

CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES
OF WILD FAUNA AND FLORA



Fifty-seventh meeting of the Standing Committee
Geneva (Switzerland), 14-18 July 2008

TIGER TRADE ENFORCEMENT MEETING/WORKSHOP

The attached document from the Global Tiger Forum is provided by the Secretariat.

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PREAMBLE:

Wildlife trade enforcement, especially in the international level, is the responsibility of CITES. CITES Secretariat has also got competent former police officers working in enforcement wing and are aware of existing situation and improvements that are required to cater to the emerging scenario. However, based on field experience, some observations are made for taking cognizance for discussion in the trade enforcement meeting and workshop.

1. Sociological aspect of wildlife crime:

Wildlife crimes are committed only by a limited segments of the society. It is only few communities other than illegal traders and mafias, that really are involved in the commission of wildlife crimes. Countries, therefore, should undertake proper studies to identify such communities and analyze the reasons for committing such crimes by them and take proper steps to find out alternatives/better ways of encouraging them to shift to other acceptable occupation. Countries which have already undertaken such studies should provide a list of such communities primarily involved in wildlife crimes, steps taken to wean them from such activities with the results thereof.

2. Analysis of relevant legislations with the nature and effectiveness of implementation:

Perusal of legal provisions available with Global Tiger Forum (GTF) Secretariat, indicate that the provision for imprisonment in tiger related cases varies from a maximum of one year to death penalty. The average being approximately five years. There are countries where there is nothing specified about imprisonment. Similarly, maximum fine provided in the law varies from US\$25 to about US\$40,000 per case. There are very few countries where minimum mandatory imprisonment or minimum mandatory fines are prescribed. Thus it is entirely left to the discretion of the presiding officer to decide the level of imprisonment or fine. It is thus suggested that all countries should prescribe a minimum mandatory fine and a minimum mandatory imprisonment for tiger related cases, when the cases are proved. There are examples where the offenders have been released with insignificant amount of fine, with no imprisonment even after the cases have been proved and conviction awarded. This is all the more important considering that detection of wildlife cases are difficult and even after detection, the percentage rate of conviction is extremely low.

3. Investigation of wildlife crime cases:

One of the reasons for low conviction in wildlife crime cases is the inadequate knowledge of the prosecution staff about the basic process of law, like crime scene documentation, recording and preservation of evidence, detailed enquiry/investigation of cases to build up proper case history and support of proper legal cell to deal with the cases in the court of law. It is therefore required that all enforcement staff should be trained on these subjects and legal cell be established in the district, state and national level to deal with the situation.

4. Role of intelligence gathering in wildlife crime cases:

Very few tiger range countries have got efficient intelligent gathering mechanism to get advance information on wildlife crimes. Either the countries do not have proper scheme for rewards to informers or adequate and efficient mechanism for quick rewarding of the informers. In other countries, such rewards are dealt with in open manner, exposing the informers to the risk of life from the offenders and organized

smugglers and mafias. In some cases, such rewards can be given only after the case is convicted in the court after years, which become a disincentive to the informers. It is therefore necessary that all countries must have provisions for "secret service fund" and the rewards should be de-linked from the actual conviction in the court.

5. Forensic science support:

While identification of a whole animal involved in poaching and illegal trade cases is comparatively easy, but when it relates to parts and products of an animal, identification of such parts and products often become a matter of dispute, leading to discharge of cases. It is therefore necessary that all countries must have proper forensic laboratory for scientific identification of parts and products of animals and suitable reference materials are developed for use by enforcement staff in the field for easy identification of wildlife parts and products including substantiation of the same in the court of law.

6. Establishment of Wildlife Crime Control Bureau:

Since the money involved in the illegal trade of wildlife is very high, most of the countries have got organized syndicate efficient in avoiding detection and when apprehended, avoiding punishment in the court, with a battery of legal luminaries supporting their cases. Combating such organized poachers and international smuggling syndicate is beyond the capacity of local level forest and wildlife staff. It is therefore necessary that all countries must have atleast in the district, state and national level, multi-disciplinary enforcement setups for control of organized wildlife crimes, for proper investigation of such important cases, processing the prosecution report for submission to the court and defend the cases at the time of hearing. This will not only lead to higher percentage of conviction, but also higher degree of punishment within the available legal provisions. The Bureau should also analyze important cases in order to devise future effective steps for control.

