

For Electronic Submission

Ms. Gloria Blue  
2010  
Executive Secretary  
Trade Policy Staff Committee  
Office of the United States Trade Representative  
1724 F Street, NW  
Washington, DC 20508

Jan. 25,

Dear Ms. Blue,

On behalf of the International Fund for Animal Welfare (“IFAW”) and our 1.2 million members, I am writing to submit comments on the Request for Comments Concerning Proposed Trans-Pacific Partnership (“TPP”) Trade Agreement, 74 Fed. Reg. 66,720 (Dec. 16, 2009) and specifically on relevant environmental issues that should be addressed in the negotiations. 74 Fed. Reg. at 66,721. Please include these comments and the enclosure in the administrative record.

As discussed more fully in the enclosed document, IFAW urges the United States to give strong consideration to the impact of the TPP free trade agreements on the environment in all participating states in addition to the impact of the TPP on international and shared resources. Specifically, IFAW encourages the United States to discuss the issue of the illegal wildlife trade during its negotiations of this free trade agreement and to advocate for strong, enforceable standards, education programs, capacity building and training for wildlife enforcement agencies and implementation of international biodiversity conservation laws.

Addressing the illegal trade in wildlife is particularly important for the regions covered by the TPP. The area covered by the proposal includes some of the richest and most important biodiversity hotspots in the world – and some of the most endangered. These areas include the tropical Andes and Chilean rainforests, the unique temperate forests of New Zealand, the dry woodlands and scrub forests of southwestern Australia, and the rainforests and islands of Southeast Asia and Borneo.

IFAW maintains that the United States should educate its negotiating partners about the seriousness of the problems associated with illegal wildlife trade and ensure that the TPP partners implement and enforce laws to prevent the continued illegal trade in protected wildlife. For IFAW’s specific recommendations, please refer to the enclosed document submitted in the first round of public comments on the Trans-Pacific Partnership negotiations.

Sincerely,

/s/ Kelvin Alie

Kelvin Alie,  
Director of Wildlife Trade Program  
International Fund for Animal Welfare

Encl.: IFAW comments on the Proposed Trans-Pacific Partnership Free Trade Agreement with Singapore, Chile, New Zealand, Brunei Darussalam, Australia, Peru, and Vietnam

March 11, 2009

Ms. Gloria Blue  
Executive Secretary  
Trade Policy Staff Committee  
Office of the United States Trade Representative  
1724 F Street, NW  
Washington, DC 20508

Dear Ms. Blue,

On behalf of the International Fund for Animal Welfare (IFAW), and pursuant to the Federal Register notice at 74 Fed. Reg. 4480 (Jan. 26, 2009), please accept the following comments on the proposed Trans-Pacific Partnership (TPP) Free Trade Agreement with Singapore, Chile, New Zealand, Brunei Darussalam, Australia, Peru, and Vietnam.

The International Fund for Animal Welfare is a member of the Trade and Environmental Policy Advisory Committee (TEPAC) in the United States, advising the United States Trade Representative (USTR) and the Environmental Protection Agency (EPA) on international trade policy. In addition, IFAW works with its partners worldwide to promote conservation and animal welfare, and to advocate against the illegal trade in wildlife.

These comments address a number of relevant illegal wildlife trade issues that we believe should be discussed during the upcoming TPP Free Trade Agreement negotiations.

### **Introduction**

Pursuant to the Trade Act of 2002 (the Trade Act) the United States must ensure that trade and environment policies are mutually supportive. 19 U.S.C. § 2102(a)(5). The government must also seek to protect and preserve the environment internationally. *Id.* The U.S. should also seek provisions in trade agreements under which parties to those agreements strive to ensure that they do not weaken or reduce the protections afforded in domestic environmental and labor laws as an encouragement for trade. 19 U.S.C. § 2102(a)(7).

The Trade Act also requires the U.S. to ensure that a party to a trade agreement does not fail to effectively enforce its environmental laws, through a sustained or recurring course of action or inaction, in a manner affecting trade between the parties, while recognizing a party's right to exercise discretion with respect to investigatory, prosecutorial, regulatory, and compliance matters and to prioritize allocation of resources for environmental law enforcement 19 U.S.C. §

2102(b)(11)(A)-(B). Further, the U.S. must negotiate to strengthen the capacity of U.S. trading partners to protect the environment through the promotion of sustainable development.

