 20 May 2013, S/2013/297, UN Security Council Resolution 2121 (2013).

³ As for all illegal activities, estimating the volume and value of wildlife trafficking is very difficult. The limited resources currently available in most countries to combat this crime mean that real figures are likely to be much higher.

- It is estimated that illegal logging accounts for up to 30% of the global timber trade and contributes to more of 50% of tropical deforestation in Central Africa, the Amazon and South East Asia.
- It is estimated that the global value of illegal fishing is approximately € 10 billion per year, accounting for 19% of the reported value of catches.

The increase in wildlife trafficking is mainly driven by a high and growing demand for wildlife products, notably in parts of Asia,⁴ by poverty, weak governance, instability and crisis situations in key source regions, and facilitated by gaps in enforcement and insufficiently deterrent sanctions.

Wildlife trafficking constitutes a serious threat to biodiversity and to sustainable development. Emblematic species like elephants, rhinoceroses, great apes, tigers or sharks are particularly affected by wildlife trafficking, to a point where the survival of some of those species in the wild is in jeopardy. Poaching for elephant and rhinoceros has reached its highest levels in recent history, undermining the recovery seen in the last three decades. But wildlife trafficking concerns many more animal and plant species (e.g., corals, reptiles, pangolins, plants and animals used for medicinal purposes) and products (e.g. timber, charcoal, and bushmeat). Public health through the spread of disease is also at risk, as animals are smuggled outside of any sanitary control.

Wildlife trafficking deprives some of the world's most marginalised people, including indigenous communities, of important opportunities for sustainable livelihoods. Wildlife products are a significant economic sector in many developed and developing countries, either directly or indirectly, e.g. through tourism. Governments lose important sources of revenue through illegal wildlife trade while international criminal networks benefit. Wildlife trafficking is strongly linked to corruption and illicit money flows, for instance through money laundering, and affects the rule of law and good governance negatively. Wildlife trafficking costs human lives too: An estimated 1000 rangers have been killed during anti-poaching operations in the last ten years.

The EU remains a major destination market for illegal wildlife products, with a significant demand notably for species which attract high prices on the black market. At the same time, the major ports and airports of the EU are important transit points for trafficking activities, in particular between Africa and Asia. Some 2500 seizures of wildlife products are made every year in the EU.⁵ Certain rare species of birds, corals, fish and tortoise are also trafficked from EU Member States, within the EU or to third countries.

According to Europol, the role of organized criminal groups in wildlife trafficking within the EU is increasing, based on the expectation of high profitability with low risk of detection and low sanction levels.⁶

The new scale and dimension of wildlife trafficking has led to more political attention, including through initiatives by several EU Member States.⁷ The European Parliament has

⁴ For example, China is the major end user destination for ivory, Vietnam for rhino horn.

⁵ *Illegal Wildlife Trade and the European Union: an analysis of EU-TWIX seizure data for the period 2007-2011*. Report prepared for the European Commission.

⁶ Europol, Serious and Organized Threat Assessments 2011, 2012, 2013.

called for a dedicated EU Action Plan.⁸ The UN General Assembly expressed its deep concern in December 2012. G8 leaders as well as African Finance Ministers and leaders of the Asian Pacific Economic Cooperation Forum APEC have, in 2013, committed to take action to tackle wildlife trafficking.

The purpose of this Communication is to draw attention to the urgency of addressing the global problem of wildlife trafficking more effectively. It takes stock of and assesses existing EU measures to support the fight against wildlife trafficking both globally (part 2) and within the EU (part 3). Finally, it initiates a debate on the future approach of the EU to wildlife trafficking.

2. GLOBAL ACTION AGAINST WILDLIFE TRAFFICKING

The EU has supported a variety of initiatives to strengthen international efforts against wildlife trafficking.

2.1. Regulating Trade

The Convention on the International Trade in Endangered Species (CITES) aims to ensure that international trade in about 35 000 protected animal and plant species does not threaten their survival. In March 2013, CITES Parties agreed on a series of concrete actions against poaching and trafficking in a number of endangered species (e.g. elephants, rhinoceroses, tigers, tropical timber). The EU is a major supporter of the Convention and has played a key role in the adoption of these actions.

