



Asset Forfeiture from the Illegal Wildlife Trade (IWT) in the Caribbean.

CFATF RESEARCH DESK
AUGUST 17TH, 2022.



What is the IWT?

Sources:

- (1) [Criminalization of wildlife trafficking](#) (accessed August 8th, 2022)
- (2) UNODC/APG (2017). Enhancing the Detection, Investigation and Disruption of Illicit Financial Flows from Wildlife Crime: Research Report. UNODC, p. 11
- (3) FATF (2020), Money Laundering and the Illegal Wildlife Trade, FATF, Paris, France, p. 10
- (4) FATF (2012-2022), International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation.

- No universally accepted definition of the term and different jurisdictions and organizations employ different terminology. (1)
- Refers to any activities conducted in contravention of national or international laws and regulations regarding any specimen of a wild protected species or part thereof. (2)
 - Includes the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) Appendices.
- “Wildlife crime” involves any criminal violation of a national or international law designed to protect wildlife. (3)
- According to INRs. 4 and 38, *inter alia* countries should have mechanisms that will enable their competent authorities to effectively manage and, when necessary, dispose of, property that is frozen, seized or confiscated. (4)



Estimates of the IWT

Source:

FATF (2020). Money Laundering and the Illegal Wildlife Trade, FATF, Paris, France.

- It is difficult to accurately estimate proceeds from IWT due to:
 - Different national reporting standards.
 - Lack of data on wildlife trade.
 - Comingling with large flows of legal trade.
- Proceeds have been estimated at between USD \$7 and \$23 billion per year. (1)
- This is around one quarter of the amount generated from the legal wildlife trade. (2)
- It is a major transnational crime and laundering of proceeds occurs across source, transit and destination countries for illegal wildlife.



IWT in Latin America and the Caribbean (LAC)

Sources:

- (1) Statement by Assistant Secretary General in Charge of Human Development at the CARICOM Secretariat Dr. Douglas Slater for World Environment Day, 2016 “[CARICOM expresses concern over illegal wildlife trade](#)” (accessed August 16, 2022).
- (2) (3),(4) Connelly, B and Peyronnin, H. (2021). Taking Off: Wildlife Trafficking in the Latin America and Caribbean Region. USAID/C4ADS.

- Illegal, unreported and unregulated (IUU) fishing, illegal harvesting of endangered sea turtles are major IWT concerns in the Caribbean. (1)
- Birds, primarily finches, were found to be the most trafficked animal, constituting 33% of all LAC bird seizures from 2010 to 2020. (2)
 - Songbird competitions, particularly in New York City, motivate much smuggling of finches from Georgetown in Guyana.
- Other common wildlife included lizards (22 instances), snakes (21 instances), and turtles (20 instances). (3)
- LAC wildlife traffickers have been found to exploit the same hubs and transport routes as traffickers of other illicit products. (4)



Why Combatting the IWT is Important

Sources:

(1) UNEP (May 5th, 2020). [“There are no winners in the illegal trade in wildlife”](#) (accessed August 16th, 2022).

(2) FATF (2020). Money Laundering and the Illegal Wildlife Trade, FATF, Paris, France, p.9

- Loss of biodiversity and ecosystems as endangered species are removed in an uncontrolled, unsustainable manner. (1)
- Habitat destruction that can lead to the spread of zoonotic diseases. (2)
 - These are from viruses, bacteria, and other pathogens that are transmitted between animals and humans.
 - According to the WHO, 60 per cent of emerging infectious diseases that are reported globally are zoonotic, including COV-ID 19, Ebola, MERs, and SARs.
- Use of illicit proceeds for commission of other crimes.



Confiscation and Provisional Measures

Sources:

(1) FATF (2020). Money Laundering and the Illegal Wildlife Trade, FATF, Paris, France.

(2), (3) FATF (2012-2022). International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation.

- FATF Recommendations 4 and 38 state that countries investigating wildlife crime should identify, freeze, seize and confiscate associated assets as a priority. (1)
- According to INRs. 4 and 38, countries should have mechanisms that will enable their competent authorities to effectively manage and, when necessary, dispose of, property that is frozen, seized or confiscated. (2)
- These mechanisms should apply to both domestic proceedings and pursuant to requests by foreign countries. (3)



Benefits of Asset Forfeiture in the IWT

Source:

UNODC/APG (2017). Enhancing the Detection, Investigation and Disruption of Illicit Financial Flows from Wildlife Crime: Research Report. UNODC



- Asst forfeiture include all forms of asset recovery.
- Takes away the expected high-profit rewards criminals anticipate from participating in the IWT.
- Reduces the risk of criminal proceeds being re-invested in further criminal activities.
- It is under-utilized in combatting IWT.
- Thirty per cent of jurisdictions reported using asset freezing or asset forfeiture techniques to recover the proceeds of wildlife crime.



Methods of Asset Forfeiture: Confiscation

Source:

FATF (2012-2022), International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation, p.120

- Permanent deprivation of funds or other assets by order of a competent authority or a court.
- The ownership of specified funds or other assets are transferred to the State through judicial or administrative procedure.
- The person/entity that held an interest in the specified funds or other assets at the time of the confiscation or forfeiture loses all rights to the funds/assets.
- Confiscation or forfeiture orders are usually linked to a criminal conviction or a court decision.



