

HIGH PROFIT/LOW RISK: Reversing the wildlife crime equation

In February 2014, global leaders convened for The London Conference on Illegal Wildlife Trade, an unprecedented gathering “to help eradicate illegal wildlife trade and better protect the world’s most iconic species from the threat of extinction”.¹

The outcome was the London Declaration, calling for a range of actions including: the designation of wildlife crime as a serious crime; applying the same investigative techniques and tools currently applied to other transnational organised crimes; enhanced international cooperation; demand-reduction; supporting communities; and addressing corruption and money-laundering.²

International wildlife crime has long been recognised as a serious organised crime³ with far-reaching global impacts. It is destabilising, subverts the rule of law and the proceeds may fuel other organised criminal activities and conflict.

While accelerating biodiversity loss, wildlife crime robs resource-dependent communities of livelihoods, undermines local and national economies and also poverty alleviation efforts.⁴ A single live wild elephant can generate over US\$1.6 million for tourism revenue over its lifetime,⁵ yet some of the least developed countries are experiencing high levels of elephant poaching for ivory trade.⁶

Meanwhile, rangers risk their lives on the front line of ecosystems: in 10 years, an estimated 1,000-plus park rangers have been killed, 80 per cent by commercial poachers and armed militia groups.⁷ It has become increasingly dangerous to defend rights to land and the environment, yet killers of environmental defenders are not being brought to justice.⁸

The London Declaration of 2014 was one of a number of events, announcements and declarations from the international community, variously recognising the serious nature of wildlife crime and urging steps to address it. The Declaration itself lists 16 other wildlife-related meetings and initiatives which took place between 2010 and the London meeting and urges the full implementation of their measures; additionally, there have been several meetings since, including some at high-level.

In March 2015, the Government of Botswana hosts the follow-up conference to review status of implementation of the actions agreed as part of the London Declaration. A year down the line, it is time for signatories to describe their progress against commitments, although formal indicators of activity are yet to be formulated.

Wildlife crime has brought about devastating impacts in one year alone. The South African Government reported it lost 1,215 of its rhinos to poaching in 2014,⁹ an average of three rhinos killed every day in an escalating slaughter driven by resurgent rhino horn trade in Vietnam and China. Asian rhinos are also under threat: in 2014, 35 rhinos were poached in India.¹⁰ Elephants continue to face the devastating consequences of ivory trade, with a 2014 study finding 100,000 elephants had been killed over three years¹¹ and initial reports show at least 26 tonnes of ivory seized internationally during 2014, representing at least 3,880 dead elephants,¹² while 215 Asian big cats were intercepted in illegal trade, including 61 tigers.¹³

This briefing highlights examples of best practice, showing how countries have implemented some elements of the London Declaration. It also shows where barriers to implementation remain and the gaps which countries can fill to deter wildlife criminals. EIA supports the London Declaration commitments regarding anti-poaching and communities but, given EIA’s organisational focus, the examples relate primarily to those sections of the London Declaration concerning legislative frameworks, law enforcement and demand-reduction.

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ILLEGAL WILDLIFE TRADE AFFECTS A HUGE RANGE OF SPECIES

Tigers are critically endangered and are threatened by habitat loss and poaching for the trade in their skins, bones and other body parts. There are probably fewer than 3,200 tigers in the wild, with more than half the population in India. Asian big cats such as leopards, snow leopards, clouded leopards and Asiatic lions face similar threats.

Elephants are facing a crisis from trade in ivory for decoration, investment and non-financial bribes. Some experts estimate up to 50,000 are killed annually in Africa,¹⁴ and Asian elephants are also threatened by both trade and habitat loss.

Rhinos are under threat in both Africa and Asia for poaching to supply the black market for rhino horn, used for traditional medicine, decorative carvings and ground down for social drinks.

Helmeted hornbill is a forest-dependent bird confined to the Sundaic lowlands of Myanmar, Thailand, Malaysia, Indonesia and Brunei Darussalam, and is regionally extinct in Singapore. Unlike other hornbills, its distinctive head 'casque' is solid and yields an 'ivory' desired for carving in China, where the casques of helmeted hornbill are valued by the same collectibles and investment market as elephant ivory.¹⁵

Pangolins are nocturnal anteaters in Asia and Africa and one of the most heavily traded mammals. Their meat is sought for consumption and their scales for use in traditional medicine and the carving industry.

COVER IMAGE:
Seized ivory destroyed in
Kenya, 2011.

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REVERSING 'HIGH PROFIT/ LOW RISK': SERIOUS CRIMES AND DETERRENT SENTENCES

The London Declaration urges all States to ensure that domestic offences involving wildlife trafficking fall within the definition of "serious crime" under the UN Convention Against Transnational Organised Crime (UNTOC): a crime which carries a custodial punishment of at least four years or a more serious penalty.¹⁶ Some countries have amended national legislation in accordance with UNTOC but others have yet to do so, leaving criminals at greater liberty to victimise communities, ecosystems and the rule of law.