In the area of timber trafficking, the EU has concluded bilateral Voluntary Partnership Agreements, through which the EU supports partner countries in strengthening governance of the forest sector and building a national system for traceability and verification of legality. The EU Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan has been supplemented by the EU Timber Regulation to ensure that timber and timber products placed on the EU market are of legal origin.

The EU is also a leading force in the fight against illegal, unreported and unregulated (IUU) fishing at the international level, promoting the adoption of comprehensive market and control measures and concrete actions in Regional Fisheries Management Organisations, the FAO, the UN and Interpol. The EU has provided technical assistance to more than 50 third countries to strengthen their compliance with international obligations to fight IUU. As a measure of last resort, if third countries refuse to cooperate, the EU can black-list these countries and consequently block their trade in fisheries products with the EU.

The EU has included provisions aiming to strengthen the effective implementation of multilateral environmental agreements, as well as provisions relating to trade in areas such as forestry and fisheries in all recent Free Trade Agreements (FTAs) with third countries (e.g. Central America, Colombia/Peru, Singapore). The EU pursues the same approach in on-going

⁷ Germany, jointly with Gabon, organized a high level side event at the General Assembly Ministerial Week in September 2013; France held a round-table on the occasion of the Heads of State and Government Summit on Peace and Security in Africa on 5 December 2013; the United Kingdom is hosting a high level Conference on the Illegal Wildlife Trade on 13 February 2014.

⁸ European Parliament Resolution of 15 January 2014 (2013/2747(RSP)).

FTA negotiations with e.g. Canada, Japan, Thailand, USA and Vietnam. In addition, the EU provides additional trade preferences through its Generalised Scheme of Preferences special arrangement (GSP+) to vulnerable developing countries which ratify and implement international conventions on sustainable development and good governance, including CITES.

2.2. Enforcing the Rules

In many source, transit or end market countries affected by poaching and illegal wildlife trade, resources and engagement of national law enforcement agencies for implementing the existing rules are not sufficient. Effective enforcement remains a critical challenge, and illegal trade routes can be easily redirected to exploit weak links in the global enforcement chain.

As the main donor (€1.73 million) to the International Consortium to Combat Wildlife Crime,⁹ the Commission aims at addressing some of these challenges. The consortium focusses on international information and intelligence exchange, coordination of enforcement efforts, as well as strengthening enforcement and compliance capacity, e.g. by encouraging countries to use its Wildlife and Forest Crime Analytical Toolkit.

2.3. Support for international co-operation and action

The EU and all Member States are parties to the UN Convention against Transnational Organized Crime (UNTOC), which can play an important role against wildlife trafficking to the extent organized wildlife trafficking is recognized as a "serious organized crime", i.e. punishable with a maximum sanction of at least four years' imprisonment. Currently, this sanction threshold is not met in all Member States for wildlife trafficking. Another important instrument is the UN Convention against Corruption which one Member State has not yet ratified.¹⁰ Concrete and dedicated action on wildlife trafficking under both Conventions has so far remained limited. The merits of specific tools, such as e.g. an additional Protocol to UNTOC, could be analysed further.

The Financial Action Task Force which sets standards and evaluates the implementation of anti-money laundering measures included "environmental crime" in 2012 in its list of criminal offences which should be considered as relevant for anti-money laundering measures.¹¹ Tools, such as guidelines, to facilitate the implementation of this new recommendation could possibly be useful to fight wildlife trafficking.

At diplomatic level, the EU has raised the problem of wildlife trafficking directly with key source and demand countries, including via the EU Delegations. So far, the main focus of international action has been on Africa. The EU diplomatic strategy could benefit from increased engagement with key demand countries¹² and other regions where wildlife trafficking is thriving, but also in high-level dialogues and partnerships at regional level as has happened in the fight against IUU fishing. A number of other ideas have been raised in this

⁹ ICCWC comprises of CITES, Interpol, UNODC, World Bank and the World Customs Organisation.

