

**Date:** 16 April 2018

Dear Sir/Madam

I wish to thank the Senate for the opportunity to make a submission to the inquiry into Law Enforcement relating to the Trade in Elephant and Ivory.

I have 25 years' experience working as a ranger, wildlife enforcement officer, investigator and INTERPOL officer dealing with wildlife crime matters. From 1998 to 2014 I was the Principal Investigator with the Commonwealth Dept of the Environment. My primary role was to lead investigations relating to international wildlife trafficking. I developed an excellent working relationship with the CITES Chief Investigator in Geneva, as well as numerous international organisations such as INTERPOL and the UNODC. I also had excellent working relationships with Australian Customs and the AFP. In 2008 I led investigations in Australia relating to the importation and re-exporting of ivory and rhino horn products. As a result, I was seconded to the Australian Crime Commission (ACC) as the lead investigator on Project Aerostar which was initiated after conducting operations on a Sydney based individual who was an associate of persons convicted and imprisoned overseas for wildlife trafficking.

The ACC project sat under the Determination known as Making Australia Hostile to Serious and Organised Crime (MAHSOC). The project resulted in examinations of suspects, witnesses, associates and facilitators involved in the trade which at the time was seeing ivory and rhino horn being mis-declared as antique (Pre-CITES) on applications written by professional facilitators. Once these documents were sent with an application for a Pre-CITES certificate, the Australian CITES Management Authority would issue permits or Pre-CITES Certificates for these specimens and in doing so, provide validation based on false provenance. In doing so, this inadvertent "legitimization" significantly increased the specimen's value at auction (into the hundreds of thousands of dollars) and in doing so enable the ivory or rhino horn to be "lawfully" exported. The "legalized", ivory and rhino horn significantly increased in value with the owner and antique profiteering due to the validation of the provenance and issuing of Pre-CITES Certificates, with the specimens invariably being subsequently exported to China after sale at auction.

Project Aerostar led to the issuing of two INTERPOL international enforcement notifications, a Green Notice which identified the actions and risk associated with the main suspect who had been arrested twice in 2007 in France and Belgium in possession of ivory and large sums of money, and a Blue Notice identifying the methods used to illegally import specimens, modify the appearance of the items to make them appear antique, details on fabricated expert provenance statements to obtain pre-CITES Certificates and details on the drivers of this crime type, particularly associated with end purchaser status and speculation. At the time that there was also an allegation that rhino horn was also being spruked as a cure for cancer.

No individual was prosecuted as a result of Project Aerostar, however there were five separate intelligence products (reports) produced which were disseminated under the ACC MAHSOC Determination to all Australian police agencies, Customs and the Commonwealth Dept of the Environment. Referrals were provided to Centre-Link for assessment and the ATO to investigate the alleged undeclared income of the principal suspect who had several millions in international funds transfers as well as unexplained wealth and significant foreign income. The AFP were also contacted and a referral submitted by the ACC for investigation under the Proceeds of Crime Act 2002 for unexplained wealth, however as far as I know, this matter was not pursued.

During Project Aerostar I led a number of search warrants at auction houses and residences and seized a quantity of ivory, rhino horn and rhinoceros heads and associated documents. I further facilitated engagement with the Australian National University Radio Carbon Dating Facility to explore options for dating seized specimens. By way of example of the financial incentives associated with this crime, the principal suspect had consigned two small rhino items with false provenance (a small statue and libation cup) to a well-known auction house in Melbourne. The expected sale price of the two items combined was approximately \$500,000. Over the course of these operations primarily in Sydney and Melbourne, the price for these items fell considerably which I largely attribute to the scrutiny and pressure placed on the auction houses to provide documents verifying provenance and the subsequent seizures when offences were suspected.

In 2015 I took up a position as a Criminal Intelligence Officer in INTERPOL's Environment Security Program based in France, working on wildlife crime in Central and SE Asia. I worked on joint operations with Thailand, Singapore and Malaysia when large consignments of ivory and rhino horn were seized. During this period I also worked closely with drug enforcement units, human trafficking officers, maritime enforcement teams targeting piracy and financial crimes units. This highlights the fact that wildlife trafficking is a lucrative crime which is often seen as low risk and high reward. That is, low risk of detection, successful prosecution and potentially low penalties, whilst the illicit commodities can be sold for substantial financial reward.

