House of Commons
Environmental Audit Committee

Wildlife Crime

Third Report of Session 2012–13

Volume I

Volume I: Report, together with formal minutes, oral and written evidence

Additional written evidence is contained in Volume II, available on the Committee website at www.parliament.uk/eacom

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Environmental Audit Committee

The Environmental Audit Committee is appointed by the House of Commons to consider to what extent the policies and programmes of government departments and non-departmental public bodies contribute to environmental protection and sustainable development; to audit their performance against such targets as may be set for them by Her Majesty’s Ministers; and to report thereon to the House.

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The Reports of the Committee, the formal minutes relating to that report, oral evidence taken and some or all written evidence are available in a printed volume.

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Summary

Since our predecessor Committee’s inquiry in 2004, there has been greater Government commitment to tackling wildlife crime. There has been a clear improvement on the situation in 2004, but action is still required in a number of areas and there are new developments that the Government now needs to tackle:

- Wildlife law has been amended so many times in response to new wildlife crime threats that it is too complex for non-specialist police and prosecutors to apply effectively and for the public to fully appreciate. All our witnesses thought that a consolidation of the law was long overdue.
- Defra and the Home Office have continued to fund the specialist National Wildlife Crime Unit (NWCU) through a period of constrained public finances, but they have not provided certainty about its funding on the long-term basis needed to allow the Unit to build its capabilities. The Government must maintain the current level of funding, with longer-term certainty, to allow the Unit to focus on its core duties.
- Primary legislation proscribing the possession of poisons used to kill birds of prey was enacted in 2006, but an Order listing which poisons it would be an offence to possess has not been introduced. The Government must immediately introduce such an Order to protect birds from poisoning. Given the current law’s lack of deterrent effect, it should also bring forward legislation to introduce vicarious liability for raptor persecution.
- Wildlife crime enforcement has been undermined by the lack of any sentencing guidelines on wildlife crime for judges, which has led to inconsistent outcomes in the courts. The Government must immediately address that gap by introducing sentencing guidelines for judges, and provide training on wildlife crime for magistrates and prosecutors.
- In 2004, our predecessor Committee warned that the internet would act as a wildlife crime enabler. This has inevitably come to pass. However, recent funding for this area was so short term that no suitably qualified person could be found to fill the NWCU’s internet monitoring post. The key role of monitoring wildlife crime on the internet would be more attractive to suitable applicants if it were made secure through an extended funding settlement.

If the Government were to address those points, the UK would be significantly better placed to tackle domestic wildlife crime.

In the international arena, the rhino, tiger and elephant are threatened with extinction due to poaching driven by growing demand from south-east Asia and China. Such threats can only be tackled through international co-operation. In this field, the UK Government has provided international leadership, which it must maintain and extend. The next meeting of the Convention on International Trade in Endangered Species Conference of the Parties in 2013 provides an important opportunity for the Government to seek international agreement on adopting a more rigorous approach to the trafficking of endangered species.
1 Introduction

1. The previous Environmental Audit Committee Report on wildlife crime, *Environmental Crime: Wildlife Crime*, was published in October 2004. In the past eight years, new threats have emerged, the legal landscape has shifted not least due to devolution and, hearteningly, some of our predecessor Committee’s recommendations have been implemented with positive outcomes.

2004 inquiry

2. In 2004, our predecessor Committee identified the need for the then Government to “re-state its commitment to tackling wildlife crime”\(^1\) and criticised its “refusal to accept wildlife crime as an issue deserving of committed police resources”.\(^2\) The Government response to the 2004 Report acknowledged the merit of those recommendations, which was followed by action: UK wildlife crime priorities were agreed for the first time in 2004 to provide a targeted approach to tackling wildlife crime;\(^3\) and Defra and the Home Office set up and funded the NWCU in 2006 as a centre of expertise and co-ordinating point for intelligence.\(^4\) That recognition by Government of the significance of wildlife crime was the major achievement of the 2004 Report. In 2012, the Defra Minister Richard Benyon MP told us, “All areas of wildlife crime are absolutely at the core of our priorities”, which indicates that that general commitment has been maintained.\(^5\)

3. Another key recommendation in the 2004 Report was not implemented. Our predecessor Committee recommended that “a centrally managed, national database which records all incidents of wildlife crime, as well as the details of all successful and unsuccessful prosecutions mounted, must be established as a matter of priority”.\(^6\) The then Government accepted that “the absence of comprehensive information about wildlife crime can make it difficult to assess the scale and nature of this crime, which can in turn make decisions about the resources to be devoted to it difficult”, while simultaneously rejecting the proposition that “the creation of a new, separate database is the way forward”.\(^7\) In 2004, our predecessor Committee also pointed out the threat posed by “the advent of illegal internet trade”.\(^8\) In response, the then Government accepted that “the internet is becoming one of the major areas for wildlife trade” and cited the “level of ignorance of the relevant controls and documentation” as the explanation for many offences.\(^9\)

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3. Ev 92
4. Ev 128
5. Q 54
2012 inquiry

4. Our latest inquiry opened in January 2012 with a call for evidence. In response, we received written evidence from some of the largest membership organisations in the UK, various bodies involved in enforcement and licensing, organisations with an international focus, charities centred on particular species, members of the public and, because wildlife crime is a cross-cutting issue, the Home Office and Defra. In total, we received 57 separate written submissions. We took oral evidence from wildlife non-governmental organisations, the police and Natural England, the Environment Agency and UK Border Force covering the themes raised in written evidence. The inquiry concluded with evidence from the Defra and Home Office Ministers who share responsibility for wildlife crime policy, namely Lord Henley, Minister of State for Crime Prevention and Anti-Social Behaviour Reduction at the time of our inquiry, and Richard Benyon MP, Parliamentary Under-Secretary of State (Natural Environment and Fisheries).

5. The background to this inquiry was formed by two events. First, the Law Commission’s ongoing 11th programme of work includes a consultation on the reform of the legal regime for wildlife management. The consultation closes on 30 November 2012, and it is anticipated that recommendations and a draft Bill will be published in mid-2014. Secondly, the next Convention on International Trade in Endangered Species (CITES) Conference of the Parties will take place in March 2013. The CITES Conference is the key forum for international action against the illegal international wildlife trade, and its 2013 meeting provides the international arena for action to protect iconic species such as the elephant, rhino and tiger, which are reportedly close to extinction because of the illegal trade in elephant ivory, rhino horn and tiger products.

6. Given that background and the outstanding issues from our predecessor Committee’s 2004 Report, we examined international wildlife crime (Part 2) and wildlife crime in the UK (Part 3), as well as the nature and enforcement of the law in relation to wildlife crime in the UK (Part 4). From the evidence, it is clear that wildlife crime is a broad subject with national and international facets. So many different species were highlighted that it is impossible to discuss them all individually either in our oral evidence sessions or in this Report, but our examination of the strategic issues, such as the structure of wildlife crime enforcement and the development of wildlife law, relates to all wildlife, and we hope that those who might be concerned about the lack of references to certain species will bear that point in mind.

7. Since the 2004 Report, conservation law has been amended in Scotland, Wales and Northern Ireland by their respective Governments. (Environmental law is an entirely devolved matter in Scotland and Northern Ireland, and the Welsh Assembly Government has the power to make secondary legislation in this field.) There are now important differences across the UK in some laws relating to wildlife, while other arrangements remain unchanged: Defra recently introduced a commitment to end human-induced species extinctions in England that does not apply to Wales, Northern Ireland or Scotland; some aspects of wildlife crime, such as invasive non-native species, are dealt with at a

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10 The Committee is especially grateful to Sally Hall, Trevor Taylor, Phillip Onions, Barry Kaufmann-Wright, Judith Smith and Harry Bishop for taking the time to submit evidence.

British level (the island of Ireland has a separate strategy on invasive species); and the implementation of CITES, which involves international co-operation, is handled by the UK Government. Furthermore, successive Scottish Governments introduced the Nature Conservation (Scotland) Act 2004 and the Wildlife and Natural Environment (Scotland) Act 2011, which provided us with useful practical evidence on the possible development of the law in England and Wales. The scope of our recommendations in this Report is defined by the extent of the UK Government’s responsibilities.
2 International Wildlife Crime

8. Due to its clandestine nature, the scale of the international illegal trade in wildlife is difficult to quantify. For example, when United States Congress considered the overall value of international wildlife crime in 2008, it found that it was worth at least $5 billion a year, but might total in excess of $20 billion.\textsuperscript{12} Another estimate valued the illegal international wildlife trade at between $7.8 billion and $10 billion a year.\textsuperscript{13} Wildlife has been estimated to constitute the world’s fourth largest criminal market, behind drugs, counterfeiting and human trafficking.\textsuperscript{14}

9. As with any trade, the illegal wildlife market requires supply and demand. The 2012 UN Rio+20 Summit declaration stated:

\begin{quote}
We recognize the economic, social and environmental impacts of illicit trafficking in wildlife, where firm and strengthened action needs to be taken on both the supply and demand sides.\textsuperscript{15}
\end{quote}

Since our predecessor Committee’s Report in 2004, increased demand for illegal wildlife products has helped to drive the rhino, tiger and elephant to the verge of extinction. In our latest inquiry, we took detailed evidence on the supply of and demand for illegal wildlife products derived from those species, although other animals—notably reptiles and amphibians—are also threatened.

\textbf{Supply}

10. The supply chain for trafficked illegal products derived from elephants, rhinos and tigers begins with poaching in Africa and Asia. The main source for illegal ivory is central Africa, where the elephant population is rapidly declining due to poaching. For example, the Democratic Republic of Congo was once home to more than 100,000 elephants, but now there are only four separate groups of more than 500 elephants and the entire population may be as low as 2,500 elephants.\textsuperscript{16} The Elephant Trade Information System (ETIS), which monitors the elephant trade on behalf of parties to CITES, observed a steadily increasing trend in levels of illicit ivory trade from 2004 onwards, with an exceptionally sharp upsurge in 2009 … Data demonstrate that seizures of ivory reached record levels in 2009 and that these levels were largely sustained in 2010.\textsuperscript{17} In 2011, ETIS recorded the largest number of ivory seizures in its 23-year history.\textsuperscript{18} The gangs profiting from the lucrative illegal ivory trade in central Africa reportedly include militias such as the Janjaweed.\textsuperscript{19}

\textsuperscript{14} Ev 88
\textsuperscript{15} United Nations, Rio+20 Declaration, para 203.
\textsuperscript{16} Ev w41
\textsuperscript{17} Ev 104
11. There are five species of rhinoceros, three of which are native to southern Asia and two to Africa. All are to a greater or lesser extent threatened by extinction in the wild. Rhino deaths from poaching have increased markedly in recent years. In 2010, 333 rhinos were illegally killed in South Africa, including 10 critically endangered black rhinos. In 2011, 448 rhinos were killed, of which 19 were black rhinos. Over the past 100 years, tigers have lost 93% of their historic range, and all six sub-species of tiger are classified as endangered. The global population in the wild is estimated to number between 3,000 and 4,000 individuals, mostly in small pockets that are isolated from each other. The area occupied by tigers is estimated at less than 1.2 million square kilometres, a 41% decline since the mid-1990s.

The operation of ‘tiger farms’ in south-east Asia, which supply products derived from captive tigers, does not appear to have affected the decline of tigers in the wild.

12. Perhaps surprisingly, the UK is also a source for illegal rhino horn and ivory. Criminals are purchasing or stealing antique items, such as carved rhino horn libation cups and elephant ivory billiard balls, which are sometimes ground down before being re-sold on the black market. In September 2010, the Animal Health and Veterinary Laboratories Agency detected a surge in the number and value of rhino horn products being exported from the UK. Defra told us:

> As a result of concerns about the increasing level of re-exports of antique rhino horn, and that sales appeared to be based on the weight of the horn rather than on antiquity, and that these activities mirrored increased poaching across Southern Africa, the AHVLA recommended that stricter controls be introduced on such re-exports and sales. This was adopted by the UK and subsequently also by EU member states.

Analysis by the International Fund for Animal Welfare (IFAW) indicates that antique ivory and rhino horn products are being advertised and sold on the internet in the UK and being illegally shipped to south-east Asia and China. We discuss later the need for the NWCU to be tasked and funded to monitor wildlife crime on the internet (paragraph 69).

**Demand**

13. In the past decade, the increased poaching of rhinos, elephants and tigers has largely been driven by the demand for illegal wildlife products in Asian countries, mainly China. We investigated whether this might be a function of Traditional Chinese Medicine, but found that it was not a significant factor. Instead, increased demand in China and south-
east Asia appeared to be a function of a newly affluent society, where purchasing illegal wildlife products had recently developed both as an investment—essentially, the closer an endangered species is to extinction, the higher its investment value—and as a form of conspicuous consumption. The current focus of UK CITES enforcement on trafficking related to traditional medicine may be misplaced, because our findings on the nature of demand in south-east Asia and China for illegal wildlife products suggest that wildlife crime driven by investment and conspicuous consumption is more significant.

**Elephant ivory**

14. IFAW’s Asia Regional Director commented:

> There are people in China, the class with extreme wealth … who may have connections with criminal syndicates. They have power, they have connections. They often have anonymity, and they may order ivory, large shipments of ivory, from Africa on the internet or via the phone. They are conducting this illegal trade and hiding behind it.

In the past decade, the profits that can be made from investing in illegal ivory in China have expanded because of the increased strength of renminbi. IFAW’s Asia Director pointed out:

> If the Chinese buy ivory anywhere else in the world, they have to buy it in US dollars. For the Chinese, that makes buying ivory anywhere else in the world cheaper and the profit margin on that ivory, once it is smuggled into China and sold on the market—it is very easily sold illegally on the market because it is covered by the legal trade—is huge. That is a great incentive for people who are engaging in this illegal trade.

15. Southern African elephant range states conducted two one-off, CITES-approved sales of stockpiled seized ivory in 1999 (50 tonnes) and 2008 (100 tonnes) to approved buyers in Japan and China. The aim of both sales was to reduce ivory prices and therefore undermine illegal trade, but our witnesses told us that instead it exacerbated demand for ivory products and undermined the CITES regime in China. The sale of ivory is generally illegal in China, but the two one-off sales of legal ivory appear to have stimulated the illegal market by promoting interest in carved ivory. IFAW’s Asia Director explained:

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29 Ev 104  
30 Q 160  
31 Ev 149  
32 Q 161  
33 Chinese currency.  
34 Q 161  
35 The 1999 sale included ivory from Botswana, Namibia and Zimbabwe. The 2008 sale included ivory from Botswana, Namibia, Zimbabwe and South Africa.  
36 Ev 101
China imported 62 tonnes of ivory in 2008 from this stockpile sale, so China has a legal ivory market … Even law enforcement officers could not distinguish what is legal from illegal.\textsuperscript{37}

Ivory in the second one-off legal sale, in 2008, was bought for an average price of $157 a kilogramme by approved buyers such as the Chinese State Forestry Administration, which sold its ivory to traders for up to $1,500 a kilogramme. That mark-up is reflected in the prices of ivory products in retail outlets such as the Chinese Government-owned Friendship Store, which is accredited by the Chinese Government to sell ivory products. Recent reports indicate that the price of illegal ivory in China has increased ten-fold since 2005 in response to the stimulus from the legal market.\textsuperscript{38} Indeed, we even heard about a Chinese bank that runs an investment fund based on elephant ivory.\textsuperscript{39}

16. China is a signatory to CITES, which means in theory that all other trade in elephant ivory is illegal. In practice, those international commitments have been undermined by contradictory domestic laws and weak enforcement. IFAW’s Asia Director emphasised that “wildlife enforcement—effective enforcement—has to be aided by clear policies and laws … In terms of legal versus illegal, it is very murky for a consumer”.\textsuperscript{40} Similarly, the Environmental Investigation Agency, an environmental NGO, noted:

There is no proactive enforcement and there is no intelligence-led enforcement. The Chinese authorities are aware of the level of illegal ivory available on the market, and doing nothing about it. Trade is going on in front of police.\textsuperscript{41}

\textbf{Rhino horn}

17. Rhino poaching is driven by increased prices for horn in China and south-east Asia in general and in Vietnam in particular, where demand has been compounded by the growth of a damaging rumour that rhino horn is a cure for cancer.\textsuperscript{42} IFAW’s Asia Director pointed out:

The auction records in 2011 show that 2,750 pieces of rhino horn carving were sold in mainland China, total sale price US $18 million, which was an increase of 90% and 111% respectively from the previous year.\textsuperscript{43}

Individuals who hold large stockpiles of rhino horn have an interest in the species becoming extinct in the wild, because this will increase the scarcity value of their investment. IFAW explained:

\begin{itemize}
  \item \textsuperscript{37} Q 163
  \item \textsuperscript{38} Ev 101
  \item \textsuperscript{39} Q 175
  \item \textsuperscript{40} Q 163
  \item \textsuperscript{41} Q 118
  \item \textsuperscript{42} Ev w41
  \item \textsuperscript{43} Q 160 (That is a 90% increase in the number of rhino horn items sold and a 111% increase in the value of those items). 
\end{itemize}
In China, people are buying rhino horn as an investment. That is why it is comparable with the price of gold but being more than gold; the rarer the animal, the higher the value of that animal’s product … they are banking it, basically like they are banking gold. It is one of the secure things that you can bank in.44

Tiger products

18. The illegal poaching of tigers is also driven by demand for wildlife products in south-east Asian countries in general and in China in particular, but demand for tiger products appears to be purely a function of conspicuous consumption rather than a type of investment. The Environmental Investigation Agency pointed out:

China is still the primary consumer, and that is evidenced from the seizures from neighbouring countries. Tiger and other Asian big cat skins are used for luxury home décor, taxidermy, among the business, political and military elite, and for personal purchase as gifts.45

Similarly, TRAFFIC observed:

A lot of it is for status, it is for show, so it is going to be difficult for us to combat that, because we need to try to get a change in the motivation behind individuals in China. They are buying items, like tiger bone wine, which are conspicuously expensive, as gifts to their superiors, as gifts to others. It is very much a social status thing.46

UK demand

19. Quantifying the demand for trafficked wildlife products in the UK is problematic due to the way in which wildlife crime is currently recorded (paragraph 71). However, it is clear that some people more or less innocently import illegal wildlife souvenirs47, that a minority of practitioners of Traditional Chinese Medicine utilise illegal wildlife products48 and that there is a degree of conspicuous consumption of the kind seen on a much larger scale in China and south-east Asia.49 It is clearly important that wildlife crime law enforcement is maintained in the UK, because the UK must have its own house in order if it is to provide effective international leadership and set standards in this field.

International enforcement

20. CITES is the key instrument for international co-operation against the illegal wildlife trade. CITES accords varying degrees of protection to some 5,000 species of animals and 28,000 species of plants. Species are added to or removed from the two CITES appendices on a rolling basis depending on their current conservation status, and listed species can
only be traded with a CITES permit. Only one CITES-protected species has ever become extinct as a result of illegal trafficking, which supports claims for the past efficacy of the regime.

21. The 2012 UN Rio+20 Summit declaration highlighted the importance of international co-operation on CITES enforcement:

We recognise the important role of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, an international agreement that stands at the intersection between trade, the environment and development, promotes the conservation and sustainable use of biodiversity, should contribute to tangible benefits for local people, and ensures that no species entering into international trade is threatened with extinction. We recognise the economic, social and environmental impacts of illicit trafficking in wildlife, where firm and strengthened action needs to be taken on both the supply and demand sides. In this regard, we emphasise the importance of effective international co-operation among relevant multilateral environmental agreements and international organisations. We further stress the importance of basing the listing of species on agreed criteria.

