

WILDLIFE JUSTICE COMMISSION PUBLIC HEARING: VIET NAM INVESTIGATION THE HAGUE, THE NETHERLANDS, 14-15 NOVEMBER 2016

The Wildlife Justice Commission (WJC) held its first Public Hearing on 14 and 15 November 2016 at the Peace Palace in The Hague, the Netherlands. The Public Hearing centered on the illegal wildlife trade in the village of Nhi Khe, Viet Nam. Focusing on this major trafficking hub for twelve months, WJC investigators observed a US\$53.1 million trade in parts and products of rhinos, elephants, tigers and other endangered species trafficked through a criminal network consisting of 51 individuals.

The WJC is an independent, not-for-profit organization, founded in early 2015, that investigates cases of wildlife trafficking around the world. Each investigation delivers a “Map of Facts,” a detailed case file containing evidence and intelligence analysis. It is prepared by a team of law enforcement and wildlife crime experts in accordance with the best law enforcement practice. Following completion of an investigation, the WJC establishes a dialogue with the national authorities of the governments involved to encourage national law enforcement to take action against individuals and businesses identified in the Map of Facts.

Should a government take no action, and all other avenues have been explored, the WJC may hold a Public Hearing. The purpose of a Public Hearing is to: persuade the relevant government to act; have the Map of Facts validated by an Accountability Panel (an independent, impartial panel of experts); and formulate recommendations on how best to activate justice.

The first Public Hearing brought together around 300 participants representing a wide range of stakeholders, including non-governmental organizations, academia and

media. Participants heard a detailed presentation of the evidence gathered on wildlife trafficking in Nhi Khe. They also heard several expert testimonies and engaged in discussions with NGOs, academic experts and the broader public. At the end of the second day, the Accountability Panel presented its findings and recommendations.

The Panel unanimously concluded that the WJC Public Hearing constituted a “fair and neutral description of the facts.” Recommendations were primarily addressed to the Vietnamese government and focused on immediate actions to implement the WJC findings, including to: conduct an investigation targeting the individuals identified in the Map of Facts and identify the criminal organizations involved; appoint a multi-sectoral taskforce on illegal wildlife trade; establish a witness protection programme; and enhance cooperation with the Chinese government and other international stakeholders, including the UN Office on Drugs and Crime, the UN Convention against Corruption and Interpol.

OPENING SESSION

On Monday morning, Olivia Swaak-Goldman, WJC Executive Director, welcomed participants to the Public Hearing. She noted that humanity stands at the precipice of “the sixth mass extinction,” which she described as not only a crisis of nature and conservation, but also a human crisis that threatens security of communities and nations. She explained that the aim of this first-ever Public Hearing, focusing on Nhi Khe village in Viet Nam, was to demonstrate the massive scale of illegal wildlife trade and to make a convincing case for urgent and decisive action to prosecute the criminal networks involved.

Swaak-Goldman explained that the decision to hold a Hearing was only taken after sustained efforts to get the Vietnamese government to take action were unsuccessful. She described these efforts as including the presentation of a Vietnamese-language version, which contained a 5,000-page “Map of Facts”



Olivia Swaak-Goldman, Executive Director, WJC

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Judge Motoo Noguchi, Chair of the Board of Directors, The Trust Fund for Victims, International Criminal Court and Advisory Council Member of the Wildlife Justice Commission, and **Ghida Fakhry**, Director of Proceedings

with case files of individuals involved in wildlife trafficking and marketing, to several branches of government and making continued offers of support through diplomatic channels. Noting that a successful prosecution would have provided a boost to the forthcoming Conference on Illegal Wildlife Trade, taking place from 17-18 November 2016, in Hanoi, Viet Nam, she expressed hope that the current Hearing would send a message to all those involved and would contribute to increased awareness among law enforcement authorities that wildlife crimes should be taken as seriously as drugs, counterfeiting and human trafficking.

In her opening remarks, Ghida Fakhry, Public Hearing Director of Proceedings and former news anchor at Al Jazeera, emphasized that the aim of the event is not to put Viet Nam on trial, but to encourage the competent authorities to act. She said the Hearing would also provide an opportunity for the WJC Accountability Panel to consider the body of evidence prepared by the investigative teams and would seek to show the response of the Vietnamese authorities. She reported that Viet Nam had indicated it would send an observer to the Hearing.

Fakhry then introduced five members of the Accountability Panel present at the Hearing: Justice Philippe Kirsch, Canada, Former President of the International Criminal Court in The Hague; Diego Garcia-Sayán, Peru, Former President of the Inter-American Court of Human Rights; Justice Isaac Lenaola, Kenya, Presiding Judge of the Constitution and Human Rights Division of the High Court, and Deputy Judge of the East Africa Court of Justice; Edgardo Buscaglia, Argentina/United States, Senior Scholar in Law and Economics at Columbia University, and President of the Instituto de Acción Ciudadana para la Justicia y Democracia, Mexico; and Misha Glennly, United Kingdom, award-winning journalist and historian.

She explained that the Accountability Panel is made up of high-level individuals who have no direct connection to the WJC and noted that members will be asked to examine the evidence with a critical eye, and to form their opinions based solely on the facts that have been presented to them.

PERSPECTIVES

Judge Motoo Noguchi, Chair of the Board of Directors of the International Criminal Court's Trust Fund for Victims, and Member of the WJC Advisory Council, stressed that illegal wildlife trafficking is of equal importance to other international crimes, and underlined the need to tackle the culture of impunity regarding wildlife related crimes. Deploring the ever-increasing scale of illegal wildlife trafficking, he ascribed the lack of law enforcement to a lack of political will. Noguchi commended the WJC for taking an innovative approach in encouraging relevant governments to take action on prosecution and punishment,

and said once the mechanism becomes functional, it could have a "tremendous impact" on international criminal justice. Identifying contributing factors to the significant decrease in the demand for illegal wildlife products in Japan, he highlighted a combination of political will and provision of technical capacity regarding investigation and prosecution. He said while the international community can help with the latter, political will has to come from within the country itself, and requires years of proactive outreach.

