

# U4 Expert Answer



## Wildlife crime and corruption

### Query

***In which way does corruption exacerbate the problem of poaching and illegal wildlife trade in Southern Africa and how can anti-corruption contribute to the fight against it?***

### Purpose

Support wildlife experts in the field in their fight against illegal wildlife trade.

### Content

1. Wildlife Crime and Corruption
2. Anti-corruption instruments that could support the fight against wildlife poaching and trade
3. References

### Caveat

There is little research on the relationship between wildlife crime and corruption. The majority of papers discussing wildlife crimes acknowledge corruption often facilitates poaching and wildlife trafficking, but do not analyse in great detail the main corruption risks and anti-corruption approaches that could contribute to the fight against wildlife crimes.

### Summary

Corruption is seen as one of the most critical factors enabling illicit wildlife trafficking, as a facilitator of poaching as well as transactions between supply, transit, and demand countries, and an important source of resilience for organised criminal groups involved in such crimes. Corruption may facilitate many of the crimes along the wildlife trade route, from poaching (e.g. illegal payments to issue hunting licenses, bribery of forest patrol officers), to trafficking (e.g. bribery of customs officials, illegal payments to issue export certificates, etc), to law enforcement (e.g. bribery of police officers and prosecutors to avoid investigations; illegal payments to manipulate court decisions). In addition, corruption and weak regulatory frameworks may offer several opportunities to criminal organisations to launder the proceeds of crime.

Against this backdrop, there are several corruption instruments and approaches that could help in the fight against illicit trade in wildlife, including establishing a strong legal framework against both corruption and wildlife trafficking, human resources management reforms in the public sector, capacity building on both

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technical and integrity-related issues, and more generally, raising ethical standards across the public sector. In the particular case of wildlife crimes, special attention should be given to mechanisms to address corruption within customs, law enforcement agencies as well as the judiciary.

## 1. Wildlife Crime and Corruption

### What is wildlife crime?

Wildlife crime refers to any “environmental-related crime that involves the illegal trade, smuggling, poaching<sup>1</sup>, capture or collection of endangered species, protected wildlife (including animals and plants that are subject to harvest quotas and regulated permits), derivatives or products thereof” (WWF, 2012:9). Crimes therefore refer to acts committed in contravention of national law, and at the international level, to violations of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

The CITES Convention regulates exports, imports and re-exports of wildlife, and aims at protecting species of endangered fauna and flora, including their by-products, by creating a control system for any trade and transaction in these species, such as (i) permits issued by CITES authorities for species which are threatened with extinction (Annex I of the Convention); (ii) export certificates issued by CITES authorities for those species not necessarily in danger of extinction but which may become endangered if trade is not regulated, (iii) export certificates issued by the country's authority for those species chosen by Parties to be subject to regulation (CITES website).

Wildlife crimes therefore encompasses a series of diverse and often overlapping offences which range from illegal hunting, processing, exporting and importing, trafficking, supplying, to receiving, possessing and consuming parts of wild animals. It frequently involves other associated criminal offences, such as document fraud (e.g. fake hunting licences or export permits), money-laundering, tax evasion and corruption (UNODC, 2012).

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<sup>1</sup> *Poaching refers to a variety of offences that criminalise the unlawful taking of wild animals. For instance, poaching may involve the hunting of animals that belong to a protected species, or illegal hunting outside designated areas, UNODC, 2012.*

This answer focuses on the relationship between corruption and wildlife crimes, particularly analysing how corruption affects poaching and illegal trade in rhino horn and ivory in Africa.

### Overview of illegal trade in wildlife

Poaching and illegal trade in elephants and rhinos has increased significantly in recent years, and Sub-Saharan Africa is one of the major supply regions. According to WWF, the number of rhinos poached in South Africa between 2007 and 2011 increased by 3,000 per cent (WWF, 2012).

