

## GUIDANCE DOCUMENT

### EU regime governing import, (re)export and intra-EU trade in captive-bred tigers, tiger parts and derivatives

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The purpose of this notice is to provide guidance on the interpretation of Council Regulation (EC) No 338/97<sup>1</sup> and Commission Regulation (EC) No 865/2006<sup>2</sup> (together ‘the EU Wildlife Trade Regulations’) recommending that EU Member States do not authorise, except under exceptional circumstances, the import, (re)export and intra-EU trade in captive-bred tigers, tiger parts and derivatives.

#### 1. Background and justification

##### (i) The international and EU legal framework governing trade in tigers and in tiger parts and derivatives

Tigers (*Panthera tigris*) are included in Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), which gathers 183 Parties, including the EU and all its Member States.

Under the current CITES regime, international trade in wild tigers, their parts and derivatives for commercial purposes is prohibited, with strictly limited exemptions.

Whereas trade in live tigers born and bred in captivity, their parts and derivatives (‘captive-bred specimens’<sup>3</sup>) is exempted from this overall ban pursuant to Articles VII(4) and VII(5) of the CITES, it is still subject to strict conditions. In particular, in 2007, Parties to the CITES adopted Decision 14.69<sup>4</sup> which provides that ‘(...) tigers should not be bred for trade in their parts and derivatives’. According to the annex to the notification of this Decision<sup>5</sup>, “‘trade”, in the opinion of the Secretariat, may be regarded for the purposes of this Decision as referring to both domestic and international trade’.

The CITES is implemented in the EU through Council Regulation (EC) No 338/97 (‘the Basic Regulation’) and Commission Regulation (EC) No 865/2006 (‘the Implementing Regulation’).

##### (ii) The threat posed to wild tigers by the trade in captive-bred tiger specimens.

According to current estimations, there are only approximately less than 4,000 tigers left in the wild today<sup>6</sup>. Whereas several sub-species are already extinct, remaining wild ranging populations are under constant threat due to habitat loss, human-animal conflict, and poaching. The use of tiger parts and derivatives in traditional medicine, jewellery and as a social marker is to a large extent contributing to the pressure on wild tiger populations.

By contrast with the depleting wild tigers’ populations, the number of captive tigers in breeding facilities is estimated around 7.000 and growing<sup>7</sup>. Asia, but also South-Africa, North America and even the EU have

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<sup>1</sup> Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein (OJ L 61, 3.3.1997, p. 1).

<sup>2</sup> Commission Regulation (EC) No 865/2006 of 4 May 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 (OJ L 166, 19.6.2006, p. 1–69).

<sup>3</sup> ‘Specimen’ is used in this document as a generic term encompassing live and dead tigers as well as their parts and derivatives, in line the definition of Article(2)(t) of Council Regulation (EC) No 338/97 under which “‘specimen’ shall mean any animal or plant, whether alive or dead, of the species listed in Annexes A to D, any part or derivative thereof, whether or not contained in other goods”. It is also aligned with the definition of Article (1)(b) of the CITES.

<sup>4</sup> CoP14, The Hague, 2007, available at <https://cites.org/eng/taxonomy/term/42069>

<sup>5</sup> Annex ‘Matters related to Decision 14.69’ to Notification No. 2008/059 of the CITES Secretariat ‘Tiger-breeding operation’: <https://cites.org/sites/default/files/notif/E059.pdf>

<sup>6</sup> <https://eia-international.org/wildlife/wildlife-trade-maps/illegal-trade-seizures-captive-tiger-trade/>

<sup>7</sup> *Ibid.*

been identified as areas in which there are facilities keeping or breeding tigers which are of concern regarding legal and illegal trade in tigers<sup>8</sup>.

