

# The Enforcement Imperative

COMBATING THE ILLEGAL TRADE IN IVORY



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<b>Executive Summary</b>	<b>1</b>
<b>The Illegal Ivory Trade</b>	<b>2</b>
<b>Enforcement Flaws</b>	<b>4</b>
<b>Seizures</b>	<b>8</b>
<b>The Profit Motive: Economics Of Ivory Trade</b>	<b>10</b>
<b>The Enforcement Imperative</b>	<b>11</b>
<b>Recommendations</b>	<b>16</b>
<b>References</b>	<b>17</b>

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The Environmental Investigation Agency (EIA) is an independent, international campaigning organisation committed to investigating and exposing environmental crime. Since 1984, EIA has used pioneering investigative techniques all over the world to expose the impact of environmental crime and to seek lasting solutions. EIA's aims are to:

- Stop illegal trade in endangered species
- Gain lasting protection for species under threat
- Protect the shared environment of man and wildlife.

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**Above: South Luangwa Conservation Society scouts on parade.**

Front cover photo: © Pierre Gleizes/EIA. Back cover photo: © Kantipo.



***There are many problems associated with enforcing meaningful control over the ivory trade.***

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## Executive Summary

The sheer scale of the illegal trade in ivory presents enforcement officers worldwide with an enormous challenge. The sophistication and scope of organised syndicates far outweigh the capacity and resources of many enforcement agencies, particularly in developing countries. Although the number of successful seizures is testament to the dedication and efforts of those working on the frontline, the reality is that these efforts are frequently thwarted by a series of fundamental flaws in enforcement mechanisms.

There are many problems associated with enforcing meaningful control over the ivory trade and circumventing them will be a gradual, but vital, process. The most pressing of these problems is the need to improve communication and cooperation between the various enforcement agencies at both a national and international level. Using existing mechanisms like Interpol more proactively, as well as developing new initiatives such as national task forces, would facilitate better communication and result in improved cooperation.

Other deficiencies include inadequate regulations, insufficient penalties, judicial failure and lack of governance. All of these

need to be addressed at a national level if enforcement agencies are to act with adequate legal authority. Imposing insufficient penalties results in demoralised officers and provides little or no deterrent to criminals. Raising overall awareness of wildlife issues and the seriousness of wildlife crime at judicial and government level is imperative if any of these problems are to be addressed.

Whilst it is impossible to put an exact figure on the amount of ivory being traded illegally every year, it is likely to be worth hundreds of millions of dollars. Elephant populations particularly at risk are those in range states that have little or no resources to combat the activities of poachers and smugglers. Yet the individuals who benefit most from the illegal trade of ivory are those highest up the commodity chain. Removed from any physical risk, they operate with impunity and are directly responsible for the deaths of poachers and enforcement officers. They perpetuate an illegal trade which undermines the efforts of people in the field who are fighting to conserve and protect their natural resources. If the illegal trade in ivory is to be tackled, enforcement measures must be strengthened and implemented as a matter of urgency.

***An excellent opportunity to break a major ivory smuggling ring... has been squandered.***

## The Illegal Ivory Trade

Ivory smuggling is only one component of the illicit global trade in wildlife. Whilst the value of wildlife products on the black market is unknown, a report commissioned for the US Government in 2002 estimated that the worldwide illegal wildlife trade is worth between six and ten billion dollars a year<sup>1</sup>.

The trade in ivory is regulated by the Convention on International Trade in Endangered Species (CITES). The illegal trade in ivory is tracked by the Elephant Trade Information System (ETIS), a CITES endorsed monitoring system which in 2002 reported records of over 7000 illegal ivory seizures made worldwide since 1989: the equivalent of 200 tonnes of ivory<sup>2</sup>. These seizures account for only a fraction of ivory smuggled worldwide and putting a dollar value to them is difficult due to the wide variation of prices along the commodity chain. However, the illegal ivory trade is probably worth hundreds of millions of dollars a year.

Those involved in the trafficking of ivory range from low volume-low value carriers, such as tourists or workers returning home with souvenirs, to high value-high volume smuggling carried out by organised crime syndicates and involving large consignments sent by air freight or shipping container.

## The Singapore Seizure: A Missed Opportunity

Detailed analysis of the facts surrounding a seizure of over six tonnes of ivory in Singapore in June 2002 highlights many of the enforcement flaws that continue to hinder efforts to tackle the illicit trade.

