

Petition to Certify Mozambique as Diminishing the Effectiveness of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

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I. INTRODUCTION

Mozambican nationals are at the center of the dramatic increase in poaching of rhinos and elephants and the illegal trade in rhino horn and elephant ivory that is devastating populations across southern Africa. As demonstrated in great detail in this petition, the illegal activities of Mozambican nationals and the Mozambican government's failure to enact meaningful wildlife protections together constitute one of the greatest threats to the survival of elephants, and particularly rhinos, in Africa. Mozambican nationals are clearly diminishing the effectiveness of the Convention on the International Trade in Endangered Species of Flora and Fauna (CITES) and the protection it aims to provide for these two species.

Under the Pelly Amendment, the Secretary of Interior may determine "that nationals of a foreign country, directly or indirectly are . . . engaging in trade or taking which diminishes the effectiveness of any international program for endangered or threatened species."¹ If the Secretary of Interior makes this determination, the Secretary "shall certify such fact to the President."² Upon receipt of such certification, the President may direct the Secretary of the Treasury to prohibit the importation into the United States of any product from the offending country for any duration, provided that the restrictions are consistent with the General Agreement on Tariffs and Trade (GATT) and other trade agreements.³

This petition demonstrates that Mozambican nationals are diminishing the effectiveness of CITES in the following ways:

Mozambican nationals commit extensive poaching throughout southern Africa.⁴ Mozambique no longer has a rhino population of its own due to uncontrolled poaching by Mozambicans. Meanwhile, 80 to 90 percent of rhino poaching in South Africa can be attributed to Mozambican nationals. Elephant poaching in northern Mozambique is now occurring at a rate of three to four elephants per day.

Mozambique fails to effectively enforce trade controls.⁵ The open sale of rhino horn and elephant ivory has historically been commonplace in Mozambique. Maputo is emerging as a major new staging base for the export of rhino horns from Africa and ivory originating or transiting through Mozambique has recently been seized in Vietnam, China and Kenya.

Mozambique has failed to adopt adequate CITES implementing legislation, lacks adequate penalties to deter poaching and illegal trade and suffers from rampant corruption.⁶ Despite

¹ 22 U.S.C. §1978, *as amended* Pub. L. No. 95-376, 92 Stat. 714 (Sept. 18, 1978).

² *Id.* at § 1978(a)(2).

³ *Id.* at § 1978(a)(4). More specifically, this provision allows the President to bar imports into the United States "of any products from the offending country for any duration as the President determines appropriate and to the extent that such prohibition is sanctioned by the World Trade Organization (as defined in section 3501 (8) of title 19) or the multilateral trade agreements (as defined in section 3501 (4) of title 19)." However, the relevant provisions of the World Trade Organization and other multilateral trade agreements are those found in the provisions of the GATT. The President must also notify Congress of any action taken within 60 days of certification. *Id.* at § 1978(b).

⁴ *See infra* Section II.A.

⁵ *See infra* Section II.B.

⁶ *See infra* Section II.C.

17 years of capacity-building efforts and outreach, Mozambique's legislation remains inadequate to implement CITES and its penalties for violating wildlife protection laws have been ineffective at deterring criminals.

Mozambique has failed to secure stocks of government-held rhino horn and elephant ivory.⁷ Notwithstanding CITES calls to secure government and privately held stockpiles of rhino horn and elephant ivory, no record exists that Mozambique has controls on stocks of seized rhino horn. Mozambique last comprehensively reported its ivory stockpiles in 1997.

Mozambique fails to comply with CITES reporting requirements.⁸ Mozambique has persistently either failed to report or failed to adequately report, despite numerous general requests and specific requests, on a wide variety of matters important for rhino and elephant conservation.

Therefore, petitioners urge the Secretary of Interior to certify that Mozambican nationals are diminishing the effectiveness of an international endangered species program, CITES, pursuant to the Pelly Amendment of the Fishermen's Protective Act. Given the seriousness of these actions and inactions, Petitioners also request that the United States impose trade sanctions against Mozambique for all CITES-listed species, and other sanctions as appropriate, until it fully implements CITES measures to conserve rhinos and elephants.

II. HOW CITES PROTECTS RHINOS AND ELEPHANTS

It is well known and widely accepted as fact that Mozambicans play a leading role in rhino and elephant poaching operations and illicit trade in South Africa and Tanzania, as well as within Mozambique. Since at least 2004, the CITES Parties have identified Mozambique as a Party of concern regarding elephant conservation due to the number of poaching incidents in-country, its porous borders through which illegal ivory flows, and its domestic ivory markets, which have historically been largely unregulated.

CITES contributes to the conservation of species by limiting and regulating the international trade in specimens of species listed in the CITES Appendices. CITES Parties often adopt additional measures in resolutions and decisions when a species' conservation status warrants them. Of particular relevance to this petition are CITES Resolution Conf. 9.14 (Rev. CoP15), regarding Conservation of and trade in African and Asian rhinoceroses, and Resolution Conf. 10.10 (Rev. CoP16), regarding Trade in Elephant Specimens.

Resolution Conf. 9.14 (Rev. CoP15), focused on rhinos, calls for heightened attention on cross-border law enforcement collaboration, internal trade restrictions and the development of range State rhino recovery plans.⁹ In addition, the resolution urges Parties to have adequate legislation (consistent with the requirement found in Article VIII(1) of the Convention), emphasizes early detection of potential poachers, directs the Standing Committee to continue to pursue illegal trade reduction strategies with ongoing evaluation and the development of indicators, and calls for

⁷ See *infra* Section II.D.

⁸ See *infra* Section II.E.

⁹ CITES, *Conservation of Rhinos in Asia and Africa*, Resolution 9.14 (1994).

increased funding for range State efforts.¹⁰ The resolution also recommends that the IUCN/SSC African and Asian Rhino Specialist Groups and TRAFFIC submit a report to the Secretariat on the conservation of and trade in rhinos and rhino parts and derivatives, in lieu of range State reporting.¹¹

Rhino range states, including Mozambique, also participate in the Rhino Enforcement Task Force.¹² The Task Force concluded after its first meeting that any Party that seizes rhino specimens or becomes aware of illegal trade or poaching should report all relevant information using the Interpol Ecomessage format.¹³ The Task Force makes recommendations dealing with a range of issues relevant to rhino poaching and illegal rhino horn trafficking.¹⁴ The recommendations vary from greater collaboration with INTERPOL and better sharing of seizure data to identification of prominent entry and exit points and designation of a national rhino focal point.¹⁵

Although the Parties have adopted many decisions and multiple resolutions pertaining to elephants, Resolution Conf. 10.10 (Rev. CoP16) outlines the core expectations of all Parties regarding the illegal trade in and illegal killing of elephants. As a means of broadly tackling illegal ivory trade, the resolution urges relevant Parties to ensure that national legislation exists to: regulate the domestic trade in ivory, register or license any individual who deals in ivory, including importers, exporters, manufacturers, and sellers, provide for inspection and recordkeeping authority to monitor domestic ivory movements and stockpiles, engage in public awareness activities, and maintain inventories of ivory stockpiles, whether government-held or private, and report information annually to the Secretariat.¹⁶ The resolution also recommends a number of enforcement-related actions.

Following the initial adoption of Resolution Conf. 10.10 in 1997, the Parties began to design and implement a more comprehensive and cohesive elephant conservation strategy, largely built on improving their understanding of both illegal trade in elephant specimens and the illegal killing of elephants. This effort evolved into two elephant conservation programs: the Elephant Trade Information System (ETIS) and Monitoring the Illegal Killing of Elephants (MIKE).¹⁷ Both of these data systems rely heavily on input from relevant countries.

Please see Appendix A for a detailed history of CITES decisions and actions related to Mozambique's role in elephant and rhino poaching.

Section III demonstrates in detail how Mozambican nationals and/or the Mozambique government consistently undermine the effectiveness of CITES by committing extensive poaching, failing to effectively enforce trade controls, failing to implement adequate legislation and penalties, failing to secure government stockpiles and failing to comply with CITES reporting requirements. The

¹⁰ *Id.*

¹¹ *Id.*

¹² CITES, SC57 Summary Record, pg. 21 (2008).

¹³ *Id.*

¹⁴ CITES, *Rhinoceroses (Rhinocerotidae spp.)*, Notification to the Parties, No. 2014/006 (Jan. 23, 2014).

¹⁵ *Id.*

¹⁶ CITES, *Trade in Elephant Specimens*, Resolution Conf. 10.10 (Rev. CoP16).

¹⁷ See generally http://www.cites.org/eng/prog/mike_etis.php.

details provided in this Petition tell a devastating story of chronic and entrenched inaction and corruption that can only be viewed as undermining the role that CITES plays in rhino and elephant conservation.

III. MOZAMBICAN NATIONALS ARE DIMINISHING THE EFFECTIVENESS OF CITES

A. Mozambican Nationals Commit Poaching Throughout Southern Africa

Mozambique shares large transboundary national parks with Tanzania to the north and South Africa to the south. Poaching takes place along each of these two borders as well as within the country. Poaching in each of these three zones has different characteristics and enforcement challenges.¹⁸ Elephant tusks are the primary illicit target in the Selous-Niassa reserve, located in the north, while in the south along the Kruger-Limpopo Transfrontier Park, rhino horn is the focus of poaching activities.¹⁹ Rhino horn and elephant poaching operations are becoming increasingly organized and sophisticated and often include involvement of corrupt police and border guards and political criminal networks.²⁰

1. Rhino Poaching and the Role of Mozambican Nationals

Mozambican nationals are diminishing the effectiveness of CITES by committing extensive poaching of rhinos throughout southern Africa while the government of Mozambique is consistently failing to control poaching within Mozambique's borders. Resolution 9.14 (Rev. CoP15)²¹ urges range States, "to be vigilant in their law enforcement efforts, including the prevention of illegal hunting, the early detection of potential offenders and the application of appropriate penalties to act as effective deterrents." The control of poaching, particularly with respect to rhinos and elephants, is essential to CITES' efforts to control international trade because almost all poached rhino horn and ivory is destined for international markets.