Judge Fatoumata Dembélé Diarra, President of the Council of the Université des Sciences Juridiques et Politiques de Bamako, Mali, and former First Vice-President of the International Criminal Court, provided a perspective from a source region. Among the underlying causes of the lack of law enforcement in Africa, she highlighted practical challenges on the ground, including lack of finance, coordination and law enforcement capacity. She said poaching is sometimes a means to finance armed conflict, and highlighted coordination efforts among francophone countries.

Nadav Ossendryver, South African Youth Rhino Ambassador, provided a youth perspective on the need to protect wildlife as national heritage. He said that since tourism in many parts of Africa is driven by interest in wildlife, a decline in wildlife numbers can have dramatic effects on tourism and thereby on human livelihoods. He described his experiences in Viet Nam during a campaign called "Operation Game Change," which aimed at educating youth, students and local communities about poaching and wildlife trafficking. He identified a significant lack of knowledge among civil society, noting that "many people don't seem to know the animals as a whole" and do not know that animals are killed in the harvesting of horns and ivory. He stressed the vital importance of teaching the world about wildlife in its natural habitat.

Participants also watched a video on the scale of international wildlife poaching and trafficking. The video demonstrated that the impact of this illegal trade stretches far beyond wildlife crime, drawing parallels with corruption and money laundering. It also showed the major impact of wildlife trade on the economies of many African countries and described the WJC's role in tackling wildlife crime.

PRESENTATION OF THE MAP OF FACTS

Marcus Asner, Member of the WJC Advisory Council, opened consideration of evidence gathered by WJC investigators since 2015, as contained in the Map of Facts. He began by describing the most recent visit to the Nhi Khe hub in October 2016 during which undercover investigators were invited to buy more than 480 kilograms of ivory in one store alone. Outlining the scale of the evidence, he reported that a total of six WJC undercover visits to Viet Nam had taken place in 2015 and 2016, during which investigators had directly observed animal parts and products amounting to more than US\$53 million, representing at least 579 rhinos, 907 elephants, 225 tigers and other endangered species. He noted that the teams had also encountered a sprawling and "surprisingly open" market in the village of Nhi Khe and made direct contact with 51 "Persons of Interest," including traders in Viet Nam and China, as well as guides and



Marcus Asner, Partner at Arnold & Porter LLPs and Member of the WJC Advisory Council



Pauline Verheij, senior legal investigator, WJC

interpreters working directly with buyers. Remarking that the most compelling evidence would come from the “words and actions of the traffickers themselves,” Asner concluded by pointing to some “hopeful” signs, such as the reported seizure of 200 kilograms of ivory by Vietnamese authorities two days prior to the start of the Public Hearing.

Pauline Verheij, senior legal investigator, WJC, then presented different components of the Map of Facts, including detailed

descriptions of video, audio and photographic evidence gathered by WJC investigative teams. Her testimony was delivered in several sessions throughout the day, in the form of a “cross-examination” with Asner posing questions and Verheij answering in detail.

Introducing the whole body of evidence gathered, Verheij said the testimony would highlight examples of products displayed openly in Nhi Khe shops and accounts of the activities of some of the 51 Persons of Interest. She said examples included telephone conversations and WeChat profiles (a messenger app widely used in China) containing images of wildlife products offered for sale, such as rhino horns, ivory tusks, tiger skins and teeth, and diverse pieces of ivory and rhino horn jewelry, as well as bank account information. She also highlighted evidence of the wealth accumulated by people involved in wildlife trade, such as luxuriously decorated homes and expensive cars.

Verheij reported that the encounters between undercover investigators and individuals in Nhi Khe had highlighted the sense of impunity enjoyed by the wildlife traffickers and traders. She cited one contact’s explanation that people in Nhi Khe “have their connections” and do not fear being arrested by police.

A second part of the testimony focused on broader analysis and internet research that underpinned the investigations. Verheij explained how the team had accessed social media and bank account details of traders using phone numbers displayed outside their shops in Nhi Khe that openly advertised the availability of ivory, agarwood and rosewood, tiger and rhino horn products. She reported that in one case, a trader had posted 134 photographs on a WeChat account, of products worth over US\$2.1 million, while another individual had held an online auction of ivory products on Facebook. She also highlighted a one-year long investigation of a trader who had given details of several Chinese bank accounts.

Verheij continued her testimony on Monday afternoon by highlighting evidence gathered from three WJC undercover investigations undertaken in March, June and October 2016, during which researchers posed as interested Chinese buyers. She noted that the trade with China is centered in the border towns of Mong Cai, north east of Hanoi, and Dongxing in China, with some of the Persons of Interest being able to easily move products to buyers in China. She presented evidence from a video in which a guide brought undercover investigators across the river into China in a smuggler’s boat. She noted the trip had also highlighted the role played by interpreters in facilitating sales to Chinese buyers. Verheij also highlighted specific discussions that had uncovered more details of accounts held

with Chinese banks, as well as the ease with which traffickers continued to conduct their business, despite the introduction of stricter surveillance, especially on the Chinese side of the border.