On the demand side, the largest consumers of illegal wildlife parts are China, Vietnam, the United States, and the European Union (Global Integrity Report, 2011). Economic growth in East Asia has increased the demand for wildlife animal products. This demand is driven by the perceived medical value and social status of certain wildlife parts or animals (CITES, 2011; WWF, 2012).

The global value of the illegal trade in wildlife, excluding fisheries and timber, has been estimated to be between US\$ 7.8 and \$10 billion (Global Financial Integrity, 2011). Combined with fisheries and timber, illegal trade in wildlife crimes comprises the fourth largest global illegal trade after drugs, counterfeit goods, and human trafficking (WWF, 2012; Global Financial Integrity, 2011).

### Linkages between wildlife crime and corruption

Studies show that wildlife crime is extremely problematic in countries where corruption is widespread, government enforcement is weak, and economic opportunities are few (WWF, 2012; Ayling, 2012; UNODC, 2012). It is one of the most critical factors enabling illicit wildlife trafficking (Lawrence; Irigia, 2011; Ayling, 2012). It may facilitate poaching as well as transactions between supply, transit, and demand countries, particularly in ensuring wildlife can be moved from one country to another (Global Financial Integrity, 2011).

Due to the transnational dimension of wildlife crimes, there is strong evidence that organised criminal groups are involved in poaching, smuggling, and trade of wildlife and wildlife products (CITES, website).

'Traditional' organised criminal groups involved in illegal activities such as human, drugs, and arms trafficking are now increasingly involved in the most profitable activities of environmental crime, of which wildlife trade is one of the most lucrative (Milliken; Shaw, 2012). Profits for individuals or groups related to wildlife crimes, such as trade in rhino horns, can be higher than those generated from trafficking in diamonds and cocaine (WWF, 2012). For instance, the price of rhino horns has increased to approximately US\$60,000 per kilogram, twice the price of gold (WWF, 2012). In addition, the risks involved are relatively low in comparison to other illegal activities due to a lack of enforcement and weak penalties (WWF, 2012).

Illegal networks are intrinsically linked to large-scale corruption (Fagan, 2011), particularly to facilitate fraudulent trade, or forge import/export certificates (EIA, 2008). So it is to be expected that the same holds true for wildlife crime activities. Corruption is likely to be a key enabler of poaching and particularly of illegal trade in wildlife, as well as an important source of resilience for organised criminal groups involved in such crimes (Ayling, 2012).

### Corruption risks along the wildlife trade route

Corruption may facilitate many of the crimes along the wildlife trade route, such as poaching and trafficking. It is also considered one of the main obstacles to effective law enforcement. Corruption in the form of bribes, preferential treatment, and even state capture can be observed in every stage of the law enforcement process (Last Great Ape Organisation). In addition, through weak laws and the support of public officials and institutions, criminal groups involved in illegal trade manage to launder the proceeds of crime.

Corruption therefore involves a variety of actors, including the CITES competent authorities, public officials, villagers, forest rangers, police, customs, traders and brokers, professional/international hunters, logistics companies (shipping lines, airlines), veterinarians, and game farmers, among others (UNODC, 2012).

However, corruption is not the only means used by criminal groups to poach and trade wildlife animals. These groups also take advantage of the economic situation in source countries to pay villagers to poach animals, or of the lack of technical knowledge of custom officials who cannot identify whether or not the

animals/parts being traded are prohibited or restricted, as well as low penalties, among many other issues.