Rhinos have been poached into extinction three times in Mozambique, including most recently in 2013.²² In Kruger National Park (KNP), poaching has reached the point where a joint task force of rangers and South African military has been unable to prevent its increase.²³ Poaching incidents increased 300 percent between 2010 and 2013, with 2,778 rhinos (approximately 25 percent of the park's estimated total of 9,000-12,000) poached since 2008.²⁴ A record 1,004 rhinos were killed

¹⁸ Varun Vira & Tomas Ewing, *Ivory's Curse: The Militarization & Professionalization of Poaching in Africa*, (April 2014), <http://www.bornfreeusa.org/downloads/pdf/Ivorys-Curse-2014.pdf>.

¹⁹ *Id.*

²⁰ *Id.*

²¹ CITES, Resolution Conf. 9.14, *Conservation of and Trade in Rhinoceroses in Asia and Africa* (1994) (amended most recently at CoP15).

²² Varun Vira & Tomas Ewing, *Ivory's Curse: The Militarization & Professionalization of Poaching in Africa*, (April 2014), <http://www.bornfreeusa.org/downloads/pdf/Ivorys-Curse-2014.pdf>.

²³ *Id.*

²⁴ *Id.*

in 2013, a huge increase over the 668 killed in 2012.²⁵ The South African military engages in constant battle with Mozambican poachers.²⁶

The vast majority of existing rhinos in Africa inhabit South Africa,²⁷ many in KNP, making it an ideal target for Mozambican rhino poachers, particularly because KNP shares a porous, 200-plus mile border with Mozambique. Previously, a fence separated the countries, but the governments jointly removed portions of it to establish the Great Limpopo Transfrontier Conservation Area.²⁸ The heads of state of the three partner countries signed a treaty establishing Great Limpopo on 9 December 2002.²⁹ The purpose of the Greater Limpopo was to improve species conservation by expanding their range, but unfortunately removing the fences made it relatively easy for Mozambican poachers to slip undetected into KNP. Given the recent poaching issues, South Africans now call for re-fencing the shared border.³⁰

In March 2013 alone, KNP recorded 72 cross-border armed incursions from Mozambique,³¹ and Mozambicans constitute the highest number of foreign arrests for poaching in South Africa.³² South African wildlife organizations report that anywhere between 10 and 15 hunting parties are present inside Kruger on any given night.³³

As of June 6, 2014, 442 rhinos have been poached in South Africa, with 292 of those killings occurring in KNP³⁴ where Mozambicans are the most likely poachers. As of this same date, 123 poachers had been arrested,³⁵ a majority likely Mozambican nationals. Indeed, SANParks estimates that 80 to 90 percent of all rhino poaching in South Africa can be attributed to Mozambican nationals.³⁶ Unfortunately, South African anti-poaching units are unable to chase Mozambican poachers back across the border due to a lack of “hot pursuit” regulation. Recently

²⁵ TRAFFIC (2014), *2013 Worst Ever Rhino Poaching in South Africa*, Press Release, available at: <http://www.traffic.org/home/2014/1/17/2013-worst-ever-for-rhino-poaching-in-south-africa.html>.

²⁶ Varun Vira & Tomas Ewing, *Ivory's Curse: The Militarization & Professionalization of Poaching in Africa*, (April 2014), <http://www.bornfreeusa.org/downloads/pdf/Ivorys-Curse-2014.pdf>.

²⁷ CITES, *Rhinoceroses: Report of the Secretariat*, *supra* note 17.

²⁸ MOSES MONTESH, RHINO POACHING: A NEW FORM OF ORGANISED CRIME, 10 (College of Law Research & Innovation Committee of the University of South Africa, 2012), *available at* http://www.unisa.ac.za/news/wpcontent/uploads/2013/03/Rhino_poaching_organised_crime.pdf [hereinafter MONTESH, RHINO POACHING: A NEW FORM OF ORGANISED CRIME]; *see also* Save the Rhino, *Why Are Kruger's Rhinos Being Hit so Hard?*, *available at* http://www.savetherhino.org/latest_news/news/667_why_are_krugers_rhinos_being_hit_so_hard.

²⁹ *See generally* Peace Parks Foundation, *available at* <http://www.peaceparks.org/story.php?pid=1&mid=2>.

³⁰ Varun Vira & Tomas Ewing, *Ivory's Curse: The Militarization & Professionalization of Poaching in Africa*, 75 (April 2014), <http://www.bornfreeusa.org/downloads/pdf/Ivorys-Curse-2014.pdf>.

³¹ Save the Rhino, *Why Are Kruger's Rhinos Being Hit so Hard?* *supra* note 20.

³² CITES, *Rhinoceroses: Report of the Secretariat*, *supra* note 17, at 17.

³³ Varun Vira & Tomas Ewing, *Ivory's Curse: The Militarization & Professionalization of Poaching in Africa*, 75 (April 2014), <http://www.bornfreeusa.org/downloads/pdf/Ivorys-Curse-2014.pdf>.

³⁴ Department of Environmental Affairs, Republic of South Africa, Statement by the Department of Environmental Affairs on the issue of trade in rhino horn, June 6, 2014, *available at* <https://www.environment.gov.za/mediarelease/rhinohorntrade>.

³⁵ *Id.*

³⁶ Irvine Makuyana, *Assault on SA rhinos intensifies*, THE NEW AGE ONLINE (Feb. 13, 2013), http://www.thenewage.co.za/82907-1100-53-Assault_on_SA_rhinos_intensifies/?switcher=1 (last visited Apr. 28, 2014).

however, a “hot pursuit strategy” has been forwarded to the South African National Parks head office for approval.³⁷

Mozambican poaching is escalating both in frequency and sophistication. In the past, poachers generally hailed from local communities living near protected areas and poaching was less sophisticated; now it is clear that poaching is more systematic, integrated into globalized illegal trade, and run by organized criminal syndicates.³⁸ These criminal syndicates are supplying Mozambican poachers with weaponry, funding, and easy links to global markets. Thus, in recent years, a new breed of poacher has entered the game—highly skilled, and likely well-funded, marksmen. These poachers rely on high-caliber rifles, silencers, restricted immobilization drugs shot from helicopters, and even silent but deadly cross bows—methods previously unseen in the poaching trade.³⁹ Crime syndicates are most likely responsible for employing these highly skilled poachers and supplying them with the necessary tools and funding. Further, rhino poachers that function within organized crime syndicates have cross-boundary operational support within Mozambique and Zimbabwe.⁴⁰

Further driving the poaching crises in Mozambique is the high level of corruption plaguing the country,⁴¹ amplifying the ability of the crime syndicates to operate poaching crews, which reportedly include members of the Mozambican army or police.⁴² Raids of poaching camps in Mozambique have turned up army boots and uniforms, automatic weapon ammunition, and other army supplies.⁴³ Rebel militias are also players in rhino and elephant poaching in Mozambique and by Mozambicans. Links between African militia rebels and poaching go back several decades, and while the complicity of military operations in illegal trade in certain countries has now been eradicated, it remains a serious issue in Mozambique.⁴⁴

Recently, Mozambique’s role in rhino poaching and illegal trafficking in rhino horn became a focal point of the CITES Parties’ attention. Last year, the CITES Secretariat reported that:

[i]n the wake of scaled-up law enforcement actions against rhino crime in South Africa, neighbouring Mozambique appears to be emerging as a highly important entrepot and transit country as well as the source of many of the poachers operating in South Africa constituting the highest number of foreign national arrests.⁴⁵

³⁷ Save the Rhino, Mozambique Taking Steps to Tackle Rhino Poaching, *available at* http://www.savetherhino.org/latest_news/news/788_mozambique_taking_steps_to_tackle_rhino_poaching.

³⁸ MONTESH, RHINO POACHING: A NEW FORM OF ORGANISED CRIME, *supra* note 25, at 6.

³⁹ MONTESH, RHINO POACHING: A NEW FORM OF ORGANISED CRIME, *supra* note 25, at 8.

⁴⁰ MILLIKEN & SHAW, THE SOUTH AFRICA–VIET NAM RHINO HORN TRADE NEXUS, *supra* note 10, at 81.

⁴¹ See CITES, *Interpretation and Implementation of the Convention*, Doc. 53.2 at 6, 8, 34, 35 (2007), *discussing* corruption indices.

⁴² Vidhi Doshi, Army Uniforms found at poachers’ camps in Mozambique, INDEPENDENT VOICE, Feb. 11, 2014, *available at* <http://www.independent.co.uk/voices/comment/army-uniforms-found-at-poachers-camps-in-mozambique-9120484.html>.

⁴³ *Id.*

⁴⁴ For an overview of historical military involvement in rhino and elephant poaching, see Julian Rademeyer, KILLING FOR PROFIT (2012).

⁴⁵ CITES Secretariat, *Conservation of and Trade in Rhinoceroses*, CoP16 Doc 54.2 (Rev. 1), 20 (2013).

