

CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES
OF WILD FAUNA AND FLORA



Seventieth meeting of the Standing Committee
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CONTROLS ON DOMESTIC TRADE IN SELECTED
APPENDIX I LISTED SPECIES

PART I: ELEPHANT IVORY

This document has been submitted by Secretariat and prepared by Environmental Law Institute (ELI) in relation to agenda item 28.¹

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Controls on Domestic Trade in Selected Appendix I-Listed Species

Prepared by the Environmental Law Institute for the CITES Secretariat

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Part I: Elephant Ivory

An Analysis of Domestic Controls in Nine Countries

I. Background

The long-term health of elephant populations globally remains under threat. Despite the fact that the trend is declining in recent years, between 2006 and 2016, African elephant populations experienced the worst declines in 25 years – close to 111,000 – largely due to the surge in poaching for ivory. Overall poaching trends in 2016 further suggest that more elephants die from poaching than from natural causes. These trends continue despite the 1989 ban on the commercial international trade of ivory that was established when elephants were listed on Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

At the 17th meeting of the CITES Conference of Parties in September and October of 2016, the Parties adopted the following Decision 17.87, which reads:

The Secretariat, subject to external funding and in consultation with relevant Parties, is requested to:

- a) contract independent consultant(s) to undertake a study of the domestic controls in consumer markets for specimens of CITES-listed species for which international trade is predominantly illegal; and*
- b) report the findings and recommendations of this study to the 70th meeting of the Standing Committee.²*

Further, the CoP adopted a number of amendments to Resolution Conf. 10.10 *on Trade in elephant specimens* recommending Parties whose legal domestic markets for commercial trade in raw and worked ivory contribute to poaching or illegal trade, to take measures to close such markets as a matter of urgency. In view of these amendments, the study is organized in two parts, where the first part is analyzing the domestic controls of the elephant ivory trade; and the second part is a scoping exercise proposing additional species and markets for a similar analysis.

For the first phase of the broader study, the CITES Secretariat commissioned the Environmental Law Institute (ELI) to analyze the existing regulatory frameworks for domestic controls of trade in elephant ivory in these specific countries (see Figure 1).³

ELI partnered with American University's Washington College of Law, George Washington University's Law School, and Vermont Law School to examine the laws, regulations, orders, and other legal instruments, as well as cases before courts and administrative tribunals that govern domestic trade in elephant ivory in these nine jurisdictions. The research produced 10 case studies (including one each country, plus a separate one for Hong Kong SAR of China). The case studies are available as an information document.

| Figure 1- Markets Studied | |
|--|---------------|
| European Union (including its member countries) ⁴ | Philippines |
| Japan | Thailand |
| Lao PDR | United States |
| Malaysia | Viet Nam |
| China (including Hong Kong SAR) | |

To facilitate analysis, the country profiles followed a standard template and methodology. Since the analysis focuses on

regulation of domestic trade in elephant ivory, the profiles did not address the international trade of ivory - only

² For further background, see CITES CoP17 Doc. 27 (2016), available at <https://cites.org/sites/default/files/eng/cop/17/WorkingDocs/E-CoP17-27.pdf> (last accessed June 5, 2018); CITES Conf. 10.10 (Rev. CoP17), available at <https://www.cites.org/sites/default/files/document/E-Res-10-10-R17.pdf> (last accessed June 6, 2018).

³ These nine countries were identified as unregulated by ETIS or identified in other documents because changes in the regulation occurred recently or are underway. See CoP17 Doc. 57.6 (Rev. 1), table 3 and SC69 Doc. 51.1, Annex, p. 13. The ETIS report also identifies unregulated markets that are probably not consumer markets and therefore not included in the scope of this analysis.

⁴ This report focuses primarily on the EU regulations impacting trade between member states. Limited references to the regulations of individual member states governing trade within that state is referenced when applicable.

the consumer markets *within* each country. Additionally, these profiles focused only on the trade of African and Asian elephant ivory. This methodology seeks to ensure that the analysis for each country addresses the key issues in a consistent manner, facilitating the synthesis of findings across countries.

This report synthesizes the key findings across the nine markets. It starts with a brief description of the status of the domestic trade in elephant ivory in each jurisdiction. The report then discusses the key trends in regulation of domestic trade in elephant ivory. The report concludes with a discussion of potential priorities for addressing domestic markets that contribute to poaching and illegal trade.

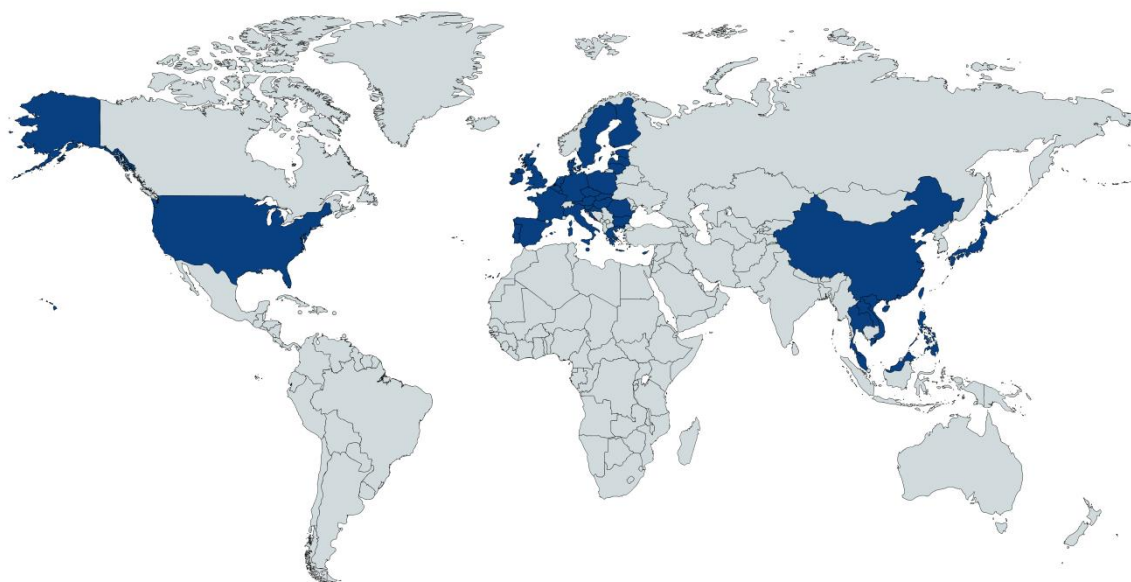


Figure 1 - Countries Studied in this Report (shaded in blue).

II. Summaries of Country Profiles

Of the nine countries surveyed for this report, four of the jurisdictions have banned the domestic trade of elephant ivory, including Malaysia, China (and Hong Kong SAR),⁵ Philippines, and the United States. As discussed below, though, there are often exemptions to these general bans. In addition, Laos PDR, Thailand, and Viet Nam have banned the trade of ivory sourced from wild elephants, but allow the trade of ivory from domesticated elephant populations.

China has completely banned the commercial processing and sale of ivory, with an exemption for cultural relics with the required permit. The ban was announced in December 2016, and has been fully implemented as of December 2017.⁶ While part of China, Hong Kong SAR has a largely independent legal regime due to its history. **Hong Kong SAR** is implementing a total ban on the commercial possession of ivory,⁷ with an exemption for antiquities.⁸ Currently, the sale of ivory must be licensed, but by December 31, 2021, such licenses will be issued only in exceptional circumstances. Hong Kong SAR announced this policy in January 2018.⁹

⁵ Hong Kong SAR is currently implementing a ban on the domestic trade of ivory that will be completed by December 31, 2021.

⁶ State Forestry Administration, 权威发布: 国家林业局公告 (分期分批停止商业性加工销售象牙及制品活动的定点加工单位和定点销售场所名录) (2017), available at <http://www.forestry.gov.cn/main/72/content-960222.html>. (last accessed June 6, 2018).

⁷ The ordinance splits possession into commercial and personal. The bill provides no further guidance.

⁸ Protection of Endangered Species of Animals and Plants Ordinance Cap. (2006), available at https://www.ecolex.org/details/legislation/protection-of-endangered-species-of-animals-and-plants-ordinance-chapter-586-lex-faoc090260/?q=hong+kong+wildlife&type=legislation&xdate_min=&xdate_max= (last accessed Apr. 2, 2018).

⁹ Legislative Council, Protection of Endangered Species of Animals and Plants (Amendment) Ordinance 2018 Ord. No. 7/2018, available at <https://www.legco.gov.hk/yr17-18/english/ord/2018ord007-e.pdf> (last accessed Apr. 3, 2018).

Malaysia has completely banned the possession of ivory, and has no significant domestic ivory trade. Although different laws govern different regions within Malaysia, ivory possession in all three regions has been banned since at least 2010.¹⁰

Thailand has completely banned the domestic trade of all ivory from wild Asian and African elephants.¹¹ Ivory from domesticated elephants may be traded only with registration.¹² The Thai government ordered an overhaul of the registration's scope and operation in September 2016, and legislation implementing this overhaul was issued in May 2017, and was pending signature as of the drafting of this report.

In June 2016, the **United States** completely banned the domestic trade of elephant ivory, with an exemption for certain antiquities and certain items containing minimal amounts of ivory.¹³

Viet Nam has banned the domestic elephant ivory trade, with exemptions from the ban for certain ivory imported before the ban went into effect.¹⁴ Viet Nam also allows for the commercial sale of ivory from domesticated populations.¹⁵ The ban on ivory from non-domesticated elephants has been in effect since 2013, and additional protections for wild elephants will come into effect in 2019.¹⁶

Lao PDR has banned the Asian elephant ivory trade, and African elephant ivory may not be imported into the country (but may be traded domestically).¹⁷ Ivory sourced from domesticated elephants and elephants bred in captivity may be traded. These limited bans have been in effect since 2007.¹⁸

The **Philippines** has completely banned the domestic trade in elephant ivory, with an exemption from the ban for scientific purposes and antiquities.¹⁹ In 2015, the government proposed establishing a registry of raw and worked ivory, but this has not yet been implemented.²⁰

The **European Union** has banned all elephant ivory trade, with exceptions for products from certain African elephant populations.²¹ Not all member states have implemented this ban, though in 2016 the EU issued a non-binding Action Plan to address the ivory trade.²² Some EU member states, such as the United Kingdom, are implementing bans on domestic trade in elephant ivory.²³

¹⁰ Laws of Malaysia, Act 716, Wildlife Conservation Act of 2010 (WCA), available at <http://www.agc.gov.my/agcportal/uploads/files/Act%20716%20-%208%2010%202014.pdf> (last visited Jan. 31, 2018).

¹¹ Wild Animal Reservation and Protection Act, B.E. 2535 (1992), available at http://thailaws.com/law/t_laws/tlaw0317.pdf.

¹² Elephant Ivory Tusks Act, B.E. 2558 (2015), available at https://www.ecolex.org/details/legislation/elephant-ivory-tusks-act-be-2558-2015-lex-faoc167051/?q=thai+elephant+ivory+act&type=legislation&xdate_min=&xdate_max=.

¹³ U.S. Wildlife Trafficking Alliance, U.S. National Strategy for Combating Wildlife Trafficking 2015 Annual Progress Assessment, (2015), available at <http://uswta.org/wp-content/uploads/2017/04/U.S.-National-Strategy-to-Combat-Wildlife-Trafficking-2015.pdf> (last accessed Apr. 19, 2018).

¹⁴ The National Assembly, Law on Biodiversity (2008), available at https://www.enVietNam.org/images/News_Resources/Law_library/Law-on-Biodiversity.pdf (last accessed Mar. 30, 2018).

¹⁵ The National Assembly, Law on Forest Protection and Development (2004), available at https://www.enVietNam.org/images/News_Resources/Law_library/law_on_forest_protection_and_development.pdf (last accessed Mar. 30, 2018).

¹⁶ The prime minister of Viet Nam, On Banning from Export, Import, Purchase and Sale of the Specimens of Some of Wild Fauna Species in Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (2013), available at https://www.enVietNam.org/images/News_Resources/Law_library/Decision-11_2013_QD-TTq.pdf (last accessed Mar. 30, 2018).