- In Hong Kong, prior enactment of domestic legislation is needed, so UNTOC does not yet apply.¹⁷ Under Hong Kong's primary CITES legislation,¹⁸ wildlife crimes are not treated as serious crimes: the maximum penalties for offences are HK\$5 million (US\$645,000) and/or two years imprisonment. Considering Hong Kong's major role in the flow of trafficked wildlife, including elephant ivory and pangolin,¹⁹ this provides little deterrent to traffickers.
- Zanzibar, a semi-autonomous part of Tanzania, is a regional transportation hub for timber and wildlife yet the primary wildlife law protects only wildlife which naturally occurs in Zanzibar, a loophole which both complicates the implementation of CITES and technically excludes elephants from protection, which is significant given Zanzibar's major role in global illegal ivory trade. Additionally, penalties prescribed under the law are extremely low – the highest penalty on conviction is imprisonment for a term not less than six months or a fine of not less than TZS300,000 (US\$185).²⁰
- In the EU, levels of criminal sanctions applicable to wildlife trafficking vary significantly. In some Member States, the maximum sanction levels are below one year's imprisonment, limiting deterrent effect and preventing the use of tools for cross-border and national investigations and judicial cooperation, such as the European Arrest Warrant.²¹

Many countries have adequate laws but these remain unimplemented. There is also a lack of sentencing guidelines for

imposing consistent penalties after a conviction.²²

The issue of consistency and the need for sentencing guidelines is exemplified by the case of Thai national Chumlong Lemthongthai, a member of the Xaysavang syndicate who fraudulently obtained South African rhino hunting permits and exported the horn into Asia's black markets. In 2012, he was sentenced to 40 years' imprisonment for these crimes.

Upon appeal to the High Court, Lemthongthai's sentence was reduced to 30 years. In 2014, he took his case to the Supreme Court of Appeal, arguing for a non-custodial sentence. This was denied but his sentence was reduced again – to 13 years, with a fine of ZAR1 million (US\$90,000).²³ The Supreme Court judgement cited misdirection in both courts, unsubstantiated assumptions by the High Court and the severity of the 30-year sentence; the High Court had held Lemthongthai's refusal to disclose



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ABOVE:

Demand for rhino horn has surged. Countries need to coordinate efforts to ensure not only poachers, but middlemen, financiers and end-buyers are fully investigated and subject to adequate penalties.

LEGISLATIVE CHANGES IN 2014 AND RECOGNITION OF THE NEED FOR LEGAL REFORM

Mozambique amended its 1999 Law, which previously did not prescribe any prison sentence for the hunting or killing of a wild species and imposed only fines.²⁷

The new law has imposed liability for a prison sentence of between 8-12 years for the killing or hunting of an endangered species, and potentially also imposes a fine of 50-1,000 times the minimum monthly national wage.²⁸ Although this significantly increases the penalties for poaching, it is unclear whether similar custodial penalties have been adopted for trafficking and other related offences.

The Standing Committee of China's National People's Congress passed an interpretation of Criminal Law to stipulate that the consumption of 420 rare wild species would result in a jail term from below five years to more than 10 which, without means to verify wild origin, appears to set the precedent against enforcement. In the aftermath of allegations that police participated in the feast of a giant salamander, Shenzhen Police noted the salamander had been raised in captivity, which suggests criminal charges were therefore not applicable.³¹

Uganda adopted a new Wildlife Policy in 2014 and is in the process of amending its Wildlife Act 2000 to enhance and strengthen penalties for wildlife crimes,³² to align the Act to other national laws and policies and to address critical emerging issues.³³

In recognition of the need for legal reform, the Prime Minister of Vietnam issued a Directive to all Government ministries prioritising the combating of the illegal trade in wildlife.³⁴ Yet less than a year later in early 2015, and despite their prioritised protection status,³⁵ Bac Ninh provincial authorities decided to auction 42 pangolins which had been seized from wildlife trade, showing there is a considerable way to go for cohesive implementation of the Directive.

the identity of the syndicate to the authorities as an influencing factor in its decision.²⁴ Haphazard sentencing occurs elsewhere, including in Kenya where a recent study found no consistency in sentencing between courts.²⁵

It is also important to harmonise laws and increase judicial awareness for the most effective delivery of justice. Following a seizure of elephant ivory in Uganda, the owner of the illegal cargo and target of an arrest warrant exploited legal loopholes to absurd effect. He claimed he was shipping ivory from Democratic Republic of Congo (DRC) and only transiting Uganda, therefore was not in breach of Customs law. Thus he was able to successfully petition the High Court to order the release of the ivory for onward export, in contravention of CITES.²⁶ The return of the ivory has been suspended pending an appeal of the High Court's judgment and parallel legal proceedings in the trial court.

