



## **POSITION PAPER ON THE LAW OF THE PEOPLE'S REPUBLIC OF CHINA ON THE PROTECTION OF WILDLIFE (DRAFT REVISION)**

**ENVIRONMENTAL INVESTIGATION AGENCY, UK (EIA)**

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### **INTRODUCTION**

China's Wildlife Protection Law is undergoing its first major revision in 26 years since it came into force. The draft legislation was made public on January 1, 2016 (hereafter referred to as the "*Draft Revision*") and was open for public comment until January 29, 2016. EIA has formally submitted detailed comments on the draft legislation and this policy paper summarizes our key concerns and comments.

EIA is an international non-governmental organization committed to combating environmental crime and advocating for effective criminal justice responses to tackle such crime. Since its establishment in 1984, EIA has played a key role in contributing to international and national decision-making in relation to combating environmental crimes such as illegal wildlife trade. EIA has extensive experience in investigating and exposing the trade in tiger and other Asian big cats' parts and products and elephant ivory and contributes to decision-making under the UN Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) to combat illegal trade in these species.

EIA's extensive work in investigating illegal trade in wildlife in various regions particularly in Africa and Asia has provided EIA a unique insight into the criminality and corruption facilitating such trade including the abuse of legal loopholes by organised criminal groups. Based on our extensive experience in combating illegal wildlife trade, EIA believes that "utilization" or legal trade in certain wildlife which are seriously threatened by trade such as, elephants, tigers and other Asian big cats, rhinos, and pangolins, is a high-risk approach that exacerbates the trade threat faced by these species. EIA has obtained valuable evidence that demonstrates that the current "utilization" / "licensing" / "marking" scheme under the existing Law of the People's Republic of China on the Protection of Wildlife (effective as of March 1, 1989) (hereafter referred to as the "*1989 Wildlife Law*") is a significant legal loophole that enables laundering of illegal wildlife specimens, undermines enforcement efforts and stimulates demand for wildlife thereby threatening their survival in the wild.

EIA believes that legal domestic trade in wildlife such as tiger and ivory products is not only ineffective in reducing poaching, but also stimulates demand for these products, and can sometimes even provide a channel for laundering of illegally traded products. For example these concerns are prominent in the tiger farming industry in China where tigers are bred in captivity, both in large numbers as well as in smaller facilities, for commercial purposes. These captive tigers are unsuitable for release into the wild, and many facilities that keep these tigers are actively promoting tiger trade, thereby further stimulating demand.

### **OVERVIEW OF KEY CONCERNS**

The primary motivation for revising the 1989 Wildlife Law was to dispose of elements in the law that are incompatible with the concept of "ecological civilization" as promoted by the Government of China. However, some sections of the Draft Revision are clearly at odds with the spirit of ecological civilisation. The 'Opinions of the Central Committee and the State Council on Accelerating the Promotion of the Establishment of Ecological Civilisation' includes explicit demands to "*implement the protection of rare and endangered wild animals and plants*", and, through revision of relevant laws and regulations, to "*guide, regulate and restrict the exploitation, utilisation and conservation of natural resources*" and "*promote a shift towards economical, green, low-carbon, civilised and healthy habits in*

*agriculture, food production, housing, work and travel; and to resolutely reject and oppose all kinds of extravagant, wasteful and irrational consumption*". The Draft Revision however contains 23 references to "utilisation" of wildlife, and explicitly proposes that wildlife may be utilised in traditional medicine, health products and as food.

A recent report from the China Council for International Cooperation on the Environment and Development (CCICED) stated that China has lost almost half of its vertebrates over the past 40 years, and that China's biodiversity is facing serious challenge. Nonetheless, the Draft Revision authorises hunting and catching of wildlife for the purposes of "captive breeding" and utilisation and trade in wildlife.

The amendment of the law provides a significant opportunity for China to demonstrate leadership with regards to conservation of wildlife, not just within Asia but globally. We commend the Draft Revision for promoting the need to protect the natural habitat of wildlife within China. We remain concerned however that the ineffective utilization policy of the 1989 Wildlife Law, which has failed to adequately protect wildlife, continues to be applied through the Draft Revision. For these reasons, EIA strongly recommends that the Draft Revision adopt a "precautionary approach" as the guiding principle for the new law; avoid encouraging or supporting utilisation and trade of wildlife; and explicitly prohibit the breeding of certain wildlife species for commercial purposes such as tigers and other Asian big cats.