### *How corruption facilitates poaching crimes:*

- i. Bribes and extortion may play a role in the process of issuing licenses for hunting. Individuals, and companies, may use corruption or personal relationships in order to obtain hunting permission which otherwise wouldn't be issued. Public officials or officials from international organisations may also ask for illegal payments as a 'condition' to issue such a permit (Yeater, 2011).
- ii. Bribery of public officials to issue false documents (document fraud).
- iii. Preferential treatment and favourable decisions (cronyism) by wildlife officials for friends and relatives (e.g. issuance of hunting licenses).
- iv. Bribes or favouritism to influence procurement processes. In South Africa, for example, a gang allegedly 'legally' procured rhinos from game farms, wildlife parks and reserves for conservation purposes, but killed the animals to illegally sell the horns (Ayling, 2012).
- v. Horn thefts may also use corruption and personal connections to gain access to confidential information. For instance, government officials tasked with providing permits for rhino horn possession have passed on information on access to potential thieves (Milliken; Shaw, 2012).
- vi. Government officials and forest patrols may be paid to turn a blind eye to illegal/ pseudo-hunting. There is also evidence of the involvement of national and provincial conservation officials in the poaching of wild animals (Milliken; Shaw, 2012).
- i. Corruption can be used to influence policy-makers' decisions related to wildlife protection.

### *How corruption facilitates trafficking, trade, sale and supply:*

- i. Illegal payments may be used for the issuance of export notification documents in contravention of domestic legislation or the Convention's provisions. In some cases, licensing officials may also be bribed to provide private individuals with blank export permits.
- ii. Corruption may also facilitate the process of accepting or authorising the exported shipment

- (e.g., lack of compliance with an import restriction, lack of control of a contract)
- iii. Bribery and other illegal advantages may be offered at each border control (e.g., lack of appropriate control of the documents or of the content of the shipment). Customs and other border control officials may be bribed to ignore smuggling (UNODC, 2012).
  - iv. Illegal payments may be offered to control officials to turn a blind eye to fraudulent documents, excessive export, or other irregularities such as exports without permits, declarations of lower values and volumes, among others (UNODC, 2012).
  - v. Conflict of interest between regulators and wildlife trade companies. For instance, public officials have been found to maintain a personal or financial interest in wildlife trade enterprises that they are responsible for regulating (Yeater, 2011).
  - vi. Corruption can be used to influence policy-makers' decisions related to trade in wildlife and wildlife parts.
  - vii. Misuse of diplomatic immunities in contravention to wildlife regulations. For instance, members of the diplomatic corps have allegedly used diplomatic sacks to transport wildlife parts from one region to another (Yeater, 2011).
  - viii. Captive breeding operations have been used to conceal the export of wildlife or to "launder" the proceeds of a crime (Yeater, 2011).

### *Corruption facilitates impunity*

- i. Hunting groups evading national and international regulations thanks to the protection of local patrons (UNODC, 2012).
- ii. Bribery of public officials to avoid the payment of tax, duties, tariffs and other fees (UNODC, 2012)
- iii. Bribery of forest rangers and wardens to enable poaching, trading or trafficking of wildlife (Ayling, 2012);
- iv. Illegal payments to avoid investigations or to obstruct justice.
- v. Illegal payments to avoid prosecution or administrative sanctions for non-compliance with wildlife regulations.
- vi. Illegal payments or use of personal relationships to obtain favourable sentences in court. In Cameroon, some organizations claim to have

observed corruption in 80% of court cases involving wildlife crimes (Last Great Ape Organisation, 2011).

- vii. Public officials and other institutions may help criminals launder the proceeds of wildlife crimes (money laundering) (Ayling, 2012).

## 2. Anti-corruption instruments that could support the fight against wildlife poaching and trade

The literature on current anti-corruption initiatives supporting the fight against wildlife crimes is scarce. Nevertheless, as criminal organisations and individuals often rely on weak legal frameworks and bureaucratic procedures, lack of coordination between oversight agencies, lack of capacity of customs officials, and lack of enforcement in order to poach and illegally trade wildlife animals, addressing such challenges could help reducing corruption linked to wildlife crimes.

This answer highlights some of the anti-corruption instruments/approaches that could support countries in combating corruption related to poaching and illegal trade. However, it is important to note that there is very limited evidence-based information on the actual impact such instruments have in reducing wildlife crimes.

### *Improving the legal framework*

A strong legal framework is a key step to ensure that there are clear definitions of illegal activities for wildlife crimes.