22. Every two to three years, CITES signatories meet at a Conference of the Parties to review the implementation of the Convention. The next meeting will be held in March 2013, which will provide the UK Government with an opportunity to demonstrate leadership on the international issues raised by our inquiry. European Union countries vote as a bloc at CITES meetings, which means that the Government will need to build European consensus. It is a matter of grave concern that increased poaching, driven by demand for illegal wildlife products, threatens the rhino, tiger and elephant with extinction. The Government must take a leading role in exerting robust diplomatic pressure in favour of the development and enforcement of wildlife law at the next CITES Conference of the Parties in March 2013. In particular, the Government should focus attention on the damaging effect of ‘one-off’ sales of impounded ivory, which undermine the international CITES regime and fuel demand for ivory products, and seek an unequivocal international ban on all forms of ivory trade. Such commitments are essential but may not be sufficient to protect those species that are most endangered because of the persistent demand for products derived from them. Ultimately, rhinos, tigers and elephants will only survive as wild species if attitudes change. In the run-up to the 2013 CITES Conference, the Government should seek international support for an exploration of new ideas to challenge demand for such illegal wildlife products.

**UK implementation of CITES**

23. CITES controls within EU countries are set out in the Wildlife Trade Regulations and implemented in UK law by the Control of Trade in Endangered Species Regulations (COTES). The most direct way in which the UK can contribute to international action

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50 Appendix I lists species faced with imminent extinction in the wild. Appendix II lists species that would face extinction if trade were not tightly controlled.

51 Spix’s Macaw.

52 United Nations, Rio+20 Declaration, para 203.
against the illegal trade in wildlife is by itself running an effective internal CITES regime. This is especially important if the UK is to provide international leadership on addressing wildlife crime, but some provisions of the COTES Regulations do not appear to be facilitating effective enforcement:

- Under COTES Regulation 5, the UK Border Agency (UKBA) has the power to seize items it believes to have been imported unlawfully and to require the owner to show evidence of lawful importation. The police also often come across similar situations in the course of their investigations, but they do not have a similar power and must rely on UKBA to agree to use its powers in such cases on its behalf. This is repetitious, wastes time and resources and may result in serious wildlife crimes not being investigated.\(^{53}\)

- An authorised member of the Animal Health and Veterinary Laboratory Agency Wildlife Inspectorate has the power under COTES Regulation 9(4) to enter any premises to inspect a specimen, but police officers can do so only if they suspect that an offence has been committed and they have obtained a search warrant, which takes time and resources.\(^ {54}\) On the other hand, the Wildlife and Countryside Act 1981 allows the police to enter any land that is not a dwelling to obtain evidence of suspected offences without a search warrant.

- COTES Regulation 9(3) stipulates that a vet must be present where samples are taken in CITES cases.\(^ {55}\) That appears reasonable in cases involving living animals, but it does not include an exemption for plants, and it also applies to dead specimens. As a result, a vet might have to be called out to take a sample from, for example, a table constructed from Brazilian rosewood.\(^ {56}\)

- In addition, questions have been raised about the regulations covering the sale of caviar,\(^ {57}\) which do not include a sanction for non-compliance, and the certification system covering changes in ownership of specimens of protected species,\(^ {58}\) which may form a loophole for wildlife traffickers.

24. Such criticisms of the COTES regime have been voiced by both the police and NGOs.\(^ {59}\) Defra informed us that it was reviewing the operation of COTES, but it did not provide details of the timescale, focus or scope.\(^ {60}\) In order to ensure the efficient operation of the CITES regime in the UK, Defra must amend the COTES Regulations, focusing on the effectiveness of Regulations 5, 9(3) and 9(4) and their scope for consistent application by the various wildlife crime enforcement agencies.

\(^{53}\) Q 294; Ev 152
\(^{54}\) Ev 152
\(^{55}\) ibid.
\(^{56}\) ibid.
\(^{57}\) ibid.
\(^{58}\) ibid.
\(^{59}\) Ev 118
\(^{60}\) ibid.
3 Domestic Wildlife Crime

25. We received evidence during our inquiry covering wildlife crime in relation to a wide range of UK species. Some of those points relate to the legal framework and enforcement, which we cover in Part 4. This Part focuses on two areas where we believe that change is needed and could make a real difference: on birds of prey, where action is needed to prevent an extinction in England and where clear legislative remedies are available; and on invasive non-native species, which are a growing problem with high costs that require a more strategic response.

Birds of prey

26. Fifteen species of birds of prey[^61] breed in the UK, and the Government is required to protect them all under the European Commission Birds Directive and the Wildlife and Countryside Act 1981[^62]. Of those 15 species, the hen harrier and the golden eagle are included in the ‘Red List’ of most threatened species in *Birds of Conservation Concern*,[^63] and the red kite, peregrine, goshawk and white-tailed eagle are also threatened by persecution.[^64] There is clear public and political support for governmental action to address bird of prey persecution. In 2010, more than 210,000 people signed the Royal Society for the Protection of Birds (RSPB) bird of prey pledge, which called for an end to the illegal killing of birds of prey, and more than 160 Members of Parliament signed Early-Day Motion 654, which urged the Government to accord greater priority to addressing raptor persecution.[^65] More generally, in August 2011 the Government published *Biodiversity 2020: A Strategy for England’s Wildlife and Ecosystem Services*, which includes a commitment to end human induced-extinctions by 2020.

**Possession of carbofuran and other pesticides**

27. It has been an offence to poison birds of prey under any circumstances anywhere in the UK since the Protection of Animals Act 1911, but the practice has nevertheless continued over the past century, with a consequent effect on overall bird of prey populations. Figure 1 illustrates the consistent level of bird poisoning over the past decade and the extent to which bird poisoners used in particular the pesticide carbofuran. The statistics are drawn from the Government’s Wildlife Incident Investigation Scheme, which records investigated and confirmed incidents of wild bird poisoning and which therefore covers only a fraction of the actual number of poisonings.

[^61]: Buzzard, Kestrel, Peregrine, Osprey, Merlin, Hobby, Sparrowhawk, Montagu’s Harrier, Marsh Harrier, Honey Buzzard, Goshawk, Hen Harrier, White-Tailed Eagle, Golden Eagle and Red Kite.
[^63]: A review of the status of birds published by 12 conservation organisations and five statutory agencies.
[^64]: Ev 141
[^65]: Ev 134
28. As Figure 1 demonstrates, carbofuran is currently the toxic substance most used by bird poisoners. From 2002 to 2011, there were 633 confirmed bird-poisoning incidents in the UK, of which 316 cases—50%—involved carbofuran. Carbofuran, which is marketed under the trade name Furadan, is a carbamate insecticide, and its approval for use as such was withdrawn in the UK in 2001. There is therefore no legal purpose for which anyone might possess carbofuran in the UK. Carbofuran is especially toxic to birds, and a single grain would kill a large bird of prey such as a golden eagle by breaking down its central nervous system. Carrion-feeding raptors are especially susceptible to carbofuran poisoning, where the poison is administered via a laced bait. A gamekeeper who was convicted of poisoning birds of prey in Skibo, Scotland, in 2011 was found to possess 10 kilogrammes of carbofuran, which would have been sufficient to kill every bird of prey in the UK.

29. Bird poisoners are clearly targeting a range of birds of prey. The RSPB’s Birdcrime 2010 lists poisoning cases involving 20 red kites, 30 buzzards, two goshawks, eight peregrines, five golden eagles, one white-tailed eagle and one sparrowhawk, and 36 of those poisoning cases in 2010 involved carbofuran. Figure 2 sets out the number of confirmed cases of bird of prey poisoning over the past decade, showing the species that were targeted and the extent to which those cases involved carbofuran.

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66 RSPB, Birdcrime 2011.
67 RSPB, Birdcrime 2011.
68 Carbofuran was banned across the European Union in 2008 in light of concerns about its possible carcinogenic qualities. It is also banned in Canada and the USA.
69 Scottish Raptor Study Groups, website, 18 April 2012. A quarter of a teaspoon of carbofuran will kill a human or, as a recent case in Kenya demonstrated, a lion.
70 Ev 135; The Guardian, 27 May 2011.
71 RSPB, Birdcrime 2010.
30. After our predecessor Committee’s wildlife crime inquiry in 2004, Defra has acknowledged the environmental impact of illegal wildlife poisoning and the need to introduce controls by enacting new primary legislation. Section 43 of the Natural Environment and Rural Communities Act 2006 allowed the Secretary of State to proscribe the possession of banned pesticides in England and Wales, but no Order listing the proscribed substances has been made. Given that the power to proscribe possession already exists in primary legislation, this is an inexplicable omission and a failure to follow through on the logic of the 2006 Act. There is a broad consensus on that point, because the RSPB, the Countryside Alliance, other NGOs and the police support the introduction of an Order under the 2006 Act making it an offence to possess named pesticides.73

31. An offence of possession could drive culture change by sending a clear signal on bird of prey poisoning as well as directly helping to protect the environment by curtailing the activities of the most serious offenders through prosecution and conviction. Carbofuran is so toxic that even a lone poisoner who possesses a relatively small quantity of it has the capacity to cause irreparable environmental damage. An Order made under the 2006 Act would also allow magistrates to impose custodial sentences in the most serious cases.74

32. It is an offence to possess carbofuran and other named substances in Scotland under the Possession of Pesticides (Scotland) Order 2005. Bearing in mind that evidence from Scotland, there might not be a significant number of prosecutions in England and Wales if an Order making it an offence to possess carbofuran were introduced under the 2006 Act, because such an Order could act as a powerful deterrent to wildlife poisoners and promote behaviour change. The then Home Office Minister Lord Henley acknowledged that the

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72 RSPB, Birdcrime 2011.
73 Ev w3
74 Ev 171
threat of custodial sentences had effectively eliminated the practice of egg collecting without large numbers of prosecutions.\textsuperscript{75}

33. When we raised the idea that it might be beneficial to proscribe possession of carbofuran in England and Wales with the Defra Minister Richard Benyon MP, he replied, “In view of the legislation already in place, an order under section 43 of the [Natural Environment and Rural Communities Act 2006] will not be pursued at this time”.\textsuperscript{76} In subsequent correspondence, he set out two reasons why Defra was not minded to introduce an Order making it an offence to possess carbofuran.\textsuperscript{77} First, the Minister pointed out, “The intentional use of poisoned bait to kill any wild bird is already prohibited under section 5 of the Wildlife and Countryside Act 1981”.\textsuperscript{78} However, we took evidence that highlighted the difficulty of securing convictions under that legislation, which consequently lacked a deterrent effect as evidenced by the statistics in Figures 1 and 2.\textsuperscript{79} Such crimes mostly took place in physically isolated locations, which made it difficult to ascertain who had set the poisoned bait and to gather other evidence. The case in Skibo in Scotland (paragraph 29) was investigated following the discovery of the carcasses of several golden eagles and other birds of prey poisoned by carbofuran. Although the manager of the estate was convicted of possession of carbofuran, no one was charged with poisoning offences under Section 5 of the Wildlife and Countryside Act 1981, which illustrated the difficulty of obtaining convictions under that legislation and the value of an offence of possession.\textsuperscript{80}

34. Secondly, the Minister stressed the advantages of a voluntary approach and raised the issue of proportion:

We are carefully considering the laws surrounding possession of pesticides that are harmful to wildlife but so far conclude that an Order may not be a proportionate course of action and that there could be alternative ways to handle the issue. These might include voluntary codes of practice … or encouraging participation in amnesty initiatives such as that run for farmers through Project SOE (Security of the Operational Environment). Under the first phase of that project nearly 1,000 stores were cleared of 40 metric tons of redundant and unapproved pesticides.\textsuperscript{81}

It seems doubtful to us that those who are responsible for poisoning of birds of prey would voluntarily surrender their stocks of carbofuran, because, as far as they are concerned, carbofuran is not a redundant substance—indeed, it is highly effective for its purpose. Furthermore, the Scottish experience, where 10 convictions for possession have occurred in the past seven years\textsuperscript{82}, does not suggest the disproportion that the Minister fears. In any case, the Crown Prosecution Service (CPS) should be capable of distinguishing between

\textsuperscript{75} Qq 5, 414
\textsuperscript{76} Qq 418
\textsuperscript{77} Ev 170
\textsuperscript{78} ibid.
\textsuperscript{79} Q 35; Ev 140
\textsuperscript{80} The Guardian, 27 May 2011.
\textsuperscript{81} Ev 170
\textsuperscript{82} Ev 136
farmers who possessed redundant and unused pesticides and serious wildlife criminals. One factor would be evidence of actual use, such as the presence of carcasses of poisoned birds, in deciding whether to pursue prosecutions. Designating and training specific CPS wildlife crime prosecutors (paragraph 60) would provide further reassurance on that point.

35. Substances other than carbofuran, such as aldicarb, alphachloralose, aluminium phosphide, bendiocarb, mevinphos, sodium cyanide and strychnine, have also been used illegally to poison birds of prey in the UK.\textsuperscript{83} Some of those substances have also had their approval for use withdrawn, while others have legal applications as pesticides. If Defra accepted the logic of utilising the 2006 Act to proscribe possession of carbofuran, it would make sense to proscribe possession of other substances used to poison birds of prey in the same Statutory Instrument, with appropriate derogations in relation to the Food and Environment Protection Act 1985 and the Biocidal Products Regulations 2001 to allow legal use of approved substances by appropriately licensed individuals working in pest control or laboratories. Tackling any new wildlife poisons could be readily taken forward in further secondary legislation, which would allow a rapid, tailored response to the evolution of offending.

36. To discharge its obligations under the EC Birds Directive, to demonstrate its commitment to addressing raptor persecution and to send a clear signal that it regards poisoning birds of prey as wholly unacceptable, we recommend that the Government immediately introduces an Order under Section 43 of the Natural Environment and Rural Communities Act 2006 proscribing possession of carbofuran and other similar substances in England and Wales.

\textbf{Vicarious liability}

37. Raptor persecution involves not only poisoning, but nest disturbance or destruction, egg theft, chick theft and unlicensed shooting.\textsuperscript{84} Species such as the hen harrier feed on live prey and are not vulnerable to poisoning by eating carrion laced with poison. Instead, the Joint Nature Conservation Committee’s \textit{Conservation Framework for Hen Harriers} found that the most common form of persecution of that species was deliberate nest disturbance.\textsuperscript{85} Given the isolated physical locations, often on private land, where offences are committed and the ease with which evidence such as carcasses could be disposed of, the precise extent of such persecution in the UK is unknowable, although an RSPB log of reported incidents indicates a consistent level of persecution over the past decade.\textsuperscript{86} In addition, scientific analyses of the total number of birds of prey in the UK, such as the comprehensive \textit{Conservation Framework for Hen Harriers}, have consistently found that persecution has a measurable impact on population size.\textsuperscript{87}

\begin{itemize}
  \item \textsuperscript{83} See RSPB \textit{Birdcrime 2010} for a full log of recent cases involving poisoning by various substances. All the substances mentioned in Paragraph 25 are listed in the Schedule to the Possession of Pesticides (Scotland) Order 2005, and it is therefore an offence to possess them in Scotland without good reason.
  \item \textsuperscript{84} Ev 170
  \item \textsuperscript{85} Joint Nature Conservation Committee, \textit{A Conservation Framework for Hen Harriers in the United Kingdom}, para 8.1.3.
  \item \textsuperscript{86} Ev 134
  \item \textsuperscript{87} Q 1; Ev 134
\end{itemize}
38. An offence of vicarious liability would impose criminal liability on those whose employee or contractor committed an offence against a bird of prey, unless they could show that they were unaware of the offence and had exercised due diligence. It could make landowners take responsibility for the activities of gamekeepers and others who work on their land. The introduction of such an offence in England and Wales would, like tougher legislation on pesticide possession (paragraph 37), send a clear signal that the Government regarded the persecution of birds of prey as wholly unacceptable. In practical terms, vicarious liability would encourage responsible landowners to make it clear to their employees and contractors that raptor persecution was unacceptable and to check that such practices were not occurring on their land.

39. Addressing hen harrier persecution is especially necessary because it is on the brink of extinction as a breeding species in England with only four successful nests in 2011, and it is arguably the most vulnerable of all indigenous species.88 Persecution has been identified as a factor affecting the distribution, abundance and productivity of the hen harrier in five academic studies conducted over a number of years.89 The National Gamekeepers Organisation questioned this proposition in its oral evidence,90 but it did not adduce any factors not addressed in the modelling that underpinned the Conservation Framework for Hen Harriers.91 The persecution of birds of prey on moorlands used for shooting is not only illegal and highly damaging to biodiversity, but ineffective in terms of increasing the stock of game birds, because research indicates that only between 1% and 2% of pheasant poult is taken by birds of prey.92

40. The golden eagle is also threatened by extinction due to persecution. The most recent national survey in 2003 found a British population of about 440, with all but one or two pairs in Scotland. A recent Scottish Natural Heritage report found that persecution was the most severe constraint on golden eagle populations and that incidents of persecution were more common where grouse moor management predominated. The report also concluded that the rarity of golden eagles in England was probably a result of persecution limiting potential recruits from Scotland and to raptor persecution in upland areas of England.93

41. The buzzard is also persecuted, but it is thriving in the UK. The buzzard population increased from an estimated 31,000 to 44,000 pairs in 2000 to between 72,000 and 90,000 pairs in 2009.94 The National Gamekeepers Organisation told us that this population growth is a symptom of “over-protection” and expressed its frustration that licence applications for buzzard control to prevent serious damage to gamebirds and other wildlife have so far all been declined by Natural England … Illogicalities like this bring wildlife law into disrepute and build frustrations in the countryside among

88 RSPB, Parliamentary Briefing, January 2012.
90 Q 59
92 DS Allen et al, Raptors and the rearing of Pheasants: problems and management needs, ADAS unpublished report to British Association for Shooting and Conservation. This report found that predation by foxes and vehicle impacts are the significant factors in pheasant poult mortality.
93 Ev 141
94 HC Deb, 7 December 2010, col 346W.
the farmers, gamekeepers and others who are normally among the most law-abiding sections of society but who are driven to distraction by such over-protection … A licensed route to limited control where it is proven necessary already exists but licences are not forthcoming.95

Despite the increasing buzzard population, buzzards are still subject to illegal persecution, and 290 buzzards were poisoned in the UK between 2002 and 2011.96 Natural England told us:

We see it as a great success in many respects, that buzzards and some other raptors have been recovering, after a time in the past when clearly their populations plummeted and were very low—pesticides, persecution and so on. The buzzard recovery story is a great one … Although, in truth, there are still not the numbers that there were historically, but that is a great, great story … We do not think they are too numerous.97

42. On 23 May 2012, Defra announced a £375,000 research scheme to explore management techniques to curb the supposed predation of pheasant poults by buzzards; it announced that the scheme had been dropped in the light of widespread public concern on 30 May 2012.98 Its total funding for the National Wildlife Crime Unit was £136,000 in 2012, so £375,000 is a relatively large sum in the context of overall Government spending on wildlife crime. When we asked the Defra Minister Richard Benyon MP whether he would be interested in our suggestions on how that money might subsequently be allocated, he replied:

Certainly, yes. None of us has a sum total of all the knowledge on these matters. I recognise the sensitivity of this, and I know the Committee does as well, but we want to ensure that the recommendations that we take forward, as well as being mindful of that sensitivity, push Government to make the right decision for biodiversity.99

In Part 4, we have set out recommendations on enhancing the NWCU’s database and internet monitoring capabilities where even a fraction of that money might make a significant difference for wildlife conservation, both nationally and internationally.