While the actual seizure itself came about through unprecedented cooperation between national enforcement agencies, NGOs, Interpol, the Lusaka Agreement Task Force (LATF) and the CITES Secretariat, the follow-up investigation has been a dismal failure. The contraband ivory had a market value of over US\$11 million. However after two years the only prosecution appears to have been a US\$3000 fine for the Singaporean transshipment agent<sup>1</sup>. An excellent opportunity to break a major ivory smuggling ring and to establish a clear deterrent to those involved in large-scale illegal ivory trading has been squandered.

It is especially galling for the handful of enforcement agents in Zambia and Malawi who cracked the case. Their difficult and dangerous work has not produced satisfactory result and the leaders of the smuggling syndicate have evaded detection. ►



**Right:**  
Part of the six tonnes of ivory seized in Singapore

Lilongwe clearly showed the involvement of individuals in Zambia, Malawi, Singapore, Hong Kong and Japan in smuggling large amounts of ivory since the mid-1990s<sup>2</sup>. Despite this compelling evidence, the international cooperation and judicial procedures needed to follow the case to its conclusion have been insufficient.

In Zambia, where the trail that led to the seizure began, the chief suspect involved in transporting truckloads of illegal ivory into neighbouring Malawi evaded detection for a year. When the authorities eventually caught up with him he was released after an initial interview in Lusaka. A poacher who admitted shooting 58 elephants in the South Luangwa area was caught in 2002. He was given a custodial sentence of five years in 2003, but was released in 2004<sup>3</sup>. Although field information in mid-2003 indicated that the illegal trade in ivory in eastern Zambia had fallen as a result of the Singapore seizure, the latest reports from Luangwa indicate renewed elephant poaching<sup>4</sup>.

In Malawi, where the ivory was gathered for shipment, there have been no prosecutions. A key syndicate member based in the capital of Lilongwe fled before enforcement agencies could locate him. Two other individuals implicated in the crime have been interrogated and released on bail<sup>5</sup>. Moreover, attempts to prosecute them failed due to the court's insistence that all six tonnes of the ivory be returned to Malawi as evidence. Despite legal advice that a sample and a sworn affidavit from the relevant enforcement agencies in Singapore would suffice, there have yet to be any prosecutions<sup>6</sup>.

In Singapore the authorities failed to conduct a thorough investigation of the case. Although the shipping bill for the container stated the consignee as the Singapore-based company Delight Harvest, the authorities accepted the explanation from company executives that the name had been used without their knowledge<sup>7</sup>. Basic analysis of Singapore's register of company information would have revealed that one of the directors had been a founding member of an ivory carving business in Singapore in 1988<sup>8</sup>. Furthermore, while the agent involved in arranging the onward shipment of the container escaped with only a small fine, scrutiny of shipping and business records would have shown his involvement in a company that had received six previous

shipments from the syndicate's operatives in Malawi<sup>9</sup>.

In Japan, the next destination for the ivory, there do not appear to have been any prosecutions to date. Whilst a degree of investigation has been carried out<sup>10</sup>, the progress of the enquiry into the company listed as the recipient for the shipment is unknown. Hong Kong enforcement agencies have similarly failed to track down senior members of the syndicate thought to be Hong Kong nationals or residents<sup>11</sup>.

While the huge haul of ivory attracted many headlines and the seizure itself demonstrated good cooperation between different agencies, the case has since foundered. An attempt has been made to reopen it under the auspices of the LATF, involving shipping the ivory from Singapore to Nairobi for forensic analysis. Yet a meeting organised by LATF to discuss the case failed to attract participation from any of the Asian countries involved<sup>12</sup>.

**Below:**  
ASU Company,  
Yokohama, Japan:  
Destination address  
of numerous  
suspect shipments  
from Singapore.



**... national legislation that controls the ivory trade is inadequate, confusing or extremely complicated.**

## Enforcement Flaws

Due to its large scale and complexity, the illicit wildlife trade poses a severe challenge to enforcement communities worldwide. Ivory trade is no exception. The developing countries of Africa and Asia are home to many of the world's remaining wild elephants. Severe resource constraints in these range states limit efforts to protect elephants from poachers. Conversely, in some of the major ivory markets, combating wildlife crime is neither a political nor an enforcement priority.

During the last few years, a series of seizures involving substantial quantities of ivory have occurred and provide testament to the effectiveness of front-line enforcement agencies. However, such efforts are being repeatedly undermined by a series of fundamental failures, which include inadequate regulations, insufficient penalties, judicial failure, lack of governance and weak cooperation between agencies, both at national and international level.