¹⁰ Germany.

¹¹ FATF International standards on combatting money laundering and the financing of terrorism and proliferation 2012.
http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf

¹² The recent agreement signed by Commissioner Potocnik and the Chinese Environment Protection Minister Zhou Sengxian on common efforts to combat wildlife trafficking illustrates such an approach.

context as well, such as strengthening outreach towards civil society and the private sector, and the possibility of a UN Special Representative or Envoy, bringing together and monitoring the different strands of global action.

In addition, the EU has entered into a number of Partnership and Cooperation Agreements with third partners, e.g. with Indonesia, the Philippines, Vietnam, Thailand, and Singapore, which express the commitment of the parties to endeavour to cooperate on environmental issues, including via capacity building for participating in and implementing multilateral environmental agreements. These agreements also include provisions on cooperating in combating organised crime.

2.4. Development Cooperation

EU development cooperation has been tackling the threats to wildlife by putting efforts in conservation, capacity-building and enforcement support. In line with the recently revised EU Development Policy, the EU is conscious that addressing wildlife trafficking also requires long term measures to provide sustainable sources of income to local communities as the involvement in illegal wildlife trade may often seem an easy option to generate revenue.

The EU has committed more than €500 million for biodiversity conservation in Africa over the past 30 years, with a portfolio of on-going projects worth approximately €160 million. Still, needs for proper management and conservation of biodiversity in developing countries remain high.

The EU has been the main financial supporter to the MIKE¹³ programme since 2001, with a contribution of €12 million covering 71 sites in Africa and Asia. In December 2013, the Commission approved the funding of a new MIKES¹⁴ programme with a €12.3 million grant.

The EU supports a number of national and local projects, e.g. in the framework of the FLEGT Action Plan and the REDD+ mechanism. Moreover, a large range of EU-funded projects aimed at reducing corruption and building the capacity of prosecution and judicial services support the rule of law generally, which is essential for a successful fight against wildlife trafficking.

While all those initiatives have led to some progress, the synergies between conservation, livelihoods of local populations, enforcement and good governance have not always been sufficiently exploited. In addition, the long term sustainability of a number of projects remains fragile due to insufficient ownership and support by the national and local authorities (and sometimes populations) and high dependence on external funding. The programming of the EU development cooperation for the period 2014-2020 represents an opportunity to address those shortcomings and set out a comprehensive approach on wildlife trafficking.

¹³ *Monitoring the Illegal Killing of Elephants*

¹⁴ *Minimising the Illegal Killing of Elephants and Other Endangered Species*

3. EU ACTION AGAINST WILDLIFE TRAFFICKING

3.1. Regulating Wildlife Trade

Trade in wildlife resources, both into and within the EU, is regulated through a comprehensive set of rules, such as the Wildlife Trade Regulation 338/97 which implements CITES in the EU, the Timber Regulation 995/2010 and the IUU Regulation 1005/2008, which prohibits the placing on the EU market of, respectively, illegally harvested timber and illegally caught fish.

The EU also has legislation in place prohibiting the illegal killing of endangered species, notably Directive 147/09 on the conservation of wild birds and Directive 43/92 on the conservation of natural habitats and of wild fauna and flora. The Commission adopted a Roadmap towards eliminating illegal killing, trapping and trade of birds, and monitors closely its implementation.¹⁵

Criminal networks have taken in some cases advantage of the complexity of the rules on wildlife trade, especially the fact that the same species can be subject to different trade regimes depending on its origin or the types of products concerned. An example is the trade in hunting trophies, which had been exempt from certain restrictions on trade. The EU continuously updates and, where needed, tightens its domestic rules to ensure stricter monitoring by the enforcement authorities.

3.2. Enforcing the Rules Effectively

Effective enforcement of the rules throughout national enforcement chains in the Member States is required, i.e. from environmental and fisheries authorities through customs officers and the police to the prosecution and the judiciary.