43. On the introduction of vicarious liability in relation to raptor persecution, Richard Crompton, the former Association of Chief Police Officers (ACPO) wildlife crime lead, told us that “any gamekeeper who is not in the business of illegally persecuting raptors would have absolutely nothing to fear”.100 We recognise the commitment of the law-abiding majority in the gamekeeping community to tackling wildlife crime, as exemplified by the contribution of the National Gamekeepers Organisation to the Partnership for Action against Wildlife Crime (PAW). Unfortunately, some gamekeepers persecute birds of prey. One study found only five successful hen harrier nests on the 3,700 square

95 Ev 86
96 See Figure 1.
97 Q 271
98 The Guardian, 30 May 2012.
99 Q 426
100 Q 198
kilometres of driven grouse moor in the UK in 2008, an area which has the potential to support 500 pairs.\textsuperscript{101} Of the 152 people who have been convicted of offences against all birds of prey under the Wildlife and Countryside Act 1981 since 1990, some 70% were gamekeepers employed on shooting estates.\textsuperscript{102} The maximum penalty for such offences is a £5,000 fine and/or six months in prison, but the RSPB told us that most of those cases were sentenced with a small fine and that only three custodial sentences, all suspended, had been issued.\textsuperscript{103} \textbf{Given the scale of ongoing persecution of birds of prey, the current law appears to carry insufficient deterrent weight.}\textsuperscript{104}

44. An offence of vicarious liability in relation to the persecution of birds of prey has been introduced in Scotland under the Wildlife and Natural Environment Act (Scotland) 2011, and the National Gamekeepers Organisation pointed out that more evidence from the Scottish experience would be helpful before introducing such a provision in England and Wales.\textsuperscript{105} \textbf{We recommend that the Government evaluates the effect of the introduction of an offence of vicarious liability in relation to raptor persecution in Scotland and considers introducing a similar offence in England and Wales in that light. We expect the Government to report to us, or otherwise publish, the results of that review within the next 12 months.}

\textbf{Invasive non-native species}

45. Failing to control invasive non-native species (invasive species) is a wildlife crime. Defra defines invasive species as “species whose introduction and/or spread threaten biological diversity or have other unforeseen impacts”.\textsuperscript{106} Section 14 of the Wildlife and Countryside Act 1981 sets out offences around releasing or allowing the escape of non-native animals and the planting or sale of the invasive non-native plants listed in Schedule 9 to the 1981 Act.

46. In recent decades, the global impact of invasive species has increased significantly, mainly due to increased world trade and the movement of people. Almost 2,000 invasive species are currently established in Britain, some 15% of which have a negative environmental impact. On average, six new invasive species become established every year, the cumulative extent of which is captured by the UK Biodiversity Indicators 2012.\textsuperscript{107} In Britain, several endangered species are threatened by invasive species, including the red squirrel, which has declined due to the introduction of the American grey squirrel, the Tansy beetle, which is threatened by the spread of Himalayan balsam, water voles, which

\textsuperscript{101} Joint Nature Conservation Committee, \textit{A Conservation Framework for Hen Harriers in the United Kingdom}, Introduction.
\textsuperscript{102} Ev 136
\textsuperscript{103} ibid.
\textsuperscript{104} Ev 171
\textsuperscript{105} Q 46
\textsuperscript{106} Defra, \textit{The Invasive Non-Native Species Strategy for Great Britain}, para 3.3.
are subject to predation by American mink, and various indigenous tree species, which are damaged by pests and diseases such as the Asian Longhorn beetle.\textsuperscript{108}

47. In addition to their negative impact on biodiversity, invasive species impose significant economic costs. The Centre for Agricultural Bioscience International has estimated the direct cost of invasive species to the UK economy at £1.3 billion a year in control and eradication measures, damage to infrastructure and loss of production.\textsuperscript{109} It has been estimated that developers spend more than £150 million a year on tackling Japanese knotweed, which was originally introduced in Britain as an ornamental plant.\textsuperscript{110} Those figures do not take into account knock-on socio-economic costs, which can be particularly significant in relation to the aquatic environment. Signal crayfish, for example, decrease the overall fish population, which has an impact on the amenity and economic values of fisheries, and floating pennywort can prevent angling by starving water of oxygen.\textsuperscript{111} The Angling Trust told us that “these problems are not new, but there is a lack of co-ordinated action to address them”.\textsuperscript{112}

\textbf{Prevention}

48. As an island, Britain is protected by water against the spread of some invasive species from continental Europe. This natural advantage has, however, been undermined by third-country plant imports from Europe, where plants which may be invasive in themselves or which may carry invasive pests have been imported into EU countries before being re-exported into the UK.\textsuperscript{113} Such third-country plant imports evade biosecurity checks at the UK border, because they are classified under EU trade rules as internal trade. The EU has been working towards the development of an invasive species strategy since 2008, and its latest consultation on the subject closed in April 2012. There is, however, no agreement to introduce a directive on invasive species, and even if one were introduced, the Law Commission noted that it might not address third-country imports, leaving the UK to deal with this unilaterally while hamstrung by EU rules.\textsuperscript{114}

49. Given the environmental and financial costs imposed by invasive species and the difficulty—in some cases, impossibility—of eradication once invasive species are established, preventing invasive species arriving in Britain in the first place is likely to be the most effective policy option. One way to reduce risk would be to decrease imports of garden plants, vegetables, cut flowers, houseplants and trees by encouraging purchasers to source such products locally along the lines set out in our recent Report on Sustainable Food.\textsuperscript{115} Another option would be to impose a levy on imported plants to address the

\begin{itemize}
\item[108] Law Commission, \textit{op. cit.}, para 8.9.
\item[109] Centre for Agricultural Bioscience International, \textit{The Economic Cost of Invasive Non-Native Species on Great Britain}.
\item[110] Centre for Agricultural Bioscience International, \textit{op. cit.}, p 33.
\item[111] Ev w88-89
\item[112] Ev 145
\item[113] Ev w88-89
\item[114] Law Commission, \textit{op. cit.}, para 8.53.
\item[115] Ev w89; Environmental Audit Committee, Eleventh Report of Session 2010–12, \textit{Sustainable Food}, HC 879.
\end{itemize}
environmental and financial cost of invasive species, although this approach might contravene EU and World Trade Organisation rules.\(^{116}\)

50. The Wildfowl and Wetlands Trust told us that invasive non-native plants that cannot be legally imported into the UK because they are listed in Schedule 9 to the Wildlife and Countryside Act 1981 were sometimes deliberately misidentified by retailers on internet sites in order to evade the law.\(^{117}\) Tighter controls are also needed on plants purchased online from overseas. Fuchsias ordered from South America online were, for example, imported via Jersey with no checks, which led to the introduction of the Fuchsia gall mite into Britain.\(^{118}\) It is possible that the deterrent effect of even a modest amount of online enforcement activity, which would be entirely new, could produce a broad change in behaviour across the online plant importation sector. This adds force to our recommendation on policing wildlife crime on the internet (paragraph 69).

**Eradication**

51. Once invasive species are established in the ecosystem, eradication is expensive and difficult.\(^{119}\) For example, the Environment Agency told us, “top mouth gudgeon\(^{120}\) is one of our top priorities, and we have eradicated them from nine of 34 known sites now”,\(^{121}\) which means that it has managed to remove this invasive species from less than one third of known sites in a top priority case. That illustrates the difficulty of successfully eradicating an established invasive species, which prompts the question whether funds spent on eradication might more usefully be disbursed on prevention. The Royal Botanic Gardens, Kew believed that, “we must not dissipate already inadequate resources on species where there is no possibility of eradication”.\(^{122}\) The least-worst option may be learning to live with established invasive species by ameliorating their impact and concentrating the limited available resources on prevention.

52. Attempts to eradicate invasive species usually involve chemical pesticides or physical extraction, which is expensive and often unsuccessful. The more radical option of “biocontrol”—fighting fire with fire by introducing another non-native species that predates a particular invasive—is potentially more effective than conventional methods, but it is also more risky. The Royal Botanic Gardens, Kew, pointed out:

> Introducing predators and parasites is fraught with dangers unless there is lengthy and comprehensive testing and the timescales involved would likely mean the target organism is well established in large areas before release is licensed.\(^{123}\)

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\(^{116}\) Ev w89  
\(^{117}\) Ev w87  
\(^{118}\) Ev w89  
\(^{119}\) ibid.  
\(^{120}\) A non-native fish that has somehow made its way from aquariums into rivers.  
\(^{121}\) Q 222  
\(^{122}\) Ev w89  
\(^{123}\) ibid.
The extensive testing associated with biocontrol may be too lengthy for it to be an effective policy response to new invasive species, but it could be the most effective option for already established invasive species. Comprehensive research will help to prevent mistakes such as the introduction of the cane toad in Australia, which itself became an invasive pest. Biocontrol has been used successfully to control invasive species, such as the control of Azolla with the Azolla weevil, and ongoing trials of the psyllid bug to control Japanese knotweed have apparently achieved promising early results.124

An invasive species strategy

53. The governmental responses to invasive species in the UK are organised on geographical rather than national lines. The Invasive Non-Native Species Framework Strategy for Great Britain was launched in 2008 and was a joint endeavour between Defra, the Scottish Government and the Welsh Assembly Government. It was set up to coordinate the actions of departments, agencies and key stakeholders, and the Northern Ireland Executive and the Republic of Ireland have agreed a similar strategy covering the island of Ireland. The 2008 strategy is due for review in 2013, which is timely given the burgeoning environmental and financial costs imposed by invasive species.125 In addition, the Law Commission is considering the law in relation to invasive species and has published a consultation document, which may lead to the publication of a draft Bill in 2014.126 Those reviews might consider the evidence received in our inquiry.

54. In the meantime, in 2011 the Scottish Government amended the Wildlife and Countryside Act 1981 in Scotland to make it an offence to release any plants or animals “outwith their native range”.127 Such an overarching precautionary approach might overcome the inherent inflexibility of maintaining a list of banned species—speed is of the essence in banning the sale of invasive species before they can establish themselves—but it may prove difficult to define the “native range” of an invasive species. Indeed, this concept might lead to adverse unintended consequences, where the native range of a species is not clear, but there would be a clear threat if it were released.128 The Scottish provisions also allowed Scottish Natural Heritage to make Species Control Orders to control or eradicate invasive species, and a similarly innovative approach might prove effective in England and Wales.129

55. On the other hand, Scotland’s unilateral action on invasive species somewhat undermines the concept of the 2008 joined-up British strategy, and it could be ineffective to operate two different regimes on either side of a land border that invasive species neither recognise nor respect. Defra should examine with the Scottish Government and the Welsh Assembly Government how their commitment to joint strategic action on invasive non-native species in Britain could be refocused, with an emphasis on bolstering a strategy of prevention and setting clear milestones for implementation. In

124 Ev w87
125 Ev w88
126 Ibid.
127 Wildlife and Natural Environment (Scotland) Act 2011.
128 Law Commission, op. cit., paras 8.88 to 8.93.
129 Ev w87
its 2013 review of *The Invasive Non-Native Species Framework Strategy for Great Britain*, Defra should study (a) the impact of the Wildlife and Natural Environment (Scotland) Act 2011; (b) the impact of third-country imports via other EU countries; (c) the scope for promoting sustainable domestic production of plants and vegetables in the UK to minimise the risk of importing invasive non-native species. We intend to further examine invasive species in the future.
4 Enforcement

Legal consolidation

56. During our inquiry, the police, NGOs and other witnesses consistently pointed out that most of the powers required to address wildlife crime already exist, but that they are scattered across various statutes and regulations. Some statutes, such as the Protection of Badgers Act 1992, the Conservation of Seals Act 1970 and the Salmon and Freshwater Fisheries Act 1975, relate to individual species, while other legislation, such as the Night Poaching Act 1828 and the Game Act 1831, is archaic. In addition, the principal contemporary legislation, the Wildlife and Countryside Act 1981, has been amended to such a degree that it is difficult for non-specialists to use. The fractured nature of wildlife law hinders enforcement and prosecution, and it may render compliance problematic for companies and individuals engaged in legitimate wildlife-related activities.

57. An overwhelming majority of our witnesses expressed the view that the various statutes covering wildlife crime should be consolidated. ACPO told us that “conservation legislation is, in our view, badly in need of consolidation.” The Royal Society for the Prevention of Cruelty to Animals (RSPCA) pointed out that wildlife crime legislation “is a bit of a mess, it needs tidying up.” Natural England told us that “broadly we do very much favour it … The answer is consolidation”. When the Committee put this proposition to the then Home Office Minister Lord Henley, he thought that consolidation would be “relatively smooth and easy.”

58. Consolidation of the various wildlife statutes is not the same as reform. Reform would be a major project, which would require careful consideration in order to preserve the nuances of the law that protect particular species and to reflect the impact of devolution in Scotland, Northern Ireland and Wales. The Law Commission is currently considering the reform of wildlife protection legislation, which it plans to complete by mid-2014. In undertaking that work, it might take account of the evidence that we have received in our inquiry. The body of legislation relating to wildlife crime should be consolidated in order to enhance enforcement and establish a coherent framework for the execution of Government policy. The Government should consult the Law Commission, which is currently considering the reform of wildlife law, on the scope for such a consolidation to precede any reform proposals.

130 Qq 3, 143, 154; Ev 95
132 Qq 184, 348; Ev 95
133 Ev 92
134 Q 3
135 Q 263
136 Q 412
137 Q 413
Prosecution

59. We heard that the CPS was ineffective at prosecuting wildlife crime in England and Wales, because its prosecutors lacked specialist knowledge and training on conservation law.138 TRAFFIC explained that that lack of specialist skills not only undermined enforcement but was inefficient, because relays of CPS prosecutors ended up replicating the same basic learning, which imposed delays and potentially allowed experienced defence lawyers to exploit prosecutors’ lack of specialist knowledge.139 If the CPS were to treat wildlife crime as a specialism, it would not only back up enforcement in the courts, but provide gamekeepers and the exotic animal trade with greater certainty in conducting their activities lawfully.140 TRAFFIC believed that the Crown Office and Procurator Fiscal Service in Scotland treated the prosecution of wildlife crime as a specialism and consequently handled such cases with greater efficacy than the CPS in England and Wales.141 The CPS should review its performance on prosecuting wildlife crime in England and Wales with a view to either employing specialist wildlife crime prosecutors or introducing specialist wildlife crime training for its generalist prosecutors.

Penalties and sentencing

60. Most wildlife crimes committed in the UK carry a maximum sentence of £5,000 and/or a six-month custodial sentence, except where they involve illegally trafficking endangered species, which carry a maximum penalty of seven years’ imprisonment under the COTES Regulations.142 We heard a range of opinion on whether those maximum penalties reflect the environmental impact of wildlife offences and whether they provide a deterrent given the potential rewards for wildlife criminals. ACPO stated that “the penalties that are available for some wildlife crimes appear in some cases not to be dissuasive”,143 whereas the RSPCA commented that the available penalties were “generally fit for purpose.”144 The deterrent effect of the introduction of custodial sentences in 2001 appears to have dissuaded many people from collecting the eggs of wild birds.145 There are some anomalies in the available penalties: trafficking horn extracted from the last surviving Javan rhinoceros, thus rendering the species extinct, might attract a seven-year prison sentence, whereas shooting the last hen harrier in England would result in a maximum penalty of six months in jail. Similarly, a conviction for unlawfully killing a peregrine falcon under the Wildlife and Countryside Act 1981 would attract a maximum penalty of six months’ imprisonment and/or a fine of up to £5,000, whereas a conviction for unlawfully trading a peregrine falcon internationally would result in a maximum penalty under COTES of five years’ imprisonment and/or an unlimited fine.146
61. It is currently impossible definitively to answer the question whether the available penalties for wildlife crime offences are fit for purpose because of inconsistent sentencing by judges and magistrates, a factor which was repeatedly highlighted by our witnesses.\(^{147}\) It was argued that this inconsistency is due to the lack of any sentencing guidelines for the judiciary and of specific training for magistrates.\(^{148}\) It is impossible to assess whether sentences are fit for purpose until they are imposed consistently in line with appropriate sentencing guidelines. **We recommend that the Government reviews whether the available penalties provide sufficient deterrent effect and work with the Sentencing Council and the Magistrates’ Association to introduce sentencing guidelines for the judiciary and training for magistrates in relation to wildlife crime offences.**

### Policing wildlife crime

62. Richard Crompton, the former ACPO lead on wildlife crime, highlighted that in practice effective wildlife crime policing required a degree of specialisation:

> Wildlife crime legislation is a labyrinth of fairly old legislation and very complex legislation … the average cop out there has a rudimentary understanding of that at best, probably based upon a half an hour or an hour’s lecture that was given many years ago in a classroom somewhere during their initial training … I think it would be probably unrealistic—well, undoubtedly unrealistic—to expect every police officer in the country to have the sort of knowledge of wildlife crime procedure, legislation and so on that the specialists have.\(^{149}\)

What specialisation in wildlife crime enforcement means in practice is, as the then Home Office Minister Lord Henley pointed out, a matter for individual police forces depending on their local priorities.\(^{150}\) Most police forces deploy specialist wildlife crime officers, who handle cases involving wildlife crime and advise other officers. In some forces, the wildlife crime officer role has evolved to encompass environmental crime, such as fly-tipping, which appears to make operational sense in rural areas.\(^{151}\) Another example of tailoring wildlife crime policing to local circumstances is provided by the Metropolitan Police Service, which operates the only force-level wildlife crime unit in the UK in order to address the unique issues raised by London’s role as a capital city, transport hub, commercial centre and home to a diverse population.\(^{152}\)

63. We discussed the impact of the new elected police and crime commissioners with both the former and the current ACPO leads on wildlife crime, who pointed to the public’s obvious concern about wildlife crime, which might lead to greater prioritisation, but also to the risk for funding for wildlife crime posed by future tough decisions on local police resources.\(^{153}\) The consequences for wildlife crime enforcement of police and crime

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\(^{147}\) Qq 5, 14, 99

\(^{148}\) Q 100

\(^{149}\) Q 184

\(^{150}\) Q 403

\(^{151}\) Qq 185, 310

\(^{152}\) Ev 155

\(^{153}\) Qq 187, 315
commissioners are currently unclear, and we recommend that these are carefully monitored by the Government. **We hope that this Report highlights this important area for elected police commissioners and their electorates.**

### National Wildlife Crime Unit

64. The NWCU is a strategic police unit that sits above force-level wildlife crime enforcement. Its functions are to co-ordinate enforcement activity in relation to cross-border and organised crime both nationally and internationally, to collate intelligence and to produce analytical assessments.\(^\text{154}\) Its specialist work was praised by a range of our witnesses, and it is a clear improvement on its predecessor organisation, the National Wildlife Crime Intelligence Unit (NWCIU).\(^\text{155}\) Our predecessor Committee’s 2004 Report on wildlife crime criticised the former NWCIU for “expend[ing] time and resources on developing intelligence packages for police forces who have no intention of devoting any real resources to the crimes themselves”.\(^\text{156}\) This criticism could not be levelled at the NWCU, which has forged effective working relationships with UK police forces and other national and international enforcement bodies. Recent successful enforcement actions in which it played a key role included Operation Meles, which addressed badger persecution, and Operation Ramp, which was an international operation involving 51 countries against the illegal trade in reptiles, in addition to multi-police force operations to tackle poaching and many other operations.\(^\text{157}\) On the value of the NWCU, ACPO concluded, “The development of the National Wildlife Crime Unit has led to better co-ordination of enforcement activity in particular where it involves cross-border and organised crime”.\(^\text{158}\)

65. The NWCU is currently funded by a combination of Defra, the Home Office, ACPO, ACPO Scotland, the Scottish Government and the Northern Ireland Environment Agency.\(^\text{159}\) The sums provided to run the NWCU are relatively small—Defra and the Home Office each contributed £144,000 in 2011–12 and £136,000 in 2012–13—and are currently agreed no more than two years ahead.\(^\text{160}\) The current head of the NWCU told us:

> The National Wildlife Crime Unit is funded from a number of different agencies, and a lot of the challenge that I have is to constantly look at securing the future funding, which takes me away from that day-to-day role of trying to address wildlife crime.\(^\text{161}\)

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\(^\text{154}\) Ev 96  
\(^\text{155}\) Qq 141, 158, 318  
\(^\text{157}\) Ev 97  
\(^\text{158}\) Ev 96  
\(^\text{159}\) Qq 322-327; Ev 97  
\(^\text{160}\) Ev 119  
\(^\text{161}\) Q 309
The NWCU’s hand-to-mouth financing is reflected in its fractured administrative arrangements, where its staff are managed by North Wales Police, its website is maintained by Lincolnshire Police and its headquarters is a building owned by a Scottish police force.162

66. The lack of certainty about its longer-term funding makes it difficult for the NWCU to recruit, retain and develop specialist staff and has hampered its capacity to monitor the illegal trade in wildlife on the internet by investing in staff and equipment.163 Our predecessor Committee’s 2004 Report identified wildlife crime involving the internet as an emerging threat, which has crystallised into an active hazard to biodiversity in the past eight years.164 ACPO commented:

The internet is a “crime enabler” allowing unlawful trading, much of which can be considered to deliver high levels of profit with little or no risk of prosecution. If such illegal trading is to be addressed then dedicated resources are required. In 2010 the NWCU received funding to appoint a wildlife crime internet researcher for a period of 12 months. Unfortunately the period of funding is such that it has, to date, been found to be impossible to recruit anybody to the role. A very recent recruitment process led to the post being offered to a well-qualified individual who declined to accept it having been offered a position elsewhere providing greater job security.165

67. In addition to the general trade in illegal wildlife, the internet has enabled two specific facets of wildlife crime since our predecessors last scrutinised the subject in 2004. First, online plant sales are facilitating the entry of invasive non-native species into the UK (paragraph 51), which imposes high financial and environmental costs. Secondly, a spike in demand for rhino horn and elephant ivory in Asia has driven illegal online trading in antiques such as carved libation cups and billiard balls, which are exported to Asia (paragraph 13).