The United Nations Convention against Corruption (UNCAC) sets a comprehensive benchmark for anti-corruption laws, institutions, and actions of ratifying countries. Many of these provisions could help fight corruption more efficiently and effectively as well as foster international cooperation in the field of wildlife crimes.

The Convention requires state parties to adopt legislation to criminalise a series of corruption offences that facilitate poaching and illegal wildlife trafficking and could be adapted to the specific characteristics of corruption in the wildlife sector (UNODC, 2012), including:

- Bribery of foreign public officials and particularly of officials of international organisations (e.g. CITES officials working in source countries);
- Trading in influence;
- Abuse of functions;
- Illicit enrichment;
- Bribery in the private sector;
- Laundering of proceeds of crime;
- Concealment;
- Obstruction of justice;
- Anti-money-laundering provisions.

In addition, countries could seek to establish a well-functioning whistleblowing system, which will help to promote accountability by encouraging the disclosure of information about misconduct and possibly corruption while protecting the whistle-blower against retaliation (UNODC, 2012).

Moreover, the anti-corruption and wildlife crime legal framework should provide for proportionate and dissuasive sanctions, such as increased penalties for poaching and illegal wildlife trade, and revoke hunting and export licenses where appropriate.

### *Simplification of certification systems and schemes*

Certification and licensing systems should be effective and not offer unnecessary obstacles (e.g. excessive number of procedures required) otherwise they could provide incentives for corrupt behaviour in order to speed up bureaucratic processes. In addition, it is instrumental that these systems are in compliance with the international framework; leaving little room for discretionary decisions by public officials or officials of international organisations (e.g. CITES management officers). The use of electronic license systems may help to reduce the number of interactions between applicants and public officials as well as to create deterrents to illegal trade.

### *Enhancing ethics and reducing corruption in customs*

Customs services play a key role in facilitating illegal wildlife trade. Criminal groups often rely on illegal payments to custom officials to be able to export wildlife animals and/or parts. Ensuring that custom officials act with integrity will pose an obstacle to criminal groups and individuals involved in illegal trade of wildlife (World Customs Organisation, 2011).

Fighting corruption in customs will require ([Arusha Declaration-WCO, 2003](#)):

#### ***A restructuring of human resources management systems***

Customs officials should be hired and promoted based on merit and the selection criteria should be defined by law in order to avoid nepotism and cronyism. Rotation of staff may also be helpful to avoid conflict of interest. In addition, remuneration levels should be adequate, as in many countries low salaries encourage corruption behaviour;

#### ***Establishment of control mechanisms***

Besides the establishment of a code of conduct and conflict of interest regulations, there should exist clear mechanisms to follow up on wrongdoings and punish officials involved in corruption; Increasing the probability of detection and establishing relatively severe sanctions may create a deterrent for corruption behaviour;

#### ***Informatisation (automation) of customs operations***

Use of technology and standardisation of procedures may reduce the discretionary power enjoyed by customs officials as well as the number of interactions between them and traders;

#### ***Establishment of audit mechanisms***

Internal audit as well as regular external audits may help in the identification of potential wrongdoings;

#### ***Trainings***

To enhance technical capacity (e.g. course explaining the CITES convention; course on the identification of wildlife specimens) as well as trainings to enhance integrity. For instance, the World Customs Organisation (WCO) launched a project aimed at enhancing customs integrity in 15 African countries (Project GAPIN) regarding the enforcement of the CITES Convention.

#### ***Strengthening law enforcement***

Weak law enforcement is assessed by experts as one of the main factors encouraging poaching and illegal trade in wildlife crimes. In spite of a significant growth in wildlife trade in recent years, major prosecutions are still rare (Ayling, 2012; WWF, 2012).