CHALLENGES FOR SUCCESSFUL PROSECUTIONS

The London Declaration emphasises the importance of prosecutions to achieve deterrent sentences. Some prosecutions do result in convictions carrying custodial sentences. When a Chinese national named Yu Bo was arrested in possession of 81 tusks at Dar Port in Tanzania, he was convicted just a few months later, receiving an unprecedented fine of TZS978 million (US\$5.6 million). Unlike other fines, this figure was based on 10

times the value of the ivory seized, the maximum fine allowed, with the ivory valued at the full black market price. Unable to pay the fine, Yu Bo was sentenced to 20 years' imprisonment.³⁶

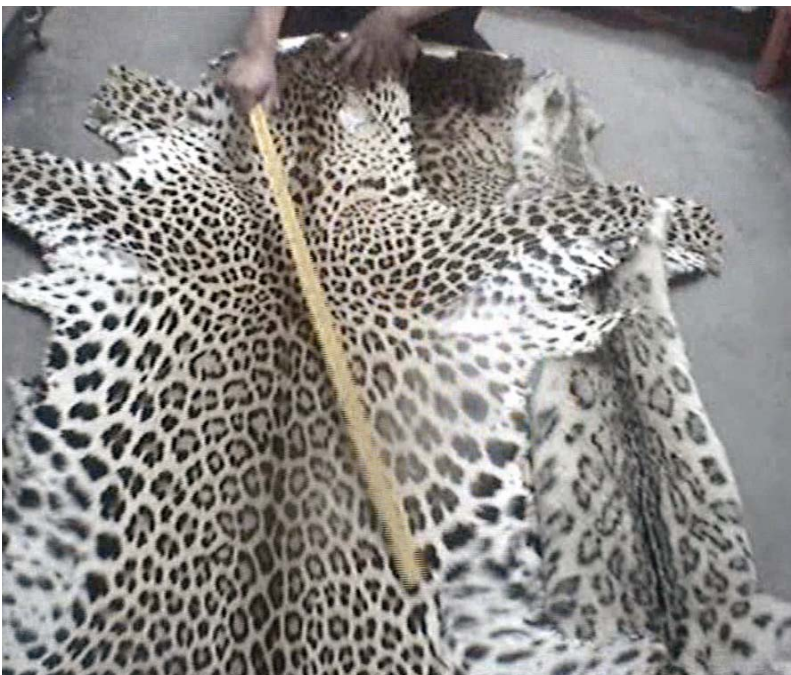
Yet this outcome is isolated compared to many scenarios involving wildlife crime prosecutions. Countries need to ensure that individuals across the trade chain – from poachers and middlemen to those financing the trafficking as well as the end-buyers – are fully investigated and subject to adequate penalties.

In its 1999 report, the CITES Tiger Missions Technical Team recommended that all tiger range and consumer states have in place effective investigation and prosecution authorities as a priority.³⁷ Yet today low prosecution rates and slow criminal justice processes continue to hamper progress in tiger range states and beyond:

- in 2014, Sansar Chand, India's most notorious dealer of tigers and leopards, died in prison awaiting prosecution against charges related to illegal trade in tigers.³⁸ Sansar Chand was first convicted in April 1982 for wildlife offences dating back to 1974 and was again arrested in 2005 as implicated in several wildlife cases;
- in Laos, a small sample of 18 wildlife cases over four years showed that none reached court, with most resulting instead in re-education or administrative sanctions of around US\$840;³⁹
- once filed, cases can be obstructed. In Kenya, 70 per cent of registered case files were reported missing or misplaced in the courts⁴⁰ and in Cameroon an NGO reported that bribing attempts were documented in more than 85 per cent of its field operations and 80 per cent of all court cases within the legal system;⁴¹
- progression in the court can be hampered by lack of resources. In Tanzania, a shortage of judges is compounded by an apparent lack of political will to prioritise major ivory cases. Yu Bo is the only conviction from 13 major ivory cases involving seized ivory representing nearly 4,000 dead elephants. Some of these cases date back to 2009;⁴²
- many countries have low conviction rates for wildlife crime. A 2015 study found a success rate in prosecutions under the Wild Life (Protection) Act

BELOW:

A repeat offender operating in a persistent crime hub displays illegal Asian big cat skins for sale. Criminal justice responses to wildlife crime need to disrupt and deter offenders.



(1972) in the state of Maharashtra, India, of less than 12 per cent of cases, which compares unfavourably to the higher 38.5 per cent success rate for all offences under the Indian Penal Code. The study noted several obstructions to success – lack of independent witnesses resulting in acquittals for a large number of cases, use of incorrect provisions of the Wild Life (Protection) Act (1972) and a lack of sentencing against the mandatory minimum punishment prescribed by the Act;⁴³

- in Vietnam, while cases involving tiger, rhino and ivory have resulted in convictions, the outcomes are usually suspended sentences, probation and fines. Furthermore, prosecutions have focused on lower-level criminals such as hunters, drivers, middlemen and fixers, as opposed to major criminal figures in known networks.⁴⁴

There are myriad challenges at every stage in the criminal justice process which require different responses. Tools such as the ICCWC Wildlife and Forest Crime Analytic Toolkit⁴⁵ can help governments identify gaps so appropriate solutions can be designed.

STIMULATING DEMAND: PARALLEL LEGAL AND ILLEGAL MARKETS

The London Declaration renounces the use of products from species threatened with extinction except for the purposes of bona fide scientific research, law enforcement, public education and other non-commercial purposes in line with national approaches and legislation. Yet some domestic laws run contrary to the preservation of threatened species and are instead pivotal to stimulating demand, providing loopholes for abuse and the laundering of illegal products.