Indeed, by fuelling the tiger parts and derivatives market, breeding facilities increase the demand and thereby the pressure upon wild tigers' populations. Besides, wild-sourced products are considered socially more prestigious and medically more potent than those originated from captive breeding. Therefore, captive-sourced products are not likely to replace products from poaching, let alone protect the remaining wild tiger populations<sup>9</sup>. Rather, they encourage the overall demand for tiger products and the race for distinction, while reaping the benefits of a thriving, more accessible market.

By extension, any trade in captive-bred specimens from and to the EU have an indirect but significant impact on tiger species whose populations are already depleted. Allowing such trade thus hampers the achievement of conservation policies against poaching and trafficking.

**(iii) An increasing level of legal and illegal trade in live tigers and tiger parts and derivatives between the EU and Asia**

Those commercial flows of captive-bred tiger specimens are driven for a large part by the increasing demand for live tigers and tiger parts and derivatives from Asia. This demand is therefore one of the most important factors for the current high levels of tiger poaching, captive breeding, and trafficking.

The increasing trade in tigers and tiger parts is part of the growth of global wildlife trade which, according to the IPBES' latest report on biodiversity and pandemics, has increased by 500% in value since 2005 and by 2,000% since the 1980s<sup>10</sup>. The report warns that given the insufficient and inadequate regulation, even the legal trade will become unsustainable in the future.

In the EU, figures of legal trade from the CITES database over the 2014-2018 period show significant flows of tiger specimens to and from Asia<sup>11</sup>. These data show that, import and export permits are widely issued by Member States for commercial purposes. In addition, NGOs and authorities have documented fraudulent practices consisting in alleging false purposes to facilitate the obtention of a permit, so that the proportion of commercial trade is likely under-estimated.

Finally, beside to legal trade, illegal trade in tiger specimens (in particular as medicinal derivatives) is also occurring within the EU and from the EU. Such illegal traffic has been documented by the Czech Enforcement Inspectorate (CEI)<sup>12</sup> in a report that demonstrates the scale of illegal tiger trade in the Czech Republic as well as the cross-border dimension of the issue.

**(iv) Veterinary and public safety concerns with regard to tiger trading and breeding in captivity**

Trade in tigers from the wild - as well as other species - poses a prominent sanitary threat. Therefore, to prevent the emergence of zoonotic pandemics, the World Health Organisation (WHO), the World Organisation for Animal Health (OIE), and the United Nations Environment Programme (UNEP) recommend States to 'Suspend the trade in live caught wild animals of mammalian species for food or breeding purposes' and to enact 'regulations to control the risks of transmission of zoonotic microorganisms from farmed wild animals and caught wild animals intended for breeding', including

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<sup>8</sup> See CITES SC70 Doc. 51, available at <https://cites.org/sites/default/files/eng/com/sc/70/E-SC70-51.pdf>

<sup>9</sup> <https://www.sciencemag.org/news/2021/02/wildlife-trade-imperils-species-even-protected-areas>

<sup>10</sup> 'IPBES Workshop on Biodiversity and Pandemics', Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES), July 2020 (<https://www.ipbes.net/pandemics-media-release>)

<sup>11</sup> Based on FOUR PAWS' report, Europe's second-class tigers, March 2020 ([https://media.4-paws.org/c/5/5/5/c555a6c3b7150e4bbcb672872796b28b7b2598d6/Report\\_Europes-second-class-tigers\\_EN\\_FP-2020.pdf](https://media.4-paws.org/c/5/5/5/c555a6c3b7150e4bbcb672872796b28b7b2598d6/Report_Europes-second-class-tigers_EN_FP-2020.pdf)).

<sup>12</sup> "Illegal Tigre Trade in Czech Republic" - Presented at CITES SC70 - <https://cites.org/sites/default/files/eng/com/sc/70/Inf/E-SC70-Inf-24.pdf>

traceability of farmed wild animals<sup>13</sup>. In its presentation of the document, the WHO specifies that ‘Although this document focuses on the risk of disease emergence in traditional food markets where live animals are sold for food, it is also relevant for other utilizations of wild animals. All these uses of wild animals require an approach that is characterized by conservation of biodiversity, animal welfare and national and international regulations regarding threatened and endangered species’<sup>14</sup>.