© Faith Doherty/EIA

## Regulatory Failure and Inadequate Systems

In many instances the national legislation that controls the ivory trade is inadequate, confusing or extremely complicated. Thailand is one of the main destinations for illegal ivory and is the second largest unregulated ivory market in Asia<sup>3</sup>. It is also the largest domestic ivory market in South-East Asia<sup>4</sup>. Yet despite a series of successful seizures of African ivory over the last four years, attempts to control the illegal trade are profoundly hindered by national legislation which permits the sale and possession of ivory from domesticated elephants in Thailand<sup>5</sup>. This loophole provides a convenient cover for those dealing in ivory from poached elephants.

Another example of inadequate legislation is the provision in CITES which allows for trade in ivory obtained prior to the ban, a loophole often exploited by illegal traders<sup>6</sup>. Chinese legislation allows trade in pre-ban ivory. Yet whilst most dealers would say that their ivory had been obtained prior to the ban<sup>7</sup> there is no way to prove this<sup>8</sup>. Furthermore a host of surveys and interviews reveals that the amount of ivory on sale in China could not possibly have come from legitimate pre-ban stocks<sup>9</sup>. This loophole allows illegal ivory to be laundered onto the domestic market in China. Emerging registration systems should help counter this problem but their implementation will only take place in a few provinces. There will also be huge financial and human resources implications for the adequate implementation of any such system.

Shipments in transit provide yet another loophole in regulation. Since it is difficult to control goods in transit, many shipments of illegal products are shipped through transit ports or Free Trade Zones. In the case of the Singapore seizure, the syndicate's decision to offload the container in Singapore – a Free Trade Zone - was a deliberate bid to confuse the trail. Enforcement and judicial authorities do not always apply the same importance to goods passing through their territory in transit as they do to direct imports.

### **Left:**

**Thai legislation allows the sale and possession of ivory from domestic elephants.**

## Inadequate Deterrents

Appropriate legal sanctions are key to combating ivory smuggling. Poachers, smugglers and illegal traders are not deterred if penalties are relatively lenient, seeing only high profit for potentially low risk. The efforts of enforcement agencies are also undermined as officers become demoralised by the lack of positive results. Strong penalties serve to set both the level of deterrence and the seriousness with which offences are pursued.

In the case of the Singapore seizure, the penalty levied on the individual arranging the transshipment was woefully inadequate. Despite being involved in shipping contraband worth around US\$11 million, and admitting to having arranged the onward shipment of four containers from the same syndicate, he received a fine of only US\$3000. The fine, however, is in keeping with Singapore's Endangered Species Act of 1989, which states that anyone found guilty of importing or exporting wildlife parts without a permit can be fined up to US\$3000 for a first offence and up to US\$5800 or a year in jail for repeat offences<sup>10</sup>.

In China, penalties for ivory smuggling are far harsher. Under the relevant Notification, one whole elephant tusk is valued at approximately US\$30 000<sup>14</sup>. Under the criminal law code,

trading in protected wildlife worth more than US\$24 000 is punishable by life imprisonment and even death (although this has never been applied in ivory cases)<sup>12</sup>. For selling just one tusk the culprit could potentially receive a life sentence. This penalty was recently handed down in the cases of 295 tusks (weighing 2.6 tonnes) seized in Qingdao in May 2002 and three tonnes of tusks discovered at Shanghai port in September 2002.

These harsh penalties indicate the determination of the Chinese Government to tackle the large-scale criminal groups and provide a powerful deterrent. During trips in 2002 and 2003 to Guangzhou in southern China, EIA found that ivory retailers were generally well aware of trials involving ivory smuggling and were therefore more cautious when discussing the ivory trade. In June 2002, a senior executive from a reputable and long-standing ivory carving business told EIA that the market was extremely quiet. He felt that this was due to a high profile trial that was taking place in Beijing involving a number of defendants charged with participating in the illegal import of 14 tonnes of ivory through the city's airport<sup>13</sup>.

**Below:**  
EIA Investigator and Kenyan Parks official inspect the remains of a poached elephant.



© Dave Sims/EIA



© LAGA

**Right:**  
Ivory seized from  
dealers in Cameroon.

## Judicial Failure

Even when adequate sanctions are provided by law, lighter penalties are often levied by the judiciary. This is due to a variety of reasons, including a lack of awareness of the seriousness of wildlife crime, and of environmental crime in general, within the judiciary. It can also be due to convoluted bureaucracy, poor communication channels, or corruption.