IFAW urges the United States to give strong consideration to the impact of the TPP free trade agreements on the environment in all participating states in addition to the impact of the TPP on international and shared natural resources. Specifically, IFAW encourages the United States to discuss the issue of the illegal wildlife trade during its negotiations of this free trade agreement. Most importantly, IFAW hopes the United States will advocate for strong, enforceable standards, education programs, and implementation of international laws.

## **I. Illegal Wildlife Trade**

### **Background**

Wild animals and their parts and derivatives are traded commercially throughout the world, causing tremendous suffering of individual animals, endangerment of wild animal populations, species extinctions<sup>1</sup> and degradation of biodiversity. The global trade in wildlife is a multi-billion dollar business annually, involving hundreds of millions of individual plants and animals from tens of thousands of species. A significant portion of this trade is unmanaged, unreported and/or illegal, and the development of internet trade has contributed to its expansion due to facility of transactions and difficulty of control. The species traded are often already highly threatened and in danger of extinction, conditions under which wildlife is transported are often appalling and operators are unscrupulous and indifferent to the environmental damage they cause. Additionally, illegal trade undermines nations' efforts to manage their natural resources sustainably and causes massive economic losses. Moreover, illegal and unregulated trade results in the introduction of invasive species that prey upon, or out-compete native species. Invasive species are a major cause of recent extinctions, as well as harm to local agriculture, livelihoods and economies.

The illicit trade in wildlife is not only a serious global environmental crime with profoundly negative impacts for endangered species protection, ecosystem stability, and biodiversity conservation, but it is also a real and increasing threat to national and global security. No longer a problem localized to parts of the world where many lack access to basic resources, the illegal trade in wildlife has grown to become a massive global industry. It is believed to be on par with drug trafficking and the arms trade, if not in terms of total revenue produced for criminal enterprises, then in gravity. In fact, various governmental and non-governmental agencies have estimated that it may be worth in excess of 20 billion USD, or more<sup>2</sup>. Much of this is in clandestine undertakings interwoven into a criminal industry that generates enormous levels of undocumented, untraceable revenue, the full scale of which may never really be known.

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<sup>1</sup> Worldwide, 1,141 of the more than 5,488 (21%) described mammal species and 1,222 of the more than 9,990 (12%) described species of birds are threatened with extinction (IUCN 2007). According to Dr. Michael Novacek, Provost of Science at the American Museum of Natural History (Ward 2002), "As much as 30 percent of species diversity will be erased by the middle of this century." In total, an alarming 8,462 species of animals -- from insects and shellfish to gorillas and elephants -- are considered at risk (IUCN 2008). For some of these species, wildlife trade is a key factor in their demise.

<sup>2</sup> *Wildlife Crime*, August 23, 2007. The International Criminal Police Organization (INTERPOL). (<http://www.interpol.int/Public/EnvironmentalCrime/Wildlife/Default.asp>)

The global scale of this trade in terms of profits, volume and an extensive network is drawing in criminal syndicates of all kinds. According to the U.S. Department of State, “Wildlife trafficking is often closely linked to international organized crime and increasingly involves many of the same offenders and smuggling routes as trafficking in arms, drugs and people.”<sup>3</sup>

The supply chain from animal source population to consumer is complicated, and uses for wildlife parts are broad, covering food (often expensive delicacies), traditional medicines, pets, decorations (including trophies), clothing, and fashion items. Species from across the animal kingdom are victims in this trade: fish, reptiles, birds, mammals, and amphibians. At times concealed under the rubric of legal trade or sheltered by intricate wildlife trade laws that may vary from country to country and differ according to national environmental policies, the illicit wildlife trade provides unique opportunities for criminals and imposes extra challenges for law enforcement. The global reach, the multitude of species and products involved and the expansion of the global marketplaces as a result of the Internet make these criminal activities difficult to understand, trace or enforce.

### **The TPP Agreement and Illegal Wildlife Trade**

As noted by the United States Trade Representative (USTR), a free trade agreement “may further increase investment, trade and production in the region, which may be associated with further pressure on the environment”<sup>4</sup> and could have “possible effects . . . on wildlife and endangered species.”<sup>5</sup> Increased ease of trade could lower the costs involved and raise the incentive for traders in illegal wildlife and those supplying them with wildlife and its derivatives.