Likewise, breeding practices generate both veterinary and sanitary risks. Repeated gestations as well as inbreeding are likely to reduce the lifespan of captive-bred tigers. Additionally, non-compliance with vaccine requirements and keeping tigers in confined spaces increase the risk of zoonotic disease transmission from tigers to humans as well as disease transmission between tigers<sup>15</sup>. In particular, tigers carry parasites and other harmful pathogens transmissible to other animals and humans<sup>16</sup>. Reciprocally, evidence shows that man can also transmit pathogens like coronavirus (SARS-CoV-2) to tigers, with adverse effects on their health<sup>17</sup>. The risks appear of particular gravity in the case of captive breeding facilities, especially where tigers are put in contact with public as an attraction without adequate sanitary and veterinary safeguards.

In addition, tigers in captivity represent a public safety issue. While even zoos complying with safety standards cannot eradicate the risk of escape and subsequent accidents, private facilities with primary focus on commercial purposes like circuses and self-acclaimed sanctuaries which allow interactions and/or breeding have proven to provide very little guarantee in this regard<sup>18</sup>. For instance, from 1995 to 2019, a total of 13 people were killed, and 99 people were injured in incidents involving wild animals in circus, 10% of which were tigers<sup>19</sup>.

#### **(v) EU initiatives against wildlife trafficking with regard to tiger trade**

In 2016, the Commission has adopted a Communication on an EU Action Plan against wildlife trafficking<sup>20</sup> which invites the EU institutions and its Member States to implement a comprehensive strategy against wildlife trafficking. The Action Plan foresees to reduce the demand for and supply of illegal wildlife products (Objective 1.1). The Communication also acknowledges the existing need for clarification of the EU legal framework and its uneven enforcement at the national level. Hence the need for ‘a review of shortcomings in implementation (...) and strategies for tackling them (...) to ensure that existing rules are enforced more consistently across the EU’ (Objective 2.1).

More recently, the Commission has adopted as part of the Green Deal a new EU Biodiversity Strategy<sup>21</sup> which provides that ‘The Commission will take a number of steps to crack down on illegal wildlife trade. This trade contributes to the depletion or extinction of entire species, is the world’s fourth most lucrative

<sup>13</sup> WHO, OIE and UNEP, Reducing public health risks associated with the sale of live wild animals of mammalian species in traditional food markets, Interim guidance, 12 April 2021 ([https://cdn.who.int/media/docs/default-source/food-safety/ig-121-1-food-safety-and-covid-19-guidance-for-traditional-food-markets-2021-04-12-en.pdf?sfvrsn=921ec66d\\_1&download=true](https://cdn.who.int/media/docs/default-source/food-safety/ig-121-1-food-safety-and-covid-19-guidance-for-traditional-food-markets-2021-04-12-en.pdf?sfvrsn=921ec66d_1&download=true)).

<sup>14</sup> <https://www.who.int/publications/i/item/WHO-2019-nCoV-Food-safety-traditional-markets-2021.1>

<sup>15</sup> A. Alonso Aguirre et al, Opportunities for Transdisciplinary Science to Mitigate Biosecurity Risks From the Intersectionality of Illegal Wildlife Trade With Emerging Zoonotic Pathogens, *Front. Ecol. Evol.*, 02 February 2021 | <https://doi.org/10.3389/fevo.2021.604929>.

<sup>16</sup> R. Latta et al, Zoonotic and vector-borne pathogens in tigers from a wildlife safari park, Italy, *International Journal for Parasitology: Parasites and Wildlife*, Volume 12, August 2020, Pages 1-7 (<https://www.sciencedirect.com/science/article/pii/S2213224420300298#cebib0010>).