¹⁷ Lao People's Democratic Republic National Assembly, Wildlife and Aquatic Law (2007), available at <extwprlegs1.fao.org/docs/pdf/lao89478.pdf> (last accessed June 6, 2018).

¹⁸ Wildlife and Aquatic Law, art. 40 (2007)

¹⁹ Wildlife Resources Conservation and Protection Act, Republic Act No. 9147, ch. 1, §§2(b), 3, available at http://www.lawphil.net/statutes/repacts/ra2001/ra_9147_2001.html (last accessed Feb. 2, 2018)

²⁰ Registration of Raw and Worked Elephant Ivory, §3, available at http://www.bmb.gov.ph/images/fronttabs/proposed_policy/Draft_DAO_on_Ivory_Registration_April_2015.pdf (last accessed Feb. 2, 2018).

²¹ EUROPEAN COMMISSION. EU ACTION PLAN AGAINST WILDLIFE TRAFFICKING (COM(2016) 87 FINAL) (2016), available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2016%3A87%3AFIN> (last accessed June 6, 2018).

²² *Id.*

²³ UNITED KINGDOM DEPT. FOR ENVIRONMENT FOOD AND RURAL AFFAIRS, BANNING UK SALES OF IVORY (23–25) (2018) available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/696474/banning-ivory-consult-sum-resp.pdf (last accessed June 6, 2018).

Japan has basically banned the domestic trade of elephant ivory.²⁴ Businesses selling ivory must be registered. Whole ivory tusks must be registered, and the registration card must be displayed while the whole tusks are put up for sale. Every piece weighing more than 1 kg or exceeding 20 cm must have a traceability information form attached when put up for sale. Small ivory pieces, however, are not subject to this requirement.²⁵

III. Trends

A review of the approaches highlights a number of trends in how these nine countries have sought to ban, control, and otherwise regulate domestic trade in elephant ivory. This section discusses these trends. More details on any particular country's approach may be found in the corresponding country profile.

A. Motivations of Ivory Consumers

Consumers continue to purchase ivory for a number of reasons. The predominant motivation behind ivory purchases in most instances is the belief that ivory is a status symbol. This may be true simply because of the high cost of ivory. In some countries, the high status of ivory is related to gift-giving; ivory is seen as both a desirable gift to receive and an honorable gift to give. Ivory's role as a status symbol may also be because of the role ivory has played in a country's history, making ownership of ivory a desirable part of a region's culture. In several countries, though, ivory sales have been bolstered by younger generations and those with new access to wealth, suggesting that there may also be socio-economic factors.

Ivory is also viewed as a good investment. In some cases, this is related to ivory's use in antiques. Ivory is also often carved into ornaments and figurines, making the workmanship part of the investment. In other countries, particularly Lao PDR, ivory is kept as an investment because it can be quickly liquidated in times of need.

Another motivation for consumers is the belief that ivory possess special powers. In many countries, ivory is seen as lucky, encouraging the sale of tokens and trinkets. Ivory is similarly desirable for religious uses in a number of countries. These uses vary from figurines depicting religious figures to products believed to ward off spirits or possess other magic properties.

B. Approaches to Regulating Domestic Trade: An Overview

Countries use a number of legal approaches to ban or otherwise regulate domestic trade in elephant ivory. As detailed below, the approaches range from outright bans on the domestic sale of ivory to bans on possessing ivory to registration schemes. Most countries have some sort of ban on the sale of ivory. These bans may be tailored toward certain types of ivory products, for example raw ivory or worked products. Other countries ban ivory from certain time periods, most often post-1989²⁶ ivory. The analysis below discusses these approaches in more detail.

Some nations control ivory markets by placing requirements upon businesses engaged in the sale of elephant ivory. These requirements may include, for example, having each business engaged in the sale of elephant ivory register with the authorities. Countries may also put requirements on how ivory sales may take place. For example, in Thailand, ivory from domesticated elephant populations may be traded, though there are strict registration requirements.²⁷ The products must be accompanied by documentation verifying the source of the ivory, the product must be marked, previous trades must be recorded, and the seller must note any physical transformations to the ivory that have occurred. Similarly, in Viet Nam,²⁸ products from elephants bred in captivity must have documentation verifying the legal origin of the ivory.

²⁴ The only ivory that may be sold legally are: (1) whole tusks, cut pieces, and ivory products that pre-existed in Japan before the CITES trade ban (1980 for Asian elephants, and 1990 for African elephants); (2) whole tusks, cut pieces, and ivory products which were imported to Japan with pre-convention certificates; and (3) whole tusks imported to Japan in 1999 and 2009, as exceptions approved under CITES.

²⁵ Law for the Conservation of Endangered Wild Fauna and Flora, Act No. 75 of 1992 (Japan), available at: [https://www.unodc.org/res/cld/document/law-for-the-conservation-of-endangered-species-of-wild-fauna-and-flora.html/Law for the Conservation of Endangered Species of Wild Fauna and Flora Law No. 75.pdf](https://www.unodc.org/res/cld/document/law-for-the-conservation-of-endangered-species-of-wild-fauna-and-flora.html/Law%20for%20the%20Conservation%20of%20Endangered%20Species%20of%20Wild%20Fauna%20and%20Flora%20Law%20No.%2075.pdf)

²⁶ In 1989, CITES placed the African Elephant on Appendix I, joining the Asian Elephant, which had been on Appendix I since 1975.

²⁷ Elephant Ivory Tusks Act, B.E. 2558 (2015).

²⁸ The Government of Viet Nam, On Management of Endangered, Precious, and rare Species of Wild Plants and Animals (2006), available at https://www.enVietNam.org/images/News_Resources/Law_library/decreree_32.pdf (last accessed Mar. 30, 2018).

Other countries ban the possession of ivory without a permit. In some cases, this allows for a legal ivory market, though the permitting process acts as a safeguard. For example, in Thailand, all ivory must be registered within 30 days of a party taking possession.²⁹ This registration must include evidence that the purchase was legal. Similarly, in China (before domestic ivory trade was phased out), all ivory products had to display a special mark before they can be displayed or sold.³⁰

Finally, countries attempt to limit illegal ivory sales through awareness-raising and education. This includes education about the harm the ivory trade has on global elephant populations, as well as programs designed to build awareness about the laws. Successful education programs, including public destruction of ivory stocks, have been undertaken in the United States³¹ and Hong Kong SAR,³² for example.

C. Scope of Regulation

While the precise scope of the ban varies, all jurisdictions studied imposed some sort of restriction on the domestic sale of elephant ivory. Most have strict bans: European Union,³³ Malaysia,³⁴ China (including Hong Kong SAR),³⁵ the Philippines,³⁶ and the United States.³⁷ Japan has banned most commercial sale of ivory, and applies a traceability system for whole tusks and larger worked pieces.³⁸ Lao PDR,³⁹ Thailand,⁴⁰ and Viet Nam⁴¹ all have domesticated populations of elephants, and their bans on the domestic sale of elephant ivory only apply to wild or non-native elephants. The European Union limits the import and export of elephant ivory, but only member states have regulations further limiting trade.⁴²

Fewer countries ban the commercial possession of ivory. Vendors in Viet Nam are prohibited from possessing ivory with the intent to offer that ivory for sale,⁴³ and by December 31, 2021, Hong Kong SAR is slated to implement a similar prohibition.⁴⁴ As with the ban on commercial sale, Japan also prohibits commercial possession of raw ivory without proper documentation.⁴⁵ Finally, Malaysia,⁴⁶ the Philippines,⁴⁷ and Thailand⁴⁸ also ban possession (both commercial and personal), but only the possession of wild elephant ivory (both Asian and African).

²⁹ CITES, IMPLEMENTATION OF THAILAND'S NATIONAL IVORY ACTION PLAN DURING OCTOBER 2016 – JUNE 2017. Submitted to 69th Meeting of CITES Standing Committee, pg.1, available at <https://cites.org/sites/default/files/eng/com/sc/69/E-SC69-29-03-A-15.pdf>.

³⁰ As discussed in the profile on China in the annex, it is unclear whether the requirement that all ivory products display a special mark is still in effect, and the Government has not provided guidance regarding whether this requirement will be enforced.

³¹ U.S. Fish & Wildlife Service, Elephants over Ivory: Crushing the Illegal Ivory Market (Jul. 15, 2015), <https://www.fws.gov/news/blog/index.cfm/2015/7/15/Elephants-Over-Ivory-Crushing-the-Illegal-Ivory-Market> (last visited Apr. 19, 2018).

³² AFCD Endangered Species Advisory Committee, Confirmed Minutes of Meeting (February 2013), available at http://www.afcd.gov.hk/textonly/english/aboutus/abt_adv/files/Minutes_of_meeting_130201Eng.pdf (last accessed April 11, 2018).

³³ EUROPEAN COMMISSION. EU ACTION PLAN AGAINST WILDLIFE TRAFFICKING (COM(2016) 87 FINAL) (2016), available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2016%3A87%3AFIN> (last accessed June 6, 2018).

³⁴ Laws of Malaysia, Act 716: Wildlife Conservation Act of 2010 (WCA),

³⁵ State Forestry Administration, 权威发布: 国家林业局公告 (分期分批停止商业性加工销售象牙及制品活动的定点加工单位和定点销售场所名录).

³⁶ Wildlife Resources Conservation and Protection Act, Republic Act No. 9147, ch. 1, §§2(b), 3.

³⁷ 16 U.S.C. §§1531-1544.

³⁸ Law for the Conservation of Endangered Wild Fauna and Flora, Act No. 75 of 1992 (Japan).

³⁹ Lao People's Democratic Republic National Assembly, Wildlife and Aquatic Law (2007).

⁴⁰ Elephant Ivory Tusks Act, B.E. 2558 (2015).

⁴¹ The Prime Minister of Viet Nam, On Banning from Export, Import, Purchase and Sale of the Specimens of Some of Wild Fauna Species in Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (2013), available at https://www.enVietNam.org/images/News_Resources/Law_library/Decision-11_2013_QD-TTq.pdf (last accessed Mar. 30, 2018).

⁴² EUROPEAN COMMISSION. EU ACTION PLAN AGAINST WILDLIFE TRAFFICKING (COM(2016) 87 FINAL) (2016).

⁴³ The National Assembly, Law on Biodiversity (2008).

⁴⁴ Legislative Council, Protection of Endangered Species of Animals and Plants (Amendment) Ordinance 2018 Ord. No. 7/2018, available at <https://www.legco.gov.hk/yr17-18/english/ord/2018ord007-e.pdf> (last accessed Apr. 3, 2018).

⁴⁵ Law for the Conservation of Endangered Wild Fauna and Flora, Act No. 75 of 1992 (Japan).

⁴⁶ Laws of Malaysia, Act 716, Wildlife Conservation Act of 2010 (WCA).

⁴⁷ Wildlife Resources Conservation and Protection Act, Republic Act No. 9147, ch. 1 §§ 2(b), 3.

⁴⁸ Wild Animal Reservation and Protection Act. B.E. 2535 (1992).

Very few countries ban the personal possession of elephant ivory. In fact, nearly all of the nine countries have regulations or exemptions from regulations to allow for personal possession. The most significant exceptions to this trend are Malaysia,⁴⁹ the Philippines,⁵⁰ and Thailand,⁵¹ which prohibit the private possession of wild elephants or their derivatives (including ivory).

D. Implementing New Bans on the Ivory Trade

Three markets – China,⁵² Hong Kong SAR,⁵³ and the United Kingdom⁵⁴ – have recently announced the intent to further restrict the ivory trade within their borders. Each government took a different approach to curtailing the domestic ivory trade, each of which is notable.

China implemented a ban that targets dealers of ivory. Because there had been legal domestic trade in elephant ivory for many years, the government has phased in the ban over one year to allow retailers to liquidate their stock and ivory carvers to retrain for new careers. Under its previous law, all processors and retailers were required to have permits.⁵⁵ In 2017, the State Forestry Administration identified businesses that had to change or cancel their permits, and ordered the relevant industrial and commercial departments not to accept applications for new establishments.⁵⁶ By the end of 2017, the ban went fully into effect, prohibiting all processors and retailers from introducing ivory products into the market. Museums may still possess ivory, and individuals may still inherit ivory products. China also allows professional appraised cultural relics to be auctioned.