In August 2003, an undercover operation conducted by agents from Malawi's Department of National Parks and Wildlife (DNPW) resulted in the seizure of 127kg of tusks and the arrest of one individual responsible for ivory trafficking around Liwonde National Park<sup>14</sup>. When the case came before the district magistrate, the defendant was fined only US\$55, even though Malawi's National Parks and Wildlife Act allows for a maximum custodial sentence of five years for the illegal possession of ivory. DNPW requested a judicial review, and the original sentence was revised to one year in prison<sup>15</sup>.

Similar cases have also been seen in Cameroon and are compounded by a bureaucratic morass in which cases get interminably delayed or lost. Since 2003, an innovative collaboration between the Ministry of Environment and Forests (MINEF) and an NGO called The Last Great Ape Organisation (LAGA) has succeeded in bringing seven cases of illegal ivory dealing to court. Under Cameroon's 1994 forest law, cases involving illegal wildlife can be tried

under two different Articles: Article 158 for trading or killing protected wildlife, which carries a maximum penalty of three years in jail, or Article 155 for illegal possession of wildlife, which carries a maximum sentence of two months in jail<sup>16</sup>.

Until recently, when a case was tried under Article 158, the magistrate had chosen the weaker provisions of Article 155 for almost all of the cases brought to court by MINEF-LAGA<sup>17</sup>. In July 2004, a successful operation led to the arrest of two individuals connected to illegal ivory carving operations in the port city of Douala. The operation led to the seizure of 116kg of worked ivory. Despite the obvious commercial nature of the carving workshops, the defendants were fined only US\$80 and served 13 days in jail while awaiting trial. This was the first wildlife crime case to come to court in Douala and the leniency of the sentence is being contested by MINEF<sup>18</sup>.

## Governance Problems

Research shows there is a correlation between corruption, the effectiveness of ivory trade control and elephant conservation. ETIS (the Elephant Trade Information System) uses levels of corruption as a measure for determining the efficiency of enforcement with regard to ivory trade controls. This is achieved by using a Corruption Perception Index which "... affords a reasonable independent measure as it has ... been documented that the illicit movement of ivory is often facilitated by corruption on the part of law enforcement authorities around the world"<sup>19</sup>. Another study exploring the link between governance and the loss of biodiversity established that the rates of recovery in elephant numbers between 1994 and 1998 were stronger in the least corrupt countries<sup>20</sup>.

The corrupting effect of money from the illegal ivory trade in African countries with weak economies is especially pernicious. Enforcement agents are often poorly paid and may therefore be susceptible to bribery by ivory dealers. A new warden arriving at South Luangwa National Park, Zambia, in 2001, became suspicious that his game scouts were involved in an organised poaching ring. Prior to his arrival a notorious local elephant poacher had been apprehended with illegal ivory, maintaining that he was acting on behalf of the then warden of the park. The poacher claimed that he had been contracted to poach 100 elephants, of which he had shot 58 before being caught. Clandestine investigations by officers from outside the region confirmed that several of the park's staff were involved in an ivory poaching gang<sup>21</sup>.

## Lack of Inter-Agency Cooperation

In cases where a number of different enforcement agencies have shared responsibility for enforcing ivory controls, the potential for confusion and inaction is enormous unless cooperation protocols are established. It is common for more than one government agency to be responsible for controlling ivory trade, both at national and international level. As well as the Management and Scientific Authorities, as required by CITES, Police and Customs are also involved in enforcing controls.

In China, for example, the CITES Management Authority is the Endangered Species of Wild Fauna and Flora Import and Export Administrative Office, which is part of the State Forestry Administration (SFA). The Wildlife Conservation Department, which is partly responsible for domestic trade, also falls under the auspices of SFA. The General Administration of Customs, the Public Security Bureau and the Ministry of Commerce also play a role in enforcing ivory controls. Whilst a Notification clarifying areas of responsibility was issued in 2001, overlaps and inadequate communication persist<sup>22</sup>

As well as restrictions underlined by administrative divisions, one of the major obstacles for cooperation between different agencies is varying levels of awareness and priorities. In China, while Customs see international ivory control as a priority, the domestic retail outlets selling ivory products are not subjected to any concerted inspection. One of the reasons for this is that while SFA is responsible for countrywide administration of wildlife issues, the body empowered to police wildlife goods on the market is the Ministry of Commerce. This means that any enforcement operation on retail markets must involve officers from both Ministries, which is not always practical.

Nonetheless, based on information provided by EIA, a seizure of 300kg of ivory in Guangzhou in March 2003 was a positive example of cooperation between SFA and the Ministry of Commerce, a precedent which should be followed by other government agencies around the world<sup>23</sup>.

