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Director-General Crespo  
EUROPEAN COMMISSION  
Environment Directorate-General  
ENV Unit E2  
B-1049 Brussels  
Belgium

6 November 2015  
Our Ref: 20151106-5

**RE: CITES, CoP17 and Violation of EU Wildlife Trade Regulations with Killer Whales at Loro Parque**

Dear Director-General Crespo and European Commission-Environment CITES/Wildlife Trade Staff,

The Free Morgan Foundation is an NGO registered at the Chamber of Commerce in the Netherlands (KvK-No. 53471067), to facilitate the rescue, rehabilitation and release of the wild-born female killer whale known as Morgan. Our Board of Directors consists of representatives from the Netherlands, Germany, New Zealand and the United States of America. Our official address is Bosweg 14, 6523 NM Nijmegen, The Netherlands.

As a Dutch registered NGO in the European Union, the Free Morgan Foundation hereby formally exerts its right to petition the European Commission for action as it pertains to a specific point of law and the need for the European Court of Justice to provide a legal ruling concerning interpretation of the scope and limitations of derogations (exemptions) under Article 8(3)(g) of Commission Regulation (EC) 338/97. Specifically that a derogation from Article 8(1) pursuant to Article 8(3)(g) does not authorize breeding.

Attached to this e-mail in support of our petition please find the following documents:

- 1) CITES and the Marine Mammal Protection Act: Comity and Conflict at Loro Parque (White Paper on Whale Laundering).
- 2) Formal request for immediate action by the Spanish CITES MA and the US National Marine Fisheries Service regarding killer whales at Loro Parque. (English and Spanish)

The immediate action being requested by the Free Morgan Foundation is addressed in the letter to the Spanish CITES MA and the US National Marine Fisheries Service calling for direct engagement of the problem as it presently exists at Loro Parque. This document has also been copied to the Dutch CITES MA for consideration.

We are also providing this information as a petition for action to select European Parliament MEPs who are involved in matters concerning the Environment, Wildlife Trade Regulations/Wildlife Trafficking and CITES.

At issue is a violation of the European Union Wildlife Trade Regulations implementing CITES and the inadequacies of the language and layout of the EC-Certificate form used for transfer of Appendix II, Annex A specimens within the EU. This is a question of law that not only needs to be resolved as it applies to Morgan, but clarification is necessary to ensure proper application of Article 8 (3) derogations to all future transfers of Annex A specimens.

We call you attention to this matter because it is also directly relevant to issues that must be addressed at CoP17 where the European Union will be participating as a Party for the first time since its accession to CITES. We have illustrated the pressing need for action by the Parties through the case study of Morgan as presented in our white paper (attached) on whale laundering.

The broad purpose of our white paper is to highlight the systemic inadequacies in the CITES framework when applied at the individual case level. The issues addressed have been left unresolved for far too long and deserve both discussion and resolution by the Parties at CoP17. The Free Morgan Foundation hopes to initiate an international dialogue prior to CoP17 that will also facilitate a long overdue discussion in the European Union about the effectiveness of the Wildlife Trade Regulations, particularly for Annex A specimens and in the United States of America, revision of the Marine Mammal Protection Act concerning public display must also be re-examined in light of Morgan's case.

We respectfully request a formal written acknowledgement of receipt and acceptance of this request for action including a detailed response concerning your intentions to address the issues raised herein to be delivered via e-mail to [info@freemorgan.org](mailto:info@freemorgan.org) no later than 20 November 2015.

Sincerely,

Dr I. N. Visser (PhD)



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Ms. Doerthe Ohm, Assistant Policy Officer - CITES and EU Wildlife Trade regulations