Some recent examples of Mozambican rhino poaching include:

- In January 2014, five Mozambican policemen were detained in the southern province of Gaza, Mozambique for their role in an armed robbery in conjunction with rhino horn trafficking.⁴⁶
- In May 2012, two rhinos were poached at the Sabie Game Park in Mozambique. The rhinos were being held at the park awaiting transfer to a safer rhino preserve in South Africa and usually received protection from an anti-poaching unit, as well as aerial surveillance from a micro light aircraft, but the rhinos were left unguarded for a few hours and were found dead 200 meters from where they were last seen.⁴⁷
- Also in May 2012, five Mozambicans were arrested in Polokwane (Limpopo) for illegal possession of rhino horns. A search of their vehicle yielded a rifle, ten rounds of ammunition, and an axe.⁴⁸
- In March 2012, the manager at the Atherstone Nature Preserve in Limpopo committed suicide after his alleged involvement in a rhino-poaching incident that also included three Mozambican nationals.⁴⁹
- In March 2011, three Mozambicans were convicted in the Nelspruit Regional Court for illegally hunting rhino in the Crocodile Bridge section of KNP.⁵⁰
- In January 2012, three Mozambicans were each sentenced to 25 years imprisonment by the Phalaborwa Regional Court for illegally hunting rhinos in KNP. They were caught in the Mooiplaas section of KNP in July 2010 with two rhino horns and an axe, as well as an illegal firearm and ammunition.⁵¹

2. Elephant Poaching and the Role of Mozambican Nationals

Mozambican nationals diminish the effectiveness of CITES by committing extensive poaching of elephants within its own borders and in Tanzania. The Parties have issued numerous decisions and guidance aimed at addressing the illegal killing of elephants in range states (see Appendix A for more details). Range states are expected to vigilantly enforce CITES requirements at each point in the supply chain, including at field level. This expectation is embodied in Res. Conf. 10.10 (Rev. CoP16) which urges “all Parties to assist elephant range States to improve their capacity to manage and conserve their elephant populations, including through community-based actions, improved law enforcement, surveys, habitat protection and monitoring of wild populations.” Parties are also expected to collect and share poaching data, as outlined in Res. Conf. 10.10 (Rev. CoP16), which expands the MIKE and ETIS programs. Furthermore, range states have committed to

⁴⁶ All Africa, Mozambique: Policemen Detained for Trafficking in Rhino Horn, Jan. 24, 2014, *available at* <http://allafrica.com/stories/201401250169.html>.

⁴⁷ Anti-Poaching Intelligence Group Southern Africa, *available at* <http://www.clubofmozambique.com/solutions1/sectionnews.php?secao=mozambique&id=24911&tipo=one> (last visited Feb. 6, 2014).

⁴⁸ MONTESH, RHINO POACHING: A NEW FORM OF ORGANISED CRIME, *supra* note 25, at 10.

⁴⁹ *Id* at 8.

⁵⁰ *Id* at 10.

⁵¹ MILLIKEN & SHAW, THE SOUTH AFRICA–VIET NAM RHINO HORN TRADE NEXUS, *supra* note 10, at 98.

implementing African elephant action plans, which are specifically designed to halt rampant poaching on the ground, and to report the results to the CITES Standing Committee.

Despite the deepening elephant poaching crisis and the above-mentioned CITES' efforts to address it, elephant poaching by Mozambican nationals remains at crisis levels. In Mozambique, the poaching problem is most serious in the Niassa National Reserve in the northern part of the country on the border with Tanzania. Niassa's elephant numbers have dropped from more than 20,000 in 2009 to 9,000 in 2013,⁵² and the reserve has an especially high "proportion of illegally killed elephants" (PIKE) level.⁵³ In fact, PIKE data since 2008 indicates that PIKE levels at Niassa have stayed above 0.5, indicating that at least half of elephant carcasses found were poached.⁵⁴ In 2011, of the 85 elephant carcasses registered at the Niassa PIKE site, 75 were identified as being illegally killed.⁵⁵ In 2012, it was estimated that Niassa experienced a four-fold increase in elephant carcasses since 2009.⁵⁶ Niassa only has 120 rangers and many of these have been linked to poachers.⁵⁷

Poaching is so severe in Niassa that it is losing elephants at the rate of three to four a day, and poachers are now targeting elephants in Tanzania, smaller reserves in southern Mozambique, Limpopo and KNP.⁵⁸ PIKE levels are above 0.5 in Cabora Bassa in northwest Mozambique.⁵⁹ Mozambicans have also been caught on poaching excursions in KNP, as well as on Mozambique's side of the park.⁶⁰ Late last year, conservationists warned SANParks that elephant poaching was likely to increase in KNP, with poachers entering the park looking for a "double hit"—both rhinos and elephants.⁶¹

Some recent examples of Mozambican elephant poaching include:

- In November 2013, a private tourism operator in Quirimbas National Park in Cabo Delgado in northern Mozambique said at least 89 elephants had been poached in his concession area of the park during that year.⁶²

⁵² Oxpeckers, *Ivory Poaching in Mozambique* (Feb. 12, 2013), *available at* <http://oxpeckers.org/2013/12/ivory-poaching-in-mozambique/>.

⁵³ UNEP, CITES, IUCN, TRAFFIC, *ELEPHANTS IN THE DUST* 37 (2013), *available at* http://www.unep.org/pdf/RRaivory_draft7.pdf [hereinafter UNEP, ET AL., *ELEPHANTS IN THE DUST*]

⁵⁴ CITES, *Monitoring the Illegal Killing of Elephants*, CoP16 Doc. 53.1, 14 (2013).

⁵⁵ *Id.*

⁵⁶ Varun Vira & Tomas Ewing, *Ivory's Curse: The Militarization & Professionalization of Poaching in Africa*, 75 (April 2014), <http://www.bornfreeusa.org/downloads/pdf/Ivorys-Curse-2014.pdf>.

⁵⁷ *Id.*

⁵⁸ Oxpeckers, *Mozambique Poachers Set Sights on Kruger Ivory*, *available at* <http://oxpeckers.org/2013/10/mozambique-poachers-set-sights-on-kruger-ivory-2/>.

⁵⁹ CITES, *Monitoring the Illegal Killing of Elephants*, CoP16 Doc. 53.1, 14 (2013).

⁶⁰ Fiona Macleod, *Poachers Set Sights on Kruger Ivory*, MAIL & GUARDIAN (Apr. 5, 2013), *available at* <http://mg.co.za/article/2013-04-05-00-poachers-set-sights-on-kruger-ivory>.

⁶¹ Look Local, *Elephant Poaching May Hit South Africa Next Year* (Dec. 3, 2013), *available at* <http://www.looklocal.co.za/looklocal/content/en/lowveld/lowveld-mobile-news?oid=7994262&sn=Mobile-Detail&pid=4732825&Elephant-poaching-may-hit-South-Africa-next-year>.

⁶² Hongxiang Huang and Estacio Valoi, *Ivory Poaching in Mozambique*, LE MONDE DIPLOMATIQUE, Nov., 2013, *available at* <http://mondediplo.com/blogs/ivory-poaching-in-mozambique>.

- In June 2013, 64 elephants were killed in the Niassa Reserve.⁶³
- In April 2013, poachers killed at least six elephants on the Mozambican side of the border with KNP.⁶⁴
- In May 2013, Mozambican poachers in South Africa's Tembe Elephant Park killed an elephant cow.⁶⁵
- In November 2012, it was reported that at least two elephants are killed per week in the Mozambique's Mareja Reserve in Cabo Delgado.⁶⁶
- The Director of Mozambique's National Conservation areas, Francisco Pariela, said there have been many poachers caught in Niassa over the past few years.⁶⁷
- In 2011, poachers wearing military uniforms and armed with AK47s killed at least 12 elephants in Mozambique's Quirimbas National Park in one week.⁶⁸
- In 2011, two Mozambican poachers were killed in a shoot-out in Kruger National Park.⁶⁹
- Poachers are reported to have killed at least 12 big tusked on the Mozambican side of the border with KNP, raising fears that the ivory wars afflicting other parts of Africa have filtered through to the tip of the continent.⁷⁰

B. Mozambique Fails to Effectively Enforce Trade Controls

The Mozambican government's failure to effectively enforce CITES trade controls and the involvement of Mozambican nationals in illegal ivory sales seriously undermine CITES conservation efforts. The CITES Parties have focused on border control and enforcement as key aspects of controlling illegal trade for much of CITES' history, and the Parties have specifically addressed these issues in the context of illegal trade in both rhino horn and elephant ivory. Mozambique has been implicated repeatedly and evidence suggests the escalation of illegal sale of rhino horn and elephant ivory by Mozambican nationals on both domestic and international markets.⁷¹

1. Illegal Trade in Rhino Horn

Resolution Conf. 9.14 (Rev. CoP15) on rhinos urges "all Parties to adopt and implement comprehensive legislation and enforcement controls, including internal trade restrictions and

⁶³ Yuan Duanduan, The Blood Ivory Behind the Largest Ivory Smuggling Cases in China, SOUTHERN WEEKEND, Nov. 15, 2013, *available at* <http://www.savetheelephants.org/news-reader/items/the-blood-ivory-behind-the-largest-ivory-smuggling-cases-in-china.html>.

⁶⁴ Fiona Macleod, Poachers set sights on Kruger Ivory, *supra* note 279.

⁶⁵ Open letter from Earth Afrika to Adv. J. H. de Lange, May 26, 2013, *available at* <http://vivaafrika.wordpress.com>.

⁶⁶ Global Voices, Widespread Elephant Poaching in Mozambique Reserve Uncovered, *available at* <https://globalvoicesonline.org/2012/11/25/mozambique-elephant-poaching/> (last visited Feb. 23, 2014).

⁶⁷ Jinty Jackson, Elephant Poachers Plague Mozambique, VOICE OF AMERICA, Apr. 23, 2013, *available at* <http://www.voanews.com/content/elephant-poachers-plague-mozambique/1647285.html>.

⁶⁸ All Africa, Mozambique: Poachers Kill 12 Elephants in Quirimbas Park, Sept. 17, 2011, *available at* <http://allafrica.com/stories/201109180133.html> (last visited Feb. 24, 2014).

⁶⁹ Rademeyer, *supra* note ___, at 211-213 (although family members claim that they men were not poaching).

⁷⁰ Oxpickers, Mozambique sets sights on Kruger ivory (Oct. 8, 2013), *available at* <http://oxpickers.org/2013/10/mozambique-poachers-set-sights-on-kruger-ivory-2/> (last visited Mar. 3, 2013).