In order to encourage Member States to improve enforcement of the EU rules on trade in CITES protected species, the Commission adopted an EU Enforcement Plan in the form of a Recommendation in 2007.¹⁶ It identifies a set of actions, such as national action plans, deterrent penalties for wildlife trade offences and the use of risk and intelligence assessments. These non-binding recommendations have however been implemented unevenly across the EU, and do not address the organised crime angle of wildlife trafficking.

Limited resources, the lack of specialized units in police and prosecution, and a varying degree of cooperation between wildlife and other enforcement agencies further impede on effective enforcement. Legislation on binding criteria for effective inspections and surveillance by Member States, as called for by the 7th EU Environmental Action Programme 2014 – 2020,¹⁷ could help to improve the enforcement of EU rules against wildlife trafficking, if combined with increased priority given to the issue.

Directive 2008/99 on the protection of the environment through criminal law requires all Member States to ensure that illegal wildlife trade is considered a criminal offence under national law and requires Member States to provide for effective, proportionate and dissuasive criminal sanctions. However, the initial assessment of its transposition into national law

¹⁵ www.ec.europa.eu/environment/nature/conservation/wildbirds/docs/Roadmap%20illegal%20killing.pdf

¹⁶ OJ of 20 June 2007, L 159/45.

¹⁷ OJ of 28 December 2013, L 354/171.

shows that there are still shortcomings in several Member States which will need to be addressed.

The levels of criminal sanctions applicable to wildlife trafficking vary significantly within the EU. In some Member States maximum sanction levels are less than one year's imprisonment. This does not only limit their deterrent effect but often precludes the use of potentially important tools for cross-border or national investigations as well as for judicial cooperation between Member States, notably the European Arrest Warrant.

3.3 Training and capacity building

Effective enforcement requires technical skills and awareness. Training and capacity building needs to address the entire enforcement chain, including prosecution and judicial authorities, in order to avoid a large number of cases being investigated but not prosecuted and to ensure that the severity of the offence is recognized by judges. Some initiatives have been taken at EU level, for instance by the European Police College Cepol. The programming of relevant financial instruments for the next funding period provides an opportunity to take into account existing gaps in the fight against wildlife trafficking.

The EU networks of environmental enforcement practitioners,¹⁸ customs authorities,¹⁹ prosecutors and judges²⁰ also play an important role to build an enforcement community for tackling wildlife trafficking. Tools such as EU-TWIX, a restricted database to facilitate cooperation and intelligence-sharing between EU wildlife enforcement agencies, assist on a continuous basis. However, the status and financing of the networks is only secured on a short-term basis, and cooperation amongst them is limited so far.

3.4 Fighting organised crime

Organised crime is an increasingly important factor in wildlife trafficking. There are several EU horizontal instruments in place to tackle this type of crime in general, such as the Framework Decisions against organised crime²¹ and on confiscation and asset recovery.²² Those instruments can in principle provide useful tools against organised wildlife trafficking. However, they only apply when a certain sanction threshold is met, which is currently not the case for wildlife trafficking in all Member States.

Investigating the illegal financial flows associated with organized crime, e.g. through money laundering and tax evasion, is important in the fight against organised wildlife trafficking. EU Directive 2005/60²³ provides for preventive measures, notably through due diligence obligations for financial institutions to detect suspicious financial transactions. The

¹⁸ E.g. the Wildlife Trade Enforcement Group and EnviCrimeNet.

¹⁹ Expert Group on Customs Action to protect Health, Cultural Heritage, the Environment and Nature (PARCS Expert Group).

²⁰ European Network of Prosecutors for the Environment; European Forum of Judges for the Environment.

²¹ Framework Decision 2008/841/JHA on the fight against organised crime.

²² Framework Decision 2005/212/JHA on confiscation of crime-related proceeds, instrumentalities and property, currently under revision.

²³ EU Directive 2005/60 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, currently under revision.

development of specific guidelines on the meaning of "due diligence" in the context of environmental crime could help detecting money laundering offences in this specific context.