Specifically, EIA recommends that:

1. For wildlife that are seriously threatened by trade - such as elephants, rhinos, tigers, leopards, snow leopards, clouded leopards, Asiatic lions, pangolins, and helmeted hornbill – the Draft Revision should strictly prohibit utilisation and commercial trade in the parts and products derived from these species sourced from both wild or captive sources.
2. For wildlife that are seriously threatened by trade, the following activities should be strictly prohibited: import, export, internal trade, sale or offer for sale, advertising, possession, stockpiling, transfer, transport and utilization with limited exceptions such as possession required for law enforcement purposes.
3. EIA's position on captive breeding has been developed largely based on our work in relation to trade in captive tiger specimens and in this context EIA recommends that "captive breeding" under the Draft Revision should be explicitly prohibited for tigers and other Asian big cats. The Draft Revision should only permit captive breeding of tigers and other Asian big cats as part of a globally recognised conservation breeding programme such as programmes accredited or endorsed by IUCN CBSG, the tiger studbook programme and/or WAZA) in approved scientific institutions that are making a contribution to scientific conservation breeding programmes (hereafter referred to generally as "*breeding for conservation purpose*"). EIA's position in this context may also be applied to other species.
4. Neither the existing 1989 Wildlife Law nor the Draft Revision includes any regulations relating to the 'possession' of wildlife and this should be included as a criminal offence under the Draft Revision.
5. The Draft Revision passes most responsibility for implementation of the wildlife law to provincial-level government departments, but omits any planning, supervisory or accountability mechanisms. This is a significant loophole which can be exploited to the detriment of wildlife.

Detailed comments and concerns on certain provisions of the Draft Revision are provided below.

## **COMMENTS ON SPECIFIC PROVISIONS OF THE DRAFT REVISION**

### **Article 1**

EIA recommends including references to the precautionary approach and principle of preventive action in Article 1 as basic principles of the new law. EIA proposes the following language for inclusion in Article 1: “*This law shall be based on the precautionary principle and on the principle that preventive action should be taken to prevent harm to wildlife and the environment.*”<sup>1</sup> Throughout the Draft Revision the term “utilization” should be qualified to ensure that there is no adverse impact on wildlife and to explicitly clarify the exception to utilization, i.e., for wildlife that are seriously threatened by trade - such as elephants, rhinos, tigers, leopards, snow leopards, clouded leopards, Asiatic lions, pangolins, and helmeted hornbill – the Draft Revision should strictly prohibit utilisation and commercial trade in the parts and products derived from these species sourced from both wild or captive sources.

EIA recommends that the Draft Revision adopt a “precautionary approach” as the primary policy underlying the new law. The precautionary principle is a well established principle under public international law and is recognized as a valid legal principle in international instruments such as CITES as well as several national and regional jurisdictions such as India and the European Union. The precautionary principle requires prevention of serious or irreversible damage irrespective of scientific uncertainty regarding the same – the focus here is on exercising precaution, acting in the best interest of the world’s natural heritage and not experimenting with the fate of endangered wildlife through utilization or legal trade.

For example, India is widely recognized for the best practices in its domestic legislation protecting wildlife, its success in conserving big cat populations, and the fact that there is little evidence of domestic trade within India.<sup>2</sup> As a consequence of its strong laws, India is now the world’s largest range State for tigers (with over 2/3 of the world’s wild tiger population), Asian elephants and rhinos in Asia with the world’s largest population of Greater One-horned Rhino. India’s Wild Life (Protection) Act, 1972 (WLPA) strictly prohibits import, export, hunting, possession, and trade in a wide range of wildlife such as tigers, leopards, snow leopards, clouded leopards and Asiatic lions which are listed in Schedule I of the WLPA, giving them the highest degree of protection. There are limited exceptions to these prohibitions.<sup>3</sup> It is pertinent to note that all trade in Schedule I specimens is prohibited excluding trade between recognized zoos as per applicable stringent regulations.