Hong Kong SAR of China is in the process of implementing a ban that aims to both limit the supply of elephant ivory and increase punishments for criminal behavior related to the domestic trade in elephant ivory.⁵⁷ As with China, Hong Kong SAR has long had a legal market for elephant ivory products, and thus is phasing in its ban over four years (starting January 2018, with full implementation by December 31, 2021). Under the existing law, ivory may only be imported, re-exported, or possessed for commercial purposes with certain licenses.⁵⁸ In the first phase of the ban, the only ivory that may be imported is pre-Convention ivory, hunting trophies with a license, or personal effects acquired within the owner's usual place of residence. In this phase, ivory may only be possessed with a pre-Convention license.

In the second phase, Hong Kong SAR will ban the import and re-export of all ivory, both pre-Convention and post-Convention, as well as personal effects.⁵⁹ The only ivory that people will be able to transfer are antique items, or ivory intended for scientific, educational, or law enforcement purposes. Parties may still possess ivory for commercial purposes, though, so long as the object is covered by a valid license.

In the final phase, possession of ivory for commercial purposes will be banned except for antiques and exceptional circumstances. Thus, commercial retailers will be unable to acquire additional ivory or maintain a stock of ivory when this final stage is implemented on December 31, 2021. Hong Kong SAR will also have implemented higher fines and penalties to help enforce this new policy.⁶⁰

⁴⁹ *Laws of Malaysia, Act 716, Wildlife Conservation Act of 2010 (WCA).*

⁵⁰ *Wildlife Resources Conservation and Protection Act, Republic Act No. 9147, ch. 1 §§ 2(b), 3.*

⁵¹ *Wild Animal Reservation and Protection Act, B.E. 2535 (1992).*

⁵² *THE 13TH FIVE YEAR PLAN (2016-2020), ch. 45, §4. 《电子商务法》 dianzi shangwu fa. Second draft was issued for public comment in November 2017.*

⁵³ *Legislative Council, Protection of Endangered Species of Animals and Plants (Amendment) Ordinance 2018 Ord. No. 7/2018, available at <https://www.legco.gov.hk/yr17-18/english/ord/2018ord007-e.pdf> (last accessed Apr. 3, 2018).*

⁵⁴ *Dep't for Environment, Food, and Rural Affairs, Banning UK Sales of Ivory 23 (2018), available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/696474/banning-ivory-consult-sum-resp.pdf (last accessed Apr. 23, 2018).*

⁵⁵ *State Forestry Administration, 权威发布: 国家林业局公告 (分期分批停止商业性加工销售象牙及制品活动的定点加工单位和定点销售场所名录).*

⁵⁶ *Id.*

⁵⁷ *Legislative Council, Protection of Endangered Species of Animals and Plants (Amendment) Ordinance 2018 Ord. No. 7/2018, available at <https://www.legco.gov.hk/yr17-18/english/ord/2018ord007-e.pdf> (last accessed Apr. 3, 2018).*

⁵⁸ *Id.*

⁵⁹ *Protection of Endangered Species of Animals and Plants Ordinance Cap. (2006), available at https://www.ecolex.org/details/legislation/protection-of-endangered-species-of-animals-and-plants-ordinance-chapter-586-lex-faoc090260/?q=hong+kong+wildlife&type=legislation&xdate_min=&xdate_max= (last accessed Apr. 2, 2018).*

⁶⁰ *Legislative Council, Protection of Endangered Species of Animals and Plants (Amendment) Ordinance 2018 Ord. No. 7/2018.*

Finally, in April 2018, the United Kingdom formally announced a ban that will target both the supply of ivory and retailers. Although no legislation has been passed as of the writing of this report, the Department for Environment, Food, and Rural Affairs has stated its intent that the law will ban the import and export of ivory, as well as “buying, selling or hiring ivory” and “offering or arranging to buy, sell or hire ivory.”⁶¹

E. Regulation of Raw and Worked Ivory

In most jurisdictions, the laws and regulations banning or limiting the domestic trade of elephant ivory do not distinguish between raw and worked ivory.

In three jurisdictions— the European Union,⁶² Thailand,⁶³ and the United States⁶⁴—there is an important distinction. The exemptions from their bans on sales and trade for certain items include only worked ivory products. It is not possible to exempt raw elephant ivory.

Japan has a similar distinction. In Japan, raw ivory must be registered, whereas semi-processed ivory need not be registered, only tracked by the businesses selling them.⁶⁵

F. Treatment Based on Customer

The majority of jurisdictions reviewed do not distinguish between types of customers in their laws prohibiting domestic trade in elephant ivory: residents, foreigners, and corporations are all subject to the same rules and regulations. Two exceptions to this trend are Japan and Viet Nam, which both have higher penalties when the offender is a corporation rather than an individual.

G. Treatment Based on Native and Non-Native Species

Most jurisdictions make no distinction between the species of elephants when regulating domestic trade in elephant ivory. Where there is a distinction, it is most often between native and non-native populations. This may be based on explicitly species, but more often it is based on origin.

Countries with native elephant populations face unique challenges. Where a legal domestic market in elephant ivory exists, the market can provide a means for “laundering” ivory from poached wild elephants. Similarly, some of these countries also have domesticated elephant populations, so there is also a threat that ivory from these populations may illegally enter the market.

Countries with native populations of elephants—including Lao PDR,⁶⁶ Thailand,⁶⁷ and Viet Nam⁶⁸—have additional laws restricting the capture and harm of wild elephants.

Thailand manages its elephant populations via registration. Thailand has banned the trade of ivory from wild elephants, but does allow for domestic trade in elephant ivory sourced from its domesticated population.⁶⁹ To help protect its wild population, Thailand has created a DNA database for all domesticated elephants, making it more difficult for parties to pass off ivory from wild elephants as legal.

⁶¹ Dep’t for Environment, Food, and Rural Affairs, *Banning UK Sales of Ivory 23* (2018), available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/696474/banning-ivory-consult-sum-resp.pdf (last accessed Apr. 23, 2018).

⁶² EUROPEAN COMMISSION, *EU ACTION PLAN AGAINST WILDLIFE TRAFFICKING (COM(2016) 87 FINAL)* (2016).

⁶³ *Elephant Ivory Tusks Act*, B.E. 2558 (2015).

⁶⁴ 16 U.S.C. §§1531-1544.

⁶⁵ *Law for the Conservation of Endangered Wild Fauna and Flora*, Act No. 75 of 1992 (Japan).

⁶⁶ *Lao People’s Democratic Republic National Assembly, Wildlife and Aquatic Law* (2007).

⁶⁷ *Wild Animal Reservation and Protection Act*, B.E. 2535 (1992).

⁶⁸ *The National Assembly, Law on Biodiversity* (2008).

⁶⁹ *Elephant Ivory Tusks Act*, B.E. 2558 (2015).

Both Viet Nam and Lao PDR⁷⁰ also have domesticated populations, but neither have any registration requirements. Viet Nam bans the trade of ivory from wild populations, but allows ivory from elephants bred in captivity to be traded.⁷¹

Malaysia has native elephant populations and has largely banned domestic ivory trade, although special permits may allow for the use of ivory from wild elephants. It is the current policy of the Natural Resources and Environment Minister that no permits are issued for the hunting or selling of elephant products.⁷²

China has native elephant populations. Until the recent ban, there were additional laws that restricted the capture and harm of wild elephants (as for Thailand, Lao PDR, and Viet Nam).⁷³ That said, the ban applied equally to all elephant ivory, regardless of source, so that earlier distinction no longer holds.⁷⁴

Lao PDR is home to a domesticated elephant population, and allows for the domestic trade of ivory from that population.⁷⁵ To curtail the introduction of ivory from wild elephants into the domesticated stock, the nonprofit International Elephant Foundation has microchipped 77 percent of the domesticated elephants. Registration is not required, though, leaving open the possibility for fencing illegal ivory sales, especially as the existing domesticated population ages.

H. Exemptions from the Ban on Possession

While all jurisdictions regulate domestic trade in elephant ivory, they also usually allow for exemptions from their ivory trade regulations to account for ownership of ivory products. The most common exception is for antiques. Examples of countries granting exemptions to allow trade in antique elephant ivory include China⁷⁶ including Hong Kong SAR,⁷⁷ the European Union,⁷⁸ Philippines,⁷⁹ and the United States.⁸⁰ For purposes of the exemption, the definition of “antique” varies depending on the country. Some jurisdictions designate objects made out of elephant ivory as “antique” when those objects were created before specific years (ranging from 1925 to 1947), while others have shifting definitions, requiring objects to be a minimum age (ranging from 50 to 100 years).⁸¹

⁷⁰ Lao People's Democratic Republic National Assembly, *Wildlife and Aquatic Law* (2007).

⁷¹ The National Assembly, *Law on Biodiversity* (2008).

⁷² CITES SC69 NATIONAL IVORY ACTION PLAN PROGRESS REPORT, MALAYSIA (2017), available at <https://cites.org/sites/default/files/eng/com/sc/69/E-SC69-29-03-A-14.pdf> (last visited June 6, 2018).

⁷³ All processing facilities and dealers must register and receive a certificate in order to operate. GUOJIA LINYE JU GUOJIA GONGSHANG XINGZHENG GUANLI ZONGJU GONGGAO (国家林业局国家工商行政管理总局公告) [SFA AND STATE ADMIN. FOR INDUS. AND COM. (SAIC) PUB. NOTICE] (2004), available at http://www.forestry.gov.cn/portal/main/govfile/13/govfile_1081.html (last accessed Mar. 10, 2018).

⁷⁴ State Forestry Administration, 权威发布: 国家林业局公告 (分期分批停止商业性加工销售象牙及制品活动的定点加工单位和定点销售场所名录) (2017).

⁷⁵ Lao People's Democratic Republic National Assembly, *Wildlife and Aquatic Law* (2007), art. 40.

⁷⁶ GUOWUYUAN BANGGONG TING GUANYU YOU XU TINGZHI SHANGYE XING JIAGONG XIAOSHOU XIANGYA JI ZHIPIN HUODONG DE TONGZHI, (国务院办公厅关于有序停止商业性加工销售象牙及制品活动的通知) [STATE COUNCIL NOTICE ON BAN ON SALE OF IVORY] (Notice No. 103, issued on Dec. 29, 2016), available at http://www.gov.cn/gongbao/content/2017/content_5163456.htm (last accessed Mar. 5, 2018).

⁷⁷ Protection of Endangered Species of Animals and Plants (Exemption for Appendix I Species) Order, L.N. (2006), available at <https://www.elegislation.gov.hk/hk/cap586A!en?pmc=1&m=1&pm=0> (last accessed Apr. 3, 2018).

⁷⁸ European Commission, *Permits, Certificates and Notifications, Wildlife Trade into, from, and inside the EU* (2016), available at http://ec.europa.eu/environment/cites/info_permits_en.htm (last visited June 6, 2018).

⁷⁹ *Wildlife Resources Conservation and Protection Act*, Republic Act No. 9147, ch. 1, §2(b), 3.

⁸⁰ 16 U.S.C. §§1531-1544.

⁸¹ The specific techniques for determining the age of objects is not set forth in the laws that were examined.

Many countries also allow for possession related to scientific research. These include, for example, China⁸² including Hong Kong SAR,⁸³ the European Union,⁸⁴ Malaysia,⁸⁵ and the United States.⁸⁶

The European Union⁸⁷ and United States⁸⁸ also allow for ownership and sale of products with *de minimis* content of elephant ivory. These are usually musical instruments or like products (such as keys on a piano). In the United States, this exemption applies when the ivory is a fixed or integral component of a larger piece, is not the primary source of value for the object (accounting for less than 50 percent of the object), and is less than 50 percent of the object by volume.⁸⁹ The United Kingdom is in the process of instituting a similar exemption for that include a *de minimis* amount of elephant ivory, though the exemption will apply only to items containing less than 10 percent ivory by volume that were made before 1947, or to musical instruments containing less than 20 percent ivory by volume that were made before 1975.⁹⁰

Hong Kong SAR, Japan, and Thailand, have the most permissive exemptions. Thailand allows a person to own four small personal items made of elephant ivory (weighing less than 0.5kg in total).⁹¹ Hong Kong SAR does not have any restrictions on personal ownership of elephant ivory products by individuals. Japan does not restrict personal ownership of elephant ivory products, as long as the ivory is legally obtained.