In a final part of her testimony, highlighting conclusions based on the final field mission in October 2016, Verheij said that discussions with several contacts had not revealed a decline in demand as a result of increased surveillance in Nhi Khe, but the government activities had led to less overt trade practices and had affected the supply of wildlife products. She highlighted a visit to a new location where undercover investigators found a stockpile of 480 kilograms of ivory recently smuggled from Angola, estimated to be worth more than US\$400,000. She concluded that while around 28 prosecutions had taken place since 2014, several Persons of Interest tracked throughout the investigation had managed to maintain their operations.

Responding to questions from the Accountability Panel members, Verheij noted that there has been no case of seizing assets of traffickers and explained that the decentralized nature of organized crime networks in Viet Nam makes it difficult to identify and arrest the “kingpins” who are likely driving illegal wildlife trade. She noted, however, that the final visit had revealed a distinct change in Nhi Khe and attributed this to actions that had been taken by authorities, noting that these might have been in response to the evidence presented from earlier field visits. She highlighted such changes as a less open display of wildlife products in shops and the relocation of some of the merchandise to neighboring villages. This was supported by a video in which guides took the investigators to new locations where they uncovered large stocks of illegally trafficked ivory, rhino horns and tiger skins. Verheij also reported that one contact had revealed that the traffickers were not concerned about action by local police, but that a raid by the “biggest biggest” police from Hanoi had made it more difficult to conduct business openly.

OTHER EXPERT TESTIMONIES: Participants heard expert testimony by Barbara Gravendeel, Naturalis Biodiversity Center, the Dutch National Museum of Natural History, on the identification of animals and animal parts. She explained different methodologies used by experts to ascertain the nature of animal parts, including: prior knowledge and experience; morphological comparisons with specimens in museum depots; and genomics techniques.

The next witness heard was Tom Milliken, illegal trade expert with TRAFFIC International, a non-governmental expert network that investigates and analyzes wildlife trade. He clarified that TRAFFIC operates in strategic alliance with the World Wide Fund for Nature (WWF) and the International Union for Conservation of Nature (IUCN), and closely cooperates with the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).



Barbara Gravendeel, Naturalis Biodiversity Center, the Netherlands

Milliken said that periods of sustained economic growth are accompanied by a growing and increasingly affluent middle class, which in turn fuels an increase in wildlife trade. He noted that China currently represents the largest market for ivory, and Viet Nam for rhino horn, but that other countries, including the UK, the US and Japan, have played this role in the past. Milliken stated that worldwide illegal wildlife trade amounts to US\$5-20 billion annually, excluding fishing and timber trade, and constitutes the fourth biggest illegal trade in the world.

He said Viet Nam has been a major player in the ivory and rhino horn trade only since the mid-2000s. He emphasized that this country is not only a major trade country for rhino horn, but also hosts a growing domestic market, with rhino horn being promoted as a means to reaffirm social bonds and status, and as traditional medicine that is believed to increase vitality, fertility and power, prevent hangovers, and cure cancer. He noted that rhino horn is also increasingly presented as a gift to government officials, and drew attention to instances of corruption in the trade.

Addressing ivory trade, Milliken said 20,000 elephants are killed each year, noting this is above the point of sustainability, and saying that elephant populations are in continuous decline. He said the trade is currently at the highest level in the past 25 years, with China as the major driver, and noted that Viet Nam has also been considered a country “of primary concern,” since 2009.

INTERACTIONS WITH THE PANEL: Reacting to the expert testimonies, members of the Accountability Panel highlighted the corruption aspect of the illegal trade in Nhi Khe. They remarked on the traders’ openness regarding the fact that Nhi Khe has become a hub mainly because officials can be bribed to “look the other way.” Noting the traceability of financial flows through bank accounts, and the fact that the WJC as an NGO cannot get access to banking information, they encouraged authorities to pursue this path.

In response to Panel member questions, Asner and Verheij elaborated on calculations regarding profit estimates and value adding along the trade chain. They clarified that the language used in the audio recordings was Mandarin, indicating a Chinese connection. While noting that for legal reasons no products were purchased in the course of the WJC investigation, Verheij reported that researchers had been able to trace the trade deep into the network. She also affirmed the ability of the investigators to accurately assess the authenticity of the wildlife products they encountered on the market.

Responding to questions by Panel members on the most effective measures to reduce the illegal trade in rhino horn and ivory, Milliken called for: aggressive law enforcement action in the trading countries; collaborative, international, evidence-based law enforcement; and collaborative interaction with communities in Africa. He identified Japan as a “brilliant example” of demand reduction strategies.

CONCLUSIONS: Discussing the potential impact of the investigation, Asner noted that information is easily leaked, which makes it difficult to apprehend the most powerful individuals. With regard to actions taken to curb demand, he said more time will be needed to ascertain if awareness-raising approaches are working.

Closing the session, Asner said the presentation of the evidence was now complete and highlighted three overarching conclusions from the expert testimonies, namely: the evidence “conclusively demonstrates” that a large number of people are involved in significant wildlife trafficking in Nhi Khe and surrounding areas; it is important for the relevant authorities



Peter Moore, Director of Strategic Partnerships, WJC

to take forceful steps to respond and curb the illegal trade; and other stakeholders should find ways to encourage and assist the authorities to make progress.

PRESENTATION ON VIET NAM'S RESPONSE

Pieter Mohr, Director of Strategic Partnerships, WJC, highlighted various efforts by the WJC to share the initial Map of Facts as well as the updated version prepared in early 2016. He said these efforts included using various diplomatic channels to contact the appropriate legal entities in Viet Nam and China, and holding meetings with high-level officials from the two countries during the 17th session of the Conference of the Parties (COP-17) to CITES, as well as other international meetings.