### **Article 2**

EIA recommends inserting a clear definition of ‘wildlife’, and expanding the range of wildlife that is afforded protection. EIA recommends that Article 2 should define “wildlife protected under this Law” by specifically including a reference to the appropriate list of species where each of these species will be listed.

EIA recommends that wildlife that are seriously threatened by trade - such as elephants, rhinos, tigers, leopards, snow leopards, clouded leopards, Asiatic lions, pangolins, bears and helmeted hornbill - be specifically included in a list that are given the strictest protection. The import, export, internal trade, sale or offer for sale, advertising, possession, stockpiling of parts and derivatives, transfer, transport, utilization and breeding of all of these species for commercial purposes, whether derived from wild or captive-bred sources, should be strictly prohibited.

### **Article 7**

The Draft Revision does not empower the central authorities to control and supervise the work of local authorities. Much of the responsibility to implement the law, including the power to issue permits, has been delegated to provincial authorities. This system is clearly not working - in a report recently submitted by China to CITES, the SFA has admitted that China allows a legal internal commercial trade in specimens from Asian big cats yet states that the government is unable to effectively monitor the trade and is unaware of how many permits have been issued for legal trade in captive bred tiger parts and derivatives (“*it’s beyond China’s capacity to obtain the total trade volume data of the various species which includes the possession volume.*”).

The division of powers and responsibilities between (1) the departments of forestry administration under the State council, and (2) the departments of forestry administration under local governments at or above the county level, is not clear and creates a major loophole in the regulatory system.

EIA recommends that the primary authority be vested with the department of forestry administration at the central level and that the provincial departments are responsible to the central authority. EIA recommends that the wildlife protection work of departments of forestry and fisheries administration under local governments at or above the county level should be the responsibility of the relevant departments under the State Council, and shall be supervised by these departments at the central level.

### **Articles 10**

EIA recommends that wildlife that are seriously threatened by trade - such as elephants, rhinos, tigers, leopards, snow leopards, clouded leopards, Asiatic lions, pangolins, and helmeted hornbill – should be specifically included in a list that are given the strictest protection.

The import, export, internal trade, sale or offer for sale, advertising, possession, stockpiling, transfer, transport, utilization and breeding of all of these species, whether derived from wild or captive-bred sources, should be strictly prohibited, with few limited exceptions such as breeding strictly for conservation purposes.

For example, the “Big Cat Public Safety Act” (September 17, 2015), recently introduced for enactment in the legislature of the United States of America prohibits the keeping and breeding of captive tigers in the United States, restricting private possession only to the limited extent needed by approved legitimate zoos and conservation breeding programs.<sup>4</sup>

### **Articles 11**

The Draft Revision states that there will be three lists of protected wildlife, namely, “wildlife under special state protection”, “wildlife under special local protection”, and “wildlife of important ecological, scientific or social value”.

EIA recommends that there should be only two lists of wildlife - wildlife under special state protection” and “wildlife under special local protection” and that the third list of “wildlife of important ecological, scientific or social value” should be merged with the above two lists.

EIA recommends publishing the aforementioned lists as soon as possible for public consultation. EIA recommends that wildlife that are seriously threatened by trade - such as elephants, rhinos, tigers, leopards, snow leopards, clouded leopards, Asiatic lions, pangolins, and helmeted hornbill – should be specifically included in a list that are given the strictest protection and utilization of these species should be strictly prohibited.

### **Article 19**

EIA recommends prohibiting captive breeding unless it is strictly for conservation purposes. Further EIA recommends giving responsibility for protection of wildlife under first class state protection to departments of wildlife protection under the State Council (central level).

### **Articles 24 and 26**

EIA is deeply concerned about the consequences of Article 24 which allows a “permit system with regards to the captive breeding of wildlife under special state protection” and the permitting authority is vested at the “province, autonomous region or municipality” level unless exempted by the State Council.

EIA recommends prohibiting captive breeding unless it is strictly for conservation purposes. This prohibition should expressly apply to tigers and other Asian big cats and other species.

EIA has obtained strong video evidence that demonstrates that the permitting system that currently exists under the 1989 Wildlife Law is ineffective and indeed provides an opportunity for criminals to abuse and launder illegal specimens, and for provincial authorities to operate in contravention of State Council Orders (issued at the central level).