Addressing the illegal trade in wildlife is especially important for the region that would be covered by the TPP. The area covered by the agreement includes some of the richest and most important biodiversity hotspots in the world – and some of the most endangered.<sup>6</sup> These include the tropical Andes and Chilean rainforests, the unique temperate forests of New Zealand, the dry woodlands and scrub forests of southwestern Australia, and the rainforests and islands of Southeast Asia and the Island of Borneo.

All of the potential parties to the TPP are also parties to CITES, which governs the international exchange of wildlife and wildlife products. CITES has established a mechanism to evaluate parties’ compliance with its provisions through its National Legislation Project.<sup>7</sup> This project analyzes national laws, and categorizes countries’ legislation according to its ability to meet the

<sup>3</sup> *Office of the Spokesman, Washington, DC*, U.S. Department of State, June 5, 2007. Claudia McMurray is the Assistant Secretary of State for Oceans, Environment, and Science at the United States Department of State. (<http://www.state.gov/r/pa/prs/ps/2007/jun/86017.htm>)

<sup>4</sup> U.S. Trade Representative: Andean TPA Interim Environmental Review. pg. 21. 28 February 05. [http://www.ustr.gov/assets/Trade\\_Agreements/Bilateral/Andean\\_TPA/asset\\_upload\\_file27\\_7305.pdf](http://www.ustr.gov/assets/Trade_Agreements/Bilateral/Andean_TPA/asset_upload_file27_7305.pdf)

<sup>5</sup> U.S. Trade Representative: Final Environmental Review of the U.S.-Chile Free Trade Agreement. pg. 19. June 2003. [http://www.ustr.gov/assets/Trade\\_Agreements/Bilateral/Chile\\_FTA/asset\\_upload\\_file411\\_5109.pdf](http://www.ustr.gov/assets/Trade_Agreements/Bilateral/Chile_FTA/asset_upload_file411_5109.pdf)

<sup>6</sup> Conservation International, *Biodiversity Hotspots*, at [<http://www.biodiversityhotspots.org>], accessed March 10, 2009.

<sup>7</sup> United Nations Environment Programme, “CITES National Legislation Project.” (available at: <http://www.unep.org/dec/onlinemanual/Enforcement/NationalLawsRegulations/Resource/tabid/780/Default.aspx>).

requirements for adequately implementing the provisions of the CITES treaty. While IFAW oftentimes advocates for parties to CITES to take steps above and beyond the minimum requirements set forth in the CITES treaty in order to fully protect wildlife from the impacts of commercial trade, the National Legislation Project can nevertheless serve as a good starting point for negotiations between the U.S. and potential signatories.

The proposed TPP Agreement involves several countries with different levels of wildlife trade regulation, according to CITES. Australia, New Zealand, Singapore and Vietnam are rated in category 1, meaning their legislation meets the requirements for implementing CITES. Chile and Peru are rated in category 2, meaning they were found to have some deficiencies in their implementing legislation, which meets some, but not all, of the requirements for implementing CITES, and Brunei Darussalam is rated in category 3, meaning its legislation does not meet any of the requirements for implementing CITES.

These differences in the implementation of wildlife trade legislation should be taken into account when considering the effects of increased trade between these countries and the United States on wildlife. Even more important are the different countries' ability and political will to enforce any legislation they do have to prevent illegal trade in wildlife. It is IFAW's hope that the United States will educate its negotiation partners about the seriousness of the illegal wildlife trade problem. Further, IFAW urges the United States to ensure that the TPP partners implement and enforce laws to prevent continued trade in protected wildlife.

### **Country Specific Illegal Wildlife Trade**

Despite CITES and national legislation in many countries, illegal wildlife trade continues unabated all over the world. Even countries with strong regulations cannot control this lucrative trade. [Australian Customs](#) last year reported the detection and seizure of 7533 animals - almost double the 2004 tally of 3902 animals. New Zealand recently established a multi-agency governmental group designed to stop organized illegal trade in wildlife involving import, export, and related domestic activity, following the recognition that illegal wildlife trade is growing in New Zealand as in the rest of the world.

