



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

- 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.

Source:

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



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.

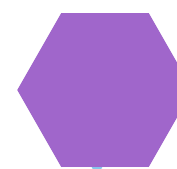
- FATF Recommendations 4 and 38 state that countries investigating wildlife crime should identify, freeze, seize and confiscate associated assets as a priority. (1)
- According to INRs. 4 and 38, countries should have mechanisms that will enable their competent authorities to effectively manage and, 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

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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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