### Tiger trade in China

For example, EIA investigations of the operations of a company called Xiaofeng Animal Specimen Factory, in Chaohu, Anhui Province, which has been issued a permit by the State Forestry Administration (SFA) to sell captive-tiger skins legally found that this company regularly processed captive tiger skins to produce expensive luxury rugs that it sells legally for commercial purposes with a permit issued by the SFA and is also engaged in illegal tiger trade.<sup>5</sup> The owner of Xiaofeng described ways in which he could re-use the permits and falsify the origin of the skins, and also claimed that he had illegally processed two skins from wild tigers originally from India. Further, the provincial authorities have permitted the owner of Xiaofeng to take delivery of the entire tiger carcass from the zoos with which he has an agreement and in doing so he can also sell the tiger bones in the black market since the authorities do not effectively monitor this trade. Trade in tiger bone has been prohibited by law in China since 1993 under a State Council notification on “Banning the Trade of Tiger Bone and Rhino Horn”.

#### **Extract from EIA Investigation Transcript**

2012 (Xiaofeng Animal Specimen Factory, in Chaohu, Anhui Province):

EIA: *If you are to estimate, legal and illegal skins, what is the percentage in the market?*

Trader: *I would say half and half. ... But even if you don't have a certificate, you can keep it at home, and claim you inherited it...*

Trader: *The certificate is here, and you don't need to know more. It's like you ask a child trafficker, who does the child belong to? (in response to EIA asking about who owns the tiger that was being offered for sale with a permit).*

Despite the 1993 State Council Notification banning the trade in tiger bone, EIA investigations have found ongoing commercial use of tiger bone sourced from captive-bred tigers for manufacturing products such as wine.<sup>6</sup> For example, in 2013, EIA investigated the Hunan Sanhong Biotechnology Company, which is apparently manufacturing tiger bone wine on a commercial scale. A Company representative told EIA that the Company along with two other facilities are authorized by the government to use tiger bone from captive animals to manufacture and sell tiger bone wine so long as the product does not list “tiger bone” as its ingredient on its packaging. Further, the Company representative told EIA that the bones for manufacturing the wine are sourced from its own tiger breeding facility as well as zoos and other breeding facilities across China. The Company representative told EIA that the use of bone from captive tigers for producing wine is a business activity that is ongoing in almost every province across China, mostly in zoos and that such activities are carried out in a discreet manner because of the 1993 State Council ban prohibiting tiger bone trade.

#### **Extract from EIA Investigation Transcript**

2013 (Hunan Sanhong Biotechnology Company in Changsha, Hunan Province):

EIA: *You said that selling tiger bone is not allowed, but at the same time you are selling this with permission from the government?*

Trader: *The product is official so long as it is not labeled as “tiger bone”. Official products can be sold in the market.*

EIA: *How about the Siberian Tiger Park and the Xiongsen Bear and Tiger Village?*

*Trader: It's the same. Everyone involved in this business know this, no one dares to label the product as "tiger bone".*

*EIA: It is not labeled as such, but it is actually made with tiger bones?*

*Trader: Yes.*

Additionally, past EIA investigations as well as exposés by media and other non-governmental organizations have documented the use of tiger bone from captive tigers in tiger farms across China to produce wine.<sup>7</sup>

Tigers and other Asian big cats are listed in CITES Appendix I triggering the strictest prohibitions on international trade in parts and products of these species under CITES. A legal trade in parts and products from tigers, whether sourced wild or captive tigers, violates CITES with limited exceptions such as trade in antiques. Given the highly endangered status of tigers and the significant trade threat, CITES Parties have called for ending trade in parts and products sourced from captive-tigers and stopping intensive commercial tiger breeding operations. A CITES Decision adopted in 2007 states that "*tigers should not be bred for trade*".<sup>8</sup>

#### Trade in ivory in China

Historically, as a consequence of the adoption of the international ban on trade in ivory in 1989 under CITES, elephant populations in several parts of Africa recovered and the Chinese ivory industry dwindled as supply dried up and sales fell dramatically.<sup>9</sup> However the ban was lifted in 1999 when Botswana, Namibia and Zimbabwe sold several tonnes of ivory to Japan. This led to perceptions amongst traders in China, that the ivory ban would soon be lifted making trade in ivory a profitable venture. In 2002 China itself reported to CITES that: "*Many Chinese people misunderstand the decision [to sell to Japan] and believe that the international trade in ivory has been resumed.*"<sup>10</sup> However, by 2005 China had decided that it too wanted to join Japan and purchase ivory from Africa and such a transaction was authorised by CITES in 2008.

