

WCS EU response to the EU Public Consultation on EU trade policy review process

Public Consultation: https://trade.ec.europa.eu/doclib/docs/2020/june/tradoc_158779.pdf

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Introducing WCS EU

WCS EU is a Belgian NGO affiliated with the Wildlife Conservation Society (WCS), a US-based global organisation working to deliver wildlife conservation programmes in over 60 countries, mainly in Africa, Asia, the Pacific and Latin America. WCS operates large field conservation programmes and protects some of the world's most ecologically intact wild places, building on more than 125 years of conservation experience. WCS is also implementing flagship EU-funded programmes, including as a partner in the Sustainable Wildlife Management (SWM) programme and projects aiming to tackle the illegal wildlife trade in Latin America and the Mekong region in Asia. WCS is committed to conserving marine and terrestrial wildlife through partnerships designed to benefit people and nature.

We welcome this policy review, which will set the political direction for EU trade and investment policy in the years to come. Please find below our responses to some of the questions that are relevant to our expertise.

Question 8: How can trade policy facilitate the transition to a greener, fairer and more responsible economy at home and abroad? How can trade policy further promote the UN Sustainable Development Goals (SDGs)? How should implementation and enforcement support these objectives?

In its *Trade for all* strategy¹, the European Commission explicitly states that it will increase the priority given to the sustainable management and conservation of natural resources (biodiversity, soil and water, forests and timber, fisheries and wildlife) and to the fight against climate change in European Union (EU) Free Trade Agreements (FTAs) and their implementation. Including Trade and Sustainable Development (TSD) chapters in all FTAs is crucial to ensuring responsible trade and the respect of commitments in bilateral trade agreements in policy areas of importance to the EU, such as wildlife conservation. In particular, TSD chapters are important to meet EU's commitments to deliver the Sustainable Development Goals (SDGs), commitments under the United Nations Convention on Biological Diversity (CBD), the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), and the four UN General Assembly Resolutions on tackling illicit trafficking in wildlife - adopted

¹ http://trade.ec.europa.eu/doclib/docs/2015/october/tradoc_153846.pdf

in 2015, 2016, 2017, and 2019.² We welcome the EU commitment in the newly published EU Biodiversity Strategy to 2030³ to ensure full implementation and enforcement of the biodiversity provisions in all trade agreements, including through the appointment of an EU Chief Trade Enforcement Officer. We support the Commission proposal to better assess the impact of EU FTAs on biodiversity, with follow-up action to strengthen the biodiversity provisions of existing and new agreements. We would welcome more information on the specific steps the Commission will take to report and evaluate progress and to provide a clear timeframe.

Although the European Commission has stated its intention to prioritise biodiversity conservation through FTAs, several essential steps are still lacking, which we highlight here that need to be followed in order for the EU to fulfil its commitment to integrate biodiversity objectives into FTAs:

Lack of sanctions

Currently, compliance measures only relate to the economic components of FTAs and do not apply to the social and environmental provisions of sustainable development chapters.⁴ This urgently needs to be changed. Non-compliance with provisions on biodiversity should be associated with consequences, whether through trade or other sanctions so that partner countries have incentives to comply more fully with TSD provisions. Providing the option of sanctions encourages partners/States to comply more fully with TSD provisions and does not necessarily undermine future partnerships between the EU and its trade partners. The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) agreement constitutes a relevant example as it follows a sanction-based approach and was signed by eleven countries (i.e. Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam). Many examples, such as Section 8 of the US Fishermen's Protective Act of 1967 (as amended), CITES, etc. prove that trade sanctions or their threat can make a difference and that properly designed trade measures can be an effective tool in enforcing international environmental agreements (see attached to the email: WCS's response to the DG Trade non-paper on Sustainable Development in EU Free Trade Agreements (FTA), also available at <https://library.wcs.org/Portals/0/Brussels/WCS-TSD-chapter.pdf?ver=2017-09-21-102451-950>).

In addition, a recent in-depth analysis published in June 2020 on 'trade and biodiversity'⁵ commissioned by the European Parliament's Committee on International Trade concluded that: "*The EU already includes biodiversity-related non-trade provisions in trade agreements, but*

² <https://newsroom.wcs.org/News-Releases/articleType/ArticleView/articleId/10494/WCS-Commends-the-United-Nations-General-Assembly-for-Its-Leadership-to-Stop-Illegal-Wildlife-Trade.aspx> and <https://undocs.org/A/73/L.120>

³ https://eur-lex.europa.eu/resource.html?uri=cellar:a3c806a6-9ab3-11ea-9d2d-01aa75ed71a1.0001.02/DOC_1&format=PDF

⁴ https://trade.ec.europa.eu/doclib/docs/2018/february/tradoc_156618.pdf

⁵ [www.europarl.europa.eu/RegData/etudes/IDAN/2020/603494/EXPO_IDA\(2020\)603494_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2020/603494/EXPO_IDA(2020)603494_EN.pdf)

these provisions are not legally binding and hardly effective. This is partly explained by the complexity of the issues posed by biodiversity: since there is no simple synthetic indicator, policy instruments are difficult to enforce. However, an effort to specify measurable and verifiable commitments is needed; more binding mechanisms, along with transparent and automatic sanctions in case of non-compliance should be considered”.