I. Criminal Penalties

Every jurisdiction examined makes use of fines and imprisonment as penalties to deter illegal domestic trade in elephant ivory.

The severity of the penalties varies across countries, and often the statutes provide different punishments based on the volume of ivory traded or the party trading. The largest fines are imposed by Hong Kong SAR, with fines up to US\$1.3 million.⁹² Viet Nam imposes the next highest penalties, ranging from US\$220,000 to US\$660,000, though those penalties apply only to corporations.⁹³ In contrast, individuals in Viet Nam convicted of the same acts face fines of US\$22,000 and up to 12 years imprisonment.⁹⁴

If convicted of illegal domestic trade in elephant ivory, Malaysia⁹⁵ and Viet Nam⁹⁶ provide for the longest potential sentences of 15 years maximum imprisonment. China provides for imprisonment sentences of 10 years or more,⁹⁷ Lao PDR⁹⁸ and the Philippines⁹⁹ have the lowest maximum penalties (less than a year and four years, respectively).

⁸² Yuesheng Dongwu Baohu Fa (野生动物保护法) [Wildlife Protection Law] (2017) available at http://www.npc.gov.cn/npc/xinwen/2016-07/04/content_1993249.htm (last accessed Mar. 16, 2018).

⁸³ Protection of Endangered Species of Animals and Plants (Exemption for Appendix I Species) Order, L.N. (2006).

⁸⁴ European Commission, Permits, Certificates and Notifications, Wildlife Trade into, from, and inside the EU (2016).

⁸⁵ Laws of Malaysia, Act 716, Wildlife Conservation Act of 2010 (WCA).

⁸⁶ 16 U.S.C. §§1531-1544.

⁸⁷ European Commission, Permits, Certificates and Notifications, Wildlife Trade into, from, and inside the EU (2016).

⁸⁸ 50 C.F.R. §17.40 (e) (2017).

⁸⁹ *Id.*

⁹⁰ UNITED KINGDOM DEPT. FOR ENVIRONMENT FOOD AND RURAL AFFAIRS, BANNING UK SALES OF IVORY (23–25) (2018) available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/696474/banning-ivory-consult-sum-resp.pdf (last accessed June 6, 2018).

⁹¹ Elephant Ivory Tusks Act, B.E. 2558 (2015).

⁹² Legislative Council, Protection of Endangered Species of Animals and Plants (Amendment) Ordinance 2018 Ord. No. 7/2018.

⁹³ The National Assembly, Law on Amendments to the Criminal Code (2015), available at https://www.enVietNam.org/images/News_Resources/Law_library/Penal-Code-2017.pdf (last accessed Mar. 30, 2018).

⁹⁴ *Id.*

⁹⁵ Laws of Malaysia, Act 716, Wildlife Conservation Act of 2010 (WCA).

⁹⁶ The National Assembly, Law on Amendments to the Criminal Code (2015).

⁹⁷ Xingfa (中华人民共和国刑法) [Crim. Law] (1997), available at http://www.npc.gov.cn/englishnpc/Law/2007-12/13/content_1384075.htm (last accessed Mar. 16, 2018).

⁹⁸ Lao People's Democratic Republic, Penal Law No. 142/PO (2005), available at [http://www.vientianetimes.org.la/Laws%20in%20English/2.%20Law%20on%20Penal%20\(2005\)%20Eng.pdf](http://www.vientianetimes.org.la/Laws%20in%20English/2.%20Law%20on%20Penal%20(2005)%20Eng.pdf) (last accessed June 6, 2018).

⁹⁹ Wildlife Resources Conservation and Protection Act, *supra* note 17, ch V.

IV. Priorities for Regulating Domestic Ivory Trade

This Report highlights four priorities for improving regulation of domestic trade of elephant ivory: effects of bans, online markets, enforcement, and registration of personal items. These are addressed in turn.

A. The Effects of Bans

In recent years, several jurisdictions have announced sweeping bans on domestic trade in elephant ivory, including China,¹⁰⁰ Hong Kong SAR,¹⁰¹ and the United Kingdom.¹⁰² These announcements and bans have had impacts both domestically and internationally. Within each country, the legal ivory markets are shrinking. As not all of the bans have come fully into effect, legal retailers are liquidating their stock, leading to dramatic decreases in the price of elephant ivory. While declines in market value may suggest the effectiveness of the bans as binding tools, such bans still present new complex difficulties. For example, exceptions to bans still exist, especially for items incorporating ivory such as musical instruments. Without a full ban, there is still the potential for illegal ivory to be worked into seemingly legal pieces. The bans also have had the effect of shifting ivory markets to other countries, increasing the volume of sales in other countries despite the decrease in price.

B. Effectively Regulating Online Markets

The online marketplace continues to be a major source of ivory sales. Effectively regulating or restricting online sales remains a challenge in nearly every market.

Countries have taken several approaches toward regulating online markets in elephant ivory. Some, including China¹⁰³ and Viet Nam,¹⁰⁴ have explicitly banned the online trade of ivory. Despite the ban, though, online sales persist.

Other jurisdictions—including Malaysia,¹⁰⁵ Thailand,¹⁰⁶ and the United States¹⁰⁷—require online traders of elephant ivory to abide by the same rules as brick-and-mortar shops. Ostensibly, this includes licensing obligations that might include documenting the legal source of the ivory or reporting the sale to the proper authorities. Even these requirements, when present, may not be effective at ensuring that the sale is legal. First, such sales are difficult to monitor, and thus enforce. Even if authorities monitor online sales, they are sometimes unable to discern if the advertised product is legal or not. Thus, illegally sourced ivory may be described as legal, and authorities might often have limited ability to check both the paperwork and the object for online sales to verify that the ivory being sold is the same as the documented legal ivory.

Second, social media complicates regulation, especially since it is not traditionally viewed as a marketplace. Private sellers may not be aware of licensing requirements, and social media platforms enable knowledgeable sellers to circumnavigate requirements. Private actors are able to create many advertisements with relative anonymity, and may use mobile-phone apps that encrypt messages to conduct transactions.

Some countries have created laws to specifically tackle the difficulties posed by online trade. The Czech Republic requires sellers to inform potential buyers that ivory items must be accompanied by a valid CITES permit.¹⁰⁸

¹⁰⁰ State Forestry Administration, 权威发布: 国家林业局公告 (分期分批停止商业性加工销售象牙及制品活动的定点加工单位和定点销售场所名录) (2017).

¹⁰¹ Legislative Council, *Protection of Endangered Species of Animals and Plants (Amendment) Ordinance 2018* Ord. No. 7/2018.

¹⁰² UNITED KINGDOM DEPT. FOR ENVIRONMENT FOOD AND RURAL AFFAIRS, *BANNING UK SALES OF IVORY* (23–25) (2018).

¹⁰³ Yuesheng Dongwu Baohu Fa (野生动物保护法) [Wildlife Protection Law] (2017), art. 32

¹⁰⁴ The Government of Viet Nam, *On the Management, Provision, and Use of Internet Services and Online Information*, art. 5(dd) (2013).

¹⁰⁵ Laws of Malaysia, Act 686, *International Trade in Endangered Species Act 2008* (INTESA), available at <http://www.agc.gov.my/agcportal/uploads/files/Publications/LOM/EN/Act%20686%20-%205%208%202014.pdf>.

¹⁰⁶ *Elephant Ivory Tusks Act*, B.E. 2558 (2015).

¹⁰⁷ 16 U.S.C. §§1531-1544.

¹⁰⁸ Department of Species Protection and Implementation of European Regulations, *CITES legislation in the Czech Republic*, CZ 2010, available at [https://www.mzp.cz/C1257458002F0DC7/cz/cites_informace_cizinec/\\$FILE/ODOIEP-CITES_legislation_CZ%20_2012-20120214.pdf](https://www.mzp.cz/C1257458002F0DC7/cz/cites_informace_cizinec/$FILE/ODOIEP-CITES_legislation_CZ%20_2012-20120214.pdf) (last accessed June 6, 2018).

Sellers must also inform potential buyers of their obligations to register the product. Advertisements that do not comply with these rules are subject to removal.

Another important development in online markets has been the self-governance of private actors. Several major retailers, including Google, Amazon, Alibaba, eBay, and Rakuten Ichiba have banned the sale—whether domestic or otherwise—of elephant ivory on their platforms. While not all retailers have followed suit, notably Yahoo! Japan, closing these markets allows authorities to focus their attention on the few online markets that remain open.

C. Enforcing Current Laws

While many jurisdictions have banned or severely restricted the domestic trade in elephant ivory, enforcement of existing laws remains a challenge.

Our research revealed very few prosecutions across most jurisdictions, especially given the volume of sales. There seems to be a significant implementation gap between the bold bans and the enforcement of those bans in a number of the countries examined. Although identifying reasons for the relatively scarcity of successful prosecutions is beyond the scope of this report, it is clear that more can be done to enforce the bans already in place.

Education about existing laws may aid enforcement. Thailand has undertaken programs to counter this, focusing on informing ivory shops and foreign tourists of the applicable laws, and educating youth to reduce future demand of ivory.¹⁰⁹ Both China¹¹⁰ and Hong Kong SAR¹¹¹ have also conducted education campaigns to inform citizens of its ban and the effects of the ivory trade on elephant populations.

D. Registration of Personal Items

None of the jurisdictions considered in this report currently require individuals to register private ivory collections. The focus has instead been on regulating trade and businesses only. The lack of private registration, though, could amplify or reinforce other aspects of the illegal ivory trade. In particular, illegal ivory may be fraudulently claimed as a historic, private item. These items may then be introduced into the stream of commerce, especially given the ease of online trade.

Currently regulatory schedules may not adequately account for this source of illegal trade because private parties may be unaware of obligations to adhere to trade regulations or may conduct private sales that are difficult to detect. Registration of all personal items containing ivory presents one means of combatting the introduction of illegal ivory.

¹⁰⁹ CITES, *IMPLEMENTATION OF THAILAND'S NATIONAL IVORY ACTION PLAN*, (2016), 1, 3, 12, 13, available at <https://cites.org/sites/default/files/eng/com/sc/67/E-SC67-13-A5.pdf> (last accessed June 6, 2018).

¹¹⁰ State Forestry Administration, 权威发布: 国家林业局公告 (分期分批停止商业性加工销售象牙及制品活动的定点加工单位和定点销售场所名录) (2017)

¹¹¹ AFCD Endangered Species Advisory Committee, *Confirmed Minutes of Meeting* (February 2013).

Part II: A Scoping Assessment of Domestic Markets for Selected Endangered Species

I. Introduction

At the 17th meeting of the CITES Conference of Parties in September and October of 2016, the Parties adopted decision 17.87, which provides in pertinent part:

The Secretariat, subject to external funding and in consultation with relevant Parties, is requested to:

a) contract independent consultant(s) to undertake a study of the domestic controls in consumer markets for specimens of CITES-listed species for which international trade is predominantly illegal; and

b) report the findings and recommendations of this study to the 70th meeting of the Standing Committee.

This report comprises the second part¹¹² of this study. It is a scoping exercise to allow for a discussion of a possible full study of domestic controls in consumer markets for trade in non-elephant specimens of CITES Appendix I-listed species for which international trade is predominantly illegal. Based on existing CITES Resolutions and Appendix I-listed species known to be of concern because of international illegal trade, the broad list of species include rhinoceroses, tigers, other Asian big cats, pangolins, helmeted hornbills, many tortoises and turtles, and great apes. A complete list of the species considered is included in box 1.

This scoping study seeks to identify domestic consumer markets where commercial trade in specimens of Appendix I-species seem to occur in order to prepare for a second study on the domestic controls of such trade in those markets. The study seeks to identify the most important consumer markets of specimens of such species, *inter alia* by reviewing existing documents prepared for CITES CoP and SC as well as the World Wildlife Crime Report (2016). It also develops a list of relevant questions for studying the domestic controls in place in these markets subsequently.