## Lack of International Cooperation

Illicit ivory often moves across a number of international borders before reaching its final destination. For instance, the ivory seized in Singapore in 2002 was transported through Zambia, Malawi, Mozambique, South Africa and Singapore en route to Japan.

While the criminal syndicates easily span continents, cooperation between enforcement

agencies in the relevant countries is often lacking. In the case of the Singapore seizure, communications between enforcement agencies in Malawi and Zambia, and their counterparts in Asia, have been problematic. After the seizure, repeated efforts to establish a channel of communication to expedite arrests and prosecutions were made, with little success. Attempts to reinvigorate the case under the auspices of LATEF, a regional enforcement body specialising in wildlife crime, have been frustrated by the lack of participation by the Asian countries involved<sup>24</sup>. This situation may reflect the problems associated with administrative divisions at a national level, where agencies responsible for enforcement matters in one place are different from those responsible in another, thereby hindering the process and resulting in a failure to act.

Yet examples of efficient international cooperation demonstrate the potential effectiveness of agencies working together. In July 2001, Customs officers in the UK detected 58 tusks passing through Gatwick Airport en route from Kenya to Beijing. Following consultation between agents in the two countries, a controlled delivery was arranged, resulting in the arrest of the importer in China<sup>25</sup>.

**Below:**  
Briefing for joint raid operation between SFA and the Ministry of Commerce in March 2003, Guangzhou.



© Wan Zanning



## China March 2004

Over 300kg of ivory is seized from various ivory shops in Guangzhou following a joint operation by China's Endangered Species Import and Export Management Office and the State Forestry Administration<sup>1</sup>.



## China October 2003

Nearly two tonnes of ivory estimated to be worth US\$346 000 is seized by Hong Kong Customs officials. The ivory, en route from Tanzania via India and Indonesia, was thought to be destined for mainland China<sup>2</sup>.



## Singapore July 2002

A record seizure of over six tonnes of ivory bound for Japan from Malawi, containing 532 tusks and almost 41 000 unworked Japanese signature seals (*hanko*), is made by Customs officials in Singapore<sup>3</sup>.



## Spain July 2004

Spanish Civil Guard seize 3.4 tonnes of raw and worked ivory from a Madrid factory, the result of a year-long investigation triggered by an earlier seizure of 110kg of elephant hair thought to originate from Cameroon<sup>4</sup>.



## Thailand October 2003

Arriving on an Ethiopian Airways Flight, 65 tusks addressed to a Malian resident in Thailand are seized at Bangkok International Airport. Raids in October 2003 recovered 5355 pieces of ivory worth S\$460 000 for sale in Bangkok hotels and 13 612 pieces for sale elsewhere<sup>5</sup>.



## Ethiopia April 2003

Ethiopian officials seize 37 tusks, reportedly destined for Asia. The tusks, weighing a total of 145kg were returned to the Kenya Wildlife Service<sup>6</sup>.

## Cameroon July 2004

Ivory worth US\$1104 weighing 150kg is seized from two dealers in Douala, Cameroon, during a joint operation between MINEF and LAGA<sup>7</sup>.

## Zambia July 2004

Two women from Lusaka, Zambia are arrested for illegal possession of 691 pieces of carved ivory, en route to South Africa<sup>8</sup>.

## Belgium June 2004

Airport Customs seize more than 10 tusks concealed in stone statues from the Democratic Republic of Congo (DRC), reportedly destined for Barcelona, Spain<sup>9</sup>. In 2003, Brussels Customs made over 11 seizures of ivory originating from Angola, Cameroon and DRC, destined for Asia and Europe<sup>10</sup>.



## Tanzania January 2004

Police seize 73 tusks and arrest four men - a Sudanese national, a Korean, and two Tanzanians. An earlier seizure in Dar Es Salaam in 2002 saw the recovery of 1255 tusks<sup>11</sup>.

## The Profit Motive: Economics of Ivory Trade

The enormous profits to be made from the illegal ivory trade, particularly in consumer states, can be illustrated by the case involving over six tonnes of ivory seized in Singapore in 2002.

Based on the following figures, the value of the seizure would have rocketed from US\$310 000 in Lilongwe, Malawi to at least US\$11.2 million if it had reached Japan.