<sup>17</sup> D. McAloose et al, From People to Panthera: Natural SARS-CoV-2 Infection in Tigers and Lions at the Bronx Zoo, *mBio*, September/October 2020 Volume 11 Issue 5 (<https://mbio.asm.org/content/mbio/11/5/e02220-20.full.pdf>).

<sup>18</sup> P. J. Nyhus et al, Dangerous animals in captivity: Ex situ tiger conflict and implications for private ownership of exotic animals, *Zoobiology*, Volume 22, Issue 6, 2003, Pages 573-586 (<https://onlinelibrary.wiley.com/doi/abs/10.1002/zoo.10117>). See also FOUR PAWS’ report, Europe’s second-class tigers, March 2020, Annex 2 (List of incidents in Europe 2017–2019).

<sup>19</sup> See Eurogroup For Animals, Wild animals in EU circuses – Problems, Risks and Solutions, March 2021 ([https://www.eurogroupforanimals.org/sites/eurogroup/files/2021-04/E4A-Circus\\_Report-2021.pdf](https://www.eurogroupforanimals.org/sites/eurogroup/files/2021-04/E4A-Circus_Report-2021.pdf)).

<sup>20</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – [EU Action Plan against Wildlife Trafficking](#), COM(2016) 87 final.

<sup>21</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – [EU Biodiversity Strategy for 2030](#), COM(2020) 380 final

black market and is thought to be one of the causes behind the emergence of zoonotic diseases. It is a human, economic and environmental duty to dismantle it’.

Likewise, in the framework of CITES international institutions, the EU has supported several CITES initiatives related to trade in big cats, such as Decision 14.69 previously mentioned as well as Resolution Conf. 12.5 (Rev. CoP18) on trade in tigers and the need to prevent tiger parts and derivatives from entering illegal trade through breeding facilities<sup>22</sup>.

## **2. Purpose and status of this document**

In view of the foregoing, guidance is needed to ensure that all Member States have a common approach to import, export, re-export and intra-EU trade of captive-bred tigers and their parts and derivatives (Section 3) and to provide recommendations to Member States to ensure the effective implementation of the EU Wildlife Trade Regulations (Section 4).

This guidance document is intended to assist national authorities in the interpretation of certain aspects of the EU Wildlife Trade Regulations and on measures considered to be best practices. It does not replace, add to or amend the provisions of applicable Union law. The document should also not be considered in isolation; it must be used in conjunction with the legislation, including other relevant legislation on imports of animal products, and not as a ‘stand-alone’ reference. Only the Court of Justice of the European Union is competent to authoritatively interpret Union law.

This document will be published electronically by the Commission services and may be published by the Member States.

## **3. Guidance on the interpretation of EU rules on the import, (re-)export and intra-EU trade of captive-bred tiger specimens**

Member States need to interpret and to enforce the EU Wildlife Trade Regulations in a manner consistent with their aims which, according to Article 1 of the Basic Regulation is to ‘protect species of wild fauna and flora and to guarantee their conservation by regulating trade therein’. EU Wildlife Trade Regulations should also be interpreted consistently with the CITES and CITES decisions, including those subsequent to the entry into force of the EU regulations, such as Decision 14.69 mentioned in the background Section.

In addition, Article 191(2) of the Treaty on the Functioning of the European Union (TFEU) provides that the EU’s environmental policy is to be based on the precautionary principle, which is a general principle of EU law requiring the authorities in question, in the particular context of the exercise of the powers conferred on them by the relevant rules, to take appropriate measures to prevent specific potential risks to public health, safety and the environment, by giving precedence to the requirements related to the protection of those interests over economic interests<sup>23</sup>. In case of scientific uncertainty as to the existence or extent of risks to human health or to the environment, the precautionary principle allows the institutions to take protective measures without having to wait until the reality and seriousness of those risks become fully apparent or until the adverse health effects materialise<sup>24</sup>.

The scope of the precautionary principle is wide: it exceeds strictly environmental and public health issues to cover animal and plant health and applies not only to public policy design but also to the interpretation and application the EU regulations<sup>25</sup>.