The Andean region as well as Southeast Asia contain some of the world's greatest concentrations of biological diversity in species of birds, mammals, insects, reptiles, amphibians and plants, as well as genetic diversity of important food crops, while at the same time suffering from acute habitat loss and species populations decline. At the same time, since many countries in these areas suffer from low monitoring and enforcement standards and capabilities, illegal and unsustainable harvest and trade of wildlife is a major threat to the conservation of nature throughout the region. Many species are sourced to supply demands around the globe for pets, meat, medicines, luxury goods and zoos

In its report to the Standing Committee at its 51st meeting (October 2004), the CITES Secretariat noted the high priority for action by Peru because of its high volume of trade in CITES-listed species. According to World Wildlife Fund, Peru is one of the major suppliers of primates to

international trade<sup>8</sup>. As mentioned above, Peru still hasn't enacted the legislation required to fulfill its CITES obligations.

In Chile, on the other hand, the majority of the problem lies not in regulations, which are already extensive and strict, but rather in enforcement. Despite regulatory efforts, illegal use and commercialization of wildlife is not yet under control, and even Chilean species which are fully protected on paper, continue to generate a substantial clandestine traffic, primarily across the southern frontier to Argentina. Chile also continues to serve as the transshipment point for wildlife smuggled from other South American countries to the north and east<sup>9</sup>.

The extremely rich biodiversity of Southeast Asian countries indicates the size of trade they can supply to consumer countries. However, Southeast Asia is also perceived to be a growing consumer of wildlife from other regions (TRAFFIC Southeast Asia). There is a growing market for luxury items such as exotic and rare pets, expensive wildlife dishes in restaurants, and the ownership of private zoos and animal collections.

Reports indicate that Singapore is identified as a major hub for the illegal wildlife trade. This includes the trade in wild animal parts/products such as bear bile, as well as live animals for the exotic pet trade: in the past 3 years alone, over 10,000 animals were confiscated from the illegal wildlife trade in Singapore.<sup>10</sup> The Animal Concerns Research and Education Society, in a recent undercover investigation into the illegal wildlife trade in Singapore, found that an alarmingly high number of illegal animals were found being traded openly, mostly of species which face a high risk of extinction in the wild according to the World Conservation Union (IUCN).

Moreover, wildlife smuggling is on the rise, according to authorities in Singapore, whose ports are increasingly used as transit points in the shuttling of endangered animals between the United States and tropical Asian countries such as Indonesia and Vietnam.

Vietnam has been one of Southeast Asia's most biologically diverse countries, but some species may be lost before they are known to science due to an illegal global trade believed to be trailing only drugs and gunrunning. Also, Vietnam's appetite for illegal wildlife meat and demand for traditional medicine is devastating animal and plant species within and beyond its borders<sup>11</sup>.

Despite Vietnam's international commitments to combat the trade, the smuggling of tigers, monkeys, snakes, pangolins and other animals to and through Vietnam is booming, and wildlife in Vietnam is becoming scarce. 12 species - including the Asian elephant and the wild water buffalo - have become virtually extinct in Vietnam in the last 40 years due to hunting and wildlife trade, according to the Wildlife Conservation Society.<sup>12</sup> Surveys found that "many high-

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<sup>8</sup> Hemley, G. and Fuller K.S. 1994. *International Wildlife Trade: a CITES Sourcebook*. WWF/Island Press, Washington, p. 166.

<sup>9</sup> Iriarte J. A., Feinsinger P., Jaksic F. M., "Trends in wildlife use and trade in Chile", *Biological conservation*, 1997, vol. 81, n°1-2, pp. 9-20, Elsevier, Oxford, UK

<sup>10</sup> Singapore Animal Welfare Symposium. (available at: <http://animalwelfare.sg/topics.html>).

<sup>11</sup> The study estimated that up to 4,000 tons of live animals or meat, skins, ground bones and other illegal products are trafficked into and out of Vietnam per year, generating more than 67 million dollars in revenues. The largest volume of illegal wildlife goods is smuggled across the Vietnam-China border, with an estimated 2,500 to 3,500 kilograms (5,500 to 7,700 pounds) flowing daily through the two major border gates, it said.