⁷¹ MILLIKEN & SHAW, THE SOUTH AFRICA-VIET NAM RHINO HORN TRADE, *supra* note 34, at 142.

penalties, aimed at reducing illegal trade in rhinoceros parts and derivatives.”⁷² Parties have continuously urged implementation of Resolution 9.14 (Rev. CoP15); in fact, the Secretariat has requested information from Parties regarding measures taken to reduce illegal trade in rhino parts, among other things.⁷³

An increasing number of rhino horns are suspected to be moving out of Mozambican exit ports, including the international airport in Maputo, with the horns then moving on to airports in Kenya, Ethiopia and Mauritius for export to Asia.⁷⁴ In fact, Maputo is emerging as a new staging base for the export of rhino horns from Africa.⁷⁵ Most Mozambican smugglers are young or middle-aged males, and some have reportedly made multiple trips as regular couriers.⁷⁶ Rhino horns are also being transported by sea in shipping containers, and Mozambique’s Beira port has been highlighted as a particular concern.⁷⁷ Other reports indicate that the Nacala port is also a smuggling hot spot where space can be rented to pack containers, making it easy to add ivory or rhino horn undetected.⁷⁸ Additionally, a *TIME* magazine reporter indicated that Hanoi-based rhino horn dealers frequently mentioned the Vietnamese Embassy in Mozambique as a source of rhino horn from Africa.⁷⁹ In the Secretariat’s recent report, a number of rhino horn seizures made since CoP16 with suspected Mozambican origin or links are highlighted, indicating that criminal syndicates are targeting Mozambique as a country from which rhino horn can be obtained and smuggled.⁸⁰

Several other specific incidents demonstrate that Mozambique is ineffective at enforcing rhino horn trade controls at its borders:

- In 2013, reports surfaced of shop owners offering rhino horns for sale at a Saturday market in Maputo. One particular shop owner offered rhino horn priced at US\$15,000 per kilogram. Though offered to shoppers at the market, the rhino horn was kept at a separate location away from the marketplace due to its high value and risk.⁸¹
- In September 2013, a Vietnamese man was arrested at an airport in Kenya while trying to smuggle five rhino horns out of the country. He was in transit from the Maputo airport en route to Hong Kong.⁸²

⁷² Resolution Conf. 9.14 (Rev. CoP15), *supra* note 16.

⁷³ CITES, *Conservation of and Trade in African and Asian Rhinoceros*, Notification to the Parties, No. 2012/014 (Feb. 20, 2012).

⁷⁴ CITES, *Rhinoceroses: Report of the Secretariat*, *supra* note 17, at 6.

⁷⁵ MILLIKEN & SHAW, THE SOUTH AFRICA–VIET NAM RHINO HORN TRADE NEXUS, *supra* note 34, at 6.

⁷⁶ *Id.*

⁷⁷ *Id.* at 85.

⁷⁸ See generally Charles Goredema, *Getting Smart and Scaling Up: The Impact of Organized Crime on Governance in Developing Countries: A Case Study of Mozambique*, 146-147 (2013), available at http://cic.nyu.edu/sites/default/files/kavanagh_crime_developing_countries_mozambique_study.pdf (describing the Nacala route as a major smuggling pathway).

⁷⁹ MILLIKEN & SHAW, THE SOUTH AFRICA–VIET NAM RHINO HORN TRADE, *supra* note 34, at 129 citing H. Beech, pers. comm., Oct. 20 2010.

⁸⁰ CITES Secretariat, *Species trade and conservation: Rhinoceroses. Report of the Secretariat*, SC65 Doc. 43.2, at 34 (2014).

⁸¹ Oxpeckers, Chinese Connections in African Ivory & Rhino Horn Markets, available at <http://oxpeckers.org/2013/10/chinese-connections-in-african-ivory-rhino-horn-markets/> (last visited Mar. 20, 2014).

⁸² Joseph Muraya, *Vietnamese Arrested with Rhino Horns at JKIA*, CAPITAL NEWS (Sept. 17, 2013), available at <http://www.capitalfm.co.ke/news/2013/09/vietnamese-arrested-rhino-horns-jkia/>.

- In May 2013, six rhinoceros horns, allegedly originating from Mozambique, were seized in Cambodia.⁸³
- In August 2012, a parcel that was declared to be a “ceramic sculpture” was seized in Hong Kong, and it actually contained five pieces of rhino horn. The package was en route from Mozambique to Vietnam.⁸⁴
- Also in August 2012, the Bureau of Customs of Manila, Philippines, seized six pieces of rhino horn that had arrived at the Manila International Container Port from Mozambique.⁸⁵

South African officials have made several other arrests of Vietnamese couriers in transit through Johannesburg via Maputo, further highlighting Mozambique’s lax border control.⁸⁶ Additionally, “runners” connected with rhino horn dealers have been tracked driving from South Africa’s Gauteng province to key Mozambican border crossings.⁸⁷ The runners stay at the border crossings for short periods of time before traveling back to Gauteng in what are likely pick-ups or transfers of rhino horn.⁸⁸

Reports of rhino horn sales by Mozambicans to tourists indicate that unregulated domestic markets also undermine CITES conservation efforts. Several news sources have reported instances of individuals illegally obtaining elephant ivory and rhino horn through open markets in Mozambique. For example, in 2013 reports surfaced of shop owners offering rhino horns for sale at a Saturday market in Maputo.⁸⁹ One particular shop owner offered rhino horn priced at US\$15,000 per kilogram. Though offered to shoppers at the market, the rhino horn was kept at a separate location away from the marketplace due to its high value and risk.⁹⁰

2. Illegal Trade in Elephant Ivory

The Mozambican government’s failure to cooperate in crucial data gathering efforts and the involvement of Mozambican nationals in the rampant illegal ivory trade both seriously impair CITES elephant conservation efforts. A primary focus of CITES in terms of elephant conservation is tracking illegal trade and strengthening enforcement efforts. The Parties recognize that they must strengthen their law enforcement and border control activities, as well as better coordinate their activities to counter the extensive criminal networks that regularly work across borders.

To this end, the Parties rely heavily on the data range states report to ETIS, especially with respect to seizures of ivory products. Because Mozambique is a key player in terms of its role in illegal trade, Mozambique should regularly share information with the program. Since it began reporting to the CoP in 2002, ETIS reports have noted that Mozambique stands out for not reporting to either

⁸³ CITES Secretariat, *Species trade and conservation: ELEPHANT CONSERVATION, ILLEGAL KILLING AND IVORY TRADE*, SC65 Doc. 42.1 (2014).

⁸⁴ CITES Secretariat, *Conservation of and Trade in Rhinoceroses*, *supra* note 17, at 7.

⁸⁵ *Id.*

⁸⁶ MILLIKEN & SHAW, *THE SOUTH AFRICA–VIET NAM RHINO HORN TRADE NEXUS*, *supra* note 10, at 133.

⁸⁷ *Id.* at 87 citing R. Taylor, pers. comm., 2009.

⁸⁸ *Id.*

⁸⁹ Oxpeckers, *Chinese Connections in African Ivory & Rhino Horn Markets* (Mar. 10, 2013), *available at* <http://oxpeckers.org/2013/10/chinese-connections-in-african-ivory-rhino-horn-markets/>.

⁹⁰ *Id.*

TRAFFIC or the Secretariat, despite the recommendation to do so in Resolution Conf. 10.10 (Rev. CoP16).⁹¹ Mozambique's failure to report is a consistent trend. In its report to the Parties at CoP16, TRAFFIC noted again that Mozambique rarely reports seizure data to ETIS, even when specifically requested to do so by the Parties or the Secretariat.⁹²

Ivory trade is a significant problem at Mozambique's borders as the following recent incidents reveal:

- In February 2014, a Chinese ivory smuggler was apprehended aboard a Kenya Airways flight while trying to smuggle 0.68 kilos of ivory from Maputo to China.⁹³
- In January 2014, a Chinese national who commenced his travels in Napula, Mozambique was arrested while transiting through a Kenyan airport after he was found with 3.4 kilos of ivory disguised as cups in his luggage.⁹⁴
- In 2013, journalists documented Chinese nationals purchasing ivory products from open markets in Mozambique. Some market vendors reserved boxes of ivory products to be shown only to Chinese shoppers. Many employees sent to Mozambique by their companies easily smuggle ivory out of the country in the form of small souvenirs such as bracelets or carvings.
- In November 2012, ivory pieces weighing 2,475 kilograms that originated in Mozambique were seized in Ho Chi Minh City, Vietnam.⁹⁵
- In January 2011, illegal ivory was found at the Pemba port in shipping containers belonging to the company Miti Mda.⁹⁶
- In May 2010, ivory pieces weighing 383 kilograms, which had originated in Mozambique, were seized in Chua Ve, Hai Phong, Vietnam.⁹⁷
- DNA testing on 2600 kilograms of ivory seized in Hong Kong and 5200 kilograms of ivory seized in Taiwan confirmed that the ivory originated in part from the Niassa Game Reserve in Mozambique.⁹⁸
- In 2010, a Thai national was arrested at Kenya's Jomo Kenyatta International Airport en route from Mozambique to Thailand. She pleaded guilty to being in possession of 19.5 kilograms of assorted ivory cargo. The woman claimed to have purchased the

⁹¹ *ETIS Report of TRAFFIC*, *supra* note 35, at 22.

⁹² *Id.*

⁹³ Jemimah Wangui, *Another Chinese Ivory Smuggler Nabbed at JKIA*, CAPITOL NEWS, Feb. 15, 2014, available at <http://www.capitalfm.co.ke/news/2014/02/another-chinese-ivory-smuggler-nabbed-at-jkia/>.