In Laos, despite tigers, elephant and rhinos receiving protection under the Wildlife and Aquatic Law (2007), the possession and trade of second and subsequent generation captive species is authorised under the same Act,⁵² which presents clear opportunities for laundering.

In China, while the Constitution clearly stipulates wildlife protection, the Law of the People's Republic of China on the Protection of Wildlife (1989) allows for the utilisation and sale of wildlife

A CONCERTED, PROACTIVE MULTI-AGENCY PRIORITISATION OF WILDLIFE CRIME CAN REAP TANGIBLE BENEFITS.

Proactive investigations aimed at gathering evidence against a range of legislations are the foundation for robust prosecution.

In an example of positive results achieved through dedicated resources, USA's Operation Crash on rhino and ivory crime, coordinated by the US Fish and Wildlife Service and the US Department of Justice, is supported by full-time officers and field agents cooperating with a range of domestic and international agencies. So far, Operation Crash has reported more than 12 convictions with more than 24 arrests; in pending investigations, charges include violations of the Endangered Species Act and the Lacey Act, as well as a range of other legislation comprising conspiracy, smuggling, money-laundering, mail fraud, tax evasion and making false documents.⁴⁶



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In 2014, under the auspices of Operation Crash, US authorities indicted brothers Dawie and Janneman Groenewald on 18 counts related to conspiracy, US Lacey Act violations, mail fraud, money-laundering and structuring bank deposits to avoid federal reporting requirements.⁴⁷ In his native South Africa, Dawie Groenewald is a notorious game farmer who currently faces 1,872 charges including racketeering, the illegal trade in rhino horns, fraud, corruption, assault and the illegal possession of firearms.⁴⁸ He is alleged to have sold at least 384 rhino horns over a four-year period⁴⁹ in a case which has been postponed several times and is now expected to be heard in August 2015.⁵⁰

In 2014, Operation Cobra II - an international effort between Africa, Asia and North America - resulted in over 400 arrests;⁵¹ however, participating countries should be encouraged to report on the prosecution status of the cases identified.

products, such as elephant ivory and captive-bred species, including species at risk of extinction.⁵³ This legal system stimulates demand and poaching; for example, in the case of elephant ivory EIA's investigations in China in 2010 and 2013 found traders believed 90 per cent of ivory on sale was from illegal sources and documented how the price of black market ivory undercuts that of legal ivory gained via the 2008 CITES sale.⁵⁴

Pangolins also fall under China's wildlife utilisation scheme and between 2008-13 the Government of China issued quotas of over 108 tonnes of pangolin scales, ostensibly from legal stockpiles, to designated hospitals and manufacturers of medicine for clinical and medicinal use.⁵⁵ China reported on this scheme in 2014 but only in reference to the scales of one pangolin species and without any detail of measures to prevent the laundering of scales from poached



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ABOVE: Parallel legal markets such as China's legal domestic trade in ivory stimulate demand and provide the opportunity to launder illegal products.



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ABOVE:

A combination of weak laws, poor enforcement and official complicity allows illegal wildlife trade to flourish in the Golden Triangle Special Economic Zone in Lao PDR, including open trade in stuffed tigers smuggled from China.

pangolins.⁵⁶ Pangolin scales are also demanded by the carving industry. In 2014, devastating trafficking came to light when Hong Kong Customs seized 3.3 tonnes of pangolin scales arriving from Africa in related shipments⁵⁷ indicative of organised criminals controlling the trade.

China's wildlife utilisation scheme also permits the legal trade of tiger skins from captive-bred tigers which are used for commercial purposes to serve the luxury taxidermy industry and private buyers. In 2012, one company, Xia Feng in Anhui Province, was documented fraudulently using the legal permitting system to falsify the real origin of one of its tiger skin rugs and also sought to sell the bones and meat of a tiger.⁵⁸ In a clear-cut case of a suspected criminal benefitting from a legal Government scheme, over a four-year period (2010-14), Xia Feng received Provincial Government approval to produce taxidermies using 40 zoo tigers, and in January 2014 alone it was approved to source 10 zoo tiger carcasses.⁵⁹

Wildlife utilisation business interests and a lack of implementation of commitments to CITES to phase out tiger 'farms' means China's captive-source tiger population numbers more than 5,000 tigers⁶⁰ and there are more than 1,400 in facilities in Thailand, Laos and Vietnam.⁶¹ Contrary to the will of the international community in 2007

that tigers should not be bred for their parts and products,⁶² eight years on there is no independent evidence that such facilities are being scaled down. During 2014, a third of the 61 tigers intercepted in trade appeared to be connected with (laundered through or from) captive sources, with the remaining majority of the trade from wild sources.⁶³ Clearly, captive tiger trade has not stopped the trade in Asian big cats and has in fact stimulated demand for such specimens.