68. As ACPO pointed out, the NWCU punches well above the weight of its funding both nationally and internationally, and its strategic, intelligence-led approach is an efficient means of targeting limited funding for wildlife crime enforcement.166 We recommend that the Government reinforces the success of the National Wildlife Crime Unit by implementing long-term funding arrangements to allow it to plan for being even more effective in the future, including enhanced long-term funding to enable it effectively to monitor wildlife crime on the internet.

69. The Metropolitan Police Service Wildlife Crime Unit has developed an innovative partnership funding arrangement with the World Society for the Protection of Animals (WSPA). The Metropolitan Police Service told us:

In 2011, WSPA provided £100,000 to increase the strength of the unit by one police officer and one member of police staff. This should not be seen as taking away the responsibility of funding from Government but as enhancing policing in the short to
medium term, particularly at a time of financial constraint. We hope to negotiate further funding to allow this increase in staff to be maintained.\textsuperscript{167}

None of our witnesses identified conflicts of interest created by such arrangements, provided that adequate governance arrangements were in place.\textsuperscript{168} Partnerships between the police and NGOs can effectively increase funding for wildlife crime enforcement, and the Home Office should encourage all police forces to consider implementing them. This model might usefully be extended to fund other facets of wildlife crime enforcement, such as the NWCU.

\textbf{Recording wildlife crime}

70. The Committee’s 2004 Report on Wildlife Crime recommended that

\begin{quote}

a centrally managed, national database which records all incidents of wildlife crime, as well as the details of all successful and unsuccessful prosecutions mounted, be established as a matter of priority.\textsuperscript{169}
\end{quote}

This practical recommendation has not been implemented, although the NWCU currently holds a partial record of some offences. A comprehensive wildlife crime database would allow the NWCU to identify emerging trends and efficiently target resources with greater accuracy. Additionally, a record of prosecutions—both successful and unsuccessful—drawn from the courts could be used to inform the introduction of sentencing guidelines (paragraph 62), the reform of available penalties (paragraph 61) and the ongoing development of wildlife law.

71. If finances for the NWCU database are tight, one possible source of funding might be the unused £375,000 from the abortive Defra research project on buzzards (paragraph 43).\textsuperscript{170} Such a reallocation would send an important signal about Defra’s priorities. The NWCU should be directed and funded to develop a wildlife crime database to encompass all available information on incidents reported to the police and on prosecutions in the courts in the UK.

72. We took evidence from the current and former ACPO wildlife crime leads, the Metropolitan Police Service Wildlife Crime Unit, the NWCU and NGOs on how police forces record and report wildlife crime. Several NGOs suggested that more wildlife crimes should be made “notifiable” for Home Office purposes in order to obtain a more accurate picture of its nature and extent.\textsuperscript{171} Notifiable offences are serious offences that the police must report to the Home Office for statistical purposes. Defra told us that “With the exception of certain offences set out in the Control of Trade in Endangered Species (Enforcement) Regulations 1997 and the Wildlife and Countryside Act 1981”—the most

\begin{flushright}
\textsuperscript{167} Ev 153  
\textsuperscript{168} Qq 282, 283  
\textsuperscript{170} Q 426  
\textsuperscript{171} Ev w15, w8
\end{flushright}
serious offences relating to trafficking endangered species—“most wildlife offences are not required to be notified to the Home Office”.172

73. In response to the proposition that more data should be collected, the police stressed the importance of not increasing bureaucracy in a quest to obtain more data, because this would compromise operational efficiency, and highlighted the police National Standard for Incident Reporting, which has improved data richness.173 The former ACPO wildlife crime lead told us:

When the NWCU came into existence in 2006 … the National Standard for Incident Recording, NSIR, was introduced, and that is the standard that we have used since … to populate the database, basically. That has taken us much further forward than we were a few years ago … For every additional crime that is made recordable, there is an additional level of bureaucracy that goes with it, and strategically across the wider environment, there has been an effort to reduce the number of recordable categories of crime as opposed to increase it.174

74. We heard about other, less bureaucratic ways to improve data management. First, a consolidation of existing wildlife crime legislation (paragraph 59) could simplify the data collection process, because offences that were recorded against a range of statutes would fall into a single category. Secondly, while most police forces submit data on wildlife crime to the NWCU, a minority fail to do so, which means that the NWCU statistics are incomplete.175 Given that most police forces manage to submit such data, the bureaucratic cost of making such submissions does not seem to be excessive. The Home Office should instruct all police forces to submit the data on wildlife crime required by the NWCU.

75. CITES offences are one of the few notifiable wildlife crimes and are therefore reported to the Home Office for statistical purposes. However, the Home Office has not allocated such offences a specific code, and they are recorded under the general Home Office code “999/99 Other crime or record only entry not catered for elsewhere”, which is almost meaningless in terms of data management.176 The Home Office should immediately allocate notifiable CITES offences a specific wildlife crime code, which would provide useful statistics on the trafficking of endangered species.

National Crime Agency

76. In June 2010, the Home Secretary announced the creation of the National Crime Agency (NCA), which will become operational in 2013. The NCA is intended to spearhead the UK’s fight against serious and organised crime, strengthen policing at the border and ensure that local policing effectively links to the work of national agencies and action overseas.177 The Home Office has not decided whether or how the NCA will be involved in

172 Ev 116
173 Q 194
174 ibid.
175 Qq 194, 360
176 Ev 154
wildlife crime enforcement, which might entail the NCA subsuming some or all of the functions of the NWCU. When the Committee explored this issue with the then Home Officer Minister Lord Henley, he stated:

There will be a power to take things like wildlife crime into the NCA in the future. I have to say I do not think that is likely in the immediate future because the NCA will need to settle down … I think wildlife crime is something that will possibly come in later on. 178

77. Serious and organised criminals are clearly involved in wildlife crime, to which they are attracted by the large potential profits, so the NCA will, at the very least, have an interest in wildlife crime. 179 Some witnesses raised the possibility that incorporating the NWCU within the NCA would enhance wildlife crime enforcement, because the NCA would provide a guaranteed funding stream and administrative certainty. 180 Equally, several witnesses pointed out the danger that if the NCA were to take responsibility for wildlife crime, the NWCU’s focus on important but niche environmental subjects, such as freshwater pearl mussels or bat roosts, and its ability to tackle lower-level crimes, which incur significant environmental costs and raise public concern, might be diluted or even lost. 181 The former ACPO wildlife crime lead told us:

Although [the NWCU] is very small and at some levels quite poorly resourced, [it] has nonetheless been able to become the focal point, absolutely focusing upon wildlife crime as opposed to perhaps a very small unit in a much bigger organisation that perhaps was not able to give that same degree of focus and attention. 182

In its written evidence, ACPO commented on how the NWCU might work operationally with the NCA:

The National Wildlife Crime Unit should remain as a standalone unit with the ability to feed serious and organised wildlife crime threats into any National Crime Agency. 183

78. The ongoing uncertainty around the relationship between the NWCU and NCA may have a negative effect on long-term planning for wildlife crime enforcement, but any such uncertainty would be dissipated by the implementation of the Committee’s earlier recommendation on setting out guaranteed funding for the NWCU (paragraph 69), which would make it clear that the NWCU has a long-term future outside the NCA. The NWCU’s specialist skills are a cost-effective asset that should be protected and developed.

178 Q 432
179 Qq 186, 403
180 Q 191
181 Qq 191, 285
182 Q 189
183 Ev 92
Civil enforcement

79. Natural England, the Environment Agency and the United Kingdom Border Force have statutory wildlife crime regulation and enforcement responsibilities, which they discharge by exercising civil powers. In order to ensure that an overall view of wildlife crime is retained and that enforcement is consistent, ACPO pointed out the desirability of all enforcement agencies working in close partnership with each other and with the police. We found significant differences in the way in which those three agencies implemented their wildlife crime enforcement responsibilities and exercised their powers.

80. UK Border Force provided evidence of its robust attitude to enforcement by submitting comprehensive statistics on the hundreds of seizures that it made between 2008 and 2011 and on the nine prosecutions that the CPS conducted as a consequence of its work over that period. Similarly, the Environment Agency told us:

> Over the eight years since the Committee last looked at this area … we have had a steady increase in overall fisheries prosecutions … One, we are catching more people; two, potentially there is more wildlife crime going on in this area; three, awareness is significantly higher.

It added, “We try and maximise the deterrent effect of fines … We are able to spread that effect by publicising, for instance, the prosecutions that we achieve”.

81. Natural England adopts a notably different approach to enforcement from the Environment Agency and UK Border Force. For example, it is responsible for addressing offences committed on Sites of Special Scientific Interest (SSSIs), which comprise a representative sample of England’s most important flora, fauna and geology. The offences that it detected were capable of being tried in both magistrates courts, where penalties were restricted to £20,000, and Crown courts, where financial penalties were unlimited. In 2010-11, Natural England recorded 100 offences committed on SSSIs. Of those 100 cases, 92 were sanctioned through warning letters and the remaining eight resulted in cautions, meaning that there were no prosecutions relating to SSSIs in 2010-11. Overall, 10 prosecutions relating to offences committed on SSSIs have been conducted since 2006. A police officer was seconded to work with Natural England for 12 months, but the arrangement lapsed at the conclusion of that period. Natural England commented that its “focus is on helping our customers to comply, so it is often more important to stop offending and repair the damage than impose a penalty”. “Customers” seems an unusual choice of language to describe those who perpetrate environmental offences. Natural

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184 Ev 96
185 Ev 150
186 Q 207
187 Q 210
188 Ev 160
189 Ev 116
190 Ev 160
191 Ev 96
192 Ev 160
England commits about £5.6 million of spending and about 120 staff to fulfilling its range of responsibilities in relation to wildlife crime, so it seems unlikely that resources are the defining factor in its approach.\textsuperscript{193}

82. Effective enforcement entails striking a balance between persuasion and prosecution in order to alter behaviour. It may be that Natural England’s collaborative approach is particularly suited to the nature of its enforcement responsibilities—we did not receive compelling evidence one way or the other on that point—but it is clearly inconsistent with the approach taken by the police, the Environment Agency and UK Border Force. ACPO pointed out that the further devolution of civil enforcement powers away from the police was one option in the ongoing development of wildlife crime enforcement, which made the way in which Natural England exercised its powers of civil enforcement an important test case.\textsuperscript{194} The Government should research the impact of how Natural England exercised its civil powers and consider the different approaches to enforcement adopted by Natural England and the Environment Agency in its ongoing review of those two agencies.

\textbf{Partnership for Action against Wildlife Crime}

83. PAW is a multi-agency representative body through which statutory and non-governmental organisations involved in wildlife law enforcement in the UK can work together to combat wildlife crime. Its current membership of 140 organisations includes all significant UK sporting, conservation and trade bodies with an interest in combating wildlife crime. PAW-affiliated bodies include some of the largest membership organisations in the UK, such as the RSPB, which has more than 1 million members and is the largest conservation body in Europe, and the Angling Trust. PAW also includes wildlife organisations with international links, such as WWF-UK, and bodies focused on specific species or leisure pursuits. Defra Minister Richard Benyon MP acknowledged PAW’s value and potential:

\begin{quote}
It is a fantastic drawing together of expertise … The knowledge-sharing that exists within that partnership gives an enormous benefit in terms of increased value, and it is a partnership that we value and want to see enhanced.\textsuperscript{195}
\end{quote}

84. PAW is currently co-chaired by a Defra official and the ACPO wildlife crime lead. We received no evidence criticising its performance, but it does not have a high public profile. PAW’s position and influence could be more fully exploited by active ministerial involvement and visible strategic political direction. The PAW Scotland Executive Group is currently chaired by the Scottish Minister for the Environment and Climate Change, an arrangement which appears to have worked well in practice, and a similar arrangement would send an important signal about the UK Government’s commitment to tackling wildlife crime.\textsuperscript{196} When we asked the Minister whether he was attracted to the notion of taking the Chair of the PAW Steering Group, he replied:

\begin{flushright}
\textbf{\textsuperscript{193} Q 239} \\
\textbf{\textsuperscript{194} Ev 96} \\
\textbf{\textsuperscript{195} Q 409} \\
\textbf{\textsuperscript{196} Q 19}
\end{flushright}
To be perfectly honest, not at present because we believe that the current arrangements—where Defra and the police co-chair PAW and have shared responsibility—work well. That kind of hands-on chairmanship is better than a Minister, who, through the demands on our day, could not give it the absolute commitment that they can.197

We recommend that a Defra Minister takes the Chair of the Partnership for Action against Wildlife Crime Steering Group to signal the Government’s commitment to addressing wildlife crime and to provide strategic direction and political leadership in order to harness the extensive skills, experience and resources represented in this forum. In our view, such ministerial involvement need not be an excessive burden, if the police and Defra maintain their current level of involvement.
Conclusions and recommendations

International Wildlife Crime

1. The current focus of UK CITES enforcement on trafficking related to traditional medicine may be misplaced, because our findings on the nature of demand in south-east Asia and China for illegal wildlife products suggest that wildlife crime driven by investment and conspicuous consumption is more significant. (Paragraph 13)

2. It is a matter of grave concern that increased poaching, driven by demand for illegal wildlife products, threatens the rhino, tiger and elephant with extinction. The Government must take a leading role in exerting robust diplomatic pressure in favour of the development and enforcement of wildlife law at the next CITES Conference of the Parties in March 2013. In particular, the Government should focus attention on the damaging effect of ‘one-off’ sales of impounded ivory, which undermine the international CITES regime and fuel demand for ivory products, and seek an unequivocal international ban on all forms of ivory trade. Such commitments are essential but may not be sufficient to protect those species that are most endangered because of the persistent demand for products derived from them. Ultimately, rhinos, tigers and elephants will only survive as wild species if attitudes change. In the run-up to the 2013 CITES Conference, the Government should seek international support for an exploration of new ideas to challenge demand for such illegal wildlife products. (Paragraph 22)

3. In order to ensure the efficient operation of the CITES regime in the UK, Defra must amend the COTES Regulations, focusing on the effectiveness of Regulations 5, 9(3) and 9(4) and their scope for consistent application by the various wildlife crime enforcement agencies. (Paragraph 24)

Domestic Wildlife Crime

4. To discharge its obligations under the EC Birds Directive, to demonstrate its commitment to addressing raptor persecution and to send a clear signal that it regards poisoning birds of prey as wholly unacceptable, we recommend that the Government immediately introduces an Order under Section 43 of the Natural Environment and Rural Communities Act 2006 proscribing possession of carbofuran and other similar substances in England and Wales. (Paragraph 36)

5. Given the scale of ongoing persecution of birds of prey, the current law appears to carry insufficient deterrent weight. We recommend that the Government evaluates the effect of the introduction of an offence of vicarious liability in relation to raptor persecution in Scotland and considers introducing a similar offence in England and Wales in that light. We expect the Government to report to us, or otherwise publish, the results of that review within the next 12 months. (Paragraph 43 and 44)

6. Defra should examine with the Scottish Government and the Welsh Assembly Government how their commitment to joint strategic action on invasive non-native species in Britain could be refocused, with an emphasis on bolstering a strategy of
prevention and setting clear milestones for implementation. In its 2013 review of The Invasive Non-Native Species Framework Strategy for Great Britain, Defra should study (a) the impact of the Wildlife and Natural Environment (Scotland) Act 2011; (b) the impact of third-country imports via other EU countries; (c) the scope for promoting sustainable domestic production of plants and vegetables in the UK to minimise the risk of importing invasive non-native species. We intend to further examine invasive species in the future. (Paragraph 55)

Enforcement

7. The body of legislation relating to wildlife crime should be consolidated in order to enhance enforcement and establish a coherent framework for the execution of Government policy. The Government should consult the Law Commission, which is currently considering the reform of wildlife law, on the scope for such a consolidation to precede any reform proposals. (Paragraph 58)

8. The CPS should review its performance on prosecuting wildlife crime in England and Wales with a view to either employing specialist wildlife crime prosecutors or introducing specialist wildlife crime training for its generalist prosecutors. (Paragraph 59)

9. We recommend that the Government reviews whether the available penalties provide sufficient deterrent effect and work with the Sentencing Council and the Magistrates’ Association to introduce sentencing guidelines for the judiciary and training for magistrates in relation to wildlife crime offences. (Paragraph 61)

10. We hope that this Report highlights this important area [wildlife crime enforcement] for elected police commissioners and their electorates. (Paragraph 63)

11. We recommend that the Government reinforces the success of the National Wildlife Crime Unit by implementing long-term funding arrangements to allow it to plan for being even more effective in the future, including enhanced long-term funding to enable it effectively to monitor wildlife crime on the internet. (Paragraph 68)

12. Partnerships between the police and NGOs can effectively increase funding for wildlife crime enforcement, and the Home Office should encourage all police forces to consider implementing them. This model might usefully be extended to fund other facets of wildlife crime enforcement, such as the NWCU. (Paragraph 69)

13. The NWCU should be directed and funded to develop a wildlife crime database to encompass all available information on incidents reported to the police and on prosecutions in the courts in the UK. (Paragraph 71)

14. The Home Office should instruct all police forces to submit the data on wildlife crime required by the NWCU. (Paragraph 74)

15. The Home Office should immediately allocate notifiable CITES offences a specific wildlife crime code, which would provide useful statistics on the trafficking of endangered species. (Paragraph 75)
16. The NWCU’s specialist skills are a cost-effective asset that should be protected and developed. (Paragraph 78)

17. The Government should research the impact of how Natural England exercised its civil powers and consider the different approaches to enforcement adopted by Natural England and the Environment Agency in its ongoing review of those two agencies. (Paragraph 82)

18. PAW’s position and influence could be more fully exploited by active ministerial involvement and visible strategic political direction. The PAW Scotland Executive Group is currently chaired by the Scottish Minister for the Environment and Climate Change, an arrangement which appears to have worked well in practice, and a similar arrangement would send an important signal about the UK Government’s commitment to tackling wildlife crime. We recommend that a Defra Minister takes the Chair of the Partnership for Action against Wildlife Crime Steering Group to signal the Government’s commitment to addressing wildlife crime and to provide strategic direction and political leadership in order to harness the extensive skills, experience and resources represented in this forum. In our view, such ministerial involvement need not be an excessive burden, if the police and Defra maintain their current level of involvement. (Paragraph 84)
Draft Report (Wildlife crime), proposed by the Chair, brought up and read.