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<sup>22</sup> <https://cites.org/sites/default/files/document/E-Res-12-05-R18.pdf>

<sup>23</sup> See judgement of 17 May 2012 *Bayer CropScience AG and Others v Commission*, T-429/13 and T-451/13, EU:T:2018:280, paragraph 109 and the case-law cited.

<sup>24</sup> *Ibid*, paragraph 110 and the case-law cited.

<sup>25</sup> In this regard, Member States can refer to the Communication from the Commission of 2 February 2000 on the precautionary principle, which details the considerations necessary for its correct application : [Communication](#) from the Commission on the precautionary principle, COM(2000) 1 final.

Finally, the EU Wildlife Trade Regulations need to be interpreted with due regard to recent developments of scientific knowledge and data on species conservation, recalled in the background Section of this guidance document.

**(a) Import and (re)export of captive-bred live tigers, their parts and derivatives pursuant to Articles 4 and 5 of Regulation (EC) No 338/97**

Pursuant to Article 4 (1)(d) and 5(2)(c)(ii) of the Basic Regulation, permits for import, export and re-export of tiger specimens may only be issued if the operation has no commercial purposes and if several conditions are satisfied. In particular, pursuant to Articles 4(1)(e) and 5(2)(d), of the Basic Regulation, when assessing applications for import, export and re-export<sup>26</sup> of tiger specimens, Member States' Management Authorities need to be 'satisfied, following consultation with the competent Scientific Authority, that there are no other factors relating to the conservation of the species which militate against issuance of the [import/export] permit'.

Article 7(1) of the Basic Regulation provides for a derogation to certain requirements of Articles 4 and 5 for captive-bred tiger specimens, in particular the overall ban of trade for commercial purposes. However, this derogation does not remove the condition set out in Articles 4(1)(e) and 5(2)(d). Indeed, according to Article 7(1)(a) captive-bred specimens of species listed in Annex A 'shall be treated in accordance with the provisions applicable to specimens of species listed in Annex B' and such provisions (Articles 4(2)(c) and 5(4)) submit Annex B specimens to the requirement of Articles 4(1)(e) and 5(2)(d).

As a consequence, the issuance of the import, export or re-export permit of captive-bred tiger specimens are always subject to the condition that such permit does not hamper the conservation of the species.

Such condition needs to be interpreted in light of evidence showing that trade in captive-bred tigers, parts and derivatives is likely to have detrimental impacts on the survival of remaining wild tigers' populations.

Therefore, the application of the precautionary principle should command that, when assessing an application for import, export, or re-export of tiger specimens, including captive-bred tiger specimens, Member States should consider that there are serious factors relating to the conservation of wild tigers that militate against the issuance of such permit, except under exceptional circumstances.

This should lead Member States to cease issuing any import, export, or re-export permits for commercial purposes and, to issue permit for other purposes (i.e., under codes other than 'T' for commercial purposes), only in exceptional circumstances where sufficient evidence is provided that the permit will be used for truly legitimate purposes, such as where:

a) live tigers are moved as part of the breeding and conservation programmes of zoological institutions such as EEP (European Endangered Species Programme), SSP (American Species Survival Plan), ASMP (Australasian Species Management Program) or GSMP (Global Species Management Plans) for non-commercial purposes and not to any facility, business, individual who is/was affiliated to or associated with a facility, business or individual implicated in either legal trade for commercial purposes or illegal trade in live tigers, their parts or derivatives.

b) live tigers are moved with the intention of rescue by officially registered and monitored sanctuaries under the condition that the animals do not reproduce and are kept in species-appropriate enclosures.

c) specimens are moved where:

- the specimen is part of a genuine exchange of cultural or artistic goods between reputable institutions (i.e., museums).
- the Management Authority of the Member State concerned is satisfied that the specimen is a recognized piece of art and is confident that its value makes it certain that it will not be used for other purposes.