Despite the availability of skins from captive sources in China under the legal scheme, wild tigers and other Asian big cats continue to be poached.⁶⁴ In February 2012, as part of investigations into illegal gold operations, police from Jinghua and Hangzhou in eastern China uncovered a cache of five snow leopard skins, two tiger skins and one leopard skin. The supplier of the skins was found to be a businessman named Shentu, also a bear farm owner and member of the Chinese People's Political Consultative Conference, a political advisory body. Police uncovered records of Shentu's business transactions which detailed how he had procured the skins from Gansu Province, a well-established trading hub for wild Asian big cat skins sourced from India.⁶⁵ In late 2014, Chinese media reported that Shentu had been sentenced to 11 years in prison.⁶⁶ It is not known if any efforts are being made to analyse the skins to determine the source.

A PROFESSIONAL APPROACH TO COMBATING WILDLIFE CRIME

In recognising wildlife crime as a serious crime, the London Declaration encourages the use of investigative techniques and tools used in other types of organised crime.

There are some promising examples which show that agencies are responding appropriately to organised wildlife crime. However, the use of such techniques, even simple measures, is by no means ubiquitous, which means huge opportunities to secure evidence and effectively disrupt networks of criminals are still being missed.

Port detection and controlled deliveries

Simple measures to detect crime at ports of entry and exit can yield quick rewards; in late 2014, detection dogs in OR Tambo Airport, South Africa, identified rhino horns in luggage prior to exiting the country.⁶⁹

To secure evidence along the trafficking chain and across countries, a controlled delivery allows an illegal consignment to continue on its course while under surveillance by cooperating law enforcement authorities. Both the UN Convention Against Corruption and the UN Convention Against Transnational Organised Crime encourage the appropriate application of controlled deliveries.⁷⁰

The technique was used in South Africa over 15 years ago to track consignments of abalone,⁷¹ a large marine mollusc prized for its meat and shell, and traded in a highly organised manner. More recently, the EU has conducted controlled deliveries of pangolin in cooperation with authorities in Hong Kong, resulting in the convictions of at least four individuals.⁷²

Yet despite vast potential, controlled deliveries are underused – including in specially coordinated international wildlife crime operations where countries seem unwilling or unable to apply them. The use of controlled deliveries would demonstrate commitment to both fighting organised wildlife crime with an appropriate response and to international cooperation, a necessary component of its successful use.

Financial investigations

Agencies and officers with anti-corruption, anti-fraud and anti money-laundering mandates and skills should be involved in investigating wildlife crime networks to gather evidence and prosecute under laws additional to wildlife legislation, some of which can carry harsher sentences.⁷³

The legislative framework is essential and without it the capacity to undertake such investigations is restricted. For example, Laos' anti-money laundering framework is limited to a decree, which has not yet generated significant investigations.⁷⁴ Needs assessments through tools such as the ICCWC Wildlife and Forest Crime Analytic Toolkit⁷⁵ can help countries identify such gaps and take actions to remedy matters.

“Wildlife legislation should...be supported by anti-money laundering and asset forfeiture legislation when offenders targeting wildlife are members of organized crime groups.”

- CITES Secretariat, 2013



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THE SPREAD OF TIGER “FARMING”

The Golden Triangle Special Economic Zone (GT SEZ) in north-western Laos has a Chinatown where visitors have free rein to buy openly displayed tiger skins, tiger bone wine and other wildlife items. The keeper at the on-site tiger zoo is a self-described “tiger butcher” who claims to have previously worked in Chinese tiger farms exposed for tiger trade.

Describing the vast profits to be made from tiger bone wine production, the keeper explained that a former GT SEZ employee is now setting up a tiger bone wine business of his own in Laos.⁶⁷ The Chinese tiger farming model of trade is being replicated elsewhere, encouraged by the lack of implementation of the CITES Decision that tigers should not be bred for trade in their parts and products. At a recent Zero Poaching Symposium in Nepal, the Secretary General of the Global Tiger Forum called for zero demand to support zero poaching.⁶⁸

In May 2014, it was reported that Thailand's Anti-Money Laundering Office (AMLO) had confiscated over THB¥1 billion (US\$36.5 million)⁷⁶ along with cars and luxury goods⁷⁷ from a long-standing syndicate linked to the trafficking of tigers, pangolins and rosewood. The network includes Kampanart "Sia Tang" Chaiyamart, who was arrested following a checkpoint inspection in possession of THB¥4.6 million cash (US\$140,000) with which he intended to buy protected rosewood. Financial investigations into connected bank accounts found that more than THB¥1.18 billion had been paid in over a three-year period.⁷⁸ Some of the seized money was found at the Chaiyaphum Star Tiger Zoo,⁷⁹ owned by Sia Tang's sister Daoreung Chaimas, considered to be one of South-East Asia's biggest tiger traders. Daoreung has previously come under the spotlight for laundering tigers but has never been prosecuted.⁸⁰ The financial investigations have not merely focused upon one species traded but enabled a complex inquiry into the diverse network and its members' activities. At the time of writing, the investigations continue.