With regard to the participation of the Vietnamese government at the current Hearing, he said that Viet Nam had opted to send an observer and would not issue a formal reaction.

Moore then provided an overview of recent policy measures taken by Viet Nam to enhance anti-trafficking efforts, including: hosting the 3rd Conference on Illegal Wildlife Trade in Hanoi in November 2016; increased coordination between law enforcement agencies at provincial level, including forest protection, police, customs and border guards; collaboration between the CITES Management Authority and NGOs to implement a rhino horn demand reduction campaign; embarking on a process to amend the Penal Code to increase penalties for poaching, processing and illegally trading in protected species; and the issuing of Prime Minister’s Directive No. 28 in September 2016, which imposes measures to combat violations that cause harm to wildlife. He said that it was for this reason that the WJC had decided to postpone the Public Hearing, initially scheduled for September 2016, to give the country more time to act, as well as to revise the format of the Hearing in order to enable the Vietnamese government to report on actions taken so far.

Mohr highlighted additional actions, such as scaling up the control of air, sea and land transport routes, that reportedly led to the seizure of 2.2 tons of ivory in Hai Phong City in December 2015 and more than 2 tons of pangolin scales at the Lang Son border gate. He listed other interceptions at various airports in 2016 including: ivory and rhino horns being transported from the Czech Republic and Korea; two large consignments of ivory weighing more than 1,000 kilograms at Noi Bai International Airport and in Bac Giang province; and several smaller seizures of rhino horn and ivory.

Among actions directly linked to evidence provided by the WJC investigation, Mohr highlighted two separate seizures of ivory from transporters in Thuong Tin, Hanoi, as well as

the interception of illegally traded wildlife products based on evidence from different social media accounts. He mentioned a reported government raid in Nhi Khe two days prior to the Public Hearing during which 220 kilograms of ivory was seized and where one Person of Interest mentioned in the WJC case files was arrested, as an encouraging sign.

With regard to actions by the Chinese government, Mohr said officials had been very cooperative and had, among other activities: forwarded the Map of Facts to the anti-smuggling bureau in Beijing; launched local investigations in the border area with Viet Nam; and introduced WJC staff to their Vietnamese counterparts. He also reported that the government had indicated it would look into transactions made through Chinese bank accounts provided by investigators.

A STORY FROM THE FIELD

On Tuesday morning, Lawrence Munro, field operation manager of African Parks, shared his experiences with what he called the “rhino war” in Kruger National Park, South Africa. Noting that over 800 rhinos are killed each year in this park alone, involving at least three times as many illegal incursions into the park, he said the field is an area of continuous conflict that is taking its toll on rangers, including in their personal lives. He presented a short video showing a live, conscious rhino whose horns and face had been brutally hacked away by poachers, noting that “there is one thing that is more serious and that is a human being in the same condition. Unfortunately that is reality in the park as well.” Pointing out that soldiers are pulled out of war zones after some time, he emphasized that rangers and their families live in this situation their whole lives, and that “shooting people and seeing your people shot” induces serious long-term trauma.

Noting that in recent years poaching has been escalating both in numbers and in the degree of violence used, he said that if the status quo is allowed to persist, there will be more conflict and more human casualties, and rangers will have no time left to deal with other important aspects of parks management.

Identifying poaching as a socioeconomic issue, Munro explained that poachers are willing to run the risk to be killed because communities living adjacent to national parks are poor and have few survival options. He said poachers are exploited by the people who hire them, and that those people higher up in the trade chain are in a comfortable position, as “there is always a willing poacher.”

Munro called for high-level political action to curb both the trafficking and the demand in Asia, in order to reduce the earnings from poaching. Addressing the demand side, he called for increased public outreach and education, noting that “there is a lot that happens in poaching that people don’t know.”

DISCUSSION WITH NGOs, IGOs AND ACADEMIC EXPERTS

Director of Proceedings Fakhry facilitated a question- and-answer session in which experts shared their experiences and opinions, after which members of the Accountability Panel as well as other experts were invited to ask questions and participate in the discussion.

DEMAND REDUCTION: Steven Broad, Executive Director, TRAFFIC International, described activities undertaken by his organization in Viet Nam to address the target audience, including conveying the message to the archetypical buyer who values status symbols “that power doesn’t come from these things but from your inner strength.”

Debbie Banks, Environmental Investigation Agency, explained how tiger farms contribute to the increasing demand for tiger products in Asia. Noting that tiger skins are considered a status symbol and their bones are used in traditional medicine,

she said the primary consumers are military and political elite. She remarked that the sheer volume and accessibility of tiger parts “confirms our fear that this a completely unchallenged and unchecked trade,” and stated that tigers are more endangered than rhinos and elephants, with fewer than 4,000 animals remaining worldwide. She called for action at the highest political level, including a ban on tiger farms.

In a video message, Sharon Kwok, AquaMeridian Conservation and Education Foundation, addressed the importance of changing consumer mindsets by educating the younger generation. She said children are susceptible to the notion that all human beings are part of the same biological system and depend on biodiversity for their long-term wellbeing and survival. She described a successful example of how education had helped to drastically reduce the demand for shark fins in Hong Kong and southern China.

In the ensuing discussion, Broad affirmed that public education can work, referring to successful long-term campaigns on behaviors such as wearing motorcycle helmets, but said that in the context of wildlife trafficking “we cannot wait for 30 years for this kind of behavior to change.” He therefore called for a two-track approach, targeting consumers and law and law enforcement at the same time. Banks agreed, noting that the use of tiger products to denote status and power reaches into the highest echelons of government, and calling for increased efforts to tackle corruption.