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<sup>26</sup> Article 5(3) provides that 'A re-export certificate may be issued only when the conditions referred to in paragraph 2 (c) and (d) have been met'.

- the specimen has not been sold and is an heirloom moving as part of a family relocation or as part of a bequest; or
- the specimen is part of a bona fide research project.

In case of doubt or scientific uncertainty, Member States may always use their discretionary power to refuse the issuance of a permit.

Where a permit is issued under exceptional circumstances, Management Authorities are encouraged to implement the recommendations regarding the registration and identification of specimens (outlined in Annex I to this guidance document).

***(b) Guidance on the interpretation of EU rules on intra-EU trade of captive-bred tiger specimens pursuant to Article 8 of Regulation (EC) No 338/97***

As a matter of principle, Article 8(1) of the Basic Regulation prohibits intra-EU trade for commercial purposes of Annex A species<sup>27</sup>. Nevertheless, Article 8(3)(d) enables Member States to derogate to this prohibition and grant sale exemption certificates when the specimens at issue 'are captive-born and bred specimens of an animal species (...) or are parts or derivatives of such specimens'<sup>28</sup>.

The use of the term 'may' in Article 8(3) implies that Member States are not obliged to grant a certificate for intra-EU trade even when the condition of 8(3)(d) and other sub-paragraphs are met, except if otherwise required by Union law. In other words, Article 8(3) cannot be considered as conferring the right to an applicant to obtain a certificate for intra-EU trade. Member States can refuse to grant a certificate if this is appropriate to protect the species or to guarantee its conservation, and if the refusal does not go beyond what is necessary to achieve that aim. The Commission services and the Union's Committee on Trade in Wild Fauna and Flora are of the view that this will be the case where the legitimacy and consistency of a transaction with the objectives of the Basic Regulation have not been conclusively demonstrated by the applicant.

In particular, account has to be taken of the fact that intra-EU trade of captive-bred tiger specimens can be used as a gateway to legal and illegal trade outside the EU. This leak into both circuits is made easier as no proper traceability is guaranteed once tiger specimens move from a Member State to another due to the shortcomings of existing traceability systems.

In view of the foregoing and the circumstances described in the background Section of this guidance document regarding the adverse effects of trade in captive-bred specimens on wild tigers' population and considering the precautionary principle, Member States should, as a temporary measure, not grant certificates for intra-EU trade of captive-bred tiger specimens under Article 8(3), except under the exceptional circumstances referred to in Section 3 (a) of this guidance document.

If issued, an intra-EU certificate should describe the specimen concerned with sufficient detail to ensure that it can only be used for the specific specimen concerned and cannot be used for the laundering of other specimens. In addition, Member States should consider collating, verifying, and recording identities of the applicant and of the purchaser (e.g., by keeping a copy of their identification documents).

Finally, certificates for intra-EU trade should only be issued on a transaction-specific basis — allowing one transaction only — to ensure that the certificate only is valid for the holder of the certificate, in line with Article 11(3) of the Implementing Regulation allowing Member States to 'issue transaction-specific

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<sup>27</sup> Article 8(1) provides that 'The purchase, offer to purchase, acquisition for commercial purposes, display to the public for commercial purposes, use for commercial gain and sale, keeping for sale, offering for sale or transporting for sale of specimens of the species listed in Annex A shall be prohibited'.

<sup>28</sup> Article 48(1)(c) of the Implementing Regulation: 'A certificate for the purposes of Article 8(3) of Regulation (EC) No 338/97 shall state that specimens of species listed in Annex A thereto are exempted from one or more of the prohibitions laid down in Article 8(1) of that Regulation for any of the following reasons: (...) (c) they are, or are parts of, or are derived from animals born and bred in captivity'.

certificates where it is considered that there are other factors relating to the conservation of the species that militate against the issuance of a specimen-specific certificate.'

