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# Illegal Trade and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

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## 2.1 Background

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Since time immemorial, that most dangerous of species, *Homo sapiens*, has used animals and plants to his own ends. He has fed upon them, clothed himself with their skins, and treated himself with their medicinal properties. Throughout the centuries of man's existence, this exploitation of wild fauna and flora has, in essence, probably changed little.

It was not until perhaps the 1800s that man began to reflect on the ways that he used the species with which he shares Earth. Even then, many of the first pieces of legislation adopted by "developed" nations tended to concentrate on animal welfare issues and were designed simply to punish acts of cruelty. Initial international discussion on what we might now regard as conservation often centred on the colonial powers' anxieties that the hunting of "big game" in African range states was threatened by overexploitation. Many people would argue that, even today, we still place too much emphasis on what has come to be known as "megafauna," that is, elephants, rhinoceros, large cats, etc.

Whilst a number of international treaties were drafted, and some even ratified, most environmentalists agree that it was with the signing of

a draft convention by 21 countries, in Washington, DC, on 3 March 1973 that the first effective steps in regulating wildlife use truly began at a global level. Although still known in some parts of the world as the Washington Convention, what entered into force on 1 July 1975 is more properly called the Convention on International Trade in Endangered Species of Wild Fauna and Flora. It is commonly known by its acronym of CITES.

CITES is widely regarded as one of the most successful of all conservation treaties. The mere fact that it now has 172 signatory states (known as parties) illustrates the manner in which it has grown and continues to be viewed as relevant. “Producer” countries appreciate that the import controls of CITES, as well as control at the place of export, offer support to their efforts to combat exploitation of their natural resources by poachers and illicit traders. On the other hand, “consuming” nations welcome the controls that enable their legitimate dealers to obtain supplies at what should be sustainable levels.

There are a number of misconceptions about CITES. Not the least of these, and widespread amongst law enforcement officers, is that a principle aim of CITES is to ban wildlife trade. Whilst it is certainly true that the Convention recognizes, and seeks to address, the dangers of uncontrolled trade, it should rather be viewed as a regulating mechanism for trade. Indeed, it has been noted at meetings of the Convention that “commercial trade may be beneficial to the conservation of species and ecosystems and/or to the development of local people when carried out at levels that are not detrimental to the survival of the species in question.”

A vital element of the Convention is its three appendices. These list the species controlled by CITES and determine the level of control, as follows:

- Species threatened with extinction that are or could be affected by trade (Appendix I)
- Species not necessarily in danger of extinction but which could become so if trade in them were not strictly regulated (Appendix II)
- Species that individual parties to the Convention choose to make subject to regulations and for which the cooperation of other parties is required in controlling trade (Appendix III)

The Convention is implemented by national management and scientific authorities, which are assisted by the CITES Secretariat. It is based in Geneva, Switzerland, and is staffed by a small group of individuals with a range of wildlife-, law-, and trade-related experience. At present, only one staff member is devoted to illegal trade issues. The Secretariat maintains a Web site ([www.cites.org](http://www.cites.org)) that provides detailed information regarding the workings of the Convention. The Web site also contains a directory of national CITES authorities, including law enforcement authorities in many countries.

Several forms of crime are referred to as being the second largest in the world behind drugs, and this is sometimes said of wildlife crimes. The CITES Secretariat makes no such claim. What is not in question, however, is that unregulated or illegal wildlife trade is the second greatest threat to many endangered species in the world, next to habitat destruction.

Illegal trade in wildlife can be big business, and there are many examples of this.

During 2001, the Secretariat examined the trade in caviar leaving one Middle East country. During a 10-month period, this amounted to a wholesale value of more than USD 20 million. The majority of this was determined to have originated from poaching activities in the Caspian Sea and had been “laundered” using genuine CITES re-export documents that were obtained by fraud, threats of violence and corruption of officials.

One “shahtoosh” shawl, made from the wool of a Tibetan antelope (*Pantholops hodgsonii*), can retail at more than USD 20,000.

## 2.2 How Is Illegal International Trade Conducted?

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### Smuggling

- Across a border without a customs or control point
- Across a border by hiding the specimens:
  - In luggage
  - Under clothes
  - Inside vehicles
  - Using boats and planes
  - Inside containers
  - In crates containing dangerous animals (allegedly or not)
- By post (including eggs, parrots, birds of prey, stuffed animals and their skins, live reptiles, ivory, medicines, and plants)
- By changing the appearance of the specimen

### Fraud

- By false declarations
- By bribing officials
- By altering or modifying genuine CITES permits and certificates
- By forging permits, certificates, security stamps, and authorizing officers' signatures

In other words, the illicit trade takes forms that would be immediately recognizable to customs officers as similar or identical to those used for a wide range of other contraband, such as narcotics.