Ordered, That the Draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 84 read and agreed to.

Summary agreed to.

Resolved, That the Report be the Third Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

Written evidence was ordered to be reported to the House for printing with the Report, in addition to that ordered to be reported for publishing on 21 and 29 February, 7, 14 and 22 March, 18, 25 and 30 April, 16 May, 12 June, 5 July and 5 September 2012.

[Adjourned till 24 October at 2.00 p.m.]
Witnesses

Wednesday 7 March 2012

Andy Shipp, Prosecution Case Manager, RSPCA, Stacey Frier, Parliamentary Adviser, RSPCA, David Hoccom, Head of Species Policy, RSPB, and Bob Elliot, Head of Investigations, RSPB. Ev 1

Mark Lloyd, Chief Executive, Angling Trust, Martin Salter, National Campaigns Co-ordinator, Angling Trust, and Charles Nodder, Political Adviser, National Gamekeepers’ Organisation. Ev 9

Thursday 22 March 2012


Wednesday 18 April 2012

Grace Ge Gabriel, Asia Regional Director, International Fund for Animal Welfare. Ev 31


Wednesday 16 May 2012


Janette Ward, Director of Regulation, Natural England, and Dr Paul Horswill, Senior Specialist Wildlife Crime Team, Natural England. Ev 48

Sergeant Ian Knox, Metropolitan Police Service, Wildlife Crime Unit, and Detective Superintendent Ron Knight, Metropolitan Police Service, Wildlife Crime Unit. Ev 53

Wednesday 23 May 2012

Chief Constable Stuart Hyde, Wildlife Crime Lead, Association of Police Officers, Pete Charleston, Staff Officer to Chief Constable Hyde, and Nevin Hunter, Head of National Wildlife Crime Unit. Ev 58

Mark Fuchter, Deputy Director, Operational Police, Border Force, and Grant Miller, CITES Team Manager, Border Force. Ev 67
**Thursday 12 July 2012**


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**List of additional written evidence**

*(published in Volume II on the Committee’s website www.parliament.uk/treascom)*

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| First Report | The St Martin-in-the-Fields seminar on the Rio+20 agenda | HC 75 |
| Second Report | Protecting the Arctic | HC 171 |

**Session 2010–12**

| First Report | Embedding sustainable development across Government, after the Secretary of State’s announcement on the future of the Sustainable Development Commission | HC 504 (HC 877) |
| Second Report | The Green Investment Bank | HC 505 (HC 1437) |
| Third Report | Sustainable Development in the Localism Bill | HC 799 (HC 1481) |
| Fourth Report | Embedding sustainable development: the Government’s response | HC 877 |
| Fifth Report | The impact of UK overseas aid on environmental protection and climate change adaptation and mitigation | HC 710 (HC 1500) |
| Sixth Report | Budget 2011 and environmental taxes | HC 878 (HC 1527) |
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| Eleventh Report | Sustainable Food | HC 879 (HC 567) |
| Twelfth Report | A Green Economy | HC 1025 (HC 568) |
Oral evidence

Taken before the Environmental Audit Committee
on Wednesday 7 March 2012

Members present:

Joan Walley (Chair)

Peter Aldous
Neil Carmichael
Martin Caton
Katy Clark
Zac Goldsmith
Mark Lazarowicz

Caroline Lucas
Mr Mark Spencer
Paul Uppal
Dr Alan Whitehead
Simon Wright

Examination of Witnesses

Witnesses: Andy Shipp, Prosecution Case Manager, RSPCA, Stacey Frier, Parliamentary Adviser, RSPCA, David Hoccom, Head of Species Policy, RSPB, and Bob Elliot, Head of Investigations, RSPB, gave evidence.

Q1 Chair: I warmly welcome each one of you to what we think is an important evidence session in our current inquiry. By way of introduction, what we are doing is following on from a previous report of the Environmental Audit Committee into environmental crime and wildlife crime, which was done in the 2003–04 Session. To get this evidence session moving, I would like to invite each of you to share with the Committee—albeit very briefly—the major concerns you feel have emerged since our report eight years ago, and what now needs to be urgently put on to the agenda. We would very much welcome that brief introduction from each of you.

Andy Shipp: Can I just say a little bit about myself? I am Andy Shipp, a senior Prosecution Case Manager with the RSPCA, where I spent 13 years as an investigator. I have seen the investigating part of this process and now I see the files and decide whether we prosecute, so I am seeing that side of it, too. We weren’t actually involved in the 2004 audit, as far as I can see, so it is difficult for me to comment on that. I have seen the notes. I am not sure a lot has changed, to be honest. The area of wildlife legislation we mainly deal with is the pursuit of badgers and possession of wild birds. Those issues have not gone away. People are pretty relentless in that hobby and I don’t think anything has changed. On your wider issues about the report, again I don’t see that much has changed, to be honest.

Stacey Frier: I have nothing to add to what Andy has said.

David Hoccom: I am Dave Hoccom, Head of Species Policy for the RSPB. My colleague, Bob Elliot, is Head of Investigations for the RSPB. Since 2004, we have seen the formation of the National Wildlife Crime Unit. It is very much a good thing from the RSPB’s standpoint. We welcome the funding commitment that has come from central Government to enable that to happen, although we note that there are ongoing issues around its long-term future. The funding currently in place is only good until 2013. We are very encouraged by the development of UK wildlife crime priorities, which use scientific evidence to focus enforcement and preventative effort—good work in some of those priority areas, particularly around trade in endangered species; however, in other areas of particular interest to the RSPB, such as the persecution of birds of prey, there is less good progress to point towards.

Legislation—we have seen various welcome developments in each of the countries. Obviously, that means that the legislative framework has developed at different paces. That is not necessarily a big issue in enforcement terms, but it means that we have some provisions that are available, for example, in Scotland, but not elsewhere in the UK, and we would like to see that corrected.

For sites conservation, we think that the framework is largely effective, but currently we believe that the responsible agencies are perhaps not making best use of the various offences and sanctions available to them. Ultimately the bottom line is that, in terms of our core interests, persecution continues to be a significant constraint on the populations of some birds of prey, and in terms of protected sites the evidence base is actually quite thin. We don’t really know what the sum impact of crime against protected sites is.

Chair: Thank you. Do you wish to add to that, Mr Elliot?

Bob Elliot: No. That is fine for now, thank you.

Q2 Chair: You just mentioned sites conservation. I wonder whether you had any particular remit in terms of the budget coming forward, in terms of the NPPF and the planning issues that relate to site conservation and the other issues that relate to all that agenda. Is that something that you would wish to raise?

David Hoccom: I can say briefly it is not an area of expertise for either Bob or me, but we do have a position versus that framework, as you would expect. We have taken legal opinion around the fact that Government brought them forward several months previously, it could well have a detrimental consequence for the protection afforded to special wildlife sites. But we could come back with further written submissions on that if that would be helpful.

Chair: Okay—you thank you.
Q3 Mr Spencer: If we can just look at the legal framework that is currently in place. I am trying to work out in my own mind whether we have the right tools in place, and we are not implementing them, or whether we require further legislation?

Andy Shipp: I would say, from our point of view, that the legislation is sufficient to do our job. You have to bear in mind that we use wildlife legislation to pursue our animal welfare objectives, which cover badger digging and possession of wild birds. Putting a wild bird into a small cage is a welfare issue. We probably use quite a small area of legislation, but it is there. We have everything we need there. There are warrant powers. There are seizure powers, disqualification powers. We have the Animal Welfare Act, which is an excellent bit of legislation. It can also be used for wildlife. Now, if someone commits a crime if an animal comes under the control of man, it becomes a protected animal under the Animal Welfare Act. That has added an extra tool that has been really good and useful.

The Wild Mammals (Protection) Act is a little bit—not irrelevant, but it requires an intention to cause suffering. That is very difficult to prove. It really could do with a recklessness element attached to it, because how do you prove someone intended to cause suffering to an animal when they say, “I intended to kill it when I kicked it, not cause it suffering”? So that would need amending. But overall, with the entire package, with all the powers available to the police, broadly speaking we are happy with it. It is a bit of a mess, it needs tidying up, but we don’t want to lose any powers in that process.

Q4 Mr Spencer: Are the RSPB of a similar opinion?

Bob Elliot: Yes. It mirrors that quite a lot. As a practitioner, as somebody who is the Head of Investigations, I find the legislation strong and we have gone—particularly in Scotland—some way to add to it. Now, some of the serious crimes in the upland areas of the UK associated with grouse shooting. Recently, vicarious liability was a very good initiative that was taken forward in Scotland through the Scottish Parliament. We would like to see that mirrored here where, again, the Wildlife and Countryside Act means that effectively you have to make sure your staff and your animals are robust and complying with the law. Vicarious liability is a big thing for us. We have some great legislation, I think, compared with some of the other areas in Europe. We just need to have the correct framework in place for enforcement, so that means police resources and so on, which I am sure we will come to later. We are hoping that others will support the idea of vicarious liability in the rest of the UK. There is certainly an online campaign going on at the moment, and other organisations fully support that.

The introduction of custodial sentences was a big win under the Wildlife and Countryside Act. If you compare egg collecting with, say, raptor poisoning or raptor persecution, egg collectors routinely get sent to prison and it is the same legislation, whereas we are not seeing that for people who are convicted of some of the serious raptor offences. Other disposals are used for that, so we are not quite getting there with the actual explanation of how serious these offences are.

Q5 Mr Spencer: If you were looking to change legislation, it is not necessarily about the actual crimes; it is about the sentencing of those criminals once they have been prosecuted and convicted?

Bob Elliot: Indeed. We can have a debate about the level of fine and prison sentence as well and where it sits, but generally it is fit for purpose. However, it is not being applied uniformly across the board. It is strange to be in a court case to do with a gamekeeper who is being prosecuted and an egg collector. An egg collector would probably be a repeat offender and he will be sent to prison, whereas others won’t get that sentence handed down to them. We see poisoning cases—when you think about the populations of birds of prey, particularly golden eagle, white-tailed eagle, hen harrier and those other important species that are priority policing species, we are just not seeing those sorts of sentences handed down.

Andy Shipp: Can I just add one point there? It would be utterly misleading to say that people are not being apprehended because the legislation is weak. That is not the case. The reason you often don’t detect the people we deal with is because they are well organised. They go out in the middle of the night in camouflage gear; it is like a military operation. The issues are evidential. You will always have those. Legislation cannot assist you in that area, I am afraid.

Bob Elliot: Another thing that I think could be a real win for us in the UK is making sure that we have possession controls for the serious chemicals that still seem to be out there, which are routinely abused and used in the killing of rare wildlife, particularly carbofuran which is a banned chemical. You should not be able to possess it. We have possession controls in Scotland. You can be convicted of possession of carbofuran. You can’t do that in the rest of England. I think we should really tighten that. That would make a big impact.

Q6 Mr Spencer: Just for my own interest, I see a lot of cases in the press where both the RSPB and the RSPCA have been involved in prosecutions, but mostly around domestic offences. I wonder how much of your time is spent on wildlife and how much on domestic issues?

Bob Elliot: Exactly. I have heard this argument a million times, so I can tell you. In terms of cases that we have been involved in, last year the RSPCA achieved around 3,000 convictions for all our offences. Approximately 100 of those were wildlife, so quite small if you compare those figures. I have some photographs that I am more than happy to show you all if you want to see them. Those few—those badger diggers and their welfare offences—are top of our list, because they don’t do it for financial benefit; they do it because they like seeing a badger attacked by dogs.

Often in the background of the videos you will hear laughter and joking, so they are actually enjoying what is going on. From our point of view—we are looking at welfare—it is at the top, so the figure is small but very important—100 out of 3,000. When you do a wildlife investigation, it takes a lot of resources and a lot of time just because of the nature of it.
Bob Elliot: On the RSPB’s role in this—we have no powers. We are here to assist the police and other agencies with these sorts of cases. We haven’t taken a private prosecution for 20-odd years. We took a policy decision not to do so. I think the last case was a goshawk—a rare bird case—which was a DNA case and it was very important that we tested the legislation at that time. We have a small investigations unit and, as I say, we are here to be expert witnesses, to assist the police with cases, and we have probably done it for more than 40 years. We have led from the front on this one, and we believe it is the police and the RSPCA people who should take these cases forward. The object of the exercise is to make myself redundant one day, and we will see about that.

Obviously, we work very closely with the National Wildlife Crime Unit and all the forces, and we were at the forefront in creating it, suppose, the wildlife crime officer network. It was really because we found officers who were very interested, committed and enjoyed wildlife themselves. We latched on to them quite a lot because we had the support there within the force. We are now seeing some full-time wildlife crime officers and some success there, so that is pleasing.

So yes, our objectives are conservation objectives. The RSPCA does an amazing job with welfare and other areas. Our job is conservation. We want to see these species—golden eagle and so on—increasing their range and we will see that as a success, when and if that happens.

Q7 Caroline Lucas: You have already touched on enforcement, but I wanted to probe a bit further in terms of getting a little bit clearer what each of your roles are on enforcement. Bob Elliot has already explained that the RSPB does not do it so much, but is the RSPCA happy with its role in enforcement? Do you feel that the police commit sufficient resources to tackling wildlife crime or do you feel that in a sense you are having to make up for a gap that is there?

Andy Shipp: No. We are very happy with our role. I think you have to start from the premise that when a member of the public sees an animal issue they don’t really think of ringing the police in the first place, do they? They are probably always going to ring us or the RSPB on a bird issue. That is where the call comes in. We get excellent co-operation from the police at all levels—they don’t have to be experts in wildlife crime—but I think part of that is because we then do the job. They supply the statutory powers, the warrant, the arrest, the seizure, but we deal with the animals, we take the prosecution, and we take a lot of the pain away. That relationship works very, very well and it is a well-oiled machine. Obviously, we have a lot of expertise in this area now and overall we are pretty happy with it.

Q8 Caroline Lucas: It is a wonderful example of where there is not a resource issue then? You were explaining earlier that these people whom you are going after are very well organised and they are going out at night and so forth, so it is not a resource issue that stops you being able to get them?

Andy Shipp: I don’t think it is, and you have hit on exactly why. Because you could have any number of wildlife officers, but you are not going to be in that wood at 11 o’clock at night when those badger diggers go in there. It is just not going to happen. It is about educating some of the ordinary police officers that if they do vehicle stops in the middle of the night, and find four guys, camouflage gear, dogs, this is what they are probably doing. There is a lot of education that the wildlife police officers could probably hand down better to normal police officers.

Bob Elliot: Yes, exactly. I think it is very similar from our point of view, apart from the resourcing issue, because obviously we don’t actually take cases to the Crown Prosecution Service ourselves, so we want others to do that. That is where the encouragement, the cajoling and the support kicks in from our point of view. We spend quite a lot of our members’ money in assisting this process, in order for rare species to increase their ranges.

On the legislative framework side of things, we need to address and point at the root causes of the problems. We are very keen, obviously, that research and science is used effectively to do this. More and more we are homing in on the uplands, those areas where we have grouse moors and so on, for problems of these species not breeding. Resourcing-wise, we have always had a smallish team. We believe that our role is to assist others and we are not doubting our team tomorrow. Of course money would always be welcome but, as one of the biggest organisations around in this game and the most experienced, we will continue to do it—continue to perform that role.

Q9 Caroline Lucas: My following question—and in a sense you have already touched on it a bit, but I wonder if you might say a little bit more, just to put it on the record—is around the value added that your investigators can bring alongside what is already being provided by the police. You gave an example of knowing what to look for and so forth. Is there anything else specific that could be added in there?

Andy Shipp: We have a really sensible relationship with police. Any one job could be taken by the police officer and prosecuted through the CPS. With the one job on which they could assist us, we have a very honest, frank conversation on that level. I don’t mean to sound too optimistic but we are very happy where we are. It does work. We are pursuing welfare and, therefore, we don’t sit on intelligence because we can’t. We can’t wait two years while more animals suffer. It gives some urgency and we push that urgency on to the police. Their role is smaller, and they assist us fantastically well. Yes—I am going to sound optimistic—it works for us.

Q10 Zac Goldsmith: Just on that point, and I hope you have not already said this, and I have not missed something that you have already answered. Are all your prosecutions funded through your own fundraising?

Andy Shipp: Yes.

Q11 Zac Goldsmith: Even though you are filling in a gap, it is all privately funded?
Andy Shipp: Yes, it is all from charity money; no Government money.
Zac Goldsmith: I had not fully realised that.

Andy Shipp: I am not sure you are alone on that.

Q12 Zac Goldsmith: Do you know how many of your prosecutions are successful? Also, is there a default position within the police that they accept your prosecutions as valid when you get going? There is always total synergy there.

Andy Shipp: Yes, absolutely. I think because the RSPCA were actually in existence before the police, this is a long-established relationship. They have absolute total trust in us, so they are more than happy and, in fact, they are keen for us to take it because these matters are complicated in their own right. It is a specialist area, isn’t it? You need some expertise, so they are more than happy to allow us to take the job.

The success rate is around 98%, which is fantastic because I think CPS last time I looked was down in the eighties. I understand that they are dealing with complicated cases that are bound to take the rate down, but we are very happy with that.

Q13 Zac Goldsmith: Can I ask one other thing? I know I am jumping in here, but in terms of the successful prosecutions—the 98% you said—how many result in a penalty that you believe is proportionate to the crime that has been committed?

Andy Shipp: I have no figures, but definitely most. With normal prosecutions—custodial, that is for the court to decide, isn’t it?—what we are really after most of the time is a disqualification order. “This person has demonstrated that they don’t deserve to own animals”. If we come away with a disqualification order we are very happy, and we get that; we do get that. Yes, the length of them can vary from one year to life, and it is a bit hit and miss around the country, but broadly speaking we get what we want and that is more often than not what we are after—and confiscation of the animal obviously, because we don’t want it to go back.

Bob Elliot: Since our inception we have been involved in wildlife crime investigation, or certainly really serious concerns about conservation issues. It is fair to say that we have had a crucial role in hundreds of successful prosecutions in this area. We probably have more experience than any other NGO of this. In fact, through our BirdLife partners that the RSPB sponsors, we go out and help with those sorts of cases as well. We provide investigative support to cases. We stand up in court. We have pioneered new DNA fingerprinting and all those techniques. The value we have added has been huge and, if we had not added that value, I don’t think our ruling board would have allowed us to continue. We have to see the biggest bang for our buck in this particular area.

As I mentioned before, we have been actively supported the increased capacity of the police and National Wildlife Crime Unit and specialist prosecutors, and we still think that role is vital. We are here to assist, and we are here to take these difficult cases forward. We have the professional expertise, particularly in species identification and other matters, for example, the ornithological and sites experience, through our own reserves management, to be an active, successful, positive force here.

Q14 Chair: Just before I move on, could I just go back to something you just said, Mr Shipp, about the RSPCA perspective presumably being about welfare and domestic animals, whereas the RSPB is perhaps looking at it from a different angle? One of the concerns that I have about penalties is the attitude of Magistrates. What might be handed down through the court might be different if you are dealing with domestic animals from when you are dealing with wildlife animals. For example, I am thinking of a case in my constituency where swans and cygnets were shot and it was difficult to get the case to court in the first place. Would you like to comment on the extent to which Magistrates, and the Magistrates’ Association, are familiar with the extent of the penalties that they may need to deal with this?