⁹⁴ Space for Giants, 40-year-old Chinese man arrested at JKIA with ivory disguised as cups (Kenya) (Jan. 19, 2014), available at <http://www.spaceforgiants.org/?q=ele-news/40-year-old-chinese-man-arrested-at-jkia-with-ivory-disguised-as-cups-kenya>. See also BBC News Africa, *Chinese Ivory Smuggler Gets Record Kenyan Fine*, Jan. 28, 2014, available at <http://www.bbc.co.uk/news/world-africa-25925176>.

⁹⁵ CITES, *Elephants*, CoP16 Inf. 50, 5 (2013).

⁹⁶ All Africa, *Mozambique: Illegal Ivory Found at Pemba Port* (Jan. 13, 2011), available at <http://allafrica.com/stories/201101140219.html>.

⁹⁷ CITES, *Elephants*, CoP16 Inf. 50, 5 (2013).

⁹⁸ Sam Wasser *et al*, *Elephants, Ivory and Trade*, SCIENCE, Vol. 327, Mar. 12, 2010.

ivory goods in the open market in Mozambique, calling it “a free trade in Mozambique.”⁹⁹

Unregulated internal ivory markets within Mozambique also diminish the effectiveness of CITES. In order to combat the open sale of elephant ivory, Resolution Conf. 10.10 (Rev. CoP16) urges Parties with ivory carving industries, legal domestic trade, or unregulated markets within their jurisdictions to adopt comprehensive internal legislative, regulatory and enforcement measures to control internal ivory trade.¹⁰⁰ Additionally, the resolution urges Parties to register or license all wholesalers and retailers dealing in raw, semi-worked, or worked ivory products and introducing inspection and recording measures.¹⁰¹

As a result of international pressure, the National Directorate of Forestry and Wildlife of the Ministry of Agriculture of Mozambique began to take steps to control ivory trade within the country.¹⁰² It published a notice in 2005 calling for individuals and collectors of wildlife trophies to register possession of any “animal products or trophies” by June 30, 2005.¹⁰³ Because public access to a database of registered individuals, collectors, or vendors of animal products or trophies is not available to date, it is unclear whether such a database actually exists or is maintained. It is equally unclear whether Mozambique enforces the registration requirement in a meaningful way.

Because of the crucial link between internal markets and international trade, the Parties adopted at CoP13 the Action Plan for the Control of Trade in African Elephant Ivory, which declared that African elephant range States “should urgently . . . prohibit the unregulated domestic sale of ivory.”¹⁰⁴ The Action Plan also asked Parties to report on progress made in this regard by the 53rd meeting of the Standing Committee.¹⁰⁵ Mozambique failed to report by this deadline but had reported by CoP14.¹⁰⁶ Concerned that Mozambique had not reported by the original deadline and alarmed at the rampant growth rate of Mozambique’s internal markets, TRAFFIC and WWF, among others, advocated for trade sanctions against Mozambique at the 53rd meeting of the Standing Committee.¹⁰⁷ Although never agreed to, even the threat of these trade sanctions may have motivated Mozambique to comply with its reporting requirements under the Action Plan by CoP14.

By CoP14, Mozambique’s classification among ranked “clusters”—groupings of countries exhibiting similar trade patterns—in ETIS analyses had become notable. TRAFFIC emphasized

⁹⁹ Richard Munguti, Kenya Court Fines Thai Woman \$500 over Illegal Ivory, *available at* <http://www.africareview.com/News/Kenya-court-fines-Thai-woman-over-illegal-ivory/-/979180/1079216/-/14oavc5/-/index.html> (last visited Mar. 20, 2014).

¹⁰⁰ CITES, *Trade in Elephant Specimens*, Resolution Conf. 10.10 (Rev. CoP16).

¹⁰¹ *Id.*

¹⁰² TOM MILLIKEN ET AL., NO PEACE FOR ELEPHANTS: UNREGULATED DOMESTIC IVORY MARKETS IN ANGOLA AND MOZAMBIQUE 28 (TRAFFIC, 2006) *available at*: www.traffic.org/species-reports/traffic_species_mammals26.pdf [hereinafter TOM MILLIKEN ET AL., NO PEACE FOR ELEPHANTS].

¹⁰³ *Id.*

¹⁰⁴ CITES, *Trade in Elephant Specimens*, CoP13 Doc. 29.1 Annex (Rev. 1). The Action Plan was adopted as proposed in Doc. 29.1. *See* CITES, Summary Report of the Plenary Session, CoP13 Plen. 4 (Rev. 1), 7 (2004).

¹⁰⁵ CITES, *Trade in Elephant Specimens*, CoP13 Doc. 29.1 Annex (Rev. 1).

¹⁰⁶ CITES, *Trade in Elephant Specimens*, CoP14 Doc. 53.1, 2 (2007).

¹⁰⁷ *See* TOM MILLIKEN ET AL., NO PEACE FOR ELEPHANTS, *supra* note 66, at viii.

that although Mozambique was not among the most problematic countries, it “could move into more prominent clusters unless the authorities move aggressively to curtail illicit trade in ivory, particularly that associated with their domestic ivory markets.”¹⁰⁸ Despite this plea and forewarning, Mozambique did in fact move to a cluster of countries considered more problematic.¹⁰⁹

In fact, the scale of Mozambique’s ivory trade dramatically increased by 2005, with some experts postulating that it at least doubled between 2002 and 2005.¹¹⁰ In 2005, TRAFFIC conducted an investigative survey of major retail markets throughout Mozambique and found ivory items or composite pieces for sale from 45 vendors in 14 locations in Maputo.¹¹¹ For example, one of the largest craft markets in Maputo, the Polana Hotel Open-air Pavement Market, attracts customers from the nearby upscale hotel.¹¹² The market stretches almost the entire street length of the hotel and local vendors openly display items, while maintaining additional inventory in unpacked boxes.¹¹³ During the survey, 303 ivory items were observed for sale ranging from Maasai figures to jewelry.¹¹⁴ The separate Polana Shopping Center Open-air Pavement Market, located at a busy intersection in front of the Polana Shopping Center in the downtown area of Maputo, is another major outlet for ivory.¹¹⁵ Here, more than 700 ivory pieces were observed for sale at this market during the survey, including three polished whole tusks, three carved whole tusks, 22 small carved tusks, and many carved tusk segments.¹¹⁶

Since the 2005 TRAFFIC report, new stories have continued to show that elephant ivory is still widely available at markets throughout the country, especially in Maputo. Furthermore, Mozambique remains a country of concern in ETIS analyses due to its continued unregulated domestic ivory market.¹¹⁷ In 2013, journalists documented Chinese nationals purchasing ivory products from open markets in Mozambique.¹¹⁸ Some market vendors reserved boxes of ivory products to be shown only to Chinese shoppers. Many employees sent to Mozambique by their companies easily smuggle ivory out of the country in the form of small souvenirs such as bracelets or carvings.

3. Mozambique Has Failed to Implement Adequate CITES Legislation, Lacks Adequate Penalties to Deter Poaching and Illegal Trade and Suffers from Rampant Corruption

¹⁰⁸ CITES, *Monitoring Illegal Trade in Ivory and Other Elephant Specimens*, CoP14 Doc. 53.2, 35 (2007).

¹⁰⁹ T. Milliken, R.W. Burn, & L. Sangalakula, *The Elephant Trade Information System (ETIS) and the Illicit Trade in Ivory*, CoP15 Doc. 44.1 Annex, 19 (2009).

¹¹⁰ See TOM MILLIKEN ET AL., NO PEACE FOR ELEPHANTS, *supra* note 66, at 37 (noting that the ivory trade doubled from 2002 to 2005).

¹¹¹ *Id.* at 34.

¹¹² *Id.* at 31.

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ *Id.* at 32.

¹¹⁶ *Id.*

¹¹⁷ *ETIS Report of TRAFFIC*, *supra* note 35, at 22.

¹¹⁸ Huang Hongxiang, *The Chinese Ivory-Smugglers in Africa*, CHINA DIALOGUE (Nov. 27, 2013), available at <https://www.chinadialogue.net/article/show/single/en/6540-The-Chinese-ivory-smugglers-in-Africa>; see also Oxpeckers, *The Chinese Ivory Smugglers in Mozambique* (June 12, 2013), <http://oxpeckers.org/2013/12/the-chinese-ivory-smugglers-in-mozambique/>.

1. Mozambique's Inadequate Legislation

Despite the critical importance of adopting adequate legislation to implement CITES effectively, as well as ongoing efforts by the Secretariat and repeated requests by the Standing Committee and the Conference of the Parties, Mozambique has failed to adopt national legislation that meets the basic requirements for implementation of CITES. Mozambique became a Party to CITES in 1981 and has failed to adopt adequate CITES implementing legislation during the entire 30 years it has been a Party. Mozambique has failed to adopt adequate legislation even though the Parties have specifically asked Mozambique to strengthen its CITES implementation efforts since at least 1997. In fact, Mozambique continues to be classified as a Category 2 Party, meaning that its legislation does not meet all requirements for implementing CITES, despite 17 years of concerted capacity-building efforts and much outreach.¹¹⁹

On April 8, 2014, Mozambique's parliament passed the Conservation Areas Act, which includes increased penalties for violating CITES and for hunting protected species.¹²⁰ Although a step in the right direction, it is not clear to what extent the bill will contribute to the systematic improvement of CITES implementation within Mozambique.