#### **4. Specific guidance on the trade of captive-bred specimens as household and personal effects pursuant to Article 7 of Regulation (EC) No 338/97**

Article 2(j) of the Basic Regulation defines household and personal effects as 'dead specimens, parts, and derivatives thereof, that are the belongings of a private individual and that form, or are intended to form, part of his normal goods and chattels'.

Such specimens benefit from a derogation foreseen by Article 7(3) of the Basic Regulation, according to which specimens amounting to household or personal effects are exempted from the requirements of Articles 4 and 5.

According to Articles 57 and 58 of the Implementing Regulation however, such exemption 'shall not apply to specimens used for commercial gain, sold, displayed for commercial purposes, kept for sale, offered for sale or transported for sale'.

Yet, there is a documented risk that such exemption might be misused as a means to import and (re)export captive-bred specimens such as tiger skins for commercial purposes.

It is therefore crucial to prevent tiger specimens presented as household or personal effects from being used for other purposes. To this end, it is recommended that Member States, when processing an application for the import or (re)export of household and personal effects of tiger specimens:

- Consult the Scientific Authorities to determine whether the introduction of the specimen into the EU will have a harmful effect on the conservation of the species. If a non-detriment finding cannot be made, the application should be rejected without any further measures;
- Pay particular attention to the background of the applicant regarding trade in tigers, using the databases referred to in Section 4;
- Inform the applicant that the import into the EU can be authorised for personal use only and that there is no possibility for the owners of household and personal effects to be granted a certificate for a commercial purpose within the Union under Article 8(3)(c);
- If need be, contact the CITES Management Authority of the exporting country to ensure they are aware of the intended export and do not have information militating against the issuance of the import permit;
- When (after duly verifying that all conditions are met in accordance with the Basic Regulation and Implementing Regulation) issuing the import permit, include the following notice: 'Import of this hunting trophy is for personal use only. The item shall remain in the property of the holder of this permit. It shall be presented to competent authorities upon their request';
- If possible under national legislation, carry out risk-based checks on importers of tiger household and personal effects imported to verify that they are still in possession of the effects. The results of those checks should be shared with the other Member States, the European Commission and the CITES Secretariat in line with the recommendations contained in Section 5.

## **5. Additional recommendations**

### **(i) Monitoring of captive breeding**

Discrepancies between national laws regarding tiger holding, breeding and trade makes it currently impossible to determine the exact number of captive tigers in the EU. Such lack of transparency hampers the monitoring of compliance with the Basic Regulation, required by Article 14(1) (a) and (b).

It is therefore necessary that Member States where tiger captive-breeding is permitted implement or strengthen measures to ensure compliance with national and EU regulations as well as best practices and specifically:

- Require captive-breeding facilities to systematically report any birth, death and movement of specimens and provide adequate evidence according with recommendations of Annex 1 to this guidance document;
- Require that all specimens be duly marked and registered according with the recommendations provided in Annex 1;
- Specifically, in case of death of tigers:
  - require captive-breeding facilities to provide evidence regarding the cause of death, which should be attested by a veterinarian, the transfer of the corpse to a certified rendering plant and the destroying of the corpse in the presence of a designated authority to avoid any leak of tiger parts in the illegal circuit;
  - require that rendering plants deliver a document attesting to the proper disposal of the corpse by the owner and sufficient details to identify the specimen, such as species, length, weight, stripe pattern (via photographs) and any distinctive features.
- Ensure that their national Management Authority, in cooperation with veterinarian services and other competent authorities, proceed to regular inspections of private facilities where tigers are kept captive to ensure compliance with registration, veterinary welfare and public safety requirements.

### **(ii) Sanctions**

Pursuant to Article 14(1)(a) and (b) of the Basic Regulation, 'The competent authorities of the Member States shall monitor compliance with the provisions of this Regulation' and 'take the appropriate steps to ensure compliance or to instigate legal action' in case of suspected infringement.