Today, China is the world's largest destination market for illegal ivory.<sup>11</sup> A primary factor for the surge in illegal ivory trading in China is the creation of a parallel legal domestic market for ivory in China in 2008. The demand for ivory in China and the smuggling of thousands of tones of illegal ivory from Africa to China to meet this demand has resulted in the significant decline of elephants in the wild in Africa - EIA investigations have found that China's large domestic legal trade in ivory provides a cover for laundering illegal ivory, stimulates demand for ivory products and undermines enforcement efforts to combat ivory trafficking.<sup>12</sup> In addition, there is overwhelming evidence from other sources as well that prove that the domestic ivory trade system under the 1989 Wildlife Law and the labelling and permitting scheme is flawed.<sup>13</sup>

The Draft Revision also conflicts with the high level commitments made by President Xi Jinping and President Obama during their recent high-level bilateral where both heads of state committed to "*take significant and timely steps to halt the domestic commercial trade of ivory.*"<sup>14</sup>

#### Legal trade stimulates demand

The parallel legal trade in captive tiger skins as well as in elephant ivory in China stimulates demand and undermines demand-reduction campaigns. The legal trade is sustaining, and indeed promoting, a perception that such products are valuable, thereby stimulating demand. It is pertinent to note that recent surveys conducted in China show that an unequivocal ban would discourage consumers from buying the product. For example, a survey conducted by National Geographic found that consumers stated that a complete ban would stop them from buying ivory.<sup>15</sup> Other recent surveys also confirm overwhelming support for a complete ban on domestic trade in ivory in China.<sup>16</sup>

In 2004, the SFA included various endangered species in a "special marking system" for the utilisation of wildlife, effectively establishing a legal framework for the trade and utilisation of wildlife. This stimulated development of the wildlife product market, including taxidermy specimens, deer antler,

wine, frozen crocodile meat, skin products, musk, bear bile powder, Chinese medicine products, snakeskin erhus (a traditional musical instrument), pangolin scales, etc. Even mass-produced 'tonic wines' containing tiger bone such as those from Siberian Tiger Park and Xionsen Bear and Tiger Village in Guilin are covered under this "special marking system", and may be legally sold. For this system to be enshrined in the Wildlife Protection Law would be a step backwards.

In February 2015, the head of a Public Security Bureau in Shenzhen invited officials to attend a feast at a hotel, where they would be served giant salamander allegedly sourced from a captive breeding facility. The commercial breeding of wildlife has developed into an industry, and this industry has pushed critically endangered species such as the giant salamander to the brink of extinction. Recent research into the giant salamander breeding industry by the Zoological Society of London found that the animals are often taken from the wild. Many other species are facing similar threats, including the tiger, Asiatic black bear, sika deer, and various snakes, turtles and tortoises – a rapidly expanding wildlife breeding industry has changed tactics in seeking commercial opportunities, and is stimulating demand for wildlife products among the public. Such wildlife products are generally consumed as luxury goods, or even as a way to exert personal influence and curry favour with those in positions of power. Encouragement of such an industry is at direct odds with the current mood of fighting corruption in China.

### **Article 27**

EIA recommends deletion of Article 27 in its entirety. Unlike the 1989 Wildlife Law, the Draft Revision explicitly states that wildlife may be used in the production and sale of traditional medicine, health products and foodstuffs. A 2014 judicial interpretation of the Criminal Law of the People's Republic of China confirmed that eating endangered wildlife is a criminal offence, and Article 27 appears to be in conflict with this interpretation. The Wildlife Protection Law should not condone the use of wildlife in traditional medicine, as health products or as food.