In a video message, Avinash Basker, Wildlife Protection Society of India, said India can be seen as the world’s “wildlife supermarket,” as it is home to 70% of the world’s tigers and 50% of its Asian elephants, as well as a range of other valued species such as bears and pangolins. He said India has strict protection laws, but poaching still takes place, driven by overseas demand, and called for action at the regional level. Banks said India is an example of conservation best practice, with strong laws, strong cultural values concerning wildlife, income generation through responsible tourism, cooperation between police and forest officers, and cooperation with neighboring countries, notably Nepal. She said cooperation with China should be stepped up, with Broad encouraging bilateral cooperation across the region.

INVOLVING LOCAL COMMUNITIES: Rikkert Reijnen, International Fund for Animal Welfare (IFAW), described how illegal wildlife trade is often an important part of local livelihoods, underlining the need for an integrative approach to address this issue, for instance through poverty alleviation measures and the provision of alternative livelihoods.



Debbie Banks, Environmental Investigation Agency; and **Steve Broad**, Executive Director of TRAFFIC International



Participants during the presentation of the Map of Facts

Annette Hübschle, University of Cape Town and Global Initiative against Transnational Organized Crime, stressed the need to understand the structure and functioning of markets, including cultural motivations, and the need to address the problem at the community level both on the demand and supply sides. She said communities have been excluded from conservation initiatives, and marginalization continues as local people are sometimes pushed out of protected areas. Addressing conservation incentives to counteract people's strong motivation to poach, she said since 2.3 million people live in the areas adjacent to the 20,000 square kilometer Kruger Park, it is in fact surprising that "only" about 2,500 poaching incursions occurred in 2015.

In a video message, Sarath Kotagama, Ministry of Sustainable Development and Wildlife, Sri Lanka, said while his country is positioned along a popular shipping route for illegal trade from Africa to Southeast and Northeast Asia, poaching is not a major problem at the national level. He attributed this to the population's strong cultural bond with its wildlife, especially its elephants. Reijnen emphasized that people's connection to wildlife needs to be restored, as well as the realization that future livelihoods depend on the state of the environment.

PROMOTING INTERNATIONAL COOPERATION:

Acknowledging the need to address both supply and demand, Hübschle drew attention to the role of the transportation industry, and the substantial low- and high-level corruption in this part of the trade chain. She called for a multi-sectoral approach at the national and international levels, particularly involving cooperation between environmental and justice ministries. Highlighting a new Memorandum of Understanding (MoU) between justice departments of South Africa and Viet Nam, Reijnen said that while such agreements provide a good starting point, sharing of information is difficult due to a lack of trust.

Accountability Panel Member Edgardo Buscaglia said transnational networks cannot be dismantled without tackling "the huge structure higher up." Citing experiences with the dismantling of arms trafficking networks in 51 countries across the globe, he suggested that the same investigation and

prosecution techniques are used in the wildlife trafficking context, and noted that many countries need technical assistance to identify all the infrastructure and business protection elements.

Hübschle, supported by Reijnen, said research institutions and NGOs in Viet Nam are attempting to take a network approach, also involving the relevant legal players, with Reijnen noting that "there is good momentum." Buscaglia drew attention to a recent paper revealing that major criminal networks involved in human trafficking are also involved in wildlife trafficking.

Discussing the role of the European Union (EU), Leif Görts, National Member for Sweden, Eurojust, highlighted challenges linked to legal jurisdictions and mandates, but also challenged European countries to set a good example by tackling illegal trade in timber and other environmental crimes.

In response to a question from the Accountability Panel on the role that the EU could play in supporting countries to prosecute criminal groups, Görts suggested that it could deploy a task force of skilled investigators to support countries. He suggested that international cooperation efforts could focus on such areas as building judicial capacity and sharing of good practices. He also highlighted his organization's experience that small dedicated teams of investigators can be quite effective, and noted this highlights that limited resources are not always a barrier to effective implementation.

Daniel Turner, Born Free Foundation, described the EU Action Plan Against Wildlife Trafficking as a blueprint that can be used by governments, agencies, NGOs and experts with an interest in implementing a multi-faceted action plan to tackle environmental crimes. He said a similar action plan is currently under development for the Gulf States, which are also a major hub for wildlife trafficking. With regard to the role of European institutions, Turner highlighted an EU action plan announced at CITES COP 17 that aims to strengthen capacities to tackle wildlife trafficking in source and demand countries.

In a video statement, Cosma Wilamunga, Director-General of National Parks, Democratic Republic of the Congo, said wildlife crimes contribute to further the erosion of already weak state capacity as governments cannot match the resources available to the large criminal networks. He said this is contributing to



Mary Rice, Executive Director, Environmental Investigation Agency, and Leif Görts, National Member for Sweden, Eurojust

impoverishment of communities and placing park rangers in the direct line of fire. He also underscored the critical role of the international community in helping to bring the wildlife traffickers to justice.

STRATEGIES TO ACCELERATE ENFORCEMENT:

Responding to a question from Fakhry on whether focusing on one country could be counterproductive, Rob Parry-Jones, WWF International, said the Public Hearing could help to elevate the response at the political level and emphasized the importance of situating such efforts within broader processes, such as the 2030 Agenda on Sustainable Development. He added that this offers a mechanism for tackling related issues such as improved governance and transparency in international financial flows.

Gillian Dell, Transparency International, described the Public Hearing process as a fine balancing act, noting that while a robust approach is needed, it is important to balance political pressure with capacity support to drive real action on the ground.

