

Illicit Trade in Endangered Flora and Fauna

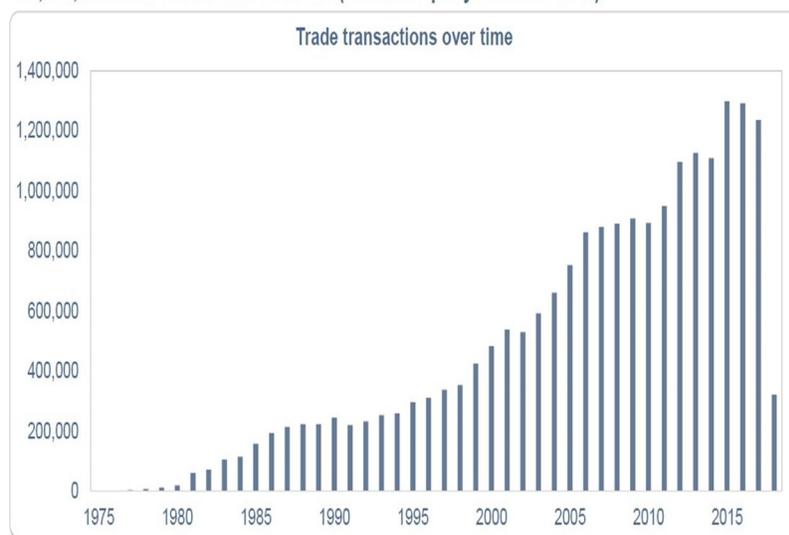
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Illicit trade of endangered species has negative and wide-ranging implications. In addition to increasing risks of species extinction, illicit trade poses danger to ecosystems, economies, and even public health. This briefing provides an overview of the illicit trade of endangered species, the resulting negative consequences, and one of the primary legal responses that is increasingly integrated in international trade agreements.

Illicit Trade in Endangered Species: The Scope of the Problem

Overexploitation of various plants and animals throughout the world has led to the endangerment and, in some cases, extinction, of a large number of species. Nevertheless, the multi-billion-dollar industry's demand for these species – including food, traditional medicine,¹ souvenirs, and even pets – continues to grow,² reaching close to one million transactions per year for over a decade (figure below). Illicit trade often leads to poaching of species already at-risk due to shrinking habitats, like rhinos (for their horns) or tigers (for their skin and bones), and threatens government efforts to sustainably manage both wildlife populations and natural resources.³ Subsistence fishermen losing access to their primary food source due to illegal overfishing is just one example of the many ways that these unsustainable practices threaten the economic wellbeing of those who rely on sustainable consumption of these plants and animals for food, medicine, or employment.⁴

20,789,967 trade transactions to date (>1 million per year since 2012)



Source: CITES, <https://www.cites.org/eng/disc/what.php>

A Legal Response

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) is the primary legal response to the illicit trade of endangered species. With 183 member states, CITES is one of the most widely supported conservation agreements in the world. The convention establishes a framework that member states incorporate within their respective laws to combat illicit trade in endangered species at

¹ The World Health Organization defines traditional medicine as the “sum total of the knowledge, skill, and practices based on the theories, beliefs, and experiences indigenous to different cultures, whether explicable or not, used in the maintenance of health as well as in the prevention, diagnosis, improvement or treatment of physical and mental illness.” *Traditional, Complementary and Integrative Medicine*, World Health Organization, <https://www.who.int/traditional-complementary-integrative-medicine/about/en/>.

² U.S. Fish and Wildlife Service, *Illegal Wildlife Trade*, <https://www.fws.gov/international/travel-and-trade/illegal-wildlife-trade.html>.

³ World Wildlife Foundation, “Species Fact Sheet: Illegal and Unsustainable Wildlife Trade,” 2006.

⁴ National Oceanic and Atmospheric Administration, *Understanding Illegal, Unreported, and Unregulated Fishing*, <https://www.fisheries.noaa.gov/insight/understanding-illegal-unreported-and-unregulated-fishing>.

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the national level.⁵ The broad, unified approach helps prevent a “race to the bottom” by countries that might seek to benefit economically from low trade standards. CITES regulates trade in approximately 30,000 different species of flora and fauna by categorizing them into one of three different appendices based on degrees of risk. Appendix I includes species which are at most risk and in danger of extinction, and for which CITES generally bans international trade. Appendix II species are not currently at risk of extinction but need regulated trade with a view towards conservation. Trade in these species requires an export permit, which should only be granted when the exporting country determines that certain conditions are met, primarily that “trade will not be detrimental to the survival of the species in the wild.” Appendix III species are already regulated by a specific member state or states and require the cooperation of other states to prevent unsustainable or illegal exploitation. Trade in these species requires permits or certificates.⁶

Illicit Trade Provisions in Free Trade Agreements

Certain free trade agreements (FTAs) bolster the impact of the CITES framework. The United States and European Union (EU), for example, have recently incorporated provisions into the environmental or sustainable development chapters of FTAs that obligate parties to effectively implement CITES. Recently implemented FTAs, such as the U.S.-Mexico-Canada Agreement (USMCA), also allow parties to utilize the dispute settlement mechanism to enforce these environmental obligations.⁷ The U.S. has incorporated CITES into its FTAs in a fully enforceable manner since the George W. Bush administration and congressional Democrats struck the “May 10 Agreement” in 2007.⁸

Impacts

Illicit trade in endangered species has negative impacts on the U.S. economy and society. For example, when rosewood became the most trafficked wildlife product in the world, it reportedly harmed the U.S. guitar industry. The industry, which relies on rosewood to make components for high-end guitars, incurred notable cost increases from complying with new export permit requirements for rosewood. The new safeguards, which were only necessary to mitigate the *illicit* trade in rosewood, severely depressed *legal* exports for the guitar industry and contributed to a 38 percent decline in U.S. guitar exports in the first quarter of 2017.⁹

The COVID-19 pandemic illustrates another example, albeit extreme, of the far-reaching impact of illicit trade in wildlife. Although the exact origins of the virus are still being determined, evidence suggests that illicit trade of pangolins (which are among the most-trafficked animals in the world, sourced from various parts of Africa and Asia, and thought to be infected during the trading process) was one possible cause.¹⁰ Circumvention of health and safety inspections in conjunction with the illicit trade of pangolin meat may have led to the spread of disease and the substantial associated human and economic costs.

⁵ Convention on International Trade in Endangered Species of Wild Fauna and Flora, “What is CITES?”

⁶ The contents of the appendices are modified according to the rules established by CITES and updated as needed.

⁷ See USMCA environment chapter; see also TPP environment chapter. Other countries, like the EU, often funnel environmental disputes into a non-binding consultation mechanism and explicitly exclude such disputes from the primary dispute settlement mechanism. See e.g. E.U.-Andean Free Trade Agreement.

⁸ Sungjoon Cho, *The Bush Administration and Democrats Reach a Bipartisan Deal on Trade Policy*, American Society of International Law.

⁹ Kobza, Christine, *Rosewood Protection and the U.S. Guitar Industry*, 2019.

¹⁰ Cobus van Staden, *COVID-19 and the Crisis of National Development*, Nature Human Behavior, see also Smriti Mallapaty, *Scientists Call for Pandemic Investigations to Focus on Wildlife Trade*, Nature.

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