2. Mozambique's Inadequate Penalties

The CITES Parties view penalties and fines, when sufficient, as necessary deterrents in the fight against poaching and illegal trade. While Mozambique does have laws that criminalize wildlife offenses, historically, the potential punishments have been too weak to be effective. The country also suffers from a lack of enforcement capacity and high levels of corruption that make prosecuting cases related to poaching and illicit trade difficult.¹²¹

The CITES Parties view penalties and fines, when sufficient, as necessary deterrents in the fight against poaching and illegal trade. In fact, the Secretariat's *Checklist for Reviewing CITES Legislation* indicates that penalties outlined in national legislation must be high enough to constitute an effective deterrent.¹²² With respect to rhino poaching and illegal trade, the Parties have specifically asked that governments increase penalties to more adequately deter criminals.¹²³

¹¹⁹ CITES, *National Laws for the Implementation of the Convention*, CoP16 Doc. 28, 7 (2013). Adequate domestic legislation is so crucial to the effectiveness of CITES that the Parties have developed a National Legislation Project through which the Secretariat reviews and analyzes each Party's domestic legislation, categorizing it as generally meeting the requirements of CITES, generally not meeting all of the requirements for implementation of CITES, or generally not meeting any of the requirements for domestic legislation. Resolution 8.4 (Rev. CoP15), *National Laws for Implementation of the Convention*, provides that domestic legislation must, at a minimum, designate at least one Management Authority and one Scientific Authority, prohibit trade in specimens in violation of the Convention, penalize such trade, and provide authority to confiscate specimens illegally traded or possessed.

¹²⁰ All Africa, *Mozambique: Stiff Penalties for Poaching in New Conservation Law*, (April 9, 2014), available at: <http://allafrica.com/stories/201404100710.html>.

¹²¹ See CITES, *Monitoring Illegal Trade in Ivory and Other Elephant Specimens*, CoP14 Doc. 53.2, 6, 8, 34, 35 (2007); see also Tim Jackman, *Ivory Apocalypse*, AFRICA GEOGRAPHIC, 41, Apr. 2013; see also Overview of corruption and anti-corruption in Mozambique, Anti-Corruption Resource Center, available at <http://www.u4.no/publications/overview-of-corruption-and-anti-corruption-in-mozambique/>.

¹²² CITES, *A Checklist for Reviewing CITES Legislation*, SC Doc. 41.12, Annex 1 (1999).

¹²³ See e.g., CITES, *Trade in Rhinoceros Products*, Resolution Conf. 6.10 (1987) (repealed by Res. Conf. 9.14).

Because Mozambique failed to do so, the Parties directed Mozambique specifically to enact legislation with sufficient deterrent penalties and to report to the Secretariat by January 31, 2014 on measures implemented in response to the decision.¹²⁴

As noted in the previous section, Mozambique's parliament passed the Conservation Areas Act in May 2014.¹²⁵ The new law imposes a USD90,000 fine for poaching an endangered species, including rhinos and elephants..¹²⁶ It remains to be seen whether the prison and fine increases outlined in the new legislation will have sufficient deterrent value.

3. Corruption Exacerbates Poor Legislation and Inadequate Penalties

Unfortunately, corruption in Mozambique weakens wildlife conservation efforts. Many studies and indicators suggest that Mozambique remains confronted with challenges of widespread corruption, including within the judicial and criminal enforcement systems.¹²⁷ Conservationists and other analysts have factored perceived corruption levels and law enforcement efforts into analyses regarding poaching and illicit trade trends, and Mozambique has received poor scores on both counts.

For example, at CoP14 in 2007, TRAFFIC submitted a report about the illegal trade in ivory and elephant specimens that included extensive data covering the time period between 1998 and 2006. The data analyzed trends in ivory seizures and included a Corruption Perception Index (CPI) score and a law enforcement effort, effectiveness, and rate of reporting (LE) score. For the CPI, scores ranged from 1.0 (highest perception of corruption) to 10.0 (lowest perception of corruption). The LE ratios ranged from 0.00 (no law enforcement effort) to 1.00 (best law enforcement effort). Mozambique was included in a group with a mean CPI of 3.6 and a mean LE of 0.11, indicating a high perception of corruption and one of the poorest values for law enforcement effort—both of which give rise for concern.¹²⁸

In Mozambique, police and military authorities are often complicit in poaching. A sizable number of Mozambican poachers arrested or killed have been members of the army, border guard, and

¹²⁴ CITES, *Rhinoceroses (Rhinocerotidae spp.)*, Decision 16.87 (2013).

¹²⁵ All Africa, *Mozambique: Stiff Penalties for Poaching in New Conservation Law*, (April 9, 2014), available at: <http://allafrica.com/stories/201404100710.html>.

¹²⁶ See Franz Wild, Mozambique's Chissano Starts Campaign to End Poaching, BLOOMBERG SUSTAINABILITY, Nov. 5, 2013 available at <http://www.bloomberg.com/news/2013-11-05/mozambique-s-chissano-starts-campaign-to-end-poaching.html>; see also All Africa, Mozambique: Police Seize Seven Rhino Horns, Dec. 18, 2013, available at <http://allafrica.com/stories/201312190477.html> (last visited Mar. 7, 2014); see also Sharon Van Wyk, *Death In China, One Dollar in Africa—The Irony of Ivory Poaching Penalties*, DAILY MAVERICK (Oct. 22, 2013), available at <http://www.dailymaverick.co.za/article/2013-10-22-death-in-china-one-dollar-in-africa-the-irony-of-ivory-poaching-penalties/#.UyqEXNyQaf0>.

¹²⁷ Maira Martini, *Overview of Corruption and Anti-corruption in Mozambique*, 2 (Mar. 5, 2012), available at <http://issuu.com/cmi-norway/docs/322?e=0>.

¹²⁸ See CITES *Interpretation and Implementation of the Convention*, CoP14 Doc 53.2 (2007); see also *Ivory's Curse*, *supra* note 21, at 75 (citing *Mozambique: Criminal Justice*, Africa Governance Monitoring and Advocacy Project, <http://www.afriamap.org/english/images/report/moz-eng-art-2-chapter-5.pdf>).

police forces.¹²⁹ A recent report describes the high-level collusion typical of poaching in Mozambique:¹³⁰

In December 2011, eight members of the frontier guard in Niassa were involved in the sale of 350 kg of seized ivory to Tanzanian citizens. Instead of receiving an aggravated punishment, they were transferred to a different location. In June 2012, six tons of ivory was stolen from a stockpile in Maputo. That followed another heist of an undisclosed amount approximately one year earlier, also from a warehouse in Maputo. Nearly 1.1 tons reportedly went missing from the central ivory stockpile in Maputo in February 2012, and since then it appears that the ivory stockpile in Pemba in Cabo Delgado Province has also disappeared, for the second time now.

In the case of a 2010 massacre of 12 elephants near the Mbama village in Mecula district, the investigation led to police in Balama, who supplied the poachers with weapons. Mozambique army uniforms have been discovered at poaching sites, and in yet another report, a PRM district commander collaborated with the chief of the town of Mpamanta to provide an AK-47 to a local gang in order for them to poach game within the LUWIRE (L-7) concession. Shortly after this scandal, the FRELIMO party head in Mpamanta resigned.

The corruption rampant in Mozambique's system of governance allows wildlife criminals to act with impunity and fosters a sense of Mozambique as a safe haven for criminal syndicates. When poaching and illegal trade offer financial opportunity with low risk to well-being and livelihood, many Mozambicans willingly chose a life of crime, whether they are low-level poachers, middle men, complicit government officials, or criminal masterminds. In one case, police in Balama supplied poachers with guns, which lead to the poaching of 12 elephants in 2010.¹³¹ In other cases, official uniforms have been found at poaching sites, and known officials have supplied poaching gangs with weapons.¹³² The warden of the Great Limpopo Transfrontier Park has reported that 30 of the park's 100 rangers are alleged to be abetting poachers.¹³³

4. Mozambique Has Failed to Secure Stocks of Government-held Rhino Horn and Elephant Ivory

Mozambique's failure to secure ivory and rhino horn stocks diminishes CITES enforcement capacity. CITES Resolution Conf. 9.14 (Rev. CoP15) urges Parties in control of stocks of rhinoceros horn to mark, register and secure the stocks.¹³⁴ It also urges Parties to adopt legislative

¹²⁹ See *Ivory's Curse*, *supra* note 21, at 75 ("Of the hundreds of Mozambican poachers arrested or killed, a sizable number have been members of the army, border guard, and police forces, both active and demobilized.").

¹³⁰ Varun Vira & Tomas Ewing, *Ivory's Curse: The Militarization & Professionalization of Poaching in Africa*, at 75 (April 2014), <http://www.bornfreeusa.org/downloads/pdf/Ivorys-Curse-2014.pdf>.

¹³¹ See *id.* (citing "Caça furtiva em alta: Abatidos 12 elefantes na Reserva do Niassa," *Moçambique para todos* (Aug. 2, 2010), http://macua.blogs.com/moambique_para_todos/2010/08/ca%C3%A7a-furtiva-em-alta-abati-dos-12-elefantes-na-reserva-do-niassa.html).

¹³² *Id.*

¹³³ Ed Joyce, Expert: Rhinos extinct in Mozambique, elephants may be next (May 2, 2013), at <http://www.scp.org/news/2013/05/02/37098/expert-rhinos-extinct-in-mozambique-elephants-next/>

¹³⁴ Resolution Conf. 9.14 (Rev. CoP15), *supra* note 16, at "Urges."

and enforcement controls to ensure appropriate control of stocks.¹³⁵ CITES Resolution Conf. 10.10 (Rev. CoP16) urges Parties in control of elephant ivory stocks to maintain an inventory of government-held ivory stockpiles and report the details of the pieces of ivory included in the stock to the Secretariat each year.¹³⁶ The CITES Parties recognize that theft from stockpiles, including government-held stockpiles, “further adds to wildlife crime.”¹³⁷ This is such an important issue that priority assistance from donor countries is given to African elephant range States that have not yet been able to register and develop adequate controls over their ivory stocks.¹³⁸

1. Rhino Horn Stockpiles

To date, no record exists that the government of Mozambique controls any stocks of seized rhino horn as Mozambique has failed to provide any information regarding rhino horn stockpiles to IUCN or the CITES Secretariat in contravention of requests for such information.¹³⁹ Stockpile reporting by other CITES Parties has generally improved over the last several years;¹⁴⁰ however, Mozambique continues to be an outlier, failing to provide updated data on stockpiles.¹⁴¹ While some press reports describe seizures of rhino horn in Mozambique,¹⁴² Mozambique has not reported these seizures and neither TRAFFIC nor any other independent source has verified that rhino horn from these seizures is being stockpiled. Therefore, while it is difficult to estimate how many, if any, rhino horns are present in government-held stocks, it can be assumed that Mozambique holds at least some rhino horns in government stockpiles that have gone unreported. Given the lack of security provided ivory stockpiles, it may well be that at least some seized rhino horn has found its way back onto the black market.