**US\$15 per kg**

Paid to local raw suppliers by middleman in Chipata, Zambia<sup>1</sup>



© RAITZ



© Mary Rice/EIA

**US\$50 per kg**

Paid to middleman in Lilongwe, Malawi<sup>2</sup>



© EIA

**US\$145 per kg**

Black market price for raw ivory in China<sup>3</sup>



© Mari Park/EIA

**US\$240 per kg**

Wholesale price in Tokyo, Japan<sup>4</sup>

**US\$302 per kg**

Lowest retail price for plain hanko (1.5 x 6cm) in Tokyo, Japan<sup>5</sup>



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## The South Luangwa Conservation Society

After five years operating as an Honorary Rangers Rapid Action team (RATZ) in South Luangwa, Zambia, the South Luangwa Conservation Society (SLCS) was formally registered in July 2003.

Established to provide support for an overstretched wildlife authority, SLCS works alongside, and sometimes in place of, National Parks staff and supplies logistical and personnel back-up in the fight against poaching and snaring in and around South Luangwa National Park. In an area of limited opportunity SLCS provides training, education and employment to individuals from the local communities. SLCS employees are all from the local communities. Many of the individuals employed are former wildlife personnel – former scouts or community-based officers - who were retrenched during a transition phase. SLCS draws upon their experience and provides meaningful and ongoing employment to these individuals, utilising their skills and developing institutional and community knowledge.

Experience has demonstrated that poaching often starts in the villages with the local people. Much of the information obtained by SLCS scouts comes from informers in the villages, which is then passed on to ZAWA to be dealt with accordingly. By working with people at community level, SLCS is working towards establishing improved conservation practices and effecting a positive change in perception towards the environment and its wildlife. As an organisation, SLCS has made small but incremental changes that have resulted in enormous success, increased awareness and a positive attitude at grass roots level which can, and should, continue.

Their objectives are to provide an effective anti-poaching body and to encourage improved environmental and wildlife conservation practices among the main stakeholders of this area, the Zambian people themselves. In 2001 and 2002 SLCS (then operating as RATZ) were instrumental in identifying a massive ivory cartel which had been operating with impunity since 1995. Their efforts and information resulted in over six tonnes of illegal ivory being seized in Singapore in June 2002, the biggest seizure since the 1989 ivory ban was imposed.

## The Way Forward

Enforcement actions can be broadly classified into three categories – prevention, detection and suppression:

- **Prevention:** Actions needed to prevent the criminal activities from occurring
- **Detection:** The effective discovery of illegal acts
- **Suppression:** The successful investigation and prosecution of violators of law

The United Nations Environment Programme's *Guidelines on Compliance With and Enforcement of Multilateral Environmental Agreements* issued in 2002, contain key recommendations on practical enforcement measures. The recommendations include:

- the need for proportionate penalties
- sentencing guidelines
- regular review of existing laws
- coordination between enforcement agencies
- training of prosecutors and magistrates
- cross-border intelligence sharing

**Right:** Certification sign for registered ivory shops in Japan.

**Below:** Hong Kong Customs intercepted a container carrying nearly two tonnes of ivory, October 2003.



© Mari ParkEIA

## CITES and Enforcement Issues

CITES and its Parties are increasingly aware that there is a clear and desperate need to strengthen enforcement worldwide. Issues of enforcement and compliance have long been the subject of discussions at CITES meetings and have been consolidated into Resolution Conf. 11.3. This requires Parties to secure cooperative compliance and trade control measures in accordance with the Convention<sup>26</sup>.

Many additional studies and discussions regarding enforcement continue to be carried out, the most recent being a meeting of the CITES Enforcement Expert Group in 2004. This meeting, attended by members of the CITES Tiger Enforcement Task Force, ICPO-Interpol and the World Customs Organisation amongst others, concluded that a lack of cooperation and communication between national, regional and international agencies was one of the major causes of enforcement problems<sup>27</sup>.

The CITES Enforcement Expert Group issued a statement which stresses the general importance for Parties to recognise the “seriousness of illegal trade in wild fauna and flora and identify it as a matter of higher priority for their national law enforcement agencies”. They also urge the Parties to implement Resolution 11.3 more fully and make key recommendations.



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## Strengthening Measures

There are a number of general suggestions and CITES initiatives that could help tackle identified enforcement deficiencies, which are listed below.

### • Inadequate Regulatory Systems

*Closure of Domestic Ivory Markets.* Control of supply alone is not enough – demand must be curtailed.

*Regulatory Reform.* Reviewing legislation on a regular basis will contribute to closing legal loopholes.

### • Inadequate Penalties

*Review of Penalties.* It is worth remembering that the acquisition of poached ivory often involves violence, with many instances of anti-poaching personnel being injured or even killed. Those individuals trafficking in illegal ivory may be physically removed from the poaching, but they are still complicit and penalties should reflect this.