### **2.3 Is Organized Crime Involved?**

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This often-posed question cannot be answered by referring to convictions of leading members of the “Mafia,” but the CITES Secretariat and UN Office on Drugs and Crime have researched this issue. What is very clear is that there are many indicators that demonstrate that organized crime groups or criminal networks are involved in, or linked to, wildlife crimes. These include:

- Organized structure to poaching, including the use of gangs and supplying vehicles, weapons, and ammunition
- Exploitation of local communities
- Provision of high-quality lawyers
- Corruption of judicial process
- Violence towards law enforcement personnel
- Corruption of law enforcement personnel
- Exploitation of civil unrest
- Financial investment in “start-up” and the technology needed for processing and marketing
- “Inviolability” displayed by those involved
- Sophistication of smuggling techniques and routes
- Use of “mules” and couriers in cross-border smuggling
- Payments to organized 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 corruptions of officials
- Use of fake or “front” companies
- Fraudulent advertising of wildlife and widespread use of the Internet
- Previous convictions for other types of crimes
- Organized crime group members’ use or ownership of wildlife
- Huge profits

### **2.4 The Importance of Forensic Science**

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Wildlife crimes are essentially no different from any other form of criminality, and the full range of forensic science expertise and support can potentially be bought to bear from one end of the illicit trade chain to the other. The following are just a few examples of the forms such support may take:

- Ballistics—To link bullets recovered from carcasses, or cartridge cases found at a poaching scene, with firearms subsequently seized from suspects. Similarly, “matching” bullets found at different poaching loci can demonstrate the involvement of repeat offenders and cross-border poaching.
- DNA profiling—Often essential in accurately identifying species parts and derivatives, especially when one is examining the ingredients of a final “product,” such as caviar or traditional medicines. Such profiling is also increasingly used in helping to reveal the geographical origin of a specimen.
- Isotopic profiling—Another technique that has great potential for geographical origin determination.
- Latent fingerprint impressions—Can be useful for obvious instances, such as who handled a weapon, but also of great potential in identifying who handled the packaging used for wildlife smuggling or who handled a fake CITES document.
- Morphology—Given access to appropriate reference collections, this is often the first step in determining what species one is dealing with. This can involve whole specimens, right down to fur and feathers.
- Pathology—A wildlife law enforcement officer investigating the suspected “murder” of an animal needs to know how it died, just as much as his counterpart in human homicides. Therefore, the assistance of forensic veterinary surgeons, experienced in necropsy, is essential.
- Questioned document examination—Can not only determine whether a CITES document is genuine or counterfeit but may also help prove who forged it.
- Toxicology—Knowing what poisoned a rare raptor and subsequently finding the same chemical in a suspect’s possession is important evidence.

## 2.5 Why Isn’t Forensic Science Used More?

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Given its very considerable potential, this is a valid and important question.

The CITES Secretariat has, for many years, had a Memorandum of Understanding with the Clark R. Bavin National Fish and Wildlife Forensics Laboratory ([www.lab.fws.gov](http://www.lab.fws.gov)). Located in Oregon and operated by the U.S. Fish and Wildlife Service, it is one of the very few laboratories in the world that is devoted solely to wildlife crimes. The laboratory has agreed to offer its services free to any party to CITES. Examinations will be conducted without charge, but the costs of the attendance of scientists to give evidence in court may need to be recompensed.

The CITES Secretariat also agreed with the laboratory that it would act as an international repository for ballistic evidence and that parties could submit bullets, cartridge cases, etc., so that cross-border poaching and repeat offending could be easily and rapidly identified.

As it happens, relatively few parties have made use of the general offer of assistance, and hardly any have submitted evidence to the ballistic repository. It seems that there may be a variety of explanations for this.

One probably has to first understand wildlife law enforcement around the world. Historically, especially in those countries that were previously colonies of western nations, wildlife was seen as the property of the rulers, the aristocracy, the military and forestry officer cadres, and the political elite. Wildlife, particularly animals that were targets of sport hunting, was reserved for them. In those days there was little need to deploy well-equipped or intensively trained enforcement staff. Game scouts and forest guards in the savannah of Africa and forests of Asia carried sticks (almost as much as a symbol of office as a weapon) and patrolled “beats,” just as a police constable would then have done. These officials were there to deter and detect those people who might, from time to time, forget their place in society and seek to take their share of nature’s bounty, be that an animal or wood for their fire. They were there to deal with the nuisance element that might spoil a day’s shooting or reduce the number of possible hunting trophies. Alongside their enforcement duties, such staff were heavily engaged in recording population numbers, maintaining roads and tracks, helping control timber harvesting and planting, watching for fires, and fighting those fires when they occurred.