The International Consortium on Combating Wildlife Crime (ICWC), a collaboration of five inter-governmental and international enforcement bodies, has recognised the importance of this issue and intends to develop a manual for prosecutors and investigators dealing with the proceeds of crime in wildlife and timber cases.⁸¹

Gathering forensics evidence to secure convictions

In September 2014, a South African court convicted Chinese national Cheng Jie Lang for possession of elephant ivory and abalone. Cheng had been resident in South Africa for over a decade and like many wildlife criminals was a repeat offender, having been convicted and fined for abalone possession in 2004.⁸² He had been arrested in 2012 in connection with more than 3,000 ivory items stored at a facility in Table View, Cape Town.⁸³ Some of the ivory was fresh and bore bloodstains, some had been processed. Considered a flight risk, Cheng was denied bail,⁸⁴ typically an avenue for wildlife criminals to disappear. Fingerprint evidence had been taken at the seizure scene, a basic procedure in other crime types but woefully underused in ivory consignment cases. The findings were presented in court: the fingerprints tied Cheng to the tusks, enabling a guilty verdict. He was sentenced to 10 years' imprisonment with a fine equivalent to US\$426,000 with an additional two years for the abalone.⁸⁵ The crime scene investigation and evidence produced during prosecution resulted in a sentence that reflected the serious nature of the crime and should be applauded, although Cheng did not act alone.

This type of evidence-gathering should be standard practice; for example, following the interception of large ivory

BELOW:

Red sandalwood is a rare tree species with a restricted range in India, trafficked in huge quantities for use in luxury reproduction furniture, dye, traditional medicine and carvings. It is carved by the same industry in China which processes elephant and helmeted hornbill ivory.



consignments, where all too often criminal evidence is contaminated in preference for media coverage featuring officers holding seized tusks. In 2015, scientists in Dundee, UK, revealed how fingerprint evidence could also be gathered from bird feathers and eggs,⁸⁶ opening new possibilities for detecting raptor persecution,⁸⁷ one of the UK's priority wildlife crimes.

In another effective use of forensics, 2015 saw authorities in Canada secure a conviction and fines against an auction house and its director when tusks claimed to be "antique" were radiocarbon-dated and found to be from elephants killed in 1977 and 1978, an offence under federal wildlife legislation. This was the first time such technology had been used to obtain a conviction under wildlife law in Canada and shows the potential for applying forensic evidence.⁸⁸

DNA analysis can determine the origin of elephant ivory and help to locate poaching sites. In 2013, CITES directed Parties to conduct DNA analysis on ivory from seizures of over 500kg in weight.⁸⁹ While DNA analysis has been conducted for some ivory seizures (such as in Hong Kong, Malawi, the Philippines, Sri Lanka), the CITES Secretariat reported in July 2014 that not all CITES Parties that have made large-scale ivory seizures are currently implementing this requirement.⁹⁰ This impedes efforts to examine the chain of crime and countries should participate in such analyses as a matter of course.

Interagency and international cooperation

Wildlife criminals operate across state and national borders, and can deal in multiple species across multiple crime types. While this may seem challenging, it means that real results are possible through domestic and international cooperation, as encouraged by the London Declaration.

Two recent cases show how cooperation has led to the arrests of significant suspects and it is hoped the authorities will achieve the best possible outcomes in both cases.

Domestic cooperation:

Late 2014 saw India's Coastguard and Directorate of Revenue Intelligence (DRI) cooperate in the seizure of 23 tonnes of red sandalwood, a high-value timber species found only in India.



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Investigations led to the man alleged to have arranged the deal, Mohammad Ali Akbar Shaikh, who was arrested by Mumbai Crime Branch. Ali reportedly has 16 criminal offences registered against him during the period 1989 to 2010, including murder; these are related to the Arms Act, Explosives Act, Representation of the People Act, cheating and diesel theft cases.^{91a} The Mumbai Police are reportedly considering the application of the Maharashtra Control of Organised Crime Act (MCOCA) in the murder case^{91b} which had previously been used against prolific Asian big cat trader Sansar Chand.

International cooperation:

In 2014, over two tonnes of ivory (equivalent to at least 321 dead elephants⁹²) was seized from a warehouse in Mombasa, Kenya, prior

ABOVE:

Crime scene investigation and forensic evidence-gathering enables robust prosecutions and determines the origin of wildlife.

to export. In a sign of preparedness, suspects at the scene reportedly attempted to bribe arresting officers with cash equivalent to US\$22,000.⁹³ In the aftermath of the seizure, Kenyan national Feisel Mohammed Ali, who had been identified as the coordinator of the regional trafficking operation, fled the country to Tanzania. INTERPOL's global Red Notice system was used to alert countries to his status as an international fugitive; he was targeted under Operation Infra Terra which aims to locate and arrest serious long-term international fugitives.⁹⁴

In December 2014, a joint operation between Kenyan and Tanzanian authorities arrested Ali in Tanzania's capital Dar es Salaam and he was quickly extradited to Kenya to face charges.^{95a} The operation involved effective cooperation across countries, yet in March 2015 Ali was reportedly granted bail on medical grounds on a KES10 million bond (US\$110,000).^{95b}

The process which resulted in the arrest shows how countries can make use of existing methods of communication, cooperation and mutual legal assistance to apprehend criminals.