2. Elephant Ivory Stockpiles

Many believe that Mozambique continues to accumulate ivory stocks in various parts of the country,¹⁴³ though Mozambique rarely reports ivory seizure data for entry into the ETIS database.¹⁴⁴ Ivory is seized through various law enforcement actions and elephant management initiatives but, problematically, no centralized system for tracking or auditing ivory stock exists in Mozambique.¹⁴⁵ Additionally, a range of provincial authorities have jurisdiction over various stocks, meaning that no central authority has control over all stockpiles and that information is

¹³⁵ *Id.*

¹³⁶ Resolution Conf. 10.10 (Rev. CoP16), *supra* note 64, at “Urges” (e).

¹³⁷ *Id.* at “Recognizing.”

¹³⁸ *Id.* at “Directs” (b); *see also* CITES, CoP10 Decision 10.2(a) and (d), *available at* <http://cites.org/sites/default/files/eng/cop/10/E10-Decisions.pdf>.

¹³⁹ CITES, *Rhinoceroses: Report of the Secretariat*, *supra* note 17, at 26 (Mozambique did not provide data on stockpiled rhino horn.).

¹⁴⁰ CITES, *Species Trade and Conservation: Rhinoceroses*, CoP14 Doc. 54, 14 (2007).

¹⁴¹ *ETIS Report of TRAFFIC*, *supra* note 35, at 26.

¹⁴² All Africa, *Mozambique: Police Seize Seven Rhino Horns* (Dec. 18, 2013) (stating that Mozambican police seized 7 rhino horns at Maputo International Airport before leaving for Vietnam. The suitcases also contained 44 kg of ivory and 8 kg of ivory bracelets.), *available at* <http://allafrica.com/stories/201312190477.html>

¹⁴³ TOM MILLIKEN ET AL., *NO PEACE FOR ELEPHANTS*, *supra* note 66, at 42.

¹⁴⁴ *ETIS Report of TRAFFIC*, *supra* note 35, at 14; *see also* CITES, *TRAFFIC East/Southern Africa*, CoP15 Doc. 44.1, Annex , (2009); *see also* CITES, *Illegal Trade in Ivory and Other Elephant Specimens*, CoP12 Doc. 34.1, 21 (2002) (Mozambique has failed to report ivory seizures through 2002).

¹⁴⁵ TOM MILLIKEN ET AL., *NO PEACE FOR ELEPHANTS*, *supra* note 66, at 42.

decentralized and fragmented.¹⁴⁶ As such, not much is known about exactly how much ivory has accumulated in the country.¹⁴⁷ Evidence indicates that Mozambique has failed to secure existing stocks of government held ivory resulting in vulnerability to theft and entry into illicit trade, thereby diminishing the effectiveness of CITES.

Mozambique last comprehensively reported its stockpiles in January 1997, when it declared a total of 2,000 kg of government-held ivory stock.¹⁴⁸ Pursuant to Decision 10.2, agreed upon at CITES CoP10 in 1997,¹⁴⁹ the government of Mozambique formally declared stockpiles of ivory in Cabo Delgado, Manica, Maputo, Diassa and Tete Provinces to the CITES Secretariat in September 1997.¹⁵⁰ Mozambique reported stockpiles of 266 elephant tusks weighing a total of 1846.8 kg.¹⁵¹ A subsequent audit by TRAFFIC, however, revealed stockpiles of 269 tusks weighing 1840.4 kg.¹⁵²

Mozambique remains a country of concern under ETIS for several reasons, including reoccurring thefts of ivory stocks from government custody.¹⁵³ Theft of elephant ivory from government-held stockpiles throughout Mozambique has been a continuous problem over the last decade. Major thefts from 2006 to 2012 have resulted in the disappearance of several tons of ivory:

- According to TRAFFIC, 1.5 tons of ivory disappeared from a government stockpile in Pemba in Cabo Delgado Province in mid-2006.¹⁵⁴
- On February 27, 2012, 266 pieces of elephant ivory reportedly went missing from a central ivory stockpile in Maputo.¹⁵⁵ The ivory pieces, totaling nearly 1.1 metric tons,

¹⁴⁶ *Id.*

¹⁴⁷ *Id.* at 29.

¹⁴⁸ CITES, *Trade in African Elephant Specimens Stockpiles of Ivory*, CoP10 Doc 10.46 (Rev.) (1997); *see also* CITES Decision 10.2(c), subsequently repealed, which provides that this

decision provides for one-off purchase for non-commercial purposes of government stocks declared by African elephant range States to the CITES Secretariat within the 90-day period before the transfer to Appendix II of certain populations of the African elephant takes effect. The ivory stocks declared should be marked in accordance with the ivory marking system approved by the Conference of the Parties in Resolution Conf. 10.10. In addition, the source of ivory stocks should be given. The stocks of ivory should be consolidated in a pre-determined number of locations. An independent audit of any declared stocks shall be undertaken under the auspices of TRAFFIC International, in co-operation with the CITES Secretariat.

¹⁴⁹ *See* CITES, Decisions 10.1 and 10.2 (1997).

¹⁵⁰ TOM MILLIKEN ET AL., NO PEACE FOR ELEPHANTS, *supra* note 66, at 29.

¹⁵¹ *Id.*

¹⁵² *Id.*; *see also* CITES, *Trade in African Elephant Specimens*, Doc 10.46 (1997) (directing an independent audit of declared stocks by TRAFFIC.).

¹⁵³ *ETIS Report of TRAFFIC*, *supra* note 35, at 14; *see also* All Africa, *Mozambique: Six Tonnes of Ivory Stolen* (Jul. 9, 2012), available at <http://allafrica.com/stories/201207091550.html>.

¹⁵⁴ Tom Milliken & Louisa Sangalakula, *Progress in the Implementation of the Elephant Trade Information System (ETIS)*, PACHYDERM 89-93 (2012) [hereinafter Milliken and Sangalakula, *Progress in the Implementation of the Elephant Trade Information System (ETIS)*].

¹⁵⁵ CITES, *Elephant Conservation, Illegal Killing and Ivory Trade*, SC62 Doc. 46.1 (Rev. 1), 23 (2012).

had been stored in a Ministry of Agriculture building in downtown Maputo.¹⁵⁶ One news outlet claimed that the ivory was stolen from inside a safe that was supposed to be guarded by a private security company and surveillance cameras, adding that sources claim the Mozambican authorities did not question the security guards on duty or review the security footage.¹⁵⁷ Notably, the CITES Secretariat was not informed of this loss until April 2012.¹⁵⁸

- Later in 2012, another ivory stockpile disappeared from Pemba in Cabo Delgado Province.¹⁵⁹

The CITES Secretariat and ETIS recommend that in cases where the stolen ivory can be uniquely identified, incidents of thefts should be reported in a timely manner to the Secretariat.¹⁶⁰ Additionally, other international organizations, such as ICPO-INTERPOL and the World Customs Organization, request information.¹⁶¹ While Mozambique has reported stolen ivory to the CITES Secretariat in some instances, no indication exists that Mozambique took efforts to inform other international organizations or that Mozambique consistently reports thefts of stockpiled ivory or rhino horn. Corruption, ivory stockpile thefts, and subsequent reporting failures indicate the inability of the Mozambican government to secure government-held stocks of either ivory or rhino horn adequately.

5. Mozambique Fails to Comply with CITES Reporting Requirements

Mozambique's repeated failure to comply with CITES reporting requirements seriously undermines the Parties' ability to implement effective, cooperative conservation measures. Reporting is essential to ensuring that Parties implement treaty provisions, recommendations, and decisions. Reporting is also essential for determining whether Parties are accomplishing their conservation goals. For these reasons, the Parties have adopted numerous reporting requirements with respect to rhino and elephant conservation. Nonetheless, Mozambique has consistently failed to provide information to the Parties, as required by the Convention or recommended by resolutions and decisions of the Parties.

For example, at CoP10, the Parties directed rhino range States to report on measures taken to conserve their rhino populations.¹⁶² Mozambique failed to report.¹⁶³ At CoP11, the Parties amended Resolution Conf. 9.14 to "strongly urge" range States to report the status of captive and wild rhino populations, a summary of incidents of illegal hunting and illegal trade, information regarding law environment activities and monitoring programs, efforts to develop and implement

¹⁵⁶ *Id.*; see also Milliken and Sangalakula, *Progress in the Implementation of the Elephant Trade Information System (ETIS)*, *supra* note 177, at 92 (listing the total tons missing as 1,094 kg and also identifying the ivory as "stolen.").

¹⁵⁷ All Africa, *Mozambique: Six Tonnes of Ivory Stolen*, available at <http://allafrica.com/stories/201207091550.html>.

¹⁵⁸ CITES, SC62 Doc. 46.1 (Rev. 1), *supra* note 178, at 23.

¹⁵⁹ *ETIS Report of TRAFFIC*, *supra* note 35, at 6 (citing M. Foloma, pers. comm. to TRAFFIC).

¹⁶⁰ CITES, *Report of the Secretariat*, CoP16 Doc. 53.2.1, 4 (2013); see also CITES, SC62 Doc. 46.1 (Rev. 1), *supra* note 178, at 23.

¹⁶¹ *Id.*

¹⁶² CITES, Decision 10.45, *Regarding the Conservation of Rhinoceros*, (1997).