This report starts with a discussion of the criteria for identifying major markets in the target species. It then analyzes the domestic markets of each species, before considering the broad picture of which countries should be analyzed in a possible full report of laws governing domestic markets in the Appendix I-listed species of interest. Proposed questions and structure for the country-specific analysis is then presented.

| | |
|--|-------------------------------------|
| <u>Rhinoceros</u> | <u>Turtles and Tortoises</u> |
| <i>Ceratotherium simum</i> | <i>Batagur affinis</i> |
| <i>Diceros bicornis</i> | <i>Pyxis arachnoides</i> |
| <i>Rhinoceros unicornis</i> | <i>Batagur baska</i> |
| <i>Rhinoceros sondaicus</i> | <i>Caretta caretta</i> |
| <i>Dicerorhinus sumatrensis</i> | <i>Chitra chitra</i> |
| | <i>Terrapene coahuila</i> |
| <u>Tibetan Antelope</u> | <i>Dermochelys coriacea</i> |
| <i>Pantholops hodgsonii</i> | <i>Natator depressus</i> |
| | <i>Gopherus flavomarginatus</i> |
| <u>Asian Big Cats</u> | <i>Nilssonina gangetica</i> |
| <i>Panthera tigris</i> | <i>Psammobates geometricus</i> |
| <i>Caracal caracal</i> | <i>Geoclemys hamiltonii</i> |
| <i>Panthera uncia</i> | <i>Nilssonina hurum</i> |
| <i>Neofelis nebulosi</i> | <i>Eretmochelys imbricata</i> |
| <i>Panthera leo leo</i> | <i>Lepidochelys kempii</i> |
| <i>Panthera Pardus</i> | <i>Testudo kleinmanni</i> |
| <i>Acinonyx jubatus ssp. venaticus</i> | <i>Platysternon megacephalum</i> |

¹¹² The first part of the study was "Controls on Domestic Trade in Elephant Ivory: An Analysis of Nine Countries," produced by the Environmental Law Institute for the CITES Secretariat.

Pangolins

Manis crassicaudata
Manis pentadactyla
Manis javanica
Manis culionensis
Phataginus tricuspis
Phataginus tetradactyla
Smutsia gigantea
Smutsia temminckii

Great Apes

Gorilla beringei
Gorilla gorilla
Pan paniscus
Pan troglodytes
Pongo abelii
Pongo pygmaeus

Glyptemys muhlenbergii
Chelonia mydas
Chelonoidis niger
Nilssonina nigricans
Morenia ocellata
Lepidochelys olivacea
Pyxis planicauda
Geochelone platynota
Astrochelys radiata
Apalone spinifera atra
Pangshura tecta
Melanocheilus tricarinata
Pseudemydura umbrina
Chitra vandijki
Astrochelys yniphora

Birds

Rhinoplax vigil
Psittacus erithacus
Cyanopsitta spixii

American Crocodile

Crocodylus acutus

Iguanas

Sauromalus varius
Cyclura spp.
Brachylophus spp.

Snakes

Acrantophis spp.
Boa constrictor occidentalis
Epicrates inornatus
Epicrates monensis
Epicrates Subflavus
Sanzinia madagascariensis
Bolyeria multocarinata
Casarea dussumieri
Python molurus molurus
*Vipera ursinii*¹¹³

Orchids

Aerangis ellisii
Dendrobium cruentum
Laelia jongheana
Laelia lobate
Paphiopedilum spp.
Peristeria elata
Phragmipedium spp.
Renanthera imschootiana

¹¹³ Only the European population of *Vipera ursinii* is listed in Appendix I; the populations living in the area which formerly constituted the Union of Soviet Socialist Republics is not included in the Appendix I listing.

Box 1 – Species Considered in this Report

II. Criteria for Identifying Major Markets

There is limited robust quantitative data available regarding domestic markets for endangered species. Perhaps the most reliable source of data globally is the seizures reported to CITES, indicating the importing country, exporting country, and country of origin. While it does give an indication of domestic consumption, it does not necessarily specify whether the seizure occurred at the point of import (which could also be a transit point) or the point of export or illegal possession for local consumption. Nevertheless, given the limited other reliable data sources, all such countries were included as potentially major markets for that species.

The focus of a potential study should be on domestic markets which are primarily supplied by imported specimens. Such markets are those that could potentially lead to a demand for illegal imports (as Appendix I-listed species cannot be imported for commercial purposes). This means that domestic consumption of specimens of native species sourced within the country itself should not be the focus of the study.

When data was available regarding the significance of domestic trade in the Appendix I species in the country, it was factored into the list, narrowing the set of potential markets to remove countries with relatively insignificant domestic trade. Factors considered in the “significance” of trade included the volume of specimens or derivatives traded, the number of individual specimens traded, the monetary value of the trade, and the role of the individual species’ trade in the domestic market as a whole. When this data was unavailable, the entire set was included as a potential major market so that the full study would be as comprehensive as possible.

III. Major Markets by Species

This report now turns to consideration of the respective Appendix I-listed species.

A. Rhinoceros

Primary Markets: China (including Hong Kong), European Union, India, Kenya, Malawi, Malaysia, Mozambique, Myanmar, Nepal, Nigeria, Singapore, South Africa, Tanzania, Thailand, Uganda, the United States, Viet Nam, and Zimbabwe.

According to one study, China, Mozambique, South Africa, and Zimbabwe were all implicated in the seizure of over 700kg of rhino horn as either the source of the seizure or as the origin, export, transit, or destination.¹¹⁴ Similarly, over the same six years, the Czech Republic, France, Hong Kong, Kenya, Malawi, Malaysia, Nigeria, Singapore, Tanzania, Thailand, Uganda, and the United States were all implicated in the seizure of over 50kg of rhino horn each.¹¹⁵ In many of these countries, as well as many other European countries, seizures were often related to either Vietnamese or Chinese nationals, suggesting that the criminal networks are linked.¹¹⁶

Another study identified the China, the European Union (especially Ireland and the Czech Republic), Thailand, the United States, and Viet Nam, as major destinations of rhino horns between 2006 and 2015.¹¹⁷ This study further identified the major sources of rhinoceros horns as Kenya, Mozambique, South Africa, and Zimbabwe.¹¹⁸

Although much smaller than African rhinoceros markets, there are still significant domestic markets for Asian rhinoceroses documented in China, India, and Myanmar.¹¹⁹ To a lesser extent, Nepal also has a documented domestic market for Asian rhinoceros, although both Myanmar and Nepal primarily serve as a conduit to markets in China.

Thus, a study of rhinoceros markets should focus on the primary markets in China (including Hong Kong SAR), the European Union, South Africa, Thailand, the United States, Viet Nam, and Zimbabwe. To include trade in Asian rhinoceroses, the study should also include India, Myanmar, and Nepal. If resources are available, the study could further include Kenya, Malawi, Malaysia, Nigeria, Singapore, Tanzania, and Uganda.

¹¹⁴ IUCN SPECIES SURVIVAL COMMISSION AFRICAN AND ASIAN RHINO SPECIALIST GROUPS ET AL., AFRICAN AND ASIAN RHINOCEROSES – STATUS, CONSERVATION AND TRADE, CoP17 Doc. 68, Annex 5, 4.

¹¹⁵ *Id.*

¹¹⁶ *Id.*, 5.

¹¹⁷ UNODC, WORLD WILDLIFE CRIME REPORT 71 (2016).

¹¹⁸ *Id.*

¹¹⁹ IUCN SPECIES SURVIVAL COMMISSION AFRICAN AND ASIAN RHINO SPECIALIST GROUPS ET AL., *supra* n. 112, 16.

B. Tibetan Antelope

Primary Markets: China, the European Union, India, and Switzerland.

The wool of Tibetan antelope is used to produce a fiber known as shahtoosh.¹²⁰ Products containing shahtoosh have been found traded in India and throughout Europe, though there is little data to suggest that these are major markets for the products. While Tibetan antelope are native to China, in 2013 the CITES Management Authority of China conducted field studies and found no evidence of poaching or smuggling.¹²¹ Despite the limited data, it may be advisable to include China in the study, as their laws may have had an impact on preventing trade within their borders.

C. Asian Big Cats

Primary Markets: Afghanistan, Bangladesh, the People's Republic of China, the European Union, India, Indonesia, Lao PDR, Malaysia, Mongolia, Nepal, New Zealand, Pakistan, Qatar, the Russian Federation, Singapore, Switzerland, Thailand, the United Arab Emirates, and Viet Nam.

Many countries demonstrate market issues with the trade of **tigers**. According to a TRAFFIC Report, the highest number of seizures occurring between 2012 and 2015 were in Bangladesh, China, India, Indonesia, Malaysia, Nepal, the Russian Federation, Thailand, and Viet Nam.¹²² China, Lao PDR, Thailand, and Viet Nam also have tiger breeding centers, which may be involved with illegal trade.¹²³

The **snow leopard** is native to Afghanistan, Bhutan, the People's Republic of China, India, Kazakhstan, Kyrgyzstan, Mongolia, Nepal, Pakistan, the Russian Federation, Tajikistan, and Uzbekistan. The CITES Trade Database indicates that, between 2012 and 2017, the only instance of commercial trade involving wild snow leopards occurred between Belgium and Qatar, with no origin specified. Five other records of trade involved pre-Convention derivatives from China, Nepal, or an unknown origin being traded to China, European Member States, and Switzerland, among others. Another historical report identified trade in snow leopard skins between Afghanistan, Pakistan, and the United Arab Emirates.¹²⁴ The report further noted that China had identified snow leopard DNA in an undeclared product,¹²⁵ and that both Afghanistan and Mongolia had a significant number of seizures of snow leopard parts between 2003 and 2012.¹²⁶ Based on these various reports, the full report could include an analysis of legislation governing domestic markets for snow leopards in Afghanistan, China, European Union, Mongolia, Pakistan, Qatar, Switzerland, and the United Arab Emirates.

Limited data is available for the **clouded leopard** (*Neofelis nebulosi*), particularly regarding domestic markets. The CITES Trade Database indicates that there was a single import of a wild clouded leopard between 2012 and 2017, a trophy specimen imported from Malaysia to Singapore. Prior to this, China, Indonesia, New Zealand, Thailand, and the United States had all been implicated in the trade of clouded leopard.¹²⁷ Another report noted that India has also been involved in the trade of clouded leopard skins.¹²⁸ Accordingly, the analysis of legislation governing domestic markets for clouded leopard should cover the People's Republic of China, India, Indonesia, New Zealand, Thailand, and the United States.

The **Asiatic cheetah** (*Acinonyx jubatus ssp. venaticus*) is indigenous to the Islamic Republic of Iran. CITES reports discussing trends in the trade of cheetahs do not distinguish between Asiatic cheetahs and the several African subspecies of cheetahs.¹²⁹ The lack of granularity makes it unclear which countries have domestic markets for Asiatic cheetahs. The Islamic Republic of Iran may be included in a study of domestic controls regulating the Asian big cat trade, though it may be more efficient to study the Asiatic cheetah in the context of the cheetah trade at large instead.

¹²⁰ CoP17 Doc. 66, 2.

¹²¹ *Id.*, 1.

¹²² TRAFFIC, REDUCED TO SKIN AND BONES RE-EXAMINED 24 (2016).

¹²³ *Id.*, 40.

¹²⁴ SC65 Doc. 38, Annex I, 17.

¹²⁵ *Id.*

¹²⁶ *Id.*, 26.

¹²⁷ *Id.*, 18, Table 6.

¹²⁸ *Id.*, 27.

¹²⁹ See, e.g., SC66 Doc. 32.5, Annex.

Similarly, the **caracal** (*Caracal caracal*) is indigenous to Afghanistan, India, Iran, Kazakhstan, Turkmenistan, and Uzbekistan, though it also has significant populations across Africa.¹³⁰ The CITES Trade Database includes 77 entries for trade involving wild or seized caracal products between 2012 and 2017. The database, however, does not differentiate between African and Asian caracal except for 10 entries coming from South Africa. Thus, as with the Asiatic cheetah, a study of domestic controls involving the caracal may be more efficiently completed by studying the caracal trade at large. The primary caveat to a global study is that only the Asian populations of caracal are listed in Appendix I. Accordingly, Parties could be encouraged to differentiate between African and Asian caracals in their reports of seizures to better identify where domestic markets for Asian caracals exist.