### **Article 40**

The Draft Revision has removed Article 40 of the existing 1989 Wildlife Law, which guarantees that China will implement international conventions in full and in a timely manner while ensuring China's sovereignty is honoured. Removal of this Article could impact upon the speed and quality with which China honours international conventions, and could even negatively affect China's international reputation. EIA recommends re-inserting Article 40 of the 1989 Wildlife Law.

### **Articles 46 and 49**

The Draft Revision should explicitly impose criminal liability for offences in Article 46 related to captive breeding of wildlife and treat such offences with the same severity as other wildlife crimes. Similarly, the Draft Revision should impose criminal liability in Article 49 for the provision of a trading platform for illegal sale, purchase or utilisation of wildlife and the products thereof or illegal hunting equipment.

### **New provision on "possession"**

The Draft Revision only addresses the hunting, catching, trade, utilization and breeding of protected wildlife and ignores the offence of "possession", which is a major loophole in both the Draft Revision and the 1989 Wildlife Law. The import, export, internal trade, sale or offer for sale, advertising possession, transfer, transport, and utilization of protected species, whether derived from wild or captive-bred sources, should be strictly prohibited with limited exceptions such as possession for law enforcement purposes. Such species include tigers and other Asian big cats, elephants, rhinos, pangolins etc.

The national wildlife laws of most countries broadly prohibit a range of activities other than hunting and trade. For example, the Endangered Species Act of 1973 in the United States of America prohibits the following activities in relation to protected species: to import, export, "take", possess, sell, deliver, carry, transport, ship, receive, sell or offer for sale. Further the term "take" has been defined under the Act as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct."

Under Indian law / the WLPA, possession of protected species including live captive animals or parts and products derived from such animals, without an ownership certificate is an offence. There was a fixed period for making declarations of ownership for such specimens so as to receive ownership certificates. This period has passed. Therefore, no new specimens can be declared or legalized in India. With regard to breeding, as described above, protected species such as tigers can be possessed / bred only by recognized zoos for conservation and not for commercial purposes. Tigers and other Asian big cats cannot be bred for commercial purposes, nor on a commercial scale for trade in their parts and derivatives. All trade in protected specimens is prohibited apart from trade between recognized zoos as per applicable regulations. Legal specimens can only be transferred from one person to another through inheritance. "Offers for sale" are also prohibited and this would cover advertising. In addition, the transport of any legal specimen from one State to another requires the reporting of such transport to the Chief Wild Life Warden within whose jurisdiction the transport is affected. This complete prohibition has resulted in significant demand reduction in India – for example there is no significant demand for tigers and other Asian big cat specimens or elephant ivory in India.

Enactment of new prohibitions concerning "possession" will also address the growing concerns associated with stockpiling in China. Continued stockpiling of parts and products by traders and industry is not currently prohibited in China and this facilitates a perception that trade is or will soon be legal. For example, in two tiger breeding facilities alone, namely the Hengdao River facility in Harbin and Xiongsen Bear and Tiger Village, approximately approx. 150 and 200 carcasses respectively have been stockpiled in freezers.

The Draft Revision should include a provision that specifically prohibits possession and stockpiling of all specimens of protected species. For example, India has adopted meaningful best practices for disposal of carcasses of confiscated specimens and captive bred tigers and other Asian big cats. The Wild Life Protection Act of India, 1972 (WLPA) prohibits all trade of Asian big cat specimens including specimens sourced from captive animals. The Central Zoo Authority (CZA) established under the WLPA is the body which regulates zoos in India and Section 38C of the WLPA empowers the CZA to *inter alia*, recognize or derecognize zoos, evaluate and assess the functioning of zoos with respect to the standards or the norms as may be prescribed; and ensure maintenance of stud-books of endangered species of wild animals bred in captivity. Under Section 38H of the WLPA, no zoo shall be operated without being recognised by the CZA. The WLPA prescribes that no recognition to a zoo shall be granted unless the CZA, having due regard to the interests of protection and conservation of wild life, and such standards, norms and other matters as may be prescribed, is satisfied that recognition should be granted. Standards for recognition of zoos has been adopted by the CZA in the Recognition of Zoo Rules, 2009 and the CZA will only recognize a zoo if the standards and norms prescribed in these Rules have been met. The prescribed standards include that every zoo shall ensure that the carcasses of the animals is disposed by burying or burning provided that carcasses of large cats shall be disposed by burning in the presence of the Director of the zoo or any officer in the next rank to him and authorized by him in this behalf. Further, the Guidelines for Disposing Carcass of Animals In Zoos (issued to Director/curators of Large/Medium/Small Zoos vide Central Zoo Authority letter No.24-2/95-CZA dated 24.1.1996) specifically provides that special care has to be taken in respect of carcasses of leopards, lions and tigers. These should be disposed of by burning in the presence of zoo directors themselves, so that the possibilities of skeleton/trophies being smuggled into illegal trade can totally be ruled out.