Mary Rice, Executive Director, Environmental Investigation Agency, emphasized the need for strong multi-agency collaboration within countries as well as internationally to dismantle wildlife trafficking networks. Among successes in source countries, she highlighted a multi-agency task force that has been in place in Tanzania since 2014, and efforts to build capacity within Kenya's judicial system. She noted that one innovation in the Kenyan case was the establishment of a court at the main international airport to fast track prosecution of wildlife trafficking, and described it as good examples of what can be achieved where there is political will. Rice also noted that the relocation of poaching activities from Tanzania to countries with weaker governance structures, such as Mozambique, illustrates the effectiveness of robust enforcement efforts.

In a video message, Vivek Menon, Executive Director, Wildlife Trust of India, described the illicit wildlife trade in Viet Nam as "shocking." Noting that all three native rhino species in Asia are on the brink of extinction, he said the "only hope" for the region is to combine public education, especially among the youth, with political pressure. He identified Taiwan as an example a country that had "cleaned itself up," and attributed

this in part to enforcement of the Pelly Amendment in the US that introduced an embargo on wildlife products from that country.

On whether to implement a similar sanction against Viet Nam, Parry-Jones reported that a petition towards this end has been submitted to the US government and noted that there is scope to trigger similar compliance mechanisms within the CITES framework. He drew participants' attention to a UN General Assembly resolution calling for a special envoy on wildlife trafficking as an alternative approach to raise the profile of wildlife protection issues.

Polly Higgins, Earth Community Trust, discussed her organization's advocacy work to promote recognition of ecocide as a major crime and noted that Viet Nam incorporated this concept in its penal code more than two decades ago. She suggested that the international community should try and step in if a country is "unable or unwilling to take action," and outlined ongoing efforts at the International Criminal Court to prioritize environmental crimes within their area of jurisdiction.

Samuel Wasser, Center for Conservation Biology, University of Washington, highlighted efforts to build countries' capacities to introduce DNA tracking of seized ivory and other products, noting that tackling of illegal trade at source is the best way to reduce killing and ecological, socio-political damage and to prevent contraband entering into transit countries where traceability is more difficult. Responding to a question about the recent burning of ivory seized in Viet Nam, he referred to CITES rules calling for major seizures to undergo DNA sampling prior to being disposed of. He also highlighted the need to distinguish between evidence needed for traceability purposes and the generation of forensic samples for use in prosecuting traffickers, noting that different protocols are required for the two uses.

TACKLING CORRUPTION: Highlighting a recent joint report by Viet Nam and the World Bank, Dell noted it showed widespread recognition that corruption is a key issue in the context of wildlife trafficking. She called on Japan, as a leading donor country in the region, to help explore avenues to discourage illicit financial flows through criminal networks. She also pointed to the growing public demand for more efficient



Ghida Fakhry, former news anchor, Al Jazeera, and Director of Proceedings of the Public Hearing

public services as a potential opportunity for civil society organizations to push for increased accountability. Stressing that there is no silver bullet in tackling this issue, Parry-Jones highlighted the role of youth in challenging the societal norms that drive demand. He cited a Tanzanian study of corruption within the timber industry that resulted in a civil society campaign to dismantle the criminal value chain.

Responding to a question from the Accountability Panel, Rice said that intelligence-led approaches work best when dealing with international wildlife trafficking. In a video statement, Philip Muruthi, Africa Wildlife Foundation, stressed the importance of tackling demand in Asia to reduce the high rates of poaching in Africa, and stated that “leaders need to be angrier than they are now” to fully tackle the trafficking problem.

Asner noted the WJC investigation had highlighted the limits faced by a non-governmental entity with limited ability to “work its way up the chain” or to prosecute individuals involved in wildlife trafficking. He called on the EU to enhance enforcement by enacting similar legislation to the Lacey Act in the US, which regards any import, trafficking or sale of fish, wildlife or plants that is in violation of local or international law as a criminal act. He said that taking action based on this principle would also strengthen the work of CITES and other multilateral and bilateral agreements.

Wrapping up the session, Asner proposed that the Accountability Panel could offer specific recommendations to the Vietnamese government on how to effectively use available legal instruments to “go after the entire network.” He noted the need for the Vietnamese government to devote adequate resources to the investigation, including through buying and testing samples of illegal wildlife products, and explained that as an NGO, the WJC was unable to take this step due to legal restrictions. On the role of civil society organizations, he suggested they could help maintain momentum by “shining a light” on the arrests made so far.

PUBLIC DISCUSSION

Participants watched part of an Al Jazeera video documentary on illegal wildlife trade, which aired just prior to the Public Hearing and featured the WJC Viet Nam investigation. They then engaged in a discussion, involving the experts as well as the broader public, on various options to combat illegal wildlife trade.

Speakers first addressed the need to tap into existing online action networks in order to engage young people and social entrepreneurs in the search for innovative solutions. They identified successful recent examples of online campaigning in the context of other environmental fields and politics, and underlined the need for the anti-wildlife trafficking community

to engage with experts in the areas of entrepreneurship, social media, art, design, innovation, marketing, and social behavior. WJC Executive Director Swaak-Goldman described a recent meeting she had had with a “social hub creator,” noting that this had yielded useful ideas and a basis for cooperation.

Some speakers stressed the need to discuss tourism as a mechanism to trigger positive change, naming eco-tourism on one hand, and boycotts on the other, for instance by airlines refusing to transport illegal wildlife products, and tour operators avoiding areas where poaching is prevalent. They acknowledged the value of promoting wildlife viewing as an alternative to poaching and clearly demonstrating that animals are worth more alive than dead.