The primary markets for derivatives of Asian populations of **leopards** are the China, India, and Nepal.¹³¹

The **Asiatic lion** is native only to India, and evidence suggests that very little trade occurs involving derivatives from this populations.¹³²

D. Pangolins

Primary Markets: Cameroon, China, the European Union, India, Indonesia, Kenya, Lao PDR, Malaysia, Myanmar, Nepal, the Philippines, Thailand, Togo, Uganda, the United States, and Viet Nam.

A 2017 survey found that 56 parties are implicated in the illegal pangolin trade: Belgium, Benin, Cambodia, Cameroon, Central African Republic, the People's Republic of China, Congo, Côte d'Ivoire, the Democratic Republic of Congo, Equatorial Guinea, Ethiopia, France, Gabon, Germany, Ghana, Guinea, Hong Kong SAR, India, Indonesia, Italy, Japan, Kenya, Lao PDR, Liberia, Lichtenstein, Malaysia, Malta, Mexico, Morocco, Myanmar, Namibia, Nepal, New Zealand, Nigeria, Norway, Pakistan, Qatar, Sierra Leone, Singapore, South Africa, Spain, Sudan, Switzerland, Thailand, the Netherlands, the Philippines, Tanzania, Togo, Turkey, Uganda, United Arab Emirates, United Kingdom, United States, Viet Nam, Zambia, and Zimbabwe.¹³³ By percentage of volume trafficked, the most significant Parties involved with the trade of living or dead Asian subspecies of pangolins were China, Indonesia, Lao PDR, Malaysia, Thailand, and Viet Nam.¹³⁴ Outside of Asia, the most significant Parties involved in the trade of pangolins were Cameroon, Member States of the European Union, and the United States.¹³⁵ It should be noted, however, that the total volume of pangolins involved in seizures outside of Asia included only 90 animals between 1999 and 2017, whereas each of the six Asian countries mentioned above were involved with the seizure of hundreds or thousands of animals.

Pangolin scales are primarily traded in Asia, implicating China (including Hong Kong, SAR), India, Indonesia, Malaysia, Myanmar, Lao PDR, Nepal, the Philippines, Thailand, and Viet Nam.¹³⁶ Some Member States of the European Union also reported significant volume of Pangolin scale trade.¹³⁷ Several African parties also noted substantial (over 100kg of scales) seizures, including Cameroon, Kenya, Togo, and Uganda.¹³⁸ There is also trade in Pangolin meat, though this comprises only 4% of the trafficked pangolin by volume between 1999 and 2017.¹³⁹

Accordingly, the analysis of legislation governing domestic markets for pangolin should cover Cameroon, China, the European Union, Indonesia, Lao PDR, Malaysia, Thailand, United States, and Viet Nam.

E. Helmeted Hornbill

Primary Markets: China, Indonesia, Lao PDR, and Malaysia.

¹³⁰ THE IUCN RED LIST OF THREATENED SPECIES, *Caracal Caracal*, available at <http://www.iucnredlist.org/details/3847/0>.

¹³¹ SC65 Doc. 38, Annex I, 26.

¹³² *Id.*, 27.

¹³³ IUCN, IMPLEMENTATION OF CITES DECISIONS 17.239B) AND 17.240 ON PANGOLINS (MANIS SPP.) 43 (2017) (also published as SC69 Doc. 57 A).

¹³⁴ *Id.*, 47–48.

¹³⁵ *Id.*, 48.

¹³⁶ *Id.*, 49–50 (noting the Parties with over 100kg of pangolin scale seizures).

¹³⁷ *Id.*, 51.

¹³⁸ *Id.*, 52.

¹³⁹ *Id.*, 46.

The helmeted hornbill (*Rhinoplax vigil*) is native to Brunei Darussalam, Indonesia, Malaysia, Myanmar, Singapore, and Thailand.¹⁴⁰ Though there is limited information available about the illegal trade in helmeted hornbills, the most significant markets appear to be China, Indonesia, Lao PDR, and Malaysia.¹⁴¹

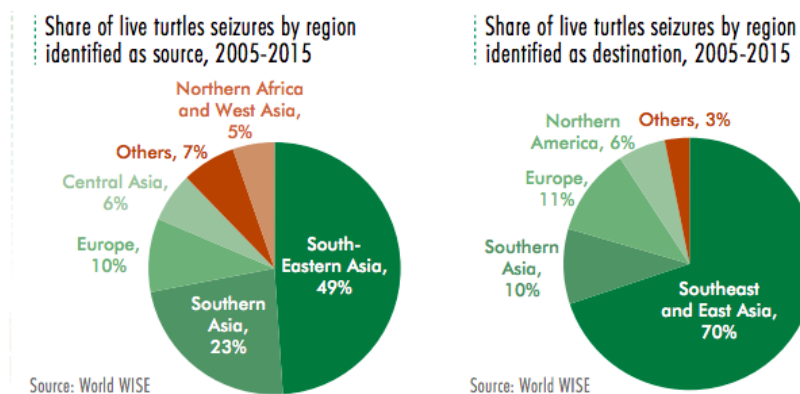
F. Turtles and Tortoises

Primary Markets: China, Japan, and Viet Nam.

The region most involved in the poaching, trafficking, and trading of endangered turtles and tortoises appears to be Southeast Asia and China, an area containing, “the richest diversity of terrestrial turtles in the world” but also accounting for a significant portion of endangered turtle and tortoise trade.¹⁴² Significant quantities of freshwater turtles and tortoises have been traded across borders between countries such as Cambodia, the People’s Republic of China (including Hong Kong), Thailand, and Viet Nam.¹⁴³ Markets in China have been noted to sell species from many countries, including Bangladesh, Cambodia, China, India, Indonesia, Malaysia, Myanmar, Nepal, Papua New Guinea, Thailand, and Viet Nam. It appears that many of these species are from the Coral Triangle, which designates the waters around Indonesia, Malaysia, and the Philippines.¹⁴⁴

Trade has also expanded into North America and Africa.¹⁴⁵ Madagascar has been suffering from depleted populations of the CITES Appendix I-listed ploughshare tortoise (*Astrochelys yniphora*) as a result of Asian trade,³ and there has been a steep increase in the imports of North American turtles into Asia to meet growing market demands.¹⁴⁶ It appears that while various regions and countries from the Caribbean to South America to India export these species, the majority of market demand stems from Southeast and East Asia.

The charts below, from the UNODC’s *World Wildlife Crime Report*, provide a helpful visual of the countries of origin and destination for seized live turtles. They also indicate that while Southeast and Southern Asia were the main sources of confiscated shipments, Southeast and Eastern Asia were the main destinations.⁴



Based on these considerations, the analysis of legislation governing domestic markets for turtles and tortoises should cover China, Japan, and Viet Nam.

G. Great Apes

Primary Markets: Cameroon, the Democratic Republic of the Congo, Egypt, Equatorial Guinea, Guinea, Indonesia, Kuwait, Malaysia, Nigeria, South Sudan, Tanzania, Thailand, and Uganda.

¹⁴⁰ CoP17 Doc. 69.

¹⁴¹ THE IUCN RED LIST OF THREATENED SPECIES, *Rhinoplax vigil*, available at <http://www.iucnredlist.org/details/22682464/0>; see also Environmental Investigation Agency, *Illegal Trade Seizures: Helmeted Hornbill*, available at <https://eia-international.org/illegal-trade-seizures-helmeted-hornbills>. Compare with Resolution Conf. 17.11 – 1 (noting the demand in the People’s Republic of China for helmeted hornbill products and its impact in Indonesia).

¹⁴² CoP11 Doc. 11.35, 1–2, available at <https://www.cites.org/sites/default/files/eng/cop/11/doc/35.pdf>.

¹⁴³ *Id.*

¹⁴⁴ IUCN, *Hawksbill Turtle Report*, 2008, 85, available at <http://www.iucnredlist.org/pdf/link.12881238>.

¹⁴⁵ UNODC, *WORLD WILDLIFE CRIME REPORT*, 75 (2016).

¹⁴⁶ IUCN, *Turtles in Trouble*, 2011, 7, available at http://www.iucn-tftsg.org/wp-content/uploads/file/Top%2025/Top_25+Turtles_in_Trouble_2011.pdf.

Although there is limited illegal international trade in great apes,¹⁴⁷ since 2012 some seizures have been reported in Kuwait, Malaysia, and Thailand involving orangutans from Indonesia.¹⁴⁸ Other seizures have involved apes claimed to be bred in captivity, implicating Guinea.¹⁴⁹ Although the scale of the markets cannot be verified, several non-governmental organizations reported to CITES that Cameroon, the Democratic Republic of the Congo, Egypt, Equatorial Guinea, Guinea, Nigeria, South Sudan, Tanzania, and Uganda have all been involved in the illegal trade of great apes.¹⁵⁰

Significant bushmeat trade networks exist throughout west and Central Africa, and these may span international boundaries.¹⁵¹ Bushmeat may be difficult to track, as it can easily be carried across borders on small crafts or on foot to neighboring cities. Thus, the true markets for the products of Great Apes may be difficult to determine, and a comprehensive study could consider all possible markets, both in countries of origin and destination.

H. American Crocodiles

Primary Markets: China, Colombia, the European Union, Japan, Kazakhstan, Mexico, the Republic of Korea, the Russian Federation, Singapore, the United States, Uruguay, Uzbekistan

In a 2015 study of United States seizures of regulated wildlife species from Latin America, it was reported that from 2004 to 2013, the US seized 518 segments of *Crocodylus spp.* in 400 shipments. 93.7% of the reported shipments originated in Mexico. The shipments primarily contained shoes and small leather products. Four shipments of crocodile were seized originating from Colombia, and an additional three segments of crocodile indicated to have originated from Colombia were seized after transiting through Mexico. Those three segments comprised over 600 individual items, more than all other seized shipments combined. This may indicate a route from Colombia to the United States through Mexico. For 97.4% of the shipments, the exact species of crocodile was not reported, so it is difficult to tell what percentage of the seizures contained American crocodile, *Crocodylus actus* (though of those segments that were identified, 5/13 were American crocodile, making American crocodile the most prevalent species of the segments identified). Thus, it may be useful to encourage parties to differentiate between American crocodiles and other species in their reports of seizures.¹⁵²

Colombia and Honduras are the largest exporters of American crocodile. The largest importers of American crocodile from Colombia and Honduras include members of the European Union (particularly Italy) and Japan.¹⁵³ There seems to be some internal market in Colombia for American crocodile eggs and meat. The volume of this trade is unknown and difficult to measure, but estimated to be of low magnitude.¹⁵⁴ According to the CITES trade database, China, Korea, Kazakhstan, the Russian Federation, Singapore, Uruguay, and Uzbekistan have also imported significant amounts of American crocodile since 2012.

I. African Grey Parrots

Primary markets: Bahrain, China, Kuwait, Lebanon, Mexico, Pakistan, Saudi Arabia, Serbia, Singapore, Turkey, United Arab Emirates

The African grey parrot was only upgraded to Appendix I in 2016, and much of the data regarding its trade predates the upgrade. Grey parrots are popular as pets all over the Middle East and Asia. A 2016 United Nations study showed that Cameroon and the DRC were the largest origin sources of seized African grey parrots. Other origin countries included Pakistan, Lebanon, Saudi Arabia, and Oman. Bahrain was the most frequent

¹⁴⁷ SC66 Doc. 48.1.

¹⁴⁸ *Id.*; SC54 Doc. 37; see also UNODC, *WORLD WILDLIFE CRIME REPORT 74* (2016).

¹⁴⁹ UNODC 2016, 74.

¹⁵⁰ CoP16 Doc. 49, Annex II; AC30 Doc.26, at 19–20 (2018).