AUDITING AND DESTROYING STOCKPILES

The London Declaration encourages the destruction of wildlife stockpiles. Stockpiles can be targets for theft, as recognised by CITES, and can contribute further to illegal trade and wildlife crime.⁹⁶ This was starkly demonstrated in November 2014 with the alleged loss of 1,335kg ivory from Uganda's strong room.⁹⁷

In June 2013, a previous victim of stockroom theft, the Philippines,⁹⁸ was the first Asian country to destroy its remaining ivory stockpiles. This was followed by destructions in the USA and China. In 2014, France and Chad destroyed their stockpiles,⁹⁹ Hong Kong initiated a phased destruction which is due to be completed by mid-2015¹⁰⁰ and Gabon's National Ivory Action Plan 2015-16 commits to conducting a full inventory and destruction of its stocks.^{101a} Kenya has announced that it will destroy all stockpiles of ivory in its custody.^{101b}

Yet frequently the processes around the management and control of stockpiles

BELOW:

Stockpiles can be targets for theft and further contribute to illegal trade and wildlife crime. Parties should conduct inventories and destroy stockpiles which are no longer required for prosecution.



are opaque. In 2013, a CITES Decision directed Parties to report annually on their ivory stocks, including the provision of reasons for any significant changes in the stockpile against the preceding year. Very few reports have been submitted, showing a lack of compliance with this Decision and those that have are not publicly available.

Similarly, a 2012 CITES request to Parties for information on stockpiles of captive-bred and confiscated tiger body parts and derivatives¹⁰² went unheeded and a new notification now instructs Parties to report by August 2015. Countries should report in full to CITES on the implementation of Resolutions, Decisions and recommendations related to stockpiles.

DRIVERS OF WILDLIFE CRIME: CORRUPTION AND CORPORATE GIFTING

The London Declaration recognises the relationship between illegal wildlife trade and corruption and urges countries to adopt a zero tolerance policy on corruption. The cases cited above contain laudable examples where officers have refused bribes and instead conducted arrests.

Corruption has a close relationship with wildlife crime. Corruption not only enables consignments of contraband to travel thousands of miles to end markets but traders have also consistently stated that wildlife products are demanded as non-financial bribes.¹⁰³ Recent cases in China show:

- in a major case in 2013, a former Secretary General of the Jiangxi provincial government was given the death penalty for various bribes, including cash, properties, one tiger skin and high value rosewood furniture, with total worth at RMB47.3 million (US\$7.5 million) during his current and former tenure at a city government;¹⁰⁴
- in 2013, Qinghai Province People's High Court passed a verdict in a fraud case in which a retired former employee of the Department of National Land Resource accepted bribes in exchange for land exploitation rights. The bribes included cash and an endangered snow leopard skin valued at over RMB5 million (US\$800,000);¹⁰⁵



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- in 2014, China's Shanghai No 1 Intermediate People's Court found the former deputy director of Songjiang District, Shanghai, guilty of taking bribes equivalent to US\$307,500 in cash, gold and ivory and gave him 10 years' imprisonment.¹⁰⁶

ABOVE:

Elephant ivory and other wildlife products such as Asian big cat skins and rosewood furniture are demanded for non-financial bribes.

Yet in other instances the influence of politically connected suspects affects prosecution. In 2012, Chinese local government appeared to intervene in the trial of a businessman and member of the Chinese People's Political Consultative Committee involved in buying and trafficking ivory, requesting a more lenient punishment.¹⁰⁷

MEASURING REAL CHANGE

During the 54th Standing Committee meeting to CITES in 2006, the US Government suggested that a new set of parameters was required to measure progress with CITES implementation.¹⁰⁸ On several occasions since, EIA and colleagues have recommended that CITES Parties consider reporting against indicators of effective enforcement so that evidence of a professional law enforcement approach can be demonstrated.¹⁰⁹ The CITES Secretariat is currently considering such indicators on behalf of ICCWC¹¹⁰ and the CITES Special Reporting Requirements Working Group is looking at how to incorporate indicators into the mandatory CITES Annual and Triennial/ Implementation reports and the need for parameters to measure progress of implementation of actions as related to Asian big cats and other species.

As Parties to CITES and UNTOC, and signatories to the London Declaration, governments have declared their commitment to ending illegal wildlife trade and combating transnational organised wildlife crime. The international community needs to be able to measure and demonstrate progress in turning these words into action. Regarding law enforcement and the criminal justice response to wildlife crime, the following are examples of benchmarks that countries should be working towards. Using evidence and examples of best practice, governments should be able to demonstrate they are proactively pursuing an intelligence-led approach, from the front line to the courts. Progress can be reported to CITES, UNTOC, future Illegal Wildlife Trade meetings or the UN General Assembly itself.