Andy Shipp: From a welfare point of view, we are probably quite lucky because wildlife offences shock the average person. There are quite a number of these cases going through the courts, so Magistrates are more used to dealing with them as opposed to conservation issues, where I am sure they are scratching their head wondering what they are doing. Largely speaking, Magistrates are shocked by them and they are giving appropriate sentences for welfare matters. Again, I go on these photographs. I would love to show you but you may not wish to see them.

Chair: You are very welcome to put them in.

Andy Shipp: I will pass them round. When Magistrates see these kinds of photographs, they sentence appropriately because they are shocked by them. But that is coming from the RSPCA’s welfare remit and that is what we are about: welfare, not conservation, which is the RSPB’s job and they do it very well.

Bob Elliot: That is a good observation. The egg-collecting case perhaps is a lot more immediately visibly understandable to a court or to a Magistrate. You have an egg that didn’t hatch into a golden eagle and this person has stolen them from the wild; it is our natural heritage, whereas a poisoning case out in the environment I think might be slightly more difficult to articulate. Our problem is that we don’t have a good set of records of prosecutions generally. The RSPB records every case that we come across involved in wildlife crime investigation, or certainly really serious concerns about conservation issues. It is fair to say that we have had a crucial role in hundreds of successful prosecutions in this area. We probably have more experience than any other NGO of this. In fact, through our BirdLife partners that the RSPB sponsors, we go out and help with those sorts of cases as well. We provide investigative support to cases. We stand up in court. We have pioneered new DNA fingerprinting and all those techniques. The value we have added has been huge and, if we had not added that value, I don’t think our ruling board would have allowed us to continue. We have to see the biggest bang for our buck in this particular area.

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Q15 Paul Uppal: Mr Elliot, there was one particular issue you raised in terms of vicarious liability, and that is quite good. That gives you peace of mind in terms of its all-encompassing and holistic approach. Just turning it around the other way, one of the key recommendations of the 2004 report was that there should be a single and agreed definition of wildlife crime. What are your thoughts—and all your thoughts generally—about the merits of that, how you can allocate resources and the effectiveness of that?

Bob Elliot: Yes. It is a very good question. In my experience in my career, which was formerly in
Scotland and now I am UK Head of Investigations, we kicked this around through the Partnership Against Wildlife Crime Scotland and Partnership Against Wildlife Crime here. It is extremely difficult to do. You have wildlife and environmental crime, wildlife and rural crime. It is a sort of double question, really. Would a single agreed definition be beneficial? Perhaps it would when you are articulating some of these messages to the public, to the outside world. Would it be beneficial from a recording point of view, as in the police recording? I think that is for the police to decide. My take on that is that wildlife crime is crime, and you could categorise it by the species that are of most conservation concern. That would be the easiest to do rather than having some broad statement about what wildlife crime is. If you use the hen harrier as an example, it could become extinct in England, with four successful pairs apparently in 2011. There should be over 300 pairs there. We need a recovery plan for that species. Therefore, the single definition really pales into insignificance as opposed to the species itself. So no, I don’t think it is that beneficial necessarily and we can get incredibly tangled in deciding what that definition is. Does that answer your question?

Paul Uppal: It does indeed.

Andy Shipp: It is probably over-simplistic, but isn’t any crime that involves a wild animal a wildlife crime? Finding that might be difficult because obviously we take prosecutions for wildlife under the Animal Welfare Act now, if they can fit in that framework, but the Animal Welfare Act doesn’t stand out as a wildlife bit of legislation. You may lose some convictions through their not being flagged up immediately as wildlife. You would have to look at the animal involved to do that. Yes, simplistically, if it is a wild animal, it has to be a wildlife crime. I don’t really care whether it is welfare or conservation; it is a wildlife crime, isn’t it? I can see the problems with trying to get everybody’s databases together. We have a database. I am sure we would like it to be a lot better—resources are limited and the search functions on it are not what they should be, but we are a charity and we have what we have, so it might be quite hard to get to a perfect solution.

Q16 Paul Uppal: From a resources point of view, the obvious point—you asked for an obvious response—is: yes, there is a saving there. It is just a simplification of the whole process.

Andy Shipp: Yes, sure.

Bob Elliot: One observation is that the National Wildlife Crime Unit has gone some way with PAW partners in defining what the key species are for priority—the main suite of raptors, certainly—and they have gone some way in encouraging police forces et al to supply data, and we do that through secure systems. I know that other agencies and organisations are developing protocols to do that, and we would encourage that to happen. This in-gathering of data is becoming more commonplace. We are in danger of being swamped slightly, but that sort of thing is in place rather than developing a “whenever it hits this button you now record it” definition, which could be problematical.

Q17 Peter Aldous: I think I am right that both the RSPCA and the RSPB, along with the National Gamekeepers Organisation and the Angling Trust, you are members of PAW?

Andy Shipp: Yes.

Q18 Peter Aldous: Just tell me about that organisation. Is it effective? Do you think it contributes towards the effective enforcement of wildlife crime?

Andy Shipp: I will let the RSPB go first, because they were largely behind it being put together in the first place, and I will join in at the end.

David Hoccom: Thank you for the question. As my colleague says, we were in from the off with the Partnership for Action Against Wildlife Crime. It is now a broad network, with well over 100 partner organisations. The clear benefit is that it brings those organisations together around a clear mission, which is to tackle wildlife crime. Clearly, its breadth also brings issues in terms of coherence, focus and so on. It has definite merit in terms of a knowledge transfer network and, in particular, it is supported by a series of working groups. To take one example on forensics, that has proven over some years now to be a really effective knowledge transfer unit and basically brings in experience from various organisations about how forensics can support successful wildlife crime outcomes.

An observation: in Scotland the PAW steering group is chaired by a Minister, which is not the case anywhere else in the UK. I think it is no accident, therefore, that some of the most proactive steps in tackling wildlife crime in recent years have been taken by the Scottish Government.

Q19 Peter Aldous: Can I just stop you there. Are you suggesting that there should be a Minister responsible in England or might it be that Scotland has greater challenges?

David Hoccom: I think having ministerial engagement clearly ups the ante and drives progress, perhaps in a way that we have not seen in other of the UK countries thus far. In terms of the commonality of issues, from our own point of view, raptor persecution respects no boundaries. The issue is particularly focused in northern England and Scotland. Other wildlife crime likewise—it really can’t be pinned down to particular areas other than by species distribution.

If I may make a comment on the statutory structures. As I said earlier, we support the fact that the National Wildlife Crime Unit exists. That is a really important focal point for activity in this area. Therefore we think it is important that that is preserved and enhanced. However we note that, with the arrival of the National Crime Agency, there is a need to think carefully about how serious and organised wildlife crime is dealt with. We contend that that probably is not the job of the National Wildlife Crime Unit. They have great expertise in bringing intelligence together. In terms of actually applying that intelligence and effecting enforcement, we think the National Crime Agency needs to be playing a role.
Q20 Peter Aldous: You see that as an opportunity?
David Hoccom: Absolutely. Yes.
Andy Shipp: PAW is undoubtedly useful in getting all likeminded people together, sharing knowledge, sharing experience. It is undoubtedly useful and will continue to be so. That is a fairly short answer but I will add one little bit at the end. Endless talking will not make the difference; it needs action, doesn’t it? We can all talk, but we have to deal with these issues. You have to get out and disrupt those criminals in that area. There can be a danger of too much talking and not enough action, but overall it is undoubtedly a good thing.

Q21 Peter Aldous: One other proposal coming up on the horizon is Police Commissioners. Have you considered the implications of that? Might that be an opportunity to engage with the people that matter to get some proper—
Andy Shipp: It probably won’t make any difference. As I said to you, we are laughing, we are happy and we are smiling. The system works for us and I don’t think they will make any difference to us at all.
David Hoccom: This is a slightly different view. Clearly, it is a proposal that has yet to be tested, but we are taking a positive view, certainly in areas where wildlife crime is particularly focused. As my colleague has already said, in areas of the uplands of England and Scotland, for example, where we know there is a very strong connection with bird of prey persecution, we are clearly looking to forces covering those areas to treat wildlife crime seriously. My understanding of the role of Commissioners is that they will clearly be important people, when it comes to the choices taken at a force level about where to deploy resources. We would see them as significant, I think.

Q22 Mark Lazarowicz: One small point, I wonder if the greater profile of activity in Scotland, reflecting itself in things like legislation and enforcement mechanisms, reflects a greater public interest in the issue. I know from being an MP from Scotland, from an urban area, that issues of raptor crime and so on are pretty big headlines sometimes in the newspapers. I am aware from my work at that apply particularly to the wildlife crime, is one of the factors in Scotland. There would be greater awareness of the issue when you get greater action by Government is the point.
David Hoccom: I would agree, insofar as political awareness is concerned. Clearly, those in positions of influence in the Scottish Government have decided this is an area that merits attention and, therefore, things like the legislative advances we have seen have been given the space they need. However, on general interest and concern around wildlife crime, obviously the RSPB is a large membership organisation. We know that this is an issue of serious concern to many of our members, who come from right across the UK. Indeed, about two years ago we handed in a petition, not just our own members but round about 210,000 people who pledged that they wanted to see an end to wildlife crime. That was handed into the previous Administration. The concerns are common but, as I say, we are very glad that that political support has been forthcoming in Scotland and we have seen the advances that have been made.

Q23 Dr Whitehead: You mentioned the organised nature particularly of persecution of protected species. Are these organised and coherent groups, groups of people got together for that purpose, or largely individuals? What is the organisational level of such crimes?
Andy Shipp: With badger persecution, more and more with chat rooms and so on, they are getting together from different parts of the country. In one recent gang we stopped in Cambridge, one guy was from the north of England—Tyneside—one was from London, one was from Essex and one was from Ireland. The evidence we have is that they travelled to Ireland to persecute badgers but also throughout England as a gang. That is a fair degree of organisation between them, isn’t it? They are quite a tight bunch and they trust who they go with and they stick to that little bunch. It is organised and, because the way they can communicate with each other, it is a lot easier. But that also leaves an evidence trail for us that we can pick up on: texts, emails, and photographs on computers. More and more of that evidence is coming into play, but that is expensive for us because paying for that interrogation is expensive. It prolongs the investigation because these things take a while, so there are those elements. In short, certainly people into badger persecution are very well organised.

Q24 Dr Whitehead: What about other forms of persecution?
Andy Shipp: Birds, the other area we deal with—bird trappers, not so much. They are often individuals, putting traps out on a little bit of land near where they go. We are not talking raptors here; we are talking small finches, goldfinches, greenfinches, siskins, linnets. They are often working on their own because the birds are for their personal gain, either to breed from or to improve their stock or to sell, so they are not so organised. They do know each other, mind you. The likeminded people know each other, but in committing that crime, they generally act alone.

Q25 Dr Whitehead: In your view, is there any mileage in the possibility of reaching such people to change their behaviour, or is it a group, or groups, that are clearly so far from mainstream views on wildlife crime, and that is it?
Andy Shipp: These two areas are very difficult to change. This hobby is absolutely ingrained in them. Badger digging and capturing small finches historically go back hundreds of years. It is ingrained in some communities and these people find it very difficult to shake off that hobby: very difficult. Some of them never will. It is very difficult to change that attitude. Once you enjoy seeing a badger being ripped apart by dogs, how do you change? How do you suddenly decide that is not right any more? I am sure some do, but largely speaking, with those, and with the people who like to keep British finches, it is in
Q26 Paul Uppal: Very briefly, just for personal interest, is there a gender difference there? Is it predominantly male?
Andy Shipp: It is all male.

Q27 Paul Uppal: It is all male? There is no female problem at all?
Andy Shipp: I have never known a female badger digger.
Paul Uppal: That is all right; I just wanted to know.
Andy Shipp: I have never known a female bird trapper. To give you a flavour, I would say the bird trapping and bird keeping is spread through the country. Badger digging seems to be located around ex-mining communities, so south Wales is a hotspot, Mansfield, Yorkshire. They are all big areas for badger persecution. Why is that? It is probably because you have urban on the doorstep of wilderness. Somewhere like this area—London—you don’t have that, do you? You would have to travel a long way to get out to the countryside. But that is the fact of it, yes—bird trappers, spread; badgers, more defined.

Q28 Dr Whitehead: Bird trappers do it for their own collections?
Andy Shipp: Yes. They go into breeding. The wild bird has a more vivid colouration to it, so now and again they like to introduce wild stock to get colouration in their birds because they like showing them and they have shows all round the country. But the purpose can also be purely financial; some of these finches are selling for £20, £30 each. We stopped a guy in Kent who had 800 chaffinches. This was a Maltese guy who was coming once every other month with that load of birds and he was taking them out to Malta. You multiply that, you are talking serious finance. It is a mixture of the hobby and for some people the financial benefits from it. Finches are relatively easy to catch in large numbers, especially in the winter. They are hungry, they come down for seed. They employ a clap net and can get 20 to 30 in one go without too much difficulty.

Q29 Mark Lazarowicz: You told us how the internet is allowing people to get together more easily for their criminal activity. Is it driving wildlife crime in other ways? For example, is it making the market easier to operate, increasing the number of people supplying illegally caught wildlife and allowing people to buy it more easily? Is it having an effect in other ways as well?
Andy Shipp: Undoubtedly.

Q30 Mark Lazarowicz: How extensive is it? How important is it?
Andy Shipp: It is quite difficult to quantify. We don’t have the resources to trawl the internet as probably we would like to do, but, for example, you can look at an advert for some lizard or snake and you can say, “Yes, please, I will have one of those”, and they send it in the post to you. You don’t know where it has come from; you don’t know anything about it. It makes it just a simple transaction and there is undoubtedly an increase in that.

Q31 Mark Lazarowicz: Presumably birds are less easy to keep illegally—or maybe not?
Bob Elliot: That is certainly a very good question. It is the enormosity of internet-related crime, and I know the police feel that they could just deal with that the whole time in the National Wildlife Crime Unit, but we are concerned there has been an increase in bird trade.

Q32 Mark Lazarowicz: In the UK or internationally?
Bob Elliot: Internationally.

Q33 Mark Lazarowicz: But not into the UK particularly?
Bob Elliot: That is correct, yes. People are using the internet to do this trading. We probably need to have a think about whether there are any controls that could counter this. We have lost registration controls for some species, like the peregrine falcon. There used to be a passport that went with this bird and now we have lost that through the various changes in legislation and we would like to have that back again. They are still catching people at the border with peregrine eggs—viable peregrine eggs that will become peregrine chicks that will become falconers’ birds. It is still going on, and a lot of this is internet-based.

Q34 Martin Caton: More than 20 years ago I lived just outside Aberystwyth in mid Wales. At that time, it was just about the only place in the country that you could see red kites. The spread and the range of red kites has been a wonderful story. Sadly, that is not true—as you have indicated already—of all other birds of prey. I am concerned particularly about hen harriers. Why has there been a decline and why are numbers so low in the UK now?
David Hoccom: Hen harriers are a species of high conservation concern. It is a wildlife crime priority, as we know. The population is currently in decline following several decades of recovery, according to the latest survey results. Today, it is very much thought of as a bird of the uplands. It is attracted to areas of heather moorland, which provide a suitable breeding habitat, the right sort of prey species, etcetera. It is there that it sometimes comes into conflict with the practice of driven grouse moor management because hen harriers will, among other things, eat young red grouse.

Government, in the form of the Joint Nature Conservation Committee, published a report in the last 12 months that basically looks at how many hen harriers there could be in the UK versus how many there actually are, and draws some conclusions as to why there is such a large difference. To give you a feeling—and these are fairly coarse estimates—around about 2,500 pairs is what the UK could hold. The most recent survey suggests a population more around 650 pairs. The Government in its report
ascribes the very likely reason for that difference as illegal persecution tied in with the practice of grouse moor management. Some of the birds are being killed or prevented from breeding successfully so that they don’t predate heavily on grouse, in essence.

Natural England, the Government’s conservation advisers in England, concluded in 2008 that persecution continues to limit hen harrier recovery in England and, indeed, that very few nestling attempts on grouse moors are successful. In 2008 there were just five known successful nests on grouse moors anywhere in England and Scotland, and the same scientific study concluded that there should be around 500. So about 1% of potential was actually met in 2008.

In England—as my colleague has already said—hen harriers are on the verge of extinction as a breeding species, for the second time. They first went extinct as a result of persecution prior to legal protection in the 19th century. It is worth bearing in mind as well that the Government has recently committed, via the England Biodiversity Strategy, to avoid any human-induced extinctions of important species by 2020. We would contend that the hen harrier is the species that brings them closest to defaulting on that commitment.

Q35 Martin Caton: As you know, the pro-gamekeeping lobby suggests that you do not have any substantiation for claiming that gamekeepers, at the behest of landowners, are persecuting these birds. Is there any concrete evidence to show that this is being done systematically?

David Hoccom: The number of prosecutions is few but—as the point has already been well made by my colleague from the RSPCA—these are difficult crimes to detect. They take place often in parts of the country where there simply is no proactive enforcement presence, so that is the first point to make.

Q36 Chair: Sorry, can I just cut you short? Is it the case that there have been no confirmed crimes recorded against hen harriers in the last six years?

David Hoccom: I believe the most recent prosecution was in 2006, so that is technically correct, yes. But I would bring you back to the Joint Nature Conservation Committee’s report. This was commissioned by the Scottish Government and published by JNCC. That draws the conclusion, based on a full scientific assessment of the evidence, that persecution is, indeed, the factor that explains why there are so few hen harriers breeding successfully in the UK.

Q37 Martin Caton: The Langholm Moor Demonstration Project involves feeding hen harriers to divert them away from the grouse during the breeding season. Do you think that that is going to show the way forward for a viable coexistence between hen harriers and grouse?

David Hoccom: Thank you for that question. Yes, as the RSPB we are a funding partner of the Langholm Demonstration Project. We think it is a good thing that efforts are being made to try to reconcile the issues of predation on grouse with the practice of driven grouse moor management. It is a long-term study and we will continue to support it as such. But yes, on the question of diversionary feeding, there is good information to show that that can be a successful means of reducing—if not negating entirely—the effect of predation by hen harriers on red grouse. Therefore, we would like to see Government supporting its application and taken up by grouse moor managers elsewhere in northern England and Scotland, but critically we need those same owners and managers to actually buy into the technique. At the moment we would contend, based on the feedback we receive from representative organisations, that that is not the case.

Q38 Peter Aldous: In the last recorded period, 2010–11, there was a 43% increase in reported incidents involving badgers compared with the previous year. Is that a reflection of more incidents taking place or better detection?

Andy Shipp: Probably neither, actually, to be honest. Some of this is luck, isn’t it? As I said to you earlier, the nature of these people and how they go about their business means that it can be a one-off bit of luck whereby a police officer stops a vehicle in the middle of the night and that can lead you to a lot of convictions. In different periods you might not get that bit of luck.

Q39 Peter Aldous: If we look at the previous periods over a number of years, it is more the sort of up-down trend rather than a trend in any direction?

Andy Shipp: Yes, I think so. If I had to say I think it would be constant, really. In reality, what is going on is probably constant, yes.

Q40 Peter Aldous: I am conscious that, under the Wildlife and Countryside Act, police cannot enter land where they have reason to believe that a badger sett has been damaged. Do you think that impedes the detection of incidences?

Andy Shipp: I could do because it prevents the police officer from getting on to that land quickly. He can come away and get a warrant but that delays the process and, as with any investigation, those early moments are crucial to gathering your evidence. If they had the same power that is under the Wildlife and Countryside Act to enter land other than a dwelling—I am not saying a dwelling, just the land—that would be extremely useful.

Q41 Peter Aldous: Is there any evidence that landowners might be destroying badger setts with impunity?

Andy Shipp: Hard to give you tangible evidence, just anecdotal evidence of cases on private land, where they have asked for permission to come on and the landowner has said no. Then also you have to convince a Magistrate that you have enough evidence for them to grant a warrant on the information you have, which may be anonymous, so they may not be convinced.