One speaker advocated criminological approaches: understanding entire networks, rather than just “finding the culprit.” He said naming and shaming can be counterproductive, especially in Asia, and stressed the need to applaud and support Viet Nam’s efforts in demand reduction. Another participant suggested seeking advice from Vietnamese experts on how to best approach the authorities. Swaak-Goldman reaffirmed the importance of diplomatic dialogue and trust building. On mapping entire networks, she highlighted the WJC’s limited financial and human capacity and drew attention to the risk involved for the investigators.

In response to a question on how the Map of Facts was delivered to the Vietnamese authorities, Swaak-Goldman explained that the document had been translated into Vietnamese, and paper copies had been delivered to five different ministries. She said the evidence gathered was of evidentiary quality and could be used directly in some legal systems, while it also is a good basis to start a full legal investigation. Asner felt that based on the Map of Facts, it would be “simple” for one prosecutor to prosecute all 51 Persons of Interest.

Noting that the trade in Nhi Khe is clearly not about livelihoods, but about profit, participants discussed ways to change mindsets, contemplating successful past changes in attitudes towards behaviors such as littering and smoking. Asner outlined different approaches to changing the equation that dealers make when weighing the profits against the chance of being caught and the time spent in prison. He said law enforcement actions should include the confiscation of convicted dealers’ assets.

Discussion also centered on ways to debunk the myths upon which the traditional medicine market is built, and on ways to reduce the demand for other rhino horn products, including jewelry. One speaker drew attention to scientific studies into the effectiveness of rhino horn traditional medicine, which showed its limited cost-effectiveness. He said it is difficult to quantify which proportion of the trade concerns traditional medicine, and noted a recent proliferation of products and a shift towards status symbols.

Participants explored ways to align laws internationally, and debated the role of the donor community, calling for a framework and meaningful indicators to evaluate how funds are being spent. Participants also discussed the potential merits of a complete worldwide ban on all ivory, including “historical” ivory, found for instance in existing art, musical instruments and antiques. Recognizing that any legal market creates opportunities for “laundering” new ivory, they acknowledged difficulties enforcing such a ban, and noted that many countries are taking efforts to address this issue.

On future actions of the WJC, participants suggested taking a regional approach, since other countries may take over Viet Nam’s role if trade is curbed there, and extending investigations into source countries. Swaak-Goldman said the WJC will look carefully into the question where the WJC’s impact can be



Philip Muruthi, Chief Scientist, African Wildlife Foundation (video statement)

greatest. Addressing the question how the recommendations emanating from this Public Hearing will feed into the upcoming Hanoi Conference on illegal wildlife trade, Swaak-Goldman expressed hope that its participants will consider “these very tangible facts” and let them influence their discussions. She also called on the meeting to identify which help they need and which concrete steps need to be taken to implement existing laws.

ACCOUNTABILITY PANEL CONCLUSIONS AND RECOMMENDATIONS

Presenting the Panel’s conclusions with regard to the evidence presented at the Public Hearing, Panel Member Justice Kirsch said the Panel had considered the validity of the investigations conducted by the WJC as well as expert testimonies. He reported the five members had unanimously decided to confirm the conclusions of the WJC investigation, as it considered them to constitute a “fair and neutral description of the facts.”

Justice Kirsch then summarized the Panel’s interpretation of the evidence, noting it had confirmed, *inter alia*, that Nhi Khe is and continues to be a major hub for illegal wildlife trade, which takes place “in full public view” and with the knowledge of law enforcement officials; and the 51 individuals identified in the Map of Facts and its updates have been actively involved in wildlife trafficking, processing and trade, including through social media platforms. He further noted that the network identified caters to both Vietnamese and Chinese clientele, and a total of 15 bank accounts in China are used to receive payments, thus promoting money laundering and illicit financial flows.

In other observations, Kirsch said the evidence had revealed that Angola, Mozambique and South Africa are key source countries for ivory and rhino horn products trafficked through Viet Nam and concluded that the large quantity of tiger parts and products was most likely sourced from farms as Viet Nam has very few tigers remaining in the wild. He also noted that as a contracting party to CITES, Viet Nam is obligated to stop this illicit trade.

Kirsch further reported that the Panel had taken note of efforts taken by the WJC to establish contact with relevant enforcement authorities in Viet Nam and acknowledged a number of positive actions taken by the country to curb environmental crimes, including: ratifying various international agreements; signing a

MoU with South Africa to improve collaboration on biodiversity protection and tackling wildlife trafficking; and issuing a Prime Ministerial decree to crack down on transnational organized crime rings in the country.

Panel Member Buscaglia then presented the Panel’s recommendations on immediate actions to implement the WJC findings, noting they were primarily addressed to the Vietnamese government. He emphasized that the recommendations are in accordance with international agreements to which the country is a signatory.

Final Outcome: The WJC Accountability Panel recommends that the Government of Viet Nam, *inter alia*:

- review existing statutes relating to organized crime statutes in order to curtail ancillary crimes linked to organized wildlife crime;
 - enact laws to introduce civil asset seizures;
 - ensure the prompt entry into force of the revised Penal Code;
 - conduct an investigation targeting the individuals identified in the Map of Facts and identify the criminal organizations involved based on intelligence from the Ministry of Public Security and other relevant sources;
 - appoint a taskforce on illegal wildlife trade composed of focal points from different institutions;
 - establish a witness protection programme to effectively dismantle criminal enterprises, as well as a programme and procedures to protect whistleblowers;
 - where sufficient evidence exists, institute criminal proceedings rather than administrative procedures;
 - pursue tax violations of individuals and illegal trade conducted on social media;
 - improve collaboration and data sharing with Chinese and other authorities; and
 - enhance cooperation with international stakeholders including the UN Office on Drugs and Crime, the UN Convention against Corruption and Interpol to assist with asset recovery.
- In other recommendations, the Accountability Panel encourages the Vietnamese Government and other stakeholders to engage more closely with civil society networks to prevent and monitor corruption and transnational organized crime, as well as to enhance training and education. It also calls on all parties