Law enforcement in the majority of source countries is affected by a lack of resources, capacity, as well as coordination, offering opportunities for corruption. Countries should seek to counter these corruption risks, particularly by:

**Enhancing human and material resources**

Including salary adjustments to mitigate the incentives for civil servants to accept bribes. Some countries have also adopted reward mechanisms for enforcement officers to raise detection rates for wildlife crimes and also to reduce the influence of corruption (UNODC, 2012). The establishment of transparent recruitment processes which are based on merit and professional qualifications may also reduce the opportunities for corruption and nepotism, raising integrity in law enforcement agencies. Adequate resources and equipment for conducting investigations are also instrumental.

**Implementing capacity building initiatives**

Various investigative training and other capacity building and raising awareness activities across government agencies is also important. CITES for example offers virtual courses for enforcement officers as well as an information module for prosecutors and the judiciary. The course not only introduces the CITES Convention but also discusses enforcement-related issues (Please see: <https://eva.unia.es/cites/>). In-person training has also been conducted by *TRAFFIC*, targeting officials ranging from protected area rangers to frontline enforcement officers (customs and police), investigators, members of the judiciary (senior judges and prosecutors) and border control officers. Increased efforts are being invested in building the capacity of agencies to conduct their own training (WWF, 2012).

**Establishing specialised investigation and prosecuting units**

Countries usually face a lack of clear coordination mechanisms for government law enforcement bodies (e.g. wildlife officials, police, customs, the judiciary, etc), and the establishment of a jurisdictional authority on the matter can play a positive role in guiding and coordinating the work of these different bodies. In South Africa, for example, a National Wildlife Crime Reaction Unit was launched in 2010 to enhance data collection, information exchange and collaboration between law enforcement officials at provincial and national levels. A year before, the country also established the National Biodiversity Investigation Forum. This combined with the purchase of an information management tool and the support of the Prosecutor's Office, the Asset Forfeiture Unit, and the National Defence Force has helped to double the arrest rates for those involved in rhino crimes in 2012 in comparison to 2010/2011 (Milliken; Shaw, 2012).

**Establishing joint investigative teams**

Considering the transnational nature of wildlife crimes, the establishment of bilateral or multilateral agreements among investigative bodies may be helpful to both prevent and combat illegal trade and corruption. The use of joint enforcement operations (e.g. enforcement blitzes) focusing on specific targets for a certain period of time may also help to boost enforcement efforts.

**Ensuring separation of powers and the independence of the judiciary.**

Corruption in the judiciary may allow organised crime groups and individuals involved in poaching and illegal trade in wildlife to get away with their crimes – making it a highly lucrative business. In fact, corruption in the judiciary exacerbates the culture of impunity and may threaten any other effort to address wildlife crimes.

Against this backdrop, efforts should be made to reduce the opportunities for corruption in the judiciary, including actions such as:

**Independent judicial appointments**

Appointments should be made based on merit and professional qualifications to ensure the judiciary is independent from both the executive and the legislative. The involvement of civil society groups or professional associations in the process could help to increase transparency.

**Clear criteria regarding salaries, tenure, transfers, and assignment of cases**

...to avoid that active or non-corrupt judges are punished (e.g. transferred to a remote location) and those ruling in favour of the government are rewarded.

**Training**

...of judges on environmental crime as well as on ethical and anti-corruption issues. Judges should also have access to relevant legislation and cases and court procedures.

**Establishment of a judicial code of conduct**

...providing guidance on ethical and possible conflict of interest issues. The code should be developed and implemented by the judiciary to ensure buy-in from judges and court officials.

**Establishment of whistle-blower policy**

...so that lawyers, citizens, prosecutors, among others can report suspected or actual cases of corruption in wildlife crime cases;

**Establishment of an independent judicial body**

...responsible for overseeing the judiciary activity, investigate and sanction potential wrongdoings and unethical behaviour;

**Establishment of asset disclosure mechanisms**

...and conflict of interest disclosures for judges;

**Increase transparency**

...with regards to judicial decisions, as well as the activities conducted by the judiciary (e.g. establishing an online database containing the cases related to environmental crime, number of convictions, etc).

**Introducing information and communication technologies**

...including case management systems;

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