Q42 Chair: We are very conscious that we have another set of witnesses coming before us this afternoon, so I thank you all for your contribution.
today, I note that you invited us—I think it was the RSPB—if we as a Committee wished to visit any of the particular sites and locations, I do not know whether we will have time to do that, but we are very grateful for the invitation. Thank you very much indeed.

**Examination of Witnesses**

**Witnesses:** **Mark Lloyd,** Chief Executive, Angling Trust, **Martin Salter,** National Campaigns Co-ordinator, Angling Trust, and **Charles Nodder,** Political Adviser, National Gamekeepers Organisation, gave evidence.

Q43 **Chair:** Welcome to our second lot of witnesses this afternoon. I ask you to introduce yourselves first. In your introductions, perhaps you could mention the issues that you think have been emerging over the time since the last Environmental Audit Committee report, which was produced in 2003. I would like to invite Martin Salter—who has had a fierce reputation for many years in this place on the angling agenda—to introduce yourself first and set out issues that you think the Select Committee should be looking at, please.

**Martin Salter:** Thank you, Chair. Is it formal or is it first names here?

**Chair:** I leave that entirely to you. We are a Select Committee of the House of Commons but—

**Martin Salter:** Okay. Thank you very much, Joan. It is nice to be back, even if on the wrong side of the questioning process. I now work for the Angling Trust as their National Campaigns Co-ordinator. My Chief Executive is Mark Lloyd. The Angling Trust is the representative body for up to 3 million anglers in Britain and it is probably more appropriate, given that I am an employee, that my boss does the introduction. If you are happy, Joan, I would rather hand over to Mark to set the scene and then I will deal with some specific questions.

**Chair:** We will go straight on to Mark Lloyd then, please.

**Mark Lloyd:** As you can imagine, it is a good joke that anyone could be Martin’s boss. Martin has introduced me—I am the Chief Executive of the Angling Trust. For those who are not aware of who we are, the Angling Trust was formed about three years ago by a merger of six different angling organisations. We got rid of the division—what Martin used to refer to as the Judaean People’s Front and the People’s Front of Judea in angling—into a single representative body for the whole of the angling industry. We also have a legal arm called Fish Legal, which is pretty unique around the world in that it takes on invasive species.

Q44 **Chair:** No. For the purposes of this session, we would just be very grateful to know the issues that you think should be addressed, and put high on the agenda, from the experience in your organisation.

**Mark Lloyd:** Yes. The two key areas that we want to talk about are poaching and invasive species. Martin is going to lead on poaching and I am going to lead on invasive species.

**Chair:** Okay. I am sure we will come to that in the course of the detailed questions. Finally, Mr Nodder.

**Charles Nodder:** Thank you, Madam Chairman. I am Charles Nodder. I am an adviser to the National Gamekeepers Organisation, which is a voluntary body but most of the gamekeepers in England and Wales belong. We have about 6,000 gamekeeper members and 10,000 other members. We have been in existence since 1997, and we did comment to the previous inquiry in 2004. The things that have changed since then, which we would like to comment on particularly, are the advent of the National Wildlife Crime Unit and the improvement in the statistics that are kept on wildlife crime, which I think gives a lot more information for us all to work on, and also poaching. Poaching is one of the six wildlife crime priorities set by the Government and, interestingly, it hasn’t been mentioned this afternoon although, in fact, it accounts for 27.6% of wildlife crime overall. We would very much like in our evidence to focus on that.

**Chair:** We hope we will have an opportunity to do that in the course of questions from my colleagues, starting with Simon Wright.

Q45 **Simon Wright:** I have a few questions about the legal framework. I would be very grateful for your comments on whether you feel it is currently sufficient for tackling wildlife crime. Perhaps in your response you could also refer to your hopes of the Law Commission’s current review into wildlife management legislation.

**Chair:** Perhaps I should add that we have quite a few questions to get through, so I would appreciate perhaps quicker movement than we had in the previous session.

**Charles Nodder:** Yes. The framework within which gamekeeping and wildlife crime operates is legally incredibly complex. Some of the statutes go back to the mid-19th century. Old is not necessarily bad and there are, believe it or not, in things like the Night Poaching Act some quite useful powers for police officers to stop and search that you would not find on the streets of London. But it is incredibly complicated and it does need sorting out. We very much welcomed...
the inquiry of the Law Commission, looking at the whole raft of wildlife legislation with the aim of trying to come up with something simpler. We think if they can do that—and it may be a big “if”—obviously understanding on the part of people who are supposed to be sticking to the law will be easier and greater, and the enforcement against offenders will be simpler. We were all invited to a stakeholder group by the Law Commission on Monday where they gave their first impressions of how that review is going, and I was encouraged. They are thinking outside the box. I think they will come back in 2014 with the suggestion of a single Bill combining all sorts of different statutes. It is nonsense that we have a separate Bill for deer, a separate Bill for badgers, a separate Bill for seals, but everything else is lumped in the Wildlife and Countryside Act. Hopefully, that is something they will sort out.

Martin Salter: Simon, from the Angling Trust point of view, we too welcomed the Law Commission’s initiative. We think it is excellent and are participating in it. Our two big issues are: enforcement and punishment or deterrence. If you take wildlife crime in its broadest sense, it includes fishing beyond quota in our seas. There was a recent case in Scotland where 17 Scottish fishermen were guilty of industrial fraud; £63 million worth of fish were taken from northern Scotland outside of quota, removed from the public resource, removed from other fishermen to fish for them legally, damaging the biodiversity of that section of the ocean. The fines totalled £720,000 for a crime that took £63 million. This is a crime bigger than Brink’s Mat, and the fines themselves are in no way a deterrent. Basically, until you guys get to grips with this, and the Law Commission gets to grips with this, wildlife crime pays, because the fines are derisory. As Mark said earlier, one of the reasons that Fish Legal was set up is that we achieve more in civil damages on behalf of our members’ clubs against polluters—I know this is going slightly off the subject—that the derisory fines the Magistrate will give somebody who poisons the headwaters of a river. We can achieve more through civil action than through the criminal process. That is clearly wrong. It is clearly out of kilter.

The second point, Joan, is enforcement. I am a mad-keen fisherman. I fish a lot. Lots of people I know fish a lot—

Chair: We will come on to enforcement.

Martin Salter: Just in terms of the framework, we do not have the bailiffs, we do not have the bodies on the bank side, or in the ocean, to ensure that our inadequate legal framework is in any way enforced.

Q46 Simon Wright: You will have heard in the previous session that the RSPB are proposing an offence of vicarious liability in relation to raptor persecution, so that the landowner would be subject to criminal liability where their employee, agent or contractor committed an offence. I wonder what your thoughts are on such a proposal?

Charles Nodder: The National Gamekeepers Organisation doesn’t have a strong view on it either way. We are interested to see what transpires in Scotland, where of course this was introduced very recently. Along with a number of bodies, we share a certain unease at the introduction of a vicarious liability offence. To me it sits there with things like the reverse burdens of proof as being not the proudest bit of British justice. Having said that, we will look at it, we will see whether it has a practical effect and a beneficial effect. We have suggested to the Law Commission that they shouldn’t be in a hurry to introduce that in England and Wales before they have seen the effect of it up in Scotland.

Q47 Simon Wright: We have had some comments about the current available penalties. I wonder whether there are any further thoughts that you might like to offer as to whether they serve as an effective deterrent to wildlife crime?

Martin Salter: Oh, absolutely not. For example, we have been waiting for the new live fish regulations, which have now been delayed twice, out of Defra. Of course, angling has changed out of all recognition in the last 50 years in this country. There are a lot more carp fisheries. An individual carp can be worth £5,000 or £6,000 to the owner of the fishery, because people want to fish for record-breaking fish. These fish are now quite regularly imported from France and Holland without adequate health checks. We don’t have the legislative framework to enable our enforcement agencies to do the proper job—that is Cefas, the Environment Agency, and of course Customs & Excise themselves—so legislation has just completely failed to keep up with the pressure on the resource.

Charles Nodder: On the game poaching side—deer, hares and so on—a lot is recreationally inspired. People are not going for the value of the carcass; they are going for what they perceive as the fun of being out in the countryside, tearing around with their dogs and creating mayhem. Against that sort of poacher, some of the current penalties are high enough, but they are not always enforced by Magistrates’ Courts, and one of the things that we have found very, very effective is the confiscation of equipment, particularly where the Magistrates extend that to the confiscation of the vehicle and the confiscation of dogs. Poachers do not like their vehicles and their dogs being taken. A £200 fine is neither here nor there, so anything that can be done to encourage Magistrates to use the full powers that are available to them would be helpful. But I agree that on these big very organised and very valuable wildlife crimes in the fish sector, clearly the current penalties aren’t anything like high enough.

Mark Lloyd: It is very important to make a distinction between that sort of low-level crime and the organised crime. There are people doing really organised operations here, and I think that is a very important distinction to make. Someone who goes fishing and forgets to buy a rod licence: it is important that there is a law there and it is enforced, but that that is not the main show in town; people are committing crimes as part of gang activity.

Q48 Zac Goldsmith: Just quickly on that point. What is the process in relation to the example you have just given now? Assuming the laws exist to prevent smuggling unlicensed fish over the border, so
the laws are there, but the problem—I am asking as a question, not a statement—is that the punishment of the court is not big enough; is that your view of the current situation?

**Martin Salter:** The laws exist. The fines are not an adequate deterrent, and the benefits from smuggling, particularly carp or other species, can be quite considerable. So the punishment is not fitting the crime. It is not high enough to act as a deterrent.

Q49 **Zac Goldsmith:** What is the standard punishment for that kind of thing?

**Martin Salter:** It can range from a few hundred pounds to a slap on the wrist or a few thousand pounds. As Mark said, if you assume that some of these gangs are organised, criminally minded and in criminal networks, let us just assume that they might be caught one in 50 times. The amount they are likely to be fined is in no way commensurate with the amount of profit they will have made illegally. Far worse than that—never mind bringing fish in and out of the country—is the disease that they can bring in. You can wipe out whole fisheries, whole regions of the country, by importing live creatures without the adequate health checks. The legislation is there for a purpose.

Q50 **Zac Goldsmith:** Is that the principal purpose, the prevention of disease?

**Martin Salter:** Absolutely. It is primarily, Mark, isn’t it? The principal purpose is the prevention of disease.

**Mark Lloyd:** Yes.

**Martin Salter:** It pre-dates the value of individual fish, but it is good legislation.

**Mark Lloyd:** If I may, just a very quick point on that. The new live fish regulations would increase the detection rate. They have been delayed twice. They are due in October. I know there is a bit of a backlog, but it would be great if they weren’t delayed a third time.

**Chair:** That is very helpful.

Q51 **Neil Carmichael:** I am thinking about the controls that Defra—the old Ministry of Agriculture—would have, in terms of farm animals and so forth, and whether there should be a more holistic approach. Of course, agriculture is protected by certain measures for animal welfare. Would that apply to the fish industry?

**Mark Lloyd:** Yes. There is legislation in place, as we have said. There is just some tightening up on regulation needed. There is pretty good legislation there, and I think with these new regulations, that would provide an adequate framework.

Q52 **Neil Carmichael:** I was really thinking about the enforcement angle as well.

**Mark Lloyd:** I think that could all be tied up, and certainly the key is co-operation here. The Partnership for Action Against Wildlife Crime was mentioned earlier, and if you look at its annual report—which I did last night in preparation for this—there is very little evidence of any action on fish at all. There is one mention of pearl mussels and another about the international caviar trade, so it is not really focusing on the import of live fish or fish theft either.

**Martin Salter:** Chair, if I can come back on the point that Mr Carmichael has raised. In many regions we have seen the Environment Agency bailiffs, who used to patrol the banks, being turned into generalist roles. They are looking at fly-tipping and everything else, all very valuable work, but it means fewer people on the river bank, and certainly in terms of wildlife crime that affects freshwater. If the river bank is a place where you don’t see civil society, where you don’t get your rod licence checked, you don’t see a bailiff or whatever, it is basically sending a signal that a free-for-all could be organised here, and in some cases those free-for-alls can be exceptionally profitable.

Q53 **Peter Aldous:** Picking up that last point, Martin. Some people might say that as far as the Environment Agency is concerned, like a lot of public organisations, they are severely stretched and trying to make resources go a long way; some people might say there could be more of a role for the anglers themselves to be involved.

**Martin Salter:** A great question. Can I come straight back on that one? Thank you so much for that question. First, recreational anglers provide £26 million in revenue and we are quite happy to pay a rod licence. When one of your predecessors suggested getting rid of it, we ran a campaign to say, “No. We happen to believe in pay means say”. But we want to see something back for our money, and we do like to see people on the bank.

Secondly, you are absolutely right that there should be far greater co-operation. The Angling Trust—under Mark—has been piloting a programme for signing up volunteer bailiffs. We have 23 signed up in the southeast region at the moment. It is a three-phase process. We don’t necessarily want every have-a-go hero out there to end up being a fully warranted bailiff, but there is a process by which people can become fully warranted bailiffs over a period of time and we would like to see that rolled out. Joan, we would be delighted to provide the Committee with more information in case you want to put it in your report.

**Chair:** We would be very happy to have that.

Q54 **Neil Carmichael:** To develop the point that I kicked off and Peter has endorsed, it seems to me that in the countryside, it is going to be very difficult to have policemen patrolling around and checking what is going on. It is quite nice to see policemen in towns, but in the countryside it is less easy. It seems to me—and that is why I asked the question about agriculture—that you want to buy in and tie in as many people who are part of the countryside as you possibly can, to protect our fishing and so forth. I was going to extend that to fishing clubs and people who own rivers, or at least manage rivers and so on. What kind of co-ordinate practice do you think might help to protect species further?

**Mark Lloyd:** We have about 1,500 angling clubs who are members of ours, so there is a big network out there that we have access to. A lot of them have volunteer bailiffs who are obviously policing those
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you are so right about the absence we don't feel second class. perhaps finally, just moving forward—

let us be clear. the environment agency should, if it is worrying about permits, be focusing on transgressions rather than permit checking.

neil carmichael: yes. it is the person who is acting in a once-removed way that one would want to look at, so the environment agency should, if it is worrying about permits, be focusing on transgressions rather than permit checking.

martin salter: they are expensive.

neil carmichael: yes. it is the person who is acting in a once-removed way that one would want to look at, so the environment agency should, if it is worrying about permits, be focusing on transgressions rather than permit checking.

martin salter: let us be clear. the environment agency bailiffs in north london in the river lea catchment were issued with stab vests, because it can be a rough place on some of our canals. we have also seen a complete change in patterns of migration. some of your colleagues have been involved in real problems with eastern european communities who come from a totally different culture and they don't have the catch-and-release culture that we have in english culture, and of course they don't see anything wrong with laying out set lines and nets. we are working really hard on an education programme with eastern european communities. we just had a building bridges project part-funded by the environment agency. we had a match on the fens with lithuanian and polish anglers to bring the two communities together, so that people can start to understand that the tradition of freshwater fishing in this country, certainly of coarse fishing, is that we want to return as many of our fish as possible unharmed and protect the resource. it isn't just about fishing for the pot. as a voluntary organisation, we are working really hard to bridge those comparable differences. but those patterns of migration have altered. even the tradition of the catch-and-release culture that we have is now under threat, and some of the behaviour that we took for granted is not necessarily the case when people come from different cultures, and so there is a job of work to be done there as well.

charles nodder: you are so right about the absence of police in rural britain, which is not surprising with budgets being as they are. in my part of dorset, professional gamekeepers outnumber the police 10 to one. it is the gamekeepers who are out there day and night. somebody mentioned in the previous session badger-baiters in a wood and the likelihood of the police seeing them. the likelihood of the police seeing them is virtually zero. the likelihood of the gamekeeper seeing them and reporting them, or even taking them on himself, is quite high.

neil carmichael: we are going to come on to police commissioners, according to this paper, so i don't want to get bogged down in a submission about police.

chair: we are just going to have to very briefly get bogged down and then move back to the police commissioners.

q56 neil carmichael: yes. my point was that 12%, 13% of britain is covered in houses and towns; the rest is countryside, so that is a big area. even if you had a lot of policemen in the countryside you still wouldn't get the coverage necessary because there are parts of northumberland, where i hail from, or gloucestershire, which i represent, where you just simply couldn't expect that. you have to encourage people to behave in a responsible way through voluntary structures and so forth, because otherwise at the end of the day, if you are relying on law enforcement to the nth degree, that is going to be very, very difficult.

charles nodder: the extent to which police forces—not all of them, but the best of them—are now working with the gamekeepers and understanding that the gamekeepers are out there as a resource is very encouraging. for example, thames valley has gamekeepers on its rural crime policing panel. in hertfordshire gamekeepers are actually being used as special constables, so they are doing their two jobs in parallel at the same time.

q57 peter aldous: both organisations are partners in paw with the rspb and the rspca. at times do you perhaps feel that you are in the second-class carriage and that they are in the first-class carriage when it comes to their being more proactively involved in enforcement than yourselves, or not?

charles nodder: it would be easy to think that. of course, they are large and very established organisations and certainly rspb has more than 1,000 staff. the ngo has three. having said that, at the annual paw conference last week, one of our representatives was invited by the people from defra and the acpo lead for rural crime, who ran the conference, to give a presentation on our police training course. we offer a free course to police forces all over the country telling them about what gamekeepers do, how gamekeepers can help the police, how the police can help gamekeepers, and actually going through some of this very complex law that mr wright was asking about earlier, and trying to make it easier for the police to understand what offences they might be able to work on. we were given a slot within paw to talk about that, although numerically we are one of the smallest organisations on it.

martin salter: we don't feel second class. perhaps we don't have the resources of the rspb and the rspca, but we have been going, in the guise of fish legal, for 63 or 64 years. we have lost only four cases and we have recovered millions of pounds, on behalf of our member clubs, against people who are effectively committing wildlife crimes. so no, we play our role and we also represent a small army of people who are more than capable of engaging in vigorous citizen's arrests.

q58 peter aldous: finally, just moving forward—galloping on over the horizon—do the national crime
Agency and elected Police Commissioners represent an opportunity or a threat? 

**Mark Lloyd:** It is an opportunity for perhaps the very large numbers of anglers in the constituency to be reflected in the activities of the police, and we would like to see a greater understanding of the issues affecting fisheries in the police. Quite often people report crimes on river banks and find themselves being shunted from the police back to the Environment Agency, who say, “No, it is the police”, and they go between the two. I think anything that improves co-ordination and reflects the value of fishing to the economy is good. Fishing means £3.5 billion to the economy and has 3.5 million participants—it is one of the most popular pastimes in the country—so if the police can do something to reflect that popularity and importance to the economy, that would be great. 

**Charles Nodder:** Police Commissioners we don’t have a view on; we will see what happens. The National Crime Agency—as I understand it, that new body is going to be looking particularly at serious crime. As you have already heard this afternoon, some of us were talking about, under the wildlife crime umbrella, is very serious indeed and where it falls naturally within their ambit I think that would be a very good thing.

Q59 **Martin Caton:** Charles, you were here when I asked the RSPB about what had happened to our hen harrier numbers in this country. You heard what they said in reply. What is your position on why harrier numbers are so low? 

**Charles Nodder:** First, we need to define our terms. There are many hundreds of pairs of hen harriers in the UK but most of them are in Scotland. The recolonisation in England, following the previous decline, has been slower—slower than anybody would like it to be, and we are concerned about that. But I do take issue with the assertion that, because there appears to be a physical coincidence between the absence of hen harriers and the presence of grouse moors, therefore the case is proven that all the gamekeepers are killing them. A lot of upland gamekeepers are very offended by that assertion, and it certainly doesn’t help the good relations that would help to solve the problem long-term. Madam Chairman, you pointed out that there hasn’t been a conviction for the persecution of a hen harrier in this country since 2006. Natural England’s 2009 Hen Harrier Recovery Project Report found that illegal persecution played no role in the failures of the nests that they were monitoring; that the circumstances that were habitat, predation and so forth, but in no case was it deliberate persecution.