### • Judicial Failures

*Raising Judicial Awareness.* Regulations can be complex and contradictory. These problems can be overcome by raising awareness at all levels of the judiciary and by the formulation of clear sentencing guidelines.

### • Governance Problems

*Governance Reform.* Wildlife crime thrives where corruption is rife. National anti-corruption strategies should encompass wildlife crime where appropriate.



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### • Lack of Inter-Agency Cooperation at National Level

*Improved Cooperation between Relevant Agencies at a National Level.* Creation of task forces and Memoranda of Understanding between different agencies can help facilitate cooperation.

- *Forming Partnerships.* In areas where governmental enforcement agencies are inadequately resourced, partnerships with outside agencies, such as NGOs and tourist operators, can assist. The cooperation between MINEF and LAGA in Cameroon is a good example of enforcement assistance from an NGO, while SLCS in Zambia uses revenue from tourist operators and donors to augment the government's anti-poaching capabilities.

### • Lack of International Cooperation

*International Intelligence Sharing and Cooperation.* Mechanisms such as Interpol and the World Customs Organisation's Regional Intelligence Liaison Office network have facilities for intelligence exchange, but are not always fully utilised. Communications between countries on different continents can be difficult and actionable information is often withheld. Here the CITES Enforcement Assistance Unit has a brokering role to play.

*Developing Regional Mechanisms.* Developing regional enforcement mechanisms that are similar to the Lusaka Agreement Task Force will facilitate enforcement in relevant regions.

*Building Networks.* CITES Parties are encouraged to provide the Secretariat with the contact details of their national law enforcement agencies responsible for investigations. In order to build a better network for cooperation, they are also encouraged to nominate officials from the relevant national enforcement agencies to participate in the Interpol Wildlife Crime Working Group<sup>28</sup>.

*The Submission of Information to CITES.* Reporting seizures to be included in ETIS whenever they occur, provides a means by which to develop a global picture of the illegal trade so that authorities around the world can be alerted. The submission of the ECOMESSAGE format, used by relevant authorities to report infractions, is also encouraged by CITES<sup>29</sup>.

## Closing Domestic Markets: Africa

CITES is increasingly aware of the fact that the ivory trade is extremely difficult to control, particularly for countries with resource constraints.

Following Resolution Conf. 10.10 (Rev. CoP12) on trade in elephant specimens and Decision 12.39 regarding the control of domestic ivory trade, the CITES Secretariat was directed by the Parties to conduct desk-based research on ten countries that have active internal ivory markets but inadequate control over their domestic trade. The countries studied were Cameroon, China, DRC, Djibouti, Ethiopia, Japan, Nigeria, Thailand, Uganda and the United States of America.

As a result of this exercise, the Secretariat drafted a Work Plan, in which it called for a halt on “all domestic sales of ivory”, including raw materials and worked products, in all African countries except for Zimbabwe. In the Draft Work Plan, the Secretariat states:

“The Secretariat believes that any exploitation of ivory obtained from Appendix-I elephant populations is completely incompatible with such a listing in the Appendices of the Convention. It is convinced through its work in relation to internal ivory controls that a continent-wide approach needs to be adopted to bring a halt to once and for all the illegal trade in ivory and that it is at the source of such ivory that efforts should be focussed [sic]”<sup>1</sup>.

The Secretariat’s comment is echoed by many of the poorest nations in Africa, despite the claim made by other Africans that money from the sale of their ivory would go some way towards alleviating their poverty. In June 2004, 14 West and Central African countries (Congo, Benin, DRC, Chad, the Central African Republic, Cameroon, Gabon, Niger, Mali, Burkina Faso, Togo, Côte d`Ivoire, Senegal and Guinea) participated in a symposium. This culminated in a united position, which calls for a total ban on ivory trade<sup>2</sup>.

Whilst this united stance demonstrates significant support for the Secretariat’s domestic trade ban initiative in Africa, it is also true that these countries lack the capacity and resources to implement their propositions.



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## The Common Sense Approach

Apart from specific multi-lateral measures targeting enforcement problems, there are other more general methods which, if applied, provide effective measures for the overall improvement of enforcement that could substantially reduce the illegal trade in ivory.