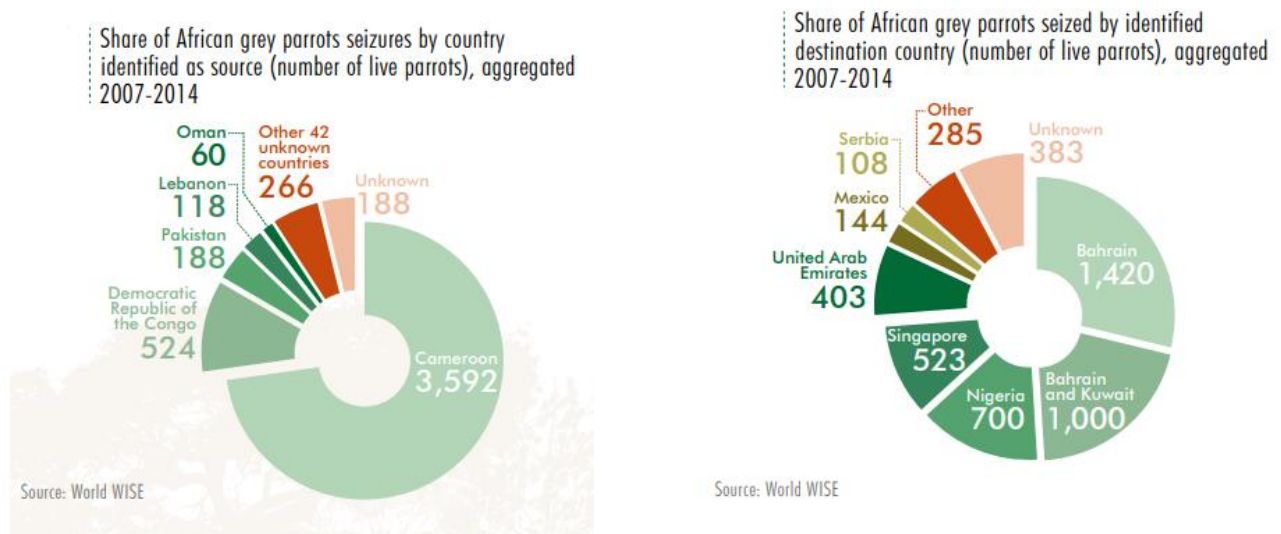
¹⁵¹ AC30 Doc.26, at 19–20 (2018).

¹⁵² *Defenders of Wildlife, Combating Wildlife Trafficking from Latin America to the United States*, 51-57 (2015), available at <https://defenders.org/sites/default/files/publications/combating-wildlife-trafficking-from-latin-america-to-the-united-states-and-what-we-can-do-to-address-it.pdf>.

¹⁵³ UNEP-WCMC, *World Trade in Crocodilian Skins, 2013-2015*, 12, available at <https://www.louisianaalligators.com/uploads/1/0/4/8/104800207/iacts17.pdf>.

¹⁵⁴ *Organization of American States, Sustainable Use of American Crocodile *Crocodylus acutus* in Cispata, Colombia*, 21 (2015), available at http://www.oas.org/en/sedi/dsd/ELPG/aboutELPG/Documents/Case%20Study_Sustainable%20Use%20of%20American%20Crocodile_Crocodylus.pdf.

destination country; other destination countries included Kuwait, Nigeria, Singapore, the United Arab Emirates, Serbia, and Mexico. Of these, Singapore and Nigeria were noted to likely be transit countries. Lebanon, Turkey, Pakistan, and China were also listed as large legal importers of African greys. The charts below, from the UNODC's World Wildlife Crime Report, provide a helpful visual of the countries of origin and destination for seized African grey parrots.¹⁵⁵



A 2016 study found that Singapore imports around 80,000 more birds than it re-exports, with its most-imported species being the African grey. The study concluded that it was unlikely that all of the birds that were not re-exported legally stayed in the country.¹⁵⁶

It is unclear yet in many ways how the upgrade to Appendix I has affected grey parrot markets. In 2018, hundreds of grey parrots were seized in transit to markets in Turkey, indicating that the market there is active¹⁵⁷. The CITES trade database indicates that since the uplisting, Lebanon, Pakistan, Romania, Kuwait, and Kazakhstan have imported African greys, but only Pakistan imported more than a few individuals, with 285 total birds imported in 2017. A study of grey parrots markets should be aware that the Appendix I upgrade has likely altered markets significantly.

J. Spix's Macaw

Primary markets: None

Because of the low number of remaining Spix's Macaw, it is unlikely that there is a single large market for the bird. The only imports and exports of the Spix's Macaw since 2009 in the CITES Trade Database are between Germany, Brazil, Qatar, and Spain for scientific or breeding purposes. This likely indicates birds being transferred between the four facilities that participate in the captive breeding program for Spix's Macaw: Al Wabra Wildlife Preservation in Qatar, Loro Parque Foundation in Spain, the Association for the Conservation of Threatened Parrots in Germany, and the Lymington Foundation in Brazil.¹⁵⁸ Aside from those populations, the only known living Spix's Macaw are 13 owned by a private owner in Switzerland and 4 owned by the São Paulo Zoo in Brazil. There is speculation that up to 120 more birds may exist in private collections¹⁵⁹, but the lack of information about these birds and the low number of individuals remaining implies that there are not likely any major markets for the Spix's Macaw and any trafficking would likely be limited to the individual level.

¹⁵⁵ UNODC, *WORLD WILDLIFE CRIME REPORT*, 80-81 (2016).

¹⁵⁶ Poole, C., & Shepherd, C. (2017). *Shades of grey: The legal trade in CITES-listed birds in Singapore, notably the globally threatened African grey parrot *Psittacus erithacus**. *Oryx*, 51(3), 411-417. doi:10.1017/S00306053140002

¹⁵⁷ Anadolu Agency. "Hundreds of Rare African Gray Parrots Seized in Turkey." *Yeni Şafak*, Gzt.com, 9 Jan. 2018, available at www.yenisafak.com/en/news/hundreds-of-rare-african-gray-parrots-seized-in-turkey-2972235.

¹⁵⁸ Al Wabra Wildlife Preservation, *Spix's Macaw Fact File* 2010, available at <http://awwp.alwabra.com/?p=1054>.

¹⁵⁹ *Beauty of Birds*, *Spix's Macaw*, available at <https://www.beautyofbirds.com/spixsmacaw.html>.

K. Iguanas

Primary markets: Canada, China, the European Union, the United States

The European Union and United States appear to be the primary markets for **Bahamian rock iguanas** (*Cyclura rileyi* spp.). In 2014, two Romanian women attempting to smuggle 13 Bahamian rock iguanas into Germany were discovered while in transit in the United Kingdom. Two more shipments of *Cyclura* spp. had reportedly been smuggled from the Bahamas around the same time. This prompted a report on the smuggling of *Cyclura* spp. by the Bahamian government. The government also reported knowledge of the sale of captive-bred *Cyclura* spp. out of Germany and Austria that could not have been obtained legally. Sellers in Germany had been active for years. The Bahamian government suggested that countries in the European Union were the primary recipients of *Cyclura* spp. shipments, but noted that attempts to smuggle *Cyclura* spp. to the United States had also been uncovered and should be further investigated to determine the presence of a market in the United States.¹⁶⁰

The European Union and United States are also markets for **Fiji banded iguanas** (*Brachylophus bulabula*). After the arrest of a US citizen for smuggling three Fiji banded iguanas, the culprit reported that he had “previously sold this type of iguana for several thousand Euros”.¹⁶¹ This suggests that there may be a similar market in Europe for *Brachylophus* spp. Additionally, a report on wildlife trafficking to the United States from Latin American and the Caribbean identified 213 iguana segments seized upon import to the United States which may have been *Brachylophus* spp. or *Cyclura* spp., suggesting that there may be a market in the United States for one or both genus of iguana.¹⁶²

Historically, the **San Esteban Chuckwalla** (*Sauromalus varius*) was under threat by the burgeoning pet trade in the United States.¹⁶³ It is not clear how much this has continued to be a threat after the San Esteban Chuckwalla was listed as an endangered species by the United States in 1980.¹⁶⁴ In 2016, 14 San Esteban Chuckwallas were seized at the Amsterdam airport in transit from Mexico to Spain, possibly indicating a current market for them in the European Union.¹⁶⁵

A study of primary markets for iguanas should focus primarily on the United States and the European Union. Canada and China also appeared frequently as importers of *Brachylophus* spp. and *Cyclura* spp. in the CITES Trade database and domestic markets in those countries should be studied.

L. Snakes

Primary Markets: United States of America, Philippines, European Union (France and Italy)

Europe and Southeast Asia are most heavily involved in the illegal trade of protected snakes. There has been a recent upsurge in trading of Reptiles in the Philippines using Facebook.¹⁶⁶ At least one Dumeril's Boa (*Acrantophis dumerili*) was offered for sale on this platform.¹⁶⁷

¹⁶⁰ CITES, REPORT ON THE SMUGGLING OF BAHAMIAN ROCK IGUANAS, 2014, available at <https://cites.org/sites/default/files/eng/com/sc/65/Inf/E-SC65-Inf-04.pdf>.

¹⁶¹ Mark Auliya et al. Trade in live reptiles, its impact on wild populations, and the role of the European market, *Biological Conservation*, Volume 204, Part A, 2016, Page 107, available at <https://www.sciencedirect.com/science/article/pii/S0006320716301987>.

¹⁶² Defenders of Wildlife, Combating Wildlife Trafficking from Latin America to the United States, 59 (2015), available at <https://defenders.org/sites/default/files/publications/combating-wildlife-trafficking-from-latin-america-to-the-united-states-and-what-we-can-do-to-address-it.pdf>.

¹⁶³ USFWS, Status Review of the San Esteban Chuckwalla, 1979, available at <https://www.fws.gov/news/Historic/NewsReleases/1979/19790306c.pdf>.

¹⁶⁴ USFWS, Listing with Endangered Status for Five Species of Foreign Reptiles, 1980, available at https://ecos.fws.gov/docs/federal_register/fr388.pdf.

¹⁶⁵ IFAW, Seizures Soaring as EU Wildlife Action Plan Comes into Effect, 2016, <https://www.ifaw.org/international/news/seizures-soaring-eu-wildlife-action-plan-comes-effect>.

¹⁶⁶ TRAFFIC, TRADING FACES: UTILISATION OF FACEBOOK TO TRADE LIVE REPTILES IN THE PHILIPPINES (2018), available at <https://www.traffic.org/site/assets/files/1754/20180119-facebook-reptile-trade-philippines.pdf>.

¹⁶⁷ Id.

Outside of Asia, the native European Meadow Viper (*Vipera ursinii*) is traded in France and Italy on the market for exotic pets.¹⁶⁸ There are also reports of Madagascar Tree Boas (*Sanzinia madagascariensis*) being smuggled out of Madagascar, however it is unclear what their destination is.¹⁶⁹ It is also reported that people of Chinese origin in Madagascar have a demand for the Malagasy Ground Boa (*Acrantophis madagascariensis*) for food and leather production.¹⁷⁰ CITES Statistics indicate five trades of the Indian Rock Python (*Python molurus molurus*). Four were imported by the United States and one was imported by Switzerland.¹⁷¹

M. Orchids

Primary Markets: Thailand, China, the European Union (Germany), the United States

Accounts of the illegal orchid trade suggest there may be several primary domestic markets, with much of the available reports pointing to Southeast Asia or Europe. CITES statistics suggest a major European hub in the trade of Appendix-I protected orchids, but include data on both illicit trading and trades made legal under exceptions in the CITES framework.¹⁷² Often, reports of the orchid trade are difficult to interpret as they do not distinguish between different genera and species.

The major markets within Southeast Asia appear to be in Thailand and China (including Taiwan). Thailand's borders with Lao PDR and Myanmar are particularly active; studies suggest tens of thousands of orchids illegally cross the border into Thailand each year.¹⁷³ Surveys show that over 300 species of orchid have been recorded in Thailand's market including flowers from the Appendix-I protected genus *Paphiopedilum*.¹⁷⁴ The genus *Paphiopedilum* has experienced particular pressure from trade within and from Southeast Asia. In 2010, *Paphiopedilum canhui* was discovered in Viet Nam and within six months, 99.5 percent of the species was harvested.¹⁷⁵ Now considered extinct, this species was mainly sent from Viet Nam to Taiwan and Europe.¹⁷⁶ Additional smuggling from India into China has been recorded. In this market, it is reported that the flowers of the genus *Dendrobium*, of which one species is listed in Appendix-I, are most commonly exploited.¹⁷⁷

While most reports focus on the extensive orchid trade in Southeast Asia, it is important to note that CITES statistics indicate that Germany and the United States appear to be the main importers of Appendix-I listed orchids.¹⁷⁸ Whereas CITES statistics suggest much of the trade in Germany is legal under various resolutions, many imported flowers to the U.S. are wild-caught or labeled as confiscated. Sources note that illegal and unsustainable harvest of orchids is largely underrepresented in CITES statistics.¹⁷⁹ In comparison to illegal animal trade, the illegal market for orchids often does not receive the same attention or enforcement priority from authorities.¹⁸⁰

IV. Major Domestic Markets for Key Non-Elephant Appendix I-Listed Species

¹⁶⁸ THE IUCN RED LIST OF THREATENED SPECIES, *Vipera ursinii*, available at <http://www.iucnredlist.org/details/22997/0>.