India does not have any stockpiles of Asian big cat specimens. The National Tiger Conservation Authority of India (NTCA) has issued a Standard Operating Procedure for Disposing Tiger/Leopard Carcass/Body Parts which requires that seized tiger and leopard specimens that are not required for court purposes must be destroyed in the presence of specified authorities.

The transparent and routine destruction of carcasses from captive and seized sources ensures that such specimens cannot enter trade and reinforces applicable laws that prohibit commercial trade and strengthens enforcement efforts. It also sends a clear message that big cat specimens are not available for commercial purposes.

## **CONCLUSION**

China has signalled the leadership role it can play when it comes to wildlife conservation – for example through the recent high-level commitment made by President Xi Jinping to close down the



domestic ivory markets in China to protect elephants and through the President's call for promoting "ecological civilization". The new wildlife law of China provides a major opportunity for China to continue to demonstrate such leadership by adopting a strong policy towards protecting some of the world's most iconic species that continue to be killed for trade in their parts and products, often for consumption by buyers in China.

To conclude, EIA urges that the new wildlife law of China clearly and strictly prohibit trade, utilization and breeding for commercial purposes of wildlife that continue to be threatened in the wild by trade. By doing so, China would deliver a long-lasting legacy and contribution towards the protection of these species in their natural habitat across their range.

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#### References:

<sup>1</sup> See, for example, Article 191 of Treaty on the Functioning of the European Union, <http://eur-lex.europa.eu/legalcontent/EN/TXT/?uri=celex%3A12012E%2FTXT>;

#### References:

<sup>2</sup> Kristin Nowell, CAT and IUCN Cat Specialist Group and Natalia Pervushina, TRAFFIC, with additional support from WWF, *Review of Implementation of Resolution Conf. 12.5 (Rev. COP16) on Conservation of and Trade in Tigers and other Appendix-I Asian big cat species*, SC65 Doc. 38, Annex 1 – p. 31, [https://cites.org/sites/default/files/eng/com/sc/65/E-SC65-38-A01\\_0.pdf](https://cites.org/sites/default/files/eng/com/sc/65/E-SC65-38-A01_0.pdf).

<sup>3</sup> Kristin Nowell, CAT and IUCN Cat Specialist Group and Natalia Pervushina, TRAFFIC, with additional support from WWF, *Review of Implementation of Resolution Conf. 12.5 (Rev. COP16) on Conservation of and Trade in Tigers and other Appendix-I Asian big cat species*, SC65 Doc. 38, Annex 1 – pp. 31-33, [https://cites.org/sites/default/files/eng/com/sc/65/E-SC65-38-A01\\_0.pdf](https://cites.org/sites/default/files/eng/com/sc/65/E-SC65-38-A01_0.pdf).

<sup>4</sup> H.R.3546 - To amend the Lacey Act Amendments of 1981 to clarify provisions enacted by the Captive Wildlife Safety Act, to further the conservation of certain wildlife species, and for other purposes, 114th Congress (2015-2016), <https://www.congress.gov/bill/114th-congress/house-bill/3546?resultIndex=10>.

<sup>5</sup> EIA (2013), *Hidden in Plain Sight: China's Clandestine Tiger Trade*, <https://eia-international.org/wp-content/uploads/EIA-Hidden-in-Plain-Sight-Chinese-lang-version-FINAL1.pdf>

<sup>6</sup> EIA (2014), *Briefing on the manufacture of tiger bone wine in China*, <https://eia-international.org/report/briefing-on-the-manufacture-of-tiger-bone-wine-in-china>; EIA (2013), *Hidden in Plain Sight: China's Clandestine Tiger Trade*, <https://eia-international.org/wp-content/uploads/EIA-Hidden-in-Plain-Sight-Chinese-lang-version-FINAL1.pdf>; EIA's online library: <http://eia-international.org/eia-online-library-for-hidden-in-plain-sight-report>.