7. Compilation of important case studies and court rulings regarding wildlife crime cases:

Better conviction of cases or higher degree of punishment, within the provisions of law can often be achieved, by citing reference to arguments made in other cases and best court rulings available for similar cases. Very often, the local staff or even the local prosecution teams including local lawyers, are unaware of such case studies and court rulings. It is therefore necessary that all countries should have a compendium of important wildlife crime case studies and court rulings, to help the prosecution staff and lawyers to get quicker and higher degree of punishment. In fact, in some countries this has been prepared with the help of NGOs and that is helping in efficient prosecution.

8. Modus Operandi in common wildlife crimes, documentation of important illegal wildlife trade routes and markets:

Due to historic, geographic and social reasons, all countries have got some areas where illegal marketing of wildlife is frequent, with identified wildlife trade routes and specific groups habitually involved in wildlife crimes. All countries should take up proper study on this, document the illegal wildlife trade markets, trade routes including the seasons of trade and species in trade. The list of names and the locations of habitually involved poachers and smugglers should also be prepared. This should be kept as secret document to be available for use by the law enforcement staff only.

9. Use of fire-arms for self defense and discharge of duties:

The enforcement staff are often supplied with fire-arms for efficient discharge of their duties or for using them in self-defense. The Arms Acts of the countries require certain specific criteria to be satisfied for using of fire-arms in self defense or efficient discharge of duties. Very often the field level staff are not aware of these requirements and procedure and detailed steps to be followed after use of fire-arms in self defense or

for discharge of duties, leading to their arrest, subsequent harassment and even punishment. It is therefore necessary that all countries should train the enforcement staff about the requirements of using fire-arms as well as the procedure to be followed, to defend legally the cases of use of fire-arms. Further, in some countries while there are some immunity given to police and para-military staff for use of fire-arms in self defense or for proper discharge of duties, but such legal provisions are not extended to forest and wildlife staff. This issue is required to be addressed to boost the morale of field staff.

10. Prevention and control strategy:

While vehicles are essential for mobility, but key to protection of wildlife lies in silent foot/elephant/horse patrolling and time spent by field staff in forest. Therefore, all staff posted in wildlife areas must be provided with graded rotating schedules of foot patrolling for the fringe and interior forest areas including night patrolling in irregular cycle, depending upon the level of functionaries, to ensure protection to wildlife round the clock. They should be provided with proper arms and equipments (like wireless, night vision equipments, field kits etc) for efficient patrolling. For sensitive areas, organized patrolling by mobile patrol parties/strike force should also be pressed into service. All cases are to be properly documented and analyzed, with prompt reporting to appropriate quarters and followed up to end in early conviction.

It is also necessary to utilize all available international legal instruments and protocols to combat environmental crimes, such as the United Nations Convention Against Trans-National organized Crimes (UNCTOC), the United Nations Convention Against corruption (UNCAC), and UN Commission on Crime Prevention and Criminal Justice (CCPCJ).

Commission a detailed assessment of the links between environmental crimes and other forms of serious organized crimes and conduct an analysis thereof to establish that combating illegal wildlife crime will have beneficial effects on combating other forms of crimes.

It is also necessary to set up bench marks for effective enforcement for comparing the performance output of the earlier decisions made with respect to enforcement related to wildlife crime including tiger in various international conventions.

There is a need to secure adequate political commitment, financial investment and infrastructural support for smooth implementation of various enforcement related recommendations and decisions.

Participants to the workshop should include senior enforcement officials, decision makers, representatives from inter-governmental bodies, international NGOs with specialists dealing with wildlife crimes like intelligence analysts, forensic experts, key national NGOs, potential donor agencies and state parties. While some of the issues could be discussed in open session, but issues requiring secrecy may be discussed in closed door sessions.