Structure and capacity	Information and intelligence management	Crime analysis	Identifying offences and investigation	Operations	Criminal justice
Establishment of functional multi-agency enforcement bodies (units, taskforces, networks) including police, Customs, wildlife/forest crime authorities and other agencies	National centralised database(s) for recording and disseminating records of crime and intelligence amongst relevant national and international agencies	Analysis of all reported crimes for connections to existing suspects / networks / previous crimes and against indicators of organised crime (see indicators below this table)	Improvement of institutional capacity to identify wildlife crime and apply other laws to wildlife offences	Deployment of enforcement in areas of criminality as identified through regular analysis	Application of a variety of laws including proceeds of crime, money laundering, anti-corruption legislation
Amendment of national legislation to ensure that it is in accordance with UNTOC and enables the sharing of information and intelligence as appropriate; the use of specialised investigative techniques; and the application of proceeds of crime, money laundering and anti-corruption legislation to wildlife crime	Regular use of existing information-sharing mechanisms as appropriate to submit actionable information and to transfer nominal information	Development of suspect profiles and use of criminal network analysis	Investigate all reported crimes for further action	Seizures of property relating to crime, including specimens, weapons, vehicles and financial assets	Report on status and outcomes of wildlife crime cases (e.g. no action, warning, fine, pending in court, conviction, sentence, acquittal)
Establishment of national public reporting hotlines for crime and corruption as well as the reporting of cases reported vs. pursued	Use of international Notice / Alerts systems, e.g. INTERPOL Red Notice for international fugitives	Development of prolific and priority offender lists for targeted interventions (operational and preventative measures)	Record results of all reported crimes including instances where no further action is taken		Report on number of crime and corruption cases registered against officials and case outcomes
Wildlife crime appears in national organised crime strategies, on the curriculum of police and Customs academies and in the portfolio of anti-money laundering and anti-corruption units	Use of informants, governed by standard operating procedures	Post-operational assessments to analyse impact of activities and identify best practice	Report method and rate of crime detections (meaning "cleared up" crimes as a proportion of all crimes recorded)		Crime prevention activities such as publicising convictions and penalties Regular assessment of the criminal justice response in order to identify gaps and establish whether crime has been deterred
Implementation of the ICCWC Toolkit, including the implementation of resultant recommendations and the development of a prevention and response strategy for wildlife offences		Use of risk assessments to identify suspect shipments/consignments	Use of forensic services including DNA analysis, and access for all relevant agencies		Sentencing guidelines are developed and implemented
Increase the number and expertise of individuals working in enforcement and prosecution services dealing with wildlife crime			Use of financial investigations under money laundering / proceeds of crime legislation or other relevant legislation		
			Use of controlled deliveries		
			Multi-agency collaboration on operations and investigations and across jurisdictions		
			Initiation and participation in international operations (bilateral and multilateral)		

Indicators of organised wildlife crime. CITES Secretariat, 2005, Presentation to the "Silk Road CITES Implementation and Enforcement Seminar": Organised structure to poaching; use of gangs, supply of vehicles, weapons and ammunition; exploitation of local communities; provision of high-quality lawyers; corruption of judicial process; violence towards law enforcement personnel; exploitation of civil unrest; financial investment in 'start-up' and technology needed for processing and marketing; 'invulnerability' displayed by those involved; sophistication of smuggling techniques and routes; use of 'mules' and couriers; payments to organised crime groups; use of persons of high political or social status; sophisticated forgery and counterfeiting of documents; use of sexual bribes or blackmail and other corruption of officials; use of fake or 'front' companies; fraudulent advertising of wildlife and widespread use of the Internet; previous convictions for other types of crime; organised crime group members use or ownership of wildlife; huge profits

CONCLUSION AND RECOMMENDATIONS

Following a year of continued poaching and trafficking, and building upon decades of international commitments and promises, it is time to take urgent action to reverse the high profit/low risk dynamic of wildlife crime. Lessons from cases where wildlife crime has been targeted effectively should be applied further and more widely, and success should be evidenced by the use of specialist investigation techniques, increased prosecution success rates, cooperation to identify and disrupt criminal networks and reduction in demand.

RECOMMENDATIONS TO GOVERNMENTS TO COMBAT ORGANISED WILDLIFE CRIME:

Facilitate a more effective response to wildlife crime:

- use the ICCWC Wildlife and Forest Crime Analytic Toolkit to identify gaps, obstacles and needs and develop a time-bound action plan.

Strengthen legal frameworks:

- adopt and implement relevant legislation to treat wildlife crime as serious crime, enable the seizure of assets and use of specialist investigation methods;
- make wildlife offences predicate offences under anti-money laundering provisions;
- explore the scope for a special protocol on wildlife crime under UNTOC;
- criminalise corruption offences that facilitate wildlife crime.

Enable a better-resourced criminal justice system:

- include wildlife crime on the curricula of all law enforcement and judicial academies;
- develop sentencing guidelines/criteria for greater consistency in sentencing;
- increase and use forensic evidence-gathering capabilities to determine origin of wildlife and to gather crime scene evidence.

Institutionalise proactive enforcement:

- establish national databases for recording, analysing and disseminating crime and intelligence reports, and target priority offenders;
- use and strengthen existing cooperation and communication mechanisms, such as INTERPOL, WCO and multilateral wildlife enforcement networks.

Work towards zero demand:

- close down parallel legal domestic markets for protected species, e.g. tiger, elephant, pangolin;
- conduct targeted behavior-change campaigns;
- as a matter of course, destroy stockpiles of all seized wildlife specimens no longer required for prosecution as well as those of captive-bred tiger parts and legally held ivory stockpiles.

Ensure transparency and accountability:

- encourage donor agencies to make anti-corruption and civil oversight measures core components in all funded programmes;
- report on progress in combating wildlife crime against agreed parameters.



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