Provisions on wildlife trade and wildlife trafficking too vague

Wildlife trade and wildlife trafficking are critical issues, which we believe must be addressed in all EU trade agreements. Indeed, ensuring the sustainability of legal wildlife trade and tackling the illegal wildlife trade is an excellent example of how TSD chapters can enhance the delivery of international environmental policy objectives of high priority to the EU. The EU made a commitment in its Action Plan against Wildlife Trafficking⁶ under priority three to have “ambitious commitments to combat wildlife trafficking proposed by the EU for inclusion in future Free Trade Agreements (FTAs)”. However, an external study on *EU trade policy and the wildlife trade*⁷ commissioned by the European Parliament’s Committee on International Trade published in November 2016 states that “To date [EU] FTA agreements tend not to refer specifically to the legal or illegal wildlife trade, with the exception of the FTA with Vietnam. The inclusion of specific objectives linked to supporting a legal and sustainable wildlife trade, or preventing an illegal wildlife trade could be an area for development in future FTA negotiations”. The report also highlights additional relevant provisions in the Trans-Pacific Partnership⁸ (TPP) agreement (now called the Comprehensive and Progressive Agreement for Trans-Pacific Partnership - CPTPP) such as addressing transnational environmental crimes, focusing on transparency and anti-corruption, and sharing information on investigations into wildlife trafficking, which could all be integrated into future EU FTAs. The Commission must ensure that strong language on sustainable trade in wildlife and wildlife products, illegal wildlife trade, cooperation, and enforcement measures is included in every future EU FTA—such as the relevant text in the EU-Vietnam FTA or in the CPTPP agreement (see Article 20.17: Conservation and Trade; and Article 20.23: Dispute Resolution).

Reducing the risk of zoonotic disease outbreaks

This trade policy review also constitutes a timely opportunity for the European Commission to step up efforts to address commercial wildlife trade and wildlife markets for human consumption to prevent future zoonotic disease outbreaks such as COVID-19, as highlighted in the EU Biodiversity Strategy to 2030. The science⁹ is clear that commercial wildlife markets for human consumption, and associated trade (domestic and international, legal and illegal), must be ended if the world is to avoid another COVID-like pandemic. The emergence of COVID-19 and its drastic impacts on human health, wellbeing and societies provides a stark

⁶ http://ec.europa.eu/environment/cites/pdf/WAP_EN_WEB.PDF

⁷ [www.europarl.europa.eu/RegData/etudes/STUD/2016/578025/EXPO_STU\(2016\)578025_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2016/578025/EXPO_STU(2016)578025_EN.pdf)

⁸ <https://ustr.gov/sites/default/files/TPP-Final-Text-Environment.pdf>

⁹ www.wcs.org/get-involved/updates/wcs-issues-policy-on-reducing-risk-of-future-zoonotic-pandemics and www.frontiersin.org/articles/10.3389/fvets.2020.582983/full

demonstration of the dramatic societal and economic costs that can result from the destruction of nature and commercial trade in wildlife. We are encouraged to see other countries such as China now taking steps in this direction, and the introduction of new bipartisan in the U.S. Congress, and hope that the EU will support this global effort as a critical component of the new Biodiversity Strategy under its Green Deal and green recovery post-COVID.

While measures to combat wildlife trafficking are critical, they would not have been able to prevent the COVID-19 outbreak that we are currently battling, which is believed to have initially spread in a legal market, with legally obtained wildlife species. Science shows that the ancestral host of the virus causing the COVID-19 pandemic was a horseshoe bat species; and while the intermediate host may never be confirmed, there is no doubt that the nature of markets that sell live and freshly butchered wild animals create an unacceptable risk. Not all is known of the time, place and mechanism of the COVID-19 spill-over but decision-making must be based on the best available science and the precautionary principle. There is clearly no evidence that the risk of pathogen spillover is exclusively related to illegally obtained animals; a virus is indifferent to whether an animal in a market was obtained legally or not.

To have a meaningful impact on risk reduction of zoonotic related diseases, the EU must promote and assist the global community in ending the commercial trade and sale in markets of wildlife for human consumption, particularly birds and mammals, as a key outcome to prevent future zoonotic pandemics. Merely improving the regulation of this trade or closing a few markets, whilst laudable, will not prevent a future zoonotic pandemic, and is short-sighted. Rather, only the closure of commercial markets in live and freshly slaughtered animals for human consumption, and the trade (domestic and international) that provides animals to these markets, will achieve the goal. We recognise that due consideration must be given to subsistence hunting by Indigenous Peoples and local communities for household consumption, for whom there are often few or no other sources of high-quality protein and micronutrients, but their needs should not be seen as a smokescreen for ignoring commercial wildlife markets and trade for human consumption, all of which pose a serious zoonotic spillover risk.

Question 9: How can trade policy help to foster more responsible business conduct? What role should trade policy play in promoting transparent, responsible and sustainable supply chains?

We welcome the newly launched EU public consultation on minimizing the risk of deforestation and forest degradation associated with products placed on the EU market¹⁰. We urge the European Commission to ensure that any resulting legislative action will result in supply chains to the EU being free from biodiversity loss in partner countries, in addition to being free from deforestation and forest degradation.

¹⁰ <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12137-Minimising-the-risk-of-deforestation-and-forest-degradation-associated-with-products-placed-on-the-EU-market/public-consultation>

Question 13: What other important topics not covered by the questions above should the Trade Policy Review address?

We take this opportunity to highlight the importance of transparency in EU debates and in EU FTA processes. We hope that the Commission will increase the transparency of EU trade-related decision mechanisms and will provide opportunities to receive further input and expertise from civil society at every stage of the process.

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