Furthermore, pursuant to Article 16(1) of the Basic Regulation, 'Member States shall take appropriate measures to ensure the imposition of sanctions' for cases of infringement to national rules stemming from the Regulation.

To ensure the effective enforcement of the Regulation, Member States should therefore apply dissuasive and proportionate sanctions in case of infringement, in particular where such infringement is linked to illegal captive breeding and traffic of captive-bred specimens.

### **(iii) Coordination within the EU and with third countries**

Since it is not conceivable to implement systematic border checks within the EU, tiger trade and movements among Member States should be regulated by transparency and cooperation, so that it becomes impossible to lose track of a specimen.

In Member States where regional or local Management Authorities are responsible for the issuance of CITES documentation, Member States should ensure that sub-national authorities systematically report to the central Management Authority all submitted applications and issuances of import, (re)export and intra-EU permits and certificates. Such measure should be supported by the establishment of national databases to store relevant information relating to the applications and issuances of permits and certificates.

Furthermore, additional coordination efforts, controls and potential restrictions should apply to countries that have introduced stricter domestic measures in relation to trade in tigers or that are identified as recurrent origin or destination of legal and/or illegal trade of captive-bred specimens, such as China.

Before issuing a permit or certificate, the Member State concerned should inform the CITES authorities of the country of destination so that the latter can verify that the import or (re)export of the specimen at issue complies with existing regulations.

Likewise, when data from national authorities' reporting reveal discrepancies between the country of origin and the country of destination, Member States concerned should coordinate for additional checks and, if need be, report relevant information to the CITES Secretariat.

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### **ANNEX 1: Guidance on the identification and registration**

Given the current lack of transparency and enforcement regarding the identification and registration of captive tigers in the EU and their movements within and outside the EU, Member States are advised to gather as much information available on each specimen so as to ease their identification until the development of more efficient identification techniques.

Pursuant to Article 6 of the Implementing Regulation, 'It is necessary to establish procedures for the marking of certain specimens of species in order to facilitate their identification', whereas Article 66(3) of the Implementing Regulation provides that 'Live vertebrates other than captive born and bred birds shall be marked by means of a uniquely numbered unalterable microchip transponder conforming to ISO Standards 11784: 1996 (E) and 11785: 1996 (E), or, where the competent management authority is satisfied that this method is not appropriate because of the physical or behavioural properties of the specimen/species, the specimens concerned shall be marked by means of uniquely numbered rings, bands, tags, tattoos or similar means, or be made identifiable by any other appropriate means'.

In the absence of physical or behavioural reason to proceed otherwise, the Commission recommends that Member States render mandatory the marking by microchip transponder of captive tigers as opposed to tattooing, which is not reliable enough. In addition, to prevent fraudulent practices which could reduce the benefits of marking by microchips, Member States are advised to comply with ISO norm 24631-1 related to the control of the respect of ISO norms 11784.

Furthermore, given the shortcomings of the aforementioned means of identification for tigers and the technical hurdles to identify tiger components in processed materials like tiger-based medicines and edibles<sup>29</sup>, Member States are urged to cooperate, together with the Commission and, if need be, in the framework of CITES institutions, to improve identification techniques. To the end, Member States are in particular encouraged to take part in the TigrisID project<sup>30</sup> launched by Czech Republic and supported by both the Union and the Conference of Parties to CITES<sup>31</sup>.

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<sup>29</sup> See CITES SC70 Doc. 51, available at <https://cites.org/sites/default/files/eng/com/sc/70/E-SC70-51.pdf>

<sup>30</sup> *Ibid.* TigrisID foresees the development of 'a methodology for tiger DNA detection in destroyed and heavy-processed materials', 'STR kits for the individual identification of tigers' and of 'a database of DNA profiles'.

<sup>31</sup> See in this regard Decision 18.104 of the Conference of the Parties to CITES on Illegal trade in Asian big cats, available at <https://cites.org/eng/taxonomy/term/42047>