I now currently work as a wildlife enforcement officer and manage my own consultancy advising agencies on risks and strategies associated with wildlife crime and conduct international law enforcement and investigations training for Customs, border guards and rangers.

### **Terms of Reference**

- a. Over the last ten years there has been an increase in trafficking of ivory and rhino horn globally and by inference one could conclude this applies to Australia. Although unable to verify, I believe Australia too has seen an increase in the domestic trade particularly through auction houses, with the specimens being falsely declared as antique (pre CITES) and then issued with certificates which permit export. The major area of concern is whole items such as tusks and horns as opposed to tourist trinkets and souvenirs. It is near impossible to

determine how much ivory is coming into Australia as it is known to be concealed in household consignments and large containers of numerous items. The ivory or horn is difficult to detect and despite the random profiling and x-rays or container unpacks, an undetermined quantity is able to enter Australia where it may be altered to appear aged if this has not already occurred at the country of origin. There is local demand amongst some Asian buyers however the driver is the financial gain that can be made by re-export back to Asia, particularly Vietnam and China.

- b. The resourcing for border screening is limited and focuses on numerous other priority illicit commodities. Customs officers may not be familiar with concealment methods nor have sufficient awareness and training to recognize the horn or ivory as a prohibited import.
- c. Project Aerostar identified the involvement of serious and organized crime. The principal suspect was a person of significant interest to the ACC. The principal suspect had several millions of dollars' worth of unexplained transactions, miss-declared annual income to the ATO, was claiming unemployment benefits, was an associate of known crime figures in Australia and overseas, was involved in extensive international travel, document forgery and had unexplained wealth. This crime was organized and involved providers, facilitators and distributors. A different subject on the ACC National Crime Target List who was the subject of a search for a hand gun as part of investigations by the Piranha Taskforce into Melbourne gang land investigations was found to be in possession of wildlife products including ivory, tiger and bear skins and numerous other specimens of protected and prohibited wildlife specimens. INTERPOL has identified the convergence of crime associated with wildlife trafficking from the supply of military weapons to poachers, murder and extortion, corruption to facilitate the transport and distribution, financial crimes and fraud involved in the trade and linkages to insurgent groups who fund and initiate operations along with crimes such as drug trafficking and piracy. By way of a recent example, on 10 April 2018 six rangers were murdered in the Democratic Republic of Congo.
- d. As a result of Project Aerostar's findings and investigations which were conducted by the Environment Investigations Unit at that time, the Environment Dept CITES Management Authority made contact with auction houses to raise awareness and promote compliance with international wildlife trade laws. This term of reference is appropriately addressed to Commonwealth Environment Dept.
- e. and f. Compliance frameworks have been exploited by criminals. Documents have been forged and false declarations made with inexperienced and untrained public servants unable to risk manage or identify such activities. There has been no way of tracking if permits and certificates issued for specimens are reused as there has been no unique identifier, such as a microchip or unique marker that links the permits/certificates with the specimens and hence it is able to be reused multiple times. Further there is no requirement for the exporter to proactively declare the export to Customs and no return provided back to the issuing authority and as such no record if the permitted export actually took place, or if it did, the permit/certificate was not closed off to restrict its further use. Further there is no industry standard which is enforced to ensure that antique experts are suitably qualified to provide expert statements of provenance of ivory and rhino horn and there is no enforceable code of conduct to ensure that such statements are true and correct.
- g. Specimens that are the subject of application for a Pre-CITES certificate or export permit should be examined by an independent and accredited expert, potentially radio carbon dated