<sup>12</sup> Chua, Geraldine, "Singapore hub of rising Asia illegal wildlife trade." Reuters, Singapore (Nov. 7, 2003) (available at: <http://www.planetark.org/dailynewsstory.cfm/newsid/22789/story.htm>).

profile animals of global conservation concern (such as tigers, bears or rhinos) can still be bought on the market, provided prior notice is given and that the price negotiated is high enough. Despite attempts at enforcement by the Vietnamese police, which recently seized more than two tons of live snakes and 770 kilograms of tortoises from Laos en route to China, it is estimated that the total value of confiscated wildlife accounts for only three percent of the illegal trade, and that authorities – in Vietnam as in most other countries – are at a disadvantage due to highly insufficient enforcement capacity and a dire lack of funding.<sup>13</sup>

### **Appropriate Wildlife Trade Protection Provisions**

Due to the issues demonstrated above, IFAW believes the TPP Free Trade Agreement should include measures to address the following points:

- ⌚ Mitigation of detrimental effects of increased wildlife trade, both legal and illegal, on the local and global survival of traded wild animal species;
- ⌚ Mitigation of detrimental effects of increased trade on the individual well-being of traded animals;
- ⌚ Mitigation of detrimental effects of increased trade on natural habitats (and therefore on the wildlife in them);
- ⌚ Stricter enforcement of international restrictions on illegal international trade in wildlife;
- ⌚ Stricter enforcement of national CITES requirements.

To ensure that these measures are adopted and enforced, the TPP parties must recognize that good wildlife sector governance is critical to protecting wildlife resources. Consequently, the parties should commit to take action to enhance wildlife sector governance, including:

1. Development of institutions and legal regulatory framework necessary to ensure:
  - ⌚ Protection of wildlife threatened with extinction from illegal trade in general, and in particular the satisfactory implementation of CITES requirements;
  - ⌚ Protection of all wildlife from threat of extinction due to over-harvesting and trade.
  - ⌚ Protection of wildlife from cruelty inflicted by trade in it;
  - ⌚ Protection of wildlife from poaching and illegal hunting; and
2. Strengthening enforcement of laws and regulations through:
  - ⌚ Imposing criminal and civil penalties designed to deter violation of laws, regulations and other measures relating to poaching, illegal hunting and illegal trade in wildlife and its derivatives;
  - ⌚ Adopting and implementing policies to monitor the extent and condition of wildlife species listed in any appendix of CITES;
  - ⌚ Developing systems to verify the legal origin and chain of custody of CITES-listed wildlife species and to reliably track specimens through transport, processing and export.

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<sup>13</sup> In Vietnam, a forest ranger polices an average of 1,400 hectares (3,500 acres) of forest at a monthly wage of about 50 dollars.

- ⌚ Fully implementing existing laws and regulations for wildlife sector governance and strengthening institutions responsible for enforcing these laws and any aspect of wildlife management in the country.
  - ⌚ Increasing the number and effectiveness of personnel devoted to enforcing the party's laws, regulations and other measures relating to trade in wildlife;
  - ⌚ Increasing wildlife sector funding with a view to increasing monitoring and enforcement capacity and incentives, as well as decreasing incentives for corruption;
  - ⌚ Conducting periodic audits of exporters in its territory of wildlife and its derivatives, and verify that exports of those products comply with all applicable laws, regulations, and other measures of Parties governing the harvest of, and trade in, wildlife;
  - ⌚ Reinforcing security measures at border points to increase detection of illegal wildlife smuggling; and
  - ⌚ Providing a forum for interested stakeholders to voice their concerns regarding weaknesses or failure in illegal wildlife trade enforcement measures.
3. Working cooperatively to implement the actions required including capacity-building and other joint initiatives to promote the protection of wildlife resources, including:
- ⌚ Strengthening the legal, policy, and institutional framework governing the wildlife sector and natural wildlife habitats as well as the international trade in wildlife and its derivatives;
  - ⌚ Building institutional capacity for wildlife law enforcement and the international trade in wildlife and its derivatives; and
  - ⌚ Increasing public participation and improving transparency in wildlife resource planning and management decision-making.

### **Conclusion**

For the reasons detailed above, IFAW urges the USTR to consider the illegal wildlife trade issue in its negotiations with potential TPP Agreement partners. IFAW hopes that these comments provide helpful guidance to the United States during the proposed negotiations.

Sincerely,

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