¹⁶⁹ THE IUCN RED LIST OF THREATENED SPECIES, *Sanzinia madagascariensis*, available at <http://www.iucnredlist.org/details/19900/0>.

¹⁷⁰ THE IUCN RED LIST OF THREATENED SPECIES, *Acrantophis madagascariensis* available at <http://www.iucnredlist.org/details/283/0>.

¹⁷¹ CITES Trade Database. <https://trade.cites.org/> (Database searched 8/4/18).

¹⁷² *Id.*

¹⁷³ Phelps, J. UNSEEN HARVEST: SOUTHEAST ASIA'S ILLEGAL ORCHID TRADE (2015). TRAFFIC.

<http://www.traffic.org/home/2015/11/24/unseen-harvest-southeast-asias-illegal-orchid-trade.html>.

¹⁷⁴ *Id.*

¹⁷⁵ Averyanov, L. et al. Field Survey of *Paphiopedilum Canhui*: From Discovery to Extinction (2014). Slipper Orchids 2-11. http://www.rufford.org/files/www.slipperorchid.org_0.pdf.

¹⁷⁶ *Id.*

¹⁷⁷ TRAFFIC India. Orchid Smuggling from India to China Continues To Persist (2010). TRAFFIC POST.

http://www.unodc.org/documents/southasia/Newsletter/other/TRAFFIC_Post_June_2010.pdf.

¹⁷⁸ See *supra* note 1.

¹⁷⁹ Hinsley, A. et al. A Review of the Trade in Orchids and Its Implications for Conservation. (2018). Botanical Journal of the Linnean Society 186: 435–455

¹⁸⁰ *Id.*

Table 1 integrates the results of the various species-specific analyses of domestic markets to highlight major markets for each category of Appendix I-listed species of interest. The dark (brown) boxes represent major domestic markets, and the light (yellow) boxes represent countries that had significant seizures of the target species but whose domestic market is unclear (e.g., the seizures may reflect domestic consumption, exports, or some combination).

As noted at the outset, this Report is a scoping study for a possible full study of domestic controls in consumer markets for trade in non-elephant specimens of CITES Appendix I-listed species for which international trade is predominantly illegal. It is expected that such a study will focus on countries that have significant trade in these species.

Trade in a country may be significant because it involves many of the species of concern. By this standard, the following nine (9) countries should be examined in the full report they appear to be significant domestic markets for at least four of the species or related groups of species: China (including Hong Kong SAR), the European Union, India, Indonesia, Malaysia, Singapore, Thailand, the United States, and Viet Nam. If the threshold for inclusion is at least three of the species or related groups of species, then the following countries would be added, for a total of twelve (12) countries: Lao PDR, Myanmar, and Nepal. And if countries with at least two species or related groups of species are included, then there would be twenty-five (25) countries, with the following added: Cameroon, Japan, Kazakhstan, Kenya, Kuwait, Nigeria, Pakistan, Philippines, the Russian Federation, Switzerland, Tanzania, Uganda, and the United Arab Emirates.

Alternatively, trade may be significant because that country represents a substantial market for one particular species, even if there is not a substantial domestic market for other species of concern. The most likely country that would be added using this criterion is Japan, for its domestic market in Appendix I-listed turtles and tortoises.

Thus, depending on where the threshold is set, the full study could consider either of the following sets of countries:

- I. China (including Hong Kong SAR), the European Union, India, Indonesia, Japan, Malaysia, Singapore, Thailand, the United States, and Viet Nam; or
- II. China (including Hong Kong SAR), the European Union, India, Indonesia, Japan, Lao PDR, Malaysia, Myanmar, Nepal, Singapore, Thailand, the United States, and Viet Nam.

Table 1 - Major Markets for Each Category of Appendix I-Listed Species

| Markets | Species | | | | | | | | | | | | | TOTAL |
|------------------------------|--------------|------------------|----------------|-----------|-------------------|-----------------------|------------|---------------------|----------------------|---------------|---------|--------|---------|-------|
| | Rhinoceroses | Tibetan Antelope | Asian Big Cats | Pangolins | Helmeted Hornbill | Turtles and Tortoises | Great Apes | American Crocodiles | African Grey Parrots | Spix's Macaws | Iguanas | Snakes | Orchids | |
| Afghanistan | | | | | | | | | | | | | | 1 |
| Bahrain | | | | | | | | | | | | | | 1 |
| Bangladesh | | | | | | | | | | | | | | 1 |
| Cameroon | | | | | | | | | | | | | | 2 |
| Canada | | | | | | | | | | | | | | 3 |
| China (incl. Hong Kong SAR) | | | | | | | | | | | | | | 10 |
| Colombia | | | | | | | | | | | | | | 1 |
| Democratic Republic of Congo | | | | | | | | | | | | | | 1 |
| Egypt | | | | | | | | | | | | | | 1 |
| European Union | | | | | | | | | | | | | | 8 |
| Equatorial Guinea | | | | | | | | | | | | | | 1 |
| Guinea | | | | | | | | | | | | | | 1 |
| India | | | | | | | | | | | | | | 4 |
| Indonesia | | | | | | | | | | | | | | 5 |
| Japan | | | | | | | | | | | | | | 2 |
| Kazakhstan | | | | | | | | | | | | | | 2 |
| Kenya | | | | | | | | | | | | | | 2 |
| Kuwait | | | | | | | | | | | | | | 2 |
| Lao PDR | | | | | | | | | | | | | | 3 |
| Lebanon | | | | | | | | | | | | | | 1 |
| Malawi | | | | | | | | | | | | | | 1 |
| Malaysia | | | | | | | | | | | | | | 5 |
| Mexico | | | | | | | | | | | | | | 1 |
| Mongolia | | | | | | | | | | | | | | 1 |
| Mozambique | | | | | | | | | | | | | | 1 |
| Myanmar | | | | | | | | | | | | | | 3 |
| Nepal | | | | | | | | | | | | | | 3 |
| New Zealand | | | | | | | | | | | | | | 1 |
| Nigeria | | | | | | | | | | | | | | 2 |
| Pakistan | | | | | | | | | | | | | | 2 |
| Philippines | | | | | | | | | | | | | | 2 |
| Qatar | | | | | | | | | | | | | | 1 |
| Republic of Korea | | | | | | | | | | | | | | 1 |
| Russian Federation | | | | | | | | | | | | | | 2 |
| Saudi Arabia | | | | | | | | | | | | | | 1 |
| Serbia | | | | | | | | | | | | | | 1 |

| | | | | | | | | | | | | | | | |
|----------------------|--|--|--|--|--|--|--|--|--|--|--|--|--|--|---|
| Singapore | | | | | | | | | | | | | | | 5 |
| South Africa | | | | | | | | | | | | | | | 1 |
| South Sudan | | | | | | | | | | | | | | | 1 |
| Switzerland | | | | | | | | | | | | | | | 2 |
| Tanzania | | | | | | | | | | | | | | | 2 |
| Thailand | | | | | | | | | | | | | | | 4 |
| Togo | | | | | | | | | | | | | | | 1 |
| Turkey | | | | | | | | | | | | | | | 1 |
| Uganda | | | | | | | | | | | | | | | 2 |
| United Arab Emirates | | | | | | | | | | | | | | | 2 |
| United States | | | | | | | | | | | | | | | 6 |
| Uruguay | | | | | | | | | | | | | | | 1 |
| Uzbekistan | | | | | | | | | | | | | | | 1 |
| Viet Nam | | | | | | | | | | | | | | | 4 |
| Zimbabwe | | | | | | | | | | | | | | | 1 |

Note: Dark (brown) boxes represent major domestic markets, and the light (yellow) boxes represent countries that had significant seizures of the target species but whose domestic market is unclear (e.g., the seizures may reflect domestic consumption, exports, or some combination).

V. Suggested Methodology

There are two likely approaches by which a possible full report could be organized:

- (1) The full report could be organized by approach, and within that approach discuss which countries use that approach for different species.
- (2) The full report could be organized by species, containing discussions of how different countries approach controlling domestic markets for that species.

If the full report is organized by species, there is a risk that the discussion of approaches for a particular species will be repeated for many other species of interest, as a country often (but not always) applies a particular approach to multiple endangered species. Accordingly, it may be most effective to organize the full report by approach.

In either case, the analyses would be supplemented by country-specific profiles that would be *included* as appendices. The country profiles could be organized first by species (but see issue of overlap, discussed above). Alternatively, they could be organized by laws and approaches, and indicate to which species of concern the different laws and approaches apply.

The full report should rely on primary sources, particularly binding laws and regulations, and address specific questions. The requirements of the sources used are discussed first, with the relevant questions following below.

Sources of Information

Primary Resources

Secondary sources may be used to identify relevant information but the study should only be based on *first-hand* sources, including

- Laws
 - Antiquities Laws
 - Animal Part Laws
 - Wildlife Laws
 - Biodiversity Laws
- Regulations
- Cases
 - Administrative Rulings
 - Court Rulings

- Hunting Laws
- Laws implementing CITES

Many of the laws and regulations may be found on [Ecolex](#), and laws, regulations, and cases may be available on Lexis. Where primary sources are not available, e.g. concerning the context of trade in the studied country, other sources may be used with references indicated.

Citations

All sources and claims should be cited within footnotes. Whenever a source is available online, please indicate the date of access and provide the full web address. As many of the primary documents necessary for the completion of this project will not be in English, please note when a translation is being used in the citation using an explanatory parenthetical. For example, a complete citation should be formatted as:

Commission Regulation (EC) No. 865/2006, Laying Down Detailed Rules Concerning the Implementation of Council Regulation (EC) No 338/97 on the Protection of Species of Wild Fauna and Flora by Regulating Trade Therein, 2006 J.O. (166) (EC), available at <http://extwprlegs1.fao.org/docs/pdf/eur64635.pdf> (last visited Jan. 18, 2018).

Content of Country Profile

Context of Trade in [COUNTRY]

Factual/Contextual questions:

Where possible and appropriate, include a brief paragraph describing:

- Who uses the animal products and for which purposes?
- Are there any indigenous or domesticated populations?
- Have demand reduction strategies been deployed?
- What are recent trends in the market (price, volume traded)?

Applicable Laws and Regulations

- Law Number 1¹⁸¹
 - 1 sentence description of the law
- Law Number 2¹⁸²
 - 1 sentence description of the law
- law Number 3¹⁸³
 - 1 sentence description of the law

Legal Status

- Is domestic trade legal or completely or partially banned?
- What penalties/deterrence exist?
 - Financial, forfeiture, etc.

Treatment Based on Traded Product

- Which specimens are covered by the domestic controls: raw/unprocessed (meat or other products), semi-processed and fully processed (products)?
- Are there any exemptions to domestic controls (pre-Convention, antiquities, pieces of art, personal use)?
- Are the controls the same with respect to native and non-native (exotic) species?

Treatment Based on Transaction

- Does domestic control differ based on the use, the actor involved (residents v. nonresidents)?
- Which types of trade are covered: Business to business, business to consumer, consumer to consumer
- Is domestic online trade regulated? And if so, how?

¹⁸¹ Citation.

¹⁸² Citation.

¹⁸³ Citation.

Registration

- Are there systems/mechanisms in place for registration of possession of specimens and which controls are performed in the context of the registration?

Interpretation by Courts

- Have domestic controls been tried in court cases [or administrative tribunals] and if so, what were the results?

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