Methods of Asset Forfeiture: Confiscation

Source:

Spicer, J. and Grossmann, J. (2022). Targeting Profit: Non-Conviction Based Forfeiture in Environmental Crime. Basel Institute on Governance, Switzerland.

- An example is the confiscation of a poacher's vehicle and any money received for the animal.
- Simple confiscation often does not affect criminal actors higher in the networks.
- These criminals use complex methods of laundering and concealing proceeds such as:
 - Shell companies.
 - Corporate structures.
 - Bank accounts in other jurisdictions.



Methods of Asset Forfeiture: Non-conviction Based Confiscation (NCBC)

Sources:

(1), (2) FATF (2012-2022). International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation. FATF, Paris, France.

(3) FATF. (2012). Best Practice Paper on Confiscation (Recommendations 4 and 38) and a Framework for Ongoing Work on Asset Recovery. FATF, Paris, France. See p.6 for other circumstances where NCBC can be used.



- Confiscation through judicial procedures related to a criminal offence for which a criminal conviction is not required.(1)
- The NCBC proceeding may, or may not, parallel a criminal proceeding. (2)
- Can be used in circumstances where property is found but: (3)
 - There is substantial evidence shows the proceeds were generated from criminal activity, but there is insufficient evidence to meet the criminal burden of proof.
 - A criminal investigation or prosecution is unrealistic or impossible.
 - Was generated from other or related criminal activity of the convicted person.



Application of Forfeited Assets from IWT

Source:

Fenner, Gretta. (n.d.) “How asset recovery can support the fight against illegal wildlife trade”. Basel Institute on Governance.

- INR. 38 requires countries to consider establishing an asset forfeiture fund into which all or a portion of confiscated property will be deposited for law enforcement, health, education, or other appropriate purposes.
- Assets can be used to empower IWT enforcement agencies.
 - Developing their financial investigation skills through training.
 - Improved ability to bring money laundering cases against the highest-level traffickers and facilitators.



Challenges to Asset Forfeiture

Sources:

FATF (2020). Money Laundering and the Illegal Wildlife Trade, FATF, Paris, France.

Spicer, J. and Grossmann, J. (2022). Targeting Profit: Non-Conviction Based Forfeiture in Environmental Crime. Basel Institute on Governance, Switzerland.

- Demonstrating that assets held by criminals.
- Lack of experience on the part of practitioners to conduct investigations and forfeitures.
- Limited powers of asset forfeiture under domestic legislation.
- Poor data management and barriers to interagency information sharing.
- Difficulties in finding the resources or expertise to manage seized, live wildlife.
- Lack of international cooperation among countries and agencies.



Challenges to Asset Forfeiture

Source:

FATF (2012-2022). International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation.

- Incentives to pursue confiscation may not be strong as assets may not be as tangible, e.g., live animals.
 - Need to uncover the fungible assets of a criminal network e.g., real estate, luxury goods, vehicles, and cash.
- Insufficient financial investigations into IWT.
 - Helps to identify illicit profits, allowing seizure and confiscation of the criminal proceeds and assets.
- Inadequate further investigations after wildlife seizure.
 - Hinders law enforcement agencies from identifying other persons and/or groups involved in the crime.
 - Anonymity of high-level organizers who usually possess considerable assets can mean little or no assets confiscated.



Measures to Improve Asset Forfeiture from IWT

Source:

Spicer, J. and Grossmann, J. (2022). Targeting Profit: Non-Conviction Based Forfeiture in Environmental Crime. Basel Institute on Governance, Switzerland.

- Effective legislation to confiscate criminal assets (with or without a conviction).
- Multiple asset recovery mechanisms that can be used for illegal wildlife crime.
- Courts effectively seize and freeze suspected criminal assets until the trial.
- Law enforcement agencies (LEAs) should have the capacity to conduct effective financial investigations to identify assets and demonstrate their criminal origin.
- Domestic cooperation and coordination among LEAs to determine investigative strategies and obtain evidence.



Measures to Improve Asset Forfeiture from IWT

Source:

UNODC/APG (2017). Enhancing the Detection, Investigation and Disruption of Illicit Financial Flows from Wildlife Crime: Research Report. UNODC.

- Conduct of parallel financial investigations alongside those into the predicate wildlife offence:
 - Enables compliance with FATF Recommendation 30
 - Allows identifying the profit from the crime, successful restraint and eventual confiscation of IWT proceeds.
- Conduct of further and follow-up investigations after every major wildlife seizure:
 - Develops a strong evidence base and identify members of the wider criminal network.



Measures to Improve Asset Forfeiture from IWT

Sources:

- (1) UNODC/APG (2017). Enhancing the Detection, Investigation and Disruption of Illicit Financial Flows from Wildlife Crime: Research Report. UNODC.
- (2)(3) Spicer, J. and Grossmann, J. (2022). Targeting Profit: Non-Conviction Based Forfeiture in Environmental Crime. Basel Institute on Governance, Switzerland.

- Use of informal networks for international information sharing should be common practice.
 - Information sharing platforms such as the Asset Recovery Inter-agency Networks can be useful. (1)
- Comprehensive management system for frozen, seized and confiscated property. (2)
- Cooperation between LEAs, private sector and specialized NGOs to broaden their access to evidence and utilize specific technical expertise. (3)



Thank you!



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