Justice Philippe Kirsch, Canada, Former President of the International Criminal Court in The Hague; **Diego García-Sayán**, Peru, Former President of the Inter-American Court of Human Rights; **Justice Isaac Lenaola**, Kenya, Presiding Judge of the Constitution and Human Rights Division of the High Court, and Deputy Judge of the East Africa Court of Justice; Edgardo Buscaglia, Argentina/United States, Senior Scholar in Law and Economics at Columbia University, and President of the "Instituto de Acción Ciudadana para la Justicia y Democracia," Mexico; and Misha Glenny, United Kingdom, award-winning journalist and historian

to CITES, the UN Office on Drugs and Crime and the UN Convention against Corruption to take measures to support Viet Nam in compliance with their obligations.

CLOSING OF THE PUBLIC HEARING

In closing the Public Hearing, WJC Executive Director Swaak-Goldman said these recommendations are not the end of the process, noting there is still a long way to go to support the Vietnamese government to take the appropriate law enforcement action. She announced the WJC will continue its work to stimulate the international community to offer such support, and closed the meeting at 5:00 p.m.

UPCOMING MEETINGS

16th Meeting of Congo Basin Forest Partnership:

The Congo Basin Forest Partnership (CBFP) coordinates efforts to sustain forest resources, enhance natural resource management and improve the standard of living in the Congo Basin. Partnership members convene biannually to coordinate priority activities, propose action on emerging issues and share information with others that are active in the Congo Basin. The CBFP, which brings together 70 partners, including African countries, donor agencies, governments, international organizations, nongovernmental organizations, scientific institutions and the private sector, was launched at the 2002 World Summit on Sustainable Development (WSSD) in Johannesburg, South Africa. It works closely with the Central African Forests Commission (COMIFAC). **dates:** 21-26 November 2016 **location:** Kigali, Rwanda **contact:** Dany Dogmo Pokem **e-mail:** dany.pokem@pfb-cbfp.org **www:** http://pfb-cbfp.org/news_en/items/MOP-KigaliRwanda.html

3rd Science for Biodiversity Forum: Convening under the theme, "Mainstreaming biodiversity for well-being: Contributions from Science," the Forum aims to share knowledge, approaches and solutions for mainstreaming biodiversity among scientists, policy makers and civil society, with a focus on agriculture, fisheries, forestry and tourism. The Forum will provide opportunity for dialogue on, among other topics: challenging conceptual discussions and realities on sustainability and mainstreaming biodiversity in selected sectors; showcasing success stories on selected topics related to mainstreaming biodiversity and the role of science, different types of knowledge and approaches in these case studies, and their possibility of replication; and improving understanding on the strengths, limitations and the use of decision-support tools such as scenarios, modeling, data, combined social and ecosystem approach, and how best to communicate best

practices. **dates:** 1-2 December 2016 **location:** Cancun, Mexico **www:** <http://cop13.mx/en/science-for-biodiversity-forum/>

CBD COP 13: The 13th meeting of the Conference of the Parties to the Convention on Biological Diversity (CBD COP 13), the eighth meeting of the Conference of the Parties serving as the Meeting of the Parties to the Cartagena Protocol on Biosafety (COP/MOP 8), and the second meeting of the Conference of the Parties serving as the Meeting of the Parties to the Nagoya Protocol on Access and Benefit-sharing (COP/MOP 2) will be held concurrently. A High-Level Segment will take place from 2-3 December. **dates:** 2-17 December 2016 **location:** Cancun, Mexico **contact:** CBD Secretariat **e-mail:** secretariat@cbd.int **www:** <https://www.cbd.int/cop2016/>

IPBES-5: The fifth Session of the Plenary of the Intergovernmental Platform on Biodiversity and Ecosystem Services (IPBES-5) will be held in early 2017 to review progress on the IPBES work programme. **dates:** 7-10 March 2017 **location:** Bonn, Germany **contact:** IPBES Secretariat **phone:** +49-228-815-0570 **email:** secretariat@ipbes.net **www:** <http://www.ipbes.net/>

3rd Meeting of the GRASP Council and Gorilla

Agreement MOP 3: The third meeting of the Great Apes Survival Partnership (GRASP) Council and the third Meeting of Parties to the Gorilla Agreement (GA MOP3) of the Convention on Migratory Species of Wild Animals (CMS), which were to be held in parallel in November 2016, were postponed to June 2017. The GRASP Council meets every four years to set global priorities and targets for the conservation of chimpanzees, gorillas, bonobos and orangutans and their habitats in Asia and Africa. The GRASP Secretariat is co-hosted by UNEP and the UN Educational, Scientific and Cultural Organization (UNESCO). **date:** 1 June 2017 [tentative] **location:** Jakarta, Indonesia [tentative] **contact:** GRASP Secretariat **phone:** +254 20762 3842 **e-mail:** info@un-grasp.org **www:** <http://council2016.un-grasp.org/en/council/>

CMS COP 12: This meeting will take place in Manila, the Philippines. **dates:** 22-28 October 2017 **location:** Manila, Philippines **contact:** CMS Secretariat **e-mail:** secretariat@cms.int **www:** <http://www.cms.int/cop12>

CITES COP 18: CITES COP 18 will be held in Sri Lanka, with the exact dates and location to be determined. **dates:** 2019 **location:** Sri Lanka **contact:** CITES Secretariat **phone:** +41-22-917-81-39/40 **fax:** +41-22-797-34-17 **email:** info@cites.org **www:** www.cites.org