and given a unique identifier. If a permit is issued this must be declared to Customs at the time of export and within a specific time frame. This must then be reported to the CITES Authority and the permit closed or a notation made on the original Pre-CITES certificate preventing its reuse. Allegations relating to suspected fraud must be referred immediately to the Department Investigations Sections for assessment. If fraud or offences relating to import, possession or export are detected, then these should be referred to the AFP and an Environment Investigator assigned to work alongside and support police investigations. This is required due to the broader range of powers and sophistication of police methods which are needed to address this crime type along with the other associated crimes that are likely to be detected as identified above. Examples of techniques that need to be used to investigate such complex crime include covert surveillance, controlled deliveries, informant handling and buy bust techniques. Police agencies have the legislative powers, along with training, capabilities and approved procedures to utilize such enforcement techniques. Environment agencies do not. A number of foreign countries such as Thailand, Indonesia, Holland and the UK by way of example have wildlife crime units housed within police agencies.

- h. Existing legislation is strong under the EPBC Act, however capacity and capability (access to sophisticated law enforcement techniques such as financial crime analysis and surveillance) to investigate fraud and trafficking is limited as the investigating officers are employed by the Environment Department. Similarly law enforcement agencies generally do not view such matters as serious crimes, more as matters of conservation.

EPBC laws need to be enacted to ban the sale (or offer for sale) of ivory and rhino horn if they cannot be proven to be Pre CITES beyond reasonable doubt. The ANU Radio Carbon Dating Facility has advised that specimens older than 1955 can be clearly aged with a very high degree of certainty providing an opportunity to amend the EPBC Act so that no certificates or export permits are issued unless specimens predate this. Australia first enacted CITES laws in 1975 to regulate trade in ivory and rhino horn and this is problematic as specimens cannot be aged with a sufficiently high degree of certainty beyond the mid-1950s.

State based officers could be authorized as inspectors under the EPBC Act and under an MOU could conduct proactive and reactive inspections, inquiries and seizures. For complex and high risk investigations, police must be engaged with a detective to lead a task force with Environment Investigations officers participation and well as Border Force and intelligence support and financial crime experts.

- i. Enhanced community awareness programs need to be initiated by the CITES Management Authority. Domestic sales must be banned unless proven beyond reasonable doubt that it is pre CITES and is below an acceptable quantity.
- j. The AFP and Border Force need to prioritise wildlife crime and take the lead on complex cases to ensure matters are fully investigated and all associated criminal activities identified. Intelligence then needs to be exchanged with overseas law enforcement counterparts to ensure that both the source and destination countries are notified of potential criminal activities in their jurisdiction.
- k. The UK in particular has set strong laws in place to control the illicit trade and Australia would do well to conduct a thorough assessment of the applicability of such laws. Further the USA has identified Wildlife Crime as a matter to be addressed by law enforcement agencies. The National Strategy for Combatting Wildlife Trafficking 2014 states;

*We will improve coordination and prioritize wildlife trafficking across enforcement, regulatory, and intelligence agencies. We will integrate wildlife trafficking, where appropriate, with other U.S. efforts to combat transnational organized crime.*

EUROPOL, INTERPOL and the UNODC all have identified the scale, impact and significance of wildlife crime. Internationally countries across the globe have attended forums to promote collaboration and cooperation through targeted transnational wildlife crime operations. Australia's involvement in these forums and meetings has been minimal or non-existent.

- I. Law enforcement needs to be engaged to detect, deter, disrupt and dismantle syndicates involved in wildlife crime. Often this can be done through targeting associated criminal activities such as fraud, tax evasion, conspiracy to commit crimes and unexplained wealth enforcement provisions under the Proceeds of Crime Act.

The Director of Public Prosecutions could be advised that trafficking of wildlife is a serious and organized transnational crime and needs to be treated with the same level of priority as drug trafficking.

The judiciary needs to be educated so that the occasional matters that come before a court are not seen as boutique soft crime. The impact on source communities and the associated criminal acts such as weapons trafficking, links to organized crime groups and insurgents, along with corruption, murder and extortion need to be articulated to ensure penalties are commensurate with the crime committed.

Each investigation must produce an intelligence report which is disseminated both back and forwards along the trafficking pathway to provide international enforcement counterparts an opportunity to dismantle trafficking syndicates.

I would be pleased to have the opportunity to address the Senate Inquiry on any aspect of this submission.

Yours sincerely

Luke Bond