<sup>7</sup> See, e.g., EIA (2013), *Hidden in Plain Sight: China's Clandestine Tiger Trade*, <https://eia-international.org/wp-content/uploads/EIA-Hidden-in-Plain-Sight-Chinese-lang-version-FINAL1.pdf>; EIA (2007), *Availability of Tiger Bone Wine at Wild Animal Parks in China*, <http://www.eia-international.org/availability-of-tiger-bone-wine-at-wild-animal-parks-in-china>; EIA (2012), *Tiger Bone Wine Auctions in China*, <http://www.eia-international.org/tiger-bone-wine-auctions-in-china>.

<sup>8</sup> CITES Decision 14.69, <https://cites.org/eng/dec/valid16/212>

<sup>9</sup> Yufang Gao and Susan G. Clark (2014), *Elephant ivory trade in China: Trends and drivers*, Biological Conservation 180 (2014) 23–30, 24.

<sup>10</sup> CITES Management Authority of China (2002), *A preliminary review of the management of trade in elephant products in China*, CoP12 Inf. Doc 15.

<sup>11</sup> UNEP et al. (2013), *Elephants in the Dust – The African Elephant Crisis. A Rapid Response Assessment* at 40, 67 [http://www.unep.org/publications/contents/pub\\_details\\_search.asp?ID=6303](http://www.unep.org/publications/contents/pub_details_search.asp?ID=6303); World Customs Organisation (2013), *Illicit Trade Report 2012* at pg. 49; TRAFFIC (2014), *Status of elephant populations, levels of illegal killing and the trade in ivory: a report to the CITES Standing Committee*, SC65 Doc. 42.1.

<sup>12</sup> EIA (Nov. 2014), *Vanishing Point - Criminality, Corruption and the Devastation of Tanzania's Elephants*, <http://eia-international.org/vanishing-point-criminality-corruption-and-the-devastation-of-tanzanias-elephants>; EIA (March 2012), *Blood Ivory: Exposing the Myth of a Regulated Market*, <http://eia-international.org/bloodivory-exposing-the-myth-of-a-regulated-market>; EIA (Aug. 2011), Briefing Document for the 61st Meeting of the CITES Standing Committee – *Elephants*, <http://eia-international.org/briefing-document-for-the-61stmeeting-of-the-cites-standing-committee-elephants>

<sup>13</sup> See, for example, Elephant Action League (2015), *Blending Ivory: China's old loopholes, new hopes*; Save the Elephants (2014), *China faces a conservation challenge: The expanding elephant and mammoth ivory trade in Beijing and Shanghai*; TRAFFIC (2014), *ETIS report of TRAFFIC*, CoP16 Doc. 53.2.2 at 14, 19; CITES Secretariat (2013), *Report of the Secretariat: Monitoring of illegal trade in ivory and other elephant specimens*, CoP16 Doc. 53.2.1, ¶ 34; Esmond Martin and Lucy Vigne (2011), *The Ivory Dynasty: A Report on the Soaring Demand for Elephant and Mammoth Ivory in Southern China*; IFAW (2012), *Making a Killing: A 2011 Survey of Ivory Markets in China*.

<sup>14</sup> <https://www.whitehouse.gov/the-press-office/2015/09/25/fact-sheet-president-xi-jinpings-state-visit-united-states>

<sup>15</sup> John Bredar (2013), *The Ivory Trade: Thinking Like a Businessman to Stop the Business*, <http://newswatch.nationalgeographic.com/2013/02/26/the-ivory-trade-thinking-like-a-businessman-to-stop-the->

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[business/](#) (“Nearly 60 percent of respondents believe that making ivory ‘illegal to purchase under any circumstances’ or ‘the strong recommendation of a government leader’ would be the most effective way to stop ivory trading”).

<sup>16</sup> WildAid (2015), *Ivory demand in China, 2012-2014*; National Geographic and Globescan (2015), *Reducing demand for ivory: an international study*.