- *Raising Public Awareness.* A substantial amount of illegal ivory is carried by tourists or workers returning home, who often claim ignorance of ivory trade controls. The strategic dissemination and placement of information regarding regulations and penalties can be effective.
- *Training Enforcement Officers.* The CITES Enforcement Expert Group recommended that funds and expertise be made available for enforcement-related training programmes and training materials<sup>30</sup>.
- *Focusing Resources.* Like most illegal activities, ivory smuggling produces identifiable patterns and methods. The training of enforcement personnel can help in generating risk profiles that allow scarce resources to be more effectively used. For instance, while it is impossible to guard all of Africa's elephants from poachers, organised smuggling involves collection of the ivory at a single location for packaging and despatch. It is at this point in the commodity chain that the illicit shipments are vulnerable to interception, and Cameroon, Malawi and Nigeria appear to be some of the key conduit countries for ivory leaving Africa.



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## Closing Domestic Markets: Asia

The main identified ivory markets of Asia are China, Japan and Thailand. Despite the fact that these three countries have not been verified as having adequate control, they continue to have active internal markets. Moreover, whilst Japan was deemed as having 'sufficient' control for the last one-off sale agreed in 1997, its system is still unable to prevent illegal ivory from entering the legal market<sup>3</sup>.

Domestic market control in China and Thailand is even more inadequate, with less developed regulations<sup>4</sup>. Along with Nigeria and DRC, these two countries were identified by ETIS as having "very poor law enforcement effort and efficiency, and consequently exert the greatest contemporary influence on illegal trade in ivory today"<sup>5</sup>.

In order therefore, to contribute to efforts in Africa aimed at protecting remaining vulnerable elephant populations, logic would suggest that any call for a halt in trade in Africa should also be applied to the ivory consuming markets in Asia.

**Above:**  
Oriental ivory carving.

**Right:**  
Public awareness leaflet for tourists in Hong Kong.



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## General Recommendations

### EIA urges governments to:

- Improve communication and cooperation between enforcement agencies at both national and international level, by creating channels utilising existing mechanisms as well as creating new ones
- Raise awareness of ivory and wildlife trade amongst government officials, particularly enforcement agencies and the judiciary.
- Provide training opportunities for enforcement agents
- Strengthen regulations governing the control of ivory, the imposition of penalties, the judicial system and governance

### EIA urges African Governments to:

- Set a date for closure of domestic markets

### EIA urges the Governments of China, Japan and Thailand to:

- Set a date for closure of domestic markets

## Recommendations for CoP13

### Proposals

For CoP13, Namibia is proposing an annual quota of two tonnes of ivory and trade in hide and hair goods and worked ivory for commercial purposes. South Africa is proposing to trade in hide goods for commercial purposes.

EIA believes that these proposals should be opposed for the following reasons:

- Allowing an annual quota before the proposed one-off sale has been progressed is premature
- Allowing trade in elephant specimens other than worked ivory will further complicate the already complex rules regarding this species and present an additional enforcement challenge
- Allowing trade in elephant specimens other than ivory will increase the monetary value of elephants and stimulate poaching and smuggling
- Data managed by the World Conservation Monitoring Centre data on elephant hide and hair products is not comprehensive, due to the inconsistency in units reported by CITES Parties in submitting information. Further trade is premature because, whilst the available information is inconclusive, the volume of trade in these specimens would appear to be high

### Working Documents

Kenya has put forward three documents: one on the conditions for the one-off sale, one on the revision of Resolution 10.10 and another on the revision of Resolution 11.3. The first document refines the conditions for the sale and includes stronger precautionary elements. The latter two documents are aimed at strengthening the enforcement of ivory and CITES trade controls in general and incorporate some of the key recommendations made by the CITES Enforcement Expert Group.

### EIA urges CITES Parties to:

- Oppose proposals from Namibia (Prop. 7) and South Africa (Prop. 8)
- Support Kenya's document (29.4) which proposes the revision of Resolution 10.10 to incorporate a variety of specific enforcement measures
- Support Kenya's document (29.5) which augments the conditions for the one-off sale
- Support Kenya's document (Doc. 24) proposing the revision of Resolution 11.3 except for the recommendation to expand the remit of the Tiger Enforcement Task Force



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environmental investigation agency

**EIA UK**

**62-63 Upper Street  
London N1 0NY  
United Kingdom**

**[ukinfo@eia-international.org](mailto:ukinfo@eia-international.org)**

**Tel +44 (0)20 7354 7960**

**Fax +44 (0)20 7354 7961**

**EIA US**

**P.O. Box 53343**

**Washington DC 20009**

**United States of America**

**[usinfo@eia-international.org](mailto:usinfo@eia-international.org)**

**Tel +1 202 483 6621**

**Fax +1 202 986 8626**

**[www.eia-international.org](http://www.eia-international.org)**