It’s a sorry reflection of the priority given to wildlife law enforcement that a similar situation can be found in many developing countries today, decades, if not centuries, after such enforcement regimes were first established. The majority of wildlife law enforcement in the habitats of endangered species around the world is based upon anti-poaching activities. Consequently, those tasked with enforcement seldom have the “policing” skills necessary to respond to and combat today’s wildlife criminals. They have not received training in interview techniques, intelligence-gathering, giving evidence in court, or the myriad of other basic skills that a police officer must have. Poachers, smugglers, and dealers are likely to be better armed, better equipped, better educated, better paid, and better organized than many wildlife law enforcement officers. Also, because the focus is on anti-poaching work, the majority of enforcers are in the field and few are deployed in the towns, cities, and ports where the trade and smuggling occur.

Times are changing and improvements are taking place. However, forensic science support, or even awareness of it, remains very low on the list of priorities in many parts of the world. If the man or woman at the “sharp end” doesn’t appreciate the significance of what could be important evidence, he

or she is unlikely to collect it, or label and record it in a manner that will be acceptable in court and then send it to an appropriate laboratory or expert.

One also has to consider the situation in many of the countries where illegal harvesting of fauna and flora is taking place. The police there may not have access to forensic support for murders. No scene-of-crime officers attend burglaries in the cities there. Imagine, then, the reaction that a game scout, perhaps one who has attended a CITES training course, is likely to encounter if he returns from the field with his pack full of labeled cartridges and plaster casts of vehicle tracks. If he has knowledgeable and understanding bosses, he might be praised. But then they'll have to identify a laboratory to which they can submit the evidence, and they'll have to find the money to get it there. However, he also probably risks being ridiculed by other (less aware) officers or counterparts in other agencies who will ask, "You want to do what?"

## 2.6 The Future

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Given the above, it is little wonder that one encounters interested and committed, but frustrated, forensic scientists who have devoted hours to developing or adapting techniques for wildlife crimes only to find that hardly anyone seeks out their assistance.

Lack of awareness of forensic science, scientists, and laboratories can be tackled. It probably cannot be addressed quickly, but we'll get there gradually. The major problem seems to be expense. That can range from simply finding the money to send "evidence" from one continent to an appropriate forensic facility on another, to being able to afford the fees that some facilities charge. But, of course, it is also expensive and time consuming for facilities to develop the profiles or reference collections needed for comparative analyses.

Cost isn't just a factor for the developing world, though. Not so many years ago, customs and police in the United Kingdom, for example, thought nothing of submitting potential evidence for forensic examination. This was because there would be an in-force or regional forensic laboratory and the expense was absorbed by the agency's budget. Increasingly, however, forensic services have become independent providers who need to raise their own operating revenues. Consequently, a detective may have to consider much more carefully what should be examined. If this is a consideration in "the West," consider the situation elsewhere.

The developed world must be willing to support law enforcement colleagues elsewhere, and there is considerable need for the provision of training and awareness-raising as well as the subsidizing of forensic examinations. But we'll have to bear in mind the Oregon laboratory's experience, and one suspects that its no-fee offer may be seen by some as simply too good to be true.

From the CITES Secretariat's perspective, we also need greater professionalism from the ground up, so that the law enforcers know what to do and the scientists are appropriately experienced and qualified. The Secretariat has seen many examples of results from researchers, undoubtedly interesting and promising, but where the samples were not collected in an appropriate fashion, no chain-of-custody was maintained, the laboratory did not have the relevant accreditation, and, thus, everything would likely be inadmissible. In their enthusiasm to seek out and provide results, people can fail to distinguish between science and forensic science.

The Secretariat would also welcome greater communication, coordination, and collaboration across the field of wildlife forensic science. There certainly seem to be examples of unnecessary duplication of research taking place, and, in some cases, research time is being devoted to species that seldom enter into illegal trade whilst seriously threatened others might be ignored or receive insufficient attention. Initiatives such as TRACE (the wildlife forensics network) can help promote the above three "Cs" whilst addressing and countering problems.

We don't need a wildlife forensic laboratory in every country. Indeed, we may not need one in each region or on every continent. But we definitely need accessible and accredited centers of excellence, and these seem to be appearing more and more. The wildlife forensic science community certainly appears to wish to work together, and we need to find mechanisms and fora to enable it to do this better.

Foundations, charities, and non-governmental organizations raise and distribute millions of dollars each year for wildlife conservation purposes. Some of this money deserves to be diverted to the provision of forensic science support. As the wildlife forensic science community becomes better coordinated, perhaps through the establishment of some association or formal network, it may be easier to access the funding support that will be needed for a variety of activities.

Equally importantly, the wildlife forensic science community of the future should have greater opportunities to influence political decision-makers and senior law enforcement management so that wildlife crimes receive the attention and priority they deserve. Then, one day, no game scout, forest guard, warden, ranger, or fishery protection officer will hesitate to collect, bag, label, and submit evidence from a poaching scene, smuggling case, or raid on a wildlife dealer's store. The CITES Secretariat eagerly looks forward to that day.