¹⁶³ CITES, Summary Record Committee I, 6 (2000).

relevant national legislation, and the status of rhino horn stocks.¹⁶⁴ Mozambique failed to report.¹⁶⁵ Even by CoP13, Mozambique had failed to report.¹⁶⁶

Mozambique also failed to respond to the Secretariat when it issued two requests for information from Parties regarding their implementation of Resolution Conf. 9.14 (Rev. CoP15) and measures taken to reduce illegal trade, among other things in between CoP15 and CoP16.¹⁶⁷ The Secretariat posted a further request for information from Parties regarding measures taken to deal with the poaching and illegal trade crises, and Mozambique again failed to respond.¹⁶⁸

Between CoP14 and CoP15, the Standing Committee established a Rhino Enforcement Task Force,¹⁶⁹ with Mozambique as a member.¹⁷⁰ The Task Force asked any Party that seizes rhino specimens or becomes aware of illegal trade or poaching to report all relevant information using the Interpol Ecomessage format.¹⁷¹ The Task Force also recommended that after CoP16 greater collaboration with INTERPOL and better sharing of seizure data, identification of prominent entry and exit points, and designation of a national rhino focal point.¹⁷² Although Mozambique participates on this Task Force, it is unclear whether Mozambique has taken any steps toward fulfilling any of the Task Force's recommendations.

In 2013, the ETIS report authors noted that Mozambique stands out for failing to report ETIS data to either TRAFFIC or the Secretariat, despite the recommendation to do in Resolution Conf. 10.10 (Rev. CoP16).¹⁷³ The 2013 ETIS report to CoP16 also states that Mozambique rarely reports seizure data to ETIS, even when specifically requested to do so by the Parties or the Secretariat.¹⁷⁴

Most recently, at CoP16, Mozambique was directed to provide a comprehensive report on the implementation of Resolution Conf. 9.14 (Rev. CoP15) and legislative progress¹⁷⁵ as well as the status of its bilateral cooperation with South Africa,¹⁷⁶ both to be submitted to the Secretariat by January 31, 2014. Mozambique responded to the Secretariat's request approximately two months after the deadline with a four-page document describing its efforts to combat poaching, but as noted in the Report of the Working Group, "On the basis of the limited information provided it is difficult for the Group to draw any meaningful conclusions on the steps taken by Mozambique to effectively implement Resolution Conf. 9.14 (Rev. CoP15)."

¹⁶⁴ CITES, Revised Resolutions of the Conference of the Parties, CoP11, 11 (2000).

¹⁶⁵ CITES, *Rhinoceros Trade and Conservation Issues*, CoP12 Doc. 35, 1 (2002).

¹⁶⁶ CITES, *Conservation of and Trade in Rhinoceros*, CoP13 Doc. 30 (Rev. 1), 2 (2004).

¹⁶⁷ CITES, *Conservation of and Trade in African and Asian Rhinoceros*, Notification to the Parties, No. 2012/014 (Feb. 20, 2012).

¹⁶⁸ CITES, *Conservation of and Trade in African and Asian Rhinoceros*, Notification to the Parties, No. 2012/053 (Aug. 27, 2012); see also CITES, *Rhinoceroses: Report of the Working Group*, CoP16 Doc. 54.1 (Rev. 1), 3, 4 (2013) (noting that only a few countries responded to each request).

¹⁶⁹ CITES, SC57 Summary Record, at 21 (2008).

¹⁷⁰ CITES, Notification to the Parties, *Illegal Trade in Rhinoceros Horn*, No. 2008/069 (Dec. 16, 2008).

¹⁷¹ *Id.*

¹⁷² CITES, *Rhinoceroses (Rhinocerotidae spp.)*, Notification to the Parties, No. 2014/006 (Jan. 23, 2014).

¹⁷³ *ETIS Report of TRAFFIC*, *supra* note 35, at 22.

¹⁷⁴ See TOM MILLIKEN ET AL., NO PEACE FOR ELEPHANTS, *supra* note 66, at 29-30.

¹⁷⁵ CITES, *Rhinoceroses (Rhinocerotidae spp.)*, Decision 16.87 (2013).

¹⁷⁶ CITES, *Rhinoceroses (Rhinocerotidae spp.)*, Decision 16.88 (2013).

Mozambique also failed to submit a report on Decision 16.88, though cross-border cooperation was mentioned in their response to Decision 16.87.¹⁷⁷ A Memorandum of Understanding was signed with South Africa on April 17, 2014.

Given the vital need for international cooperation to protect rhinos and elephants, these failures to report at all or to inadequately report clearly diminish the effectiveness of CITES. Without this information, the Parties are unable to identify where rhino horn may be originating from or how much rhino horn exists in stockpiles or how much elephant ivory is illegally traded.

IV. REQUEST FOR CERTIFICATION AND TRADE SANCTIONS

This petition has shown that nationals of Mozambique are diminishing the effectiveness of CITES, an endangered or threatened species program, as defined by the Pelly Amendment, by failing to control poaching and trade in rhino horn and elephant ivory. As described in Section III, Mozambicans poach rhinos and elephants, both in Mozambique and elsewhere, including in South Africa and Tanzania. Mozambicans openly sell rhino horn and elephant ivory in public markets. The government is doing little, if anything, to prevent these activities. Moreover, Mozambique is failing to implement the resolutions and decisions of the Parties with respect to rhinos and elephants, including Resolution Conf. 9.14 (Rev. CoP15) and Resolution Conf. 10.10 (Rev. CoP16).

Petitioners request the Secretary of Interior to certify pursuant to the Pelly Amendment that Mozambican nationals are diminishing the effectiveness of CITES based on the information provided in Section III. Moreover, we request that the United States prohibit all trade with Mozambique in all CITES-listed specimens and consider additional trade sanctions, as appropriate. Mozambique's continued diminishment of the effectiveness of CITES in relation to rhino horn and elephant ivory warrants, at a minimum, sanctions in all CITES-listed specimens.

Mozambique's weak laws, weak enforcement, porous borders, and corruption with respect to wildlife trade are evidenced across all aspects of wildlife trade, even extending to illegal timber trade. For example, vast information shows that trafficking of rhino horn and ivory often occurs in the same areas as logging projects and accompanies rampant illegal timber exports from Mozambique.¹⁷⁸ The same problems motivating the illegal trade in rhino horn and ivory—weak

¹⁷⁷ CITES Secretariat, *Species trade and conservation: Rhinoceroses. Report of the Secretariat*, SC65 Doc. 43.1 (2014).

¹⁷⁸ EIA, FIRST CLASS CONNECTIONS: LOG SMUGGLING, ILLEGAL LOGGING, AND CORRUPTION IN MOZAMBIQUE 1 (2013), available at <http://www.eia-international.org/wp-content/uploads/EIA-First-Class-Connections.pdf>; see also *Mozambique: Timber Rackets, Gas Booms*, 7 AFRICA CONFIDENTIAL, 12 (Jun. 7, 2013) (stating that Mozambique is a transit point for the trafficking of rhino horn and the trafficking of rhino horn and elephant ivory occurs in the same areas as logging, infrastructure, and mining projects); see also Conservation Action Trust, *The Chinese Ivory Smugglers in Mozambique*, supra note 127 (stating that in 2011, 126 tusks, one rhino horn, pangolin scales, and a tiger skin were found in a timber container belonging to the Chinese company Tienhe; see also *Mozambique: Timber Companies Lose Their Licenses*, THE ZIMBABWEAN, Nov. 1, 2011, supra note 128 (stating that the Nationale Directorate of Land and Forests canceled the licenses of 16 Mozambican and Chinese timber companies between December 2010 and July 2011 after the companies attempted to export a total of 807 containers full of mostly hardwoods that cannot be exported legally unless processed in Mozambique. Some of the containers included rhino horn and elephant ivory, including 126 elephant tusks as well as ivory necklaces and bracelets).

governance, corruption, and poverty—also motivate illegal trade in other species. Thus, trade sanctions in all CITES-listed species are appropriate against Mozambique. Certification is consistent with GATT (See Appendix C).

We note that use of the Pelly Amendment resulted in improvements in the implementation of CITES with respect to rhinos and tigers in the mid-1990s. Taiwan was certified under the Pelly Amendment for undermining CITES and trade sanctions were imposed until Taiwan took serious strides to end its leading role in the rhino horn trade.¹⁷⁹ China was also certified but took actions to improve implementation of CITES by banning domestic trade in rhino horn and tiger bones thereby avoiding US-imposed sanctions.¹⁸⁰ We believe that the Pelly Amendment process can similarly lead to improved implementation of CITES by Mozambique and corresponding conservation gains for rhinos and elephants.

The time has come for the United States to adopt substantial trade sanctions that will encourage Mozambique, finally, to cooperate with the international community to conserve rhinos and elephants by demonstrably improving its implementation of CITES. Without direct, particularized, and concrete action against the key players in the rhino and elephant conservation crises, these species will move closer to the brink of extinction.

* * * * *

We look forward to your prompt investigation and determination consistent with the conclusions made in this petition. If you have any questions, please feel free to contact me.

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¹⁷⁹ Department of the Interior Fish and Wildlife Service, *Termination of the Pelly Amendment Certification of Taiwan*, Federal Register Vol. 62, No. 83 (April 1997), available at <http://www.gpo.gov/fdsys/pkg/FR-1997-04-30/pdf/97-11092.pdf>

¹⁸⁰ Edith Weiss and Karan Jacobson, Eds. *Engaging Countries: Strengthening Compliance with International Environmental Accords* (1998), p. 365, available at http://books.google.com/books?id=W_JAw31U5qQC&pg=PA365&lpg=PA365&dq=china+rhino+pelly+ban&source=bl&ots=loHN8oHVaz&sig=Gdb8V89wBqQDNjOI-b6bZCTuoJg&hl=en&sa=X&ei=0yCWU83xKdWgyASvs4HgDg&ved=0CD8Q6AEwAw#v=onepage&q=china%20rhino%20pelly%20ban&f=false