Europol issued a specific environmental crime assessment in October 2013 which focused a.o. on trade in endangered species.²⁴ Europol has, however, at present no dedicated focal point working on environmental crime. Both Europol and Eurojust could provide important assistance in bringing national authorities on cross-border cases of wildlife trafficking together and in providing analytical and practical support. This requires that national enforcement authorities provide them with quality data input and submit requests for their assistance, which has so far not been done often for wildlife trafficking.

The agreed EU priorities 2014 to 2017 for the fight against serious and organised crime²⁵ do not include any area of environmental crime. The mid-term review in 2015 will provide an opportunity to reconsider these priorities, taking into account Europol's recent assessment of environmental crime as an emerging threat in the EU, to make additional resources available and to increasingly use cross-border cooperation mechanisms.

3.5. Engaging Civil Society

Civil society is an important partner for the EU to ensure that the mobilisation against wildlife trafficking reaches all relevant stakeholders. Some NGOs have considerable experience in activities such as awareness-raising campaigns, investigations into alleged illegal conduct or specialised trainings, and their input has proven very valuable in assisting public authorities in policy making and implementation. The EU cooperates regularly with such NGOs on issues related to wildlife trafficking.

4. CONCLUSION

Comprehensive global and EU-wide rules exist to regulate wildlife trade, and the EU has given significant support to initiatives against wildlife trafficking, such as improved management of protected areas, capacity building, and international enforcement cooperation. However, the measures taken over the last years by the international community have not been sufficient to prevent the recent surge in wildlife trafficking which is driven by increasing demand and by poverty and weak governance in source countries.

A main problem is that significant gaps remain regarding the effective enforcement of existing rules, both in the EU and globally. This is often linked to the low political priority given to the issue, insufficient resources at national level, and lack of awareness about the severity of the problem.

Another key weakness of the existing policies is that they have not sufficiently taken into account the fact that addressing organized crime calls for the involvement of different actors and instruments. Similarly, as the peace and security aspects of wildlife trafficking have only become apparent recently, they have until now hardly been addressed in the EU's crisis response and preventive foreign and security policy.

²⁴ Europol Environmental Crime Threat Assessment 2013.

²⁵ www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/jha/137401.pdf.

The importance of addressing the demand side of the problem, has been recently recognised by the international community, notably within CITES, but few concrete actions have been taken yet in this respect.

In sum, what is missing so far is a coordinated and comprehensive approach to wildlife trafficking, addressing both the supply and demand side, and involving all relevant actors in different policy areas.

The Commission therefore invites stakeholders to contribute to the debate on how to tackle better the key challenges, and the role of the EU in this future approach against wildlife trafficking. In particular, the Commission invites written contributions²⁶ related to the following questions:

1. Is the policy and legislative framework currently in place in the EU against wildlife trafficking adequate?
2. Should the EU enhance its approach to wildlife trafficking by developing a new EU Action Plan, as called for by the European Parliament?
3. How could the EU increase political commitment at all levels against wildlife trafficking? What diplomatic tools would be best suited to ensure coherence between different international initiatives?
4. What tools at international level should the EU focus on to enhance enforcement against wildlife trafficking and strengthen governance?
5. What tools are most suitable for EU action to address international and EU demand for illegal wildlife products? What role could civil society and the private sector play in this regard?
6. How can the EU best add value to address the peace and security implications of wildlife trafficking?
7. How could the EU cooperation instruments better support the reinforcement of the capacities of developing countries for wildlife conservation and action against wildlife trafficking?
8. What measures could be taken to improve data on wildlife crime in the EU so as to ensure that policy-making can be more effectively targeted?
9. What measures could be taken to strengthen enforcement against wildlife trafficking by environmental authorities, police, customs and prosecution services in the Member States and to reinforce cooperation between those authorities? How could awareness of the judiciary be raised?
10. How could existing tools against organised crime at EU and Member States level be better used to address wildlife trafficking? What additional measures should be envisaged, e.g. regarding sanctions? What contribution could Europol and Eurojust make in that regard?

²⁶

To be sent until 10 April 2014 to env-eu-against-wildlife-trafficking@ec.europa.eu.