Q60 **Martin Caton:** You heard the RSPB quote another report in which persecution was described as being at least a contributory factor. 

**Charles Nodder:** This is the circumstantial report that I was alluding to, where because you don’t have harriers but you do have gamekeepers, there must be an association. The hen harrier is called the hen harrier because it used to be very prevalent throughout Britain and it was a harrier of hens in farmyards. It wasn’t an upland bird; it was a lowland bird as well. We still have the lowlands; we don’t have hen harriers in the lowlands, but nobody suggests it is because the lowlanders are killing them.

Q61 **Martin Caton:** Is there a viable shared way forward for keeping grouse and hen harriers on the moors and, in particular, do you think the Langholm Moor Demonstration Project offers a way forward? 

**Charles Nodder:** It may help inform the situation. We are already paying partners, fully involved with something called the hen harrier dispute resolution process, which is being run by the Environment Council. We attend all their meetings, and I think that is making some quite useful progress, understanding what the issues are and looking for ways forward. It is still some years off a conclusion and it will have to be informed by the results of the research at Langholm, but it would be marvellous to think that we could have grouse and hen harriers in numbers throughout upland Britain.

Q62 **Martin Caton:** Do you work collaboratively at all with the RSPB and RSPCA or any other bodies to tackle wildlife crime? 

**Charles Nodder:** We do, yes. The hen harrier resolution process is an example of where we sit with them in that process and we are both members of PAW, as has been alluded to earlier.

Q63 **Neil Carmichael:** I don’t know a huge amount about the hen harrier, to be honest, but you said something about hens on farms, but of course one could say that there are fewer hens on farms so that would alter the behaviour of the hen harrier. 

**Charles Nodder:** Precisely. That is my point. It is not automatic that because there aren’t hen harriers on farms, they are being killed by farmers. It may be that something else has changed and maybe there aren’t any hens.

Q64 **Neil Carmichael:** Yes. I find it difficult to believe that wildlife crime is responsible for such drastic figures on the hen harrier when, according to the evidence we have here, other birds of prey are doing pretty well. 

**Charles Nodder:** Yes. I agree with you. Most birds of prey are at or near record levels. There have been massive recoveries. Some of them are now so numerous—the buzzard in particular—that they are becoming a serious problem. Natural England is having to look at licensed controls as a route to saving wildlife.

Q65 **Zac Goldsmith:** Just before I deal with poaching—and I will be very quick—I want to go back to the point about the illegal trade in fish. The legal trade in plants in this country has led to appalling problems. By definition, it is not a wildlife crime. For example, the oak processionary moth came in legally; no law was broken. Is it the case that the laws surrounding the trade in fish—I am not talking about the illegal trade but the legal trade—are adequately regulated, or do those regulations need to be refined and perhaps made a little tougher?
Mark Lloyd: Absolutely. As far as I understand it, the problem lies with world trade rules. We can’t ban the import of various plants, which are being freely sold in garden centres. As soon as someone gets fed up with them, cleans their pond out and dumps them into a river without knowing what they are doing, it spreads through the entire river system and causes millions—if not billions—of pounds’ worth of damage. The same with fish—there are top mouth gudgeon being sold. If someone doesn’t want one and flushes it down the toilet—they can even survive that—or releases them into a lake or anything else, they can cost millions to remove. It is a complicated area to deal with, with world trade regulations, but it would be worth it. It would save us a huge amount of money and reduce risk and a whole load of regulation.

Q66 Zac Goldsmith: Thanks for that. Just one other point that I don’t want us to lose, Martin, you talked briefly about the body among registered anglers that is effectively taking responsibility for some of the policing that we have been talking about. I am interested in how widespread that is. Is that a pilot or is it nationally?

Martin Salter: It is a pilot scheme at the moment, but we would like to roll it out nationally, and we will provide the Committee with more information on that.

Q67 Zac Goldsmith: But is it funded privately?

Martin Salter: It is a joint initiative between the Government’s Environmental Agency and ourselves at the moment. We want to skill up people to have that presence on the waterside, we really do. David Bellamy had the quote that we use all the time when we are justifying angling: we are the “eyes and ears of the waterside”, and far too much of the public view is concentrated on what is above the water rather than what is below it. We are the guys that care about it, and we are very keen to have more people in an official capacity caring about it.

Zac Goldsmith: Totally. I love the idea of that; I hope you can do it.

Mark Lloyd: Just a quick point on that, we are trying to look for ways of applying that offshore as well and we are going to start up an illegal net-watch campaign to try to get anglers.

Q68 Zac Goldsmith: Sea anglers?

Mark Lloyd: Yes—sea anglers because they are often out in boats, and also enforcing marine conservation zones as well; so spotting when commercial fishermen are strayng into MCZs.

Q69 Zac Goldsmith: Do you think sea anglers need to be registered in the same way as freshwater anglers, because that doesn’t exist; there is no body?

Mark Lloyd: I don’t think that is necessary for them to perform that enforcement role.

Q70 Zac Goldsmith: But they would have much more of a say, presumably, if you could say there were 2 million registered sea anglers.

Mark Lloyd: That is a big question.

Martin Salter: Yes. Of course they would, but at the moment we respect the views of sea anglers.

Q71 Zac Goldsmith: They don’t want to be registered?

Martin Salter: There is a debate in angling about whether there should be sea licences in some jurisdictions. At the moment, we are just trying to get the environment right. I will be perfectly honest with you, Zac, the issue is this. The average sea angler would take the view that, while his freshwater cousin has seen the rivers improve and a lot of legislation put in place, and opportunities to fish—and there is a lot of problems as well—because of commercial over-fishing, the marine resource has got worse and worse and worse. The average experience of a recreational sea angler has got worse and worse and worse. To ask him or her now to be paying a licence for an experience that is nothing like what it was 10 or, 20 years ago—

Q72 Zac Goldsmith: It doesn’t have to be paid, though; it could be just an organisation.

Martin Salter: There is an issue. If they started by joining the Angling Trust, we could then move the debate on.

Q73 Chair: Going back to this point you were making about skilling up people to look at this wider issue, I would assume, given what was just said a short while ago about localism and the need for people to look at it in their own communities—either with or without support from, for example, the Environment Agency—that there will be a problem whereby you have some angling clubs and societies that have the finances, the resources and the wherewithal to do that, but other areas—I am thinking of, for example, Stoke-on-Trent—might not find it so easy to have the resources. How would you deal with the cost of doing that?

Martin Salter: Can I make one point on Stoke-on-Trent? Some years ago, with a different hat, I took the then Sports Minister, Richard Caborn, up to Stoke-on-Trent and you had that superb scheme, which I hope is still running—

Chair: SAFE.

Martin Salter: SAFE—Stoke Angling for Everyone. It was a model, Joan, because the Environment Agency will run all these taster courses and say, “Yes, okay, we have introduced someone to angling because they have caught a roach”. That doesn’t make you an angler; it just means you caught a roach. Stoke Angling for Everyone had this pathway that took people from the taster sessions into the clubs, into the junior sectors, mentoring them through and it really was a model. Mark has done a lot of work involving our national angling participation programme, because we are conscious that we want to generate anglers of the future, and you need the structures to do it.

Chair: Sure. I am in danger of being told off by the Committee for straying into constituency issues. The issue is about how you fund organisations like that, where the finances aren’t readily available—but, Zac, back to poaching.

Q74 Zac Goldsmith: I am with you. All the best river organisations and campaigns that I know were triggered by anglers, without exception, and so I
totally agree with that. We have more or less covered the issues. Just one question: it would be useful to know if you could break down the crimes in your respective areas; how much of the total crime that you experience is the consequence of organised crime as opposed to individuals? In other words, how big an issue is organised crime?

Charles Nodder: For the game situation, poaching exists on at least two levels. You still get casual poaching, local poaching, but increasingly, and for several decades now, there has been more organised poaching, with people travelling considerable distances, people rather like—I was listening to the discussion earlier on—those involved in badger-baiting, who make contact with each other via the internet, via mobile phones and then meet up. It is very important to understand the motivations for game poaching, because most of it is about recreation, as I said earlier.

One of the interesting things that the police have found is that the people whose recreation is the crime of poaching very often have a profession that is a crime as well, and some of them are pretty serious. Police forces in Kent, Essex and Cambridge and around London are picking up money launderers, drug barons, people involved in serious gangland killings and so forth out in the countryside poaching at weekends because that is their pleasure. It is a hell of a lot easier to find them out in rural Cambridgeshire than in the East End of London. When that dawned on the police some years ago we suddenly saw a huge increase in police interest in tackling poachers, which obviously we very much welcome. One of our concerns at the moment is that with cutbacks in the police, some forces are beginning to reduce their rural coverage and there are forces around London where that is the case. Others have had sufficient success with catching poachers and then finding that they are involved in other things that they wanted them for— and are keeping that going.

Q75 Zac Goldsmith: How do you distinguish that type of poacher: you said there were two types. What is the other end of the spectrum?

Charles Nodder: The bottom end of the spectrum is the local ne’er-do-well who just comes out and—

Q76 Zac Goldsmith: Are you saying that you can very easily distinguish between the two, because it is not really about numbers, is it?

Charles Nodder: It is not about numbers. No. You distinguish between them when they are in court afterwards. It is not always easy in the dead of night when the gamekeeper is pursuing five pretty ugly blokes, probably armed, across his grounds.

Q77 Zac Goldsmith: The lower end of the scale, though, it sounds like that is not a major concern; that is not something that particularly worries you and your members, it is the organised end.

Charles Nodder: They both worry us, and poaching is overwhelmingly the biggest wildlife crime; 27.6% of all wildlife crime is poaching, 2,600 recorded incidents last year. Compared to some of the things we have been talking about this afternoon that are numerically tiny, it is huge and it is associated with some very serious criminals.

Q78 Zac Goldsmith: But on the lower end, what I am trying to get at—and you have already given the numbers, and I accept that—in terms of the importance of the crime; I am just trying to understand if there is a clear distinction between the organised stuff, which has a real implication, and the low-level stuff. There may be lots of it, but I certainly wouldn’t compare it. I wouldn’t put it on the level with some of the badger stuff we were hearing about earlier, for example.

Charles Nodder: Yes. It is important because what they are doing is the same crime, and poaching has an effect on a number of levels. Obviously it has an effect on the wildlife. It has a disturbance effect. It has quite important welfare consequences, and the gamekeepers frequently have to turn out to deal with wounded deer that have been left with their hindquarters ripped by poachers’ dogs. The motivation and the origin of the man whose dog it is, is of no concern to the deer. The problem is the same. Also, when it is the more serious version, you very often get the physical abuse as well and a lot of gamekeepers end up in hospital.

Q79 Zac Goldsmith: I am going to make just one question out of it, and throw the same question at you in relation to rivers.

Mark Lloyd: I agree with all of that. There are a lot of parallels. In terms of the impact, certainly on the marine environment, obviously the key thing there is the major industrial haulage of millions of tonnes of fish. On the freshwater environment, I think the low level stuff, because numerically there can be quite a lot of people in it, can have an impact. But there is much more concern in the community about the organised stuff. People going down with a night line with 30 hooks on it, netting rivers. That is the kind of thing that has an impact on fish stocks.

Martin Salter: And, of course, restaurants buying it knowing; there is a whole issue around the tagging of carcasses that people started talking about as a control mechanism.

Mark Lloyd: Probably angling is slightly different, I would say, in that it is probably of greater concern to the community and to the industry.

Chair: Which I think brings us nicely to the point Mark Lazarowicz wants to raise.

Q80 Mark Lazarowicz: I want to take up that point, and also a point that Martin Salter made earlier about the effects of migration from Eastern Europe—I think his comments were directed at migration from Central and Eastern Europe as well. It is a strong assertion that there is a major problem being caused by migrants in this kind of activity in angling. I am sure it happens in some places sometimes and I am sure it is a big problem, but is there not a danger sometimes of making assertions in which things are blamed upon migrants, just generally, because it is a simpler thing to do? What is the basis for your assertions?

Martin Salter: Well, facts.

Mark Lazarowicz: I know facts, but how many cases have been prosecuted? Is there something in different
parts of the country? Surely, there is a danger of going for the wrong target, bluntly, rather than addressing some of the real issues.

**Martin Salter:** Mark, I have spent years working to bridge communities, and the Angling Trust is working very hard to bridge those communities. We are actively encouraging migrant anglers into membership, and we have dedicated officers in our building bridges project, precisely because the headlines were full—for probably the last 10 years now—of new migrants from the accession states coming to England, not understanding the rules and regulations and finding themselves falling foul of the law. We are engaged in an education process to ensure that people understand the rules and regulations regarding the taking and capture of fish in Britain. The evidence that some programmes have been successful and we are very proud of our work. But denying that there was a problem is certainly not the way forward. There was a problem and the prosecutions in the Magistrates’ Court will show that to be the case.

Q81 Mark Lazarowicz: I was asking for some evidence to back up the extent of the assertion, that was all.

Q82 Martin Salter: The court records at King’s Lynn or anywhere in the Fens would give you all the evidence you need, and we would be very happy to provide them.

**Mark Lazarowicz:** That is one particular part of the country, that is all.

Q83 Peter Aldous: On a similar theme, a question directed to the Angling Trust: you referred to the problems with the CFP and inequities of the quota system, but most of the English fleet is now under-10s, and I have had some complaints from those registered as under-10 fishermen that people are fishing for the pot and then selling direct to pubs and restaurants. Is there any evidence of that on a significant scale?

**Martin Salter:** Yes. There is. The recent prosecution in Southend involved a substantial number of under-10-metre boats. Certainly, the case that was highlighted in Leigh involved fishermen selling fish caught off quota on behalf of 34 other fishermen in the Southend area, so quite serious. The broader issue that the commercial sector raises, and not unreasonably, is that some recreational sea anglers sell their catch, and that is where we come into the debate around carcass tagging and fin clipping and the rest of it. We don’t call those people anglers. We call them shamateurs, because they are not really amateur anglers. They are not fishing for the sport or for themselves; they are fishing for profit. If you sell your catch, you are not an angler, all right; you have moved to become a commercial fisherman, and if you are a commercial fisherman, you should be licensed and have the same regulations applied to you. We are quite clear about that.

**Mark Lloyd:** Could I just add very briefly that fishing for the pot, even if you were to fill your freezer and eat fish every day, it is going to be nothing compared to the amount of fish that are thrown dead back into the sea by the commercial sector.

**Martin Salter:** That has got to be £63 million-worth.

Q84 Dr Whitehead: Invasive species. We know about mink and what they do and where they are, we have heard about the American signal crayfish. That is not the same as Dikerogammarus villosus; that is, the killer shrimp that arrived in the UK just recently. What sort of impacts can you tell us about that invasive non-native species actually have, particularly on the river bank and the river environment?

**Mark Lloyd:** If I could talk about signal crayfish, there are very few waters now left that have our native crayfish left in them. These crayfish came over in the 1970s or 1980s and have spread nearly everywhere and wherever they come into contact with our native crayfish, they out-compete them and they also carry a virus against which our native crayfish don’t have any defence. Furthermore, in terms of the impact on the rest of the ecology, they burrow into the banks, cause massive bank erosion and they eat fish eggs and even small fish. So they are really damaging and, from an angling point of view, it is impossible to fish in lots of areas, because you put your bait in and as soon as it has hit the bottom, signal crayfish come and snap it up. Lots of people say, “There’s no point in going fishing there; it’s full of signals”. They really consume a lot of the other creatures in the river, so they are a menace.

The killer shrimp is not a threat to us personally—it is only this big—but if it were to escape, English Nature and Natural England have said that it could lead to the extinction of native species. It is really voracious; it breeds rapidly. It would destroy a load of other invertebrates. Those invertebrates are really important for the rest of the food chain, for bird life and for fish. They emerge at different times of the year, so they provide a stream of meals throughout the year for different wildlife. If you only have one shrimp left that has killed all the other invertebrates, then migratory birds that time their arrival in the country to eat particular species of insects that are coming out of lakes and rivers don’t get their feed if those species aren’t there. Although apparently a light-hearted issue, it is actually really, really serious and, if they were to escape from the two places where they are now and spread throughout the country, it would have a dramatic effect on our aquatic ecology.

**Martin Salter:** Just to add the figures, it is worth reading them into the record. The study that came out recently on the economic cost of invasive and non-native species to Great Britain showed that the direct cost to the UK economy could be as high as £1.7 billion. That includes species like Japanese knotweed, floating pennywort, mink, signal crayfish, giant hogweed and the rest of it, and in terms of impact on native species, the white-clawed crayfish—the indigenous crayfish that is a really great indicator of good water quality—is all but wiped out because of the presence of signals.

Q85 Dr Whitehead: Is this because the signal crayfish are particularly clever or is this—
Martin Salter: They are about that big, Alan. Our little Brit one is much smaller.

Mark Lloyd: They carry this virus to which our natives don’t have immunity.

Martin Salter: They can drag children out of prams.

Dr Whitehead: So obviously you don’t take your child’s pushchair through a ford.

Martin Salter: That was a joke but they are big. They are about eight or nine inches big.

Q86 Dr Whitehead: Yes. But presumably they were introduced to the UK by somebody.

Martin Salter: Under licence by the Minister for Agriculture and Fisheries, against the advice of experts and scientists, into still water. The great experts at MAFF decided that, although these things can walk across land, it was okay to put them in a pond and they have now spread in many, many river systems. They have also been introduced illegally. I would suggest, by people who trap them for commercial gain.

Q87 Dr Whitehead: That was going to be my question. Are there active crimes taking place in maintaining these species and spreading them?

Martin Salter: We only have anecdotal evidence but we have strong reason to suspect that they are being deliberately seeded by people who profit from the harvesting of them and it is very serious.

Q88 Dr Whitehead: Presumably this is also a wider effect, in terms of introduction of a number of other non-native species, fish and so on, to our waterways. Do you have a system in the Angling Trust to monitor this or to report if people catch a non-native species and they know what it is and they report it?

Mark Lloyd: Yes. We are on the GB non-native species steering group, and we recently put a load of information on our website for our members with an identification guide for 17 or 18 commonly found very invasive non-native species, and are encouraging them to report things. We also work closely with the Rivers Trust, a network of organisations across the country looking after particular catchments, and they are developing biosecurity plans for each of the rivers trusts. Our members will play a key role in those plans, in terms of reporting and also removal; things like Himalayan balsam and Japanese knotweed can be reduced by volunteers.

Martin Salter: Alan, can I just add one very quick point? Going to countries like New Zealand, Canada or Australia, where they are really strong on biosecurity, you try going through Customs with mud on your boots there. They are as much interested in the bugs that you might bring into the country as anything else that you might have in your suitcase. Walk into Heathrow and nobody looks.

Q89 Dr Whitehead: That was going to be my final question. Presumably there are known potentially invasive species, which don’t happen to be here in the UK but could quite easily be. As we have seen over quite a long time, people stock plants in their gardens or chuck plants in rivers, introduce pet animals, then do not like them very much and flush them away and so on—so over a long period of time, that sort of accidental introduction of invasive species, although not exactly a crime, effectively has a criminal effect on the environment. What sort of practical measures might now be taken in terms of closing the door on future non-native species that could be invasive? Are there things to be done?

Mark Lloyd: There are three key things that really need to be done. There is talk of an EU directive on non-native invasives. Given the flow of people and goods and services in Europe, it would make sense to tackle it on a European scale. There are a huge number of invasive species just across the Channel and they could very easily come in. There is a lot of work that needs to be done on education and we have the Olympics coming up. We have a huge number of boats and bits of equipment coming over, which could be wet and could be carrying invasive species. A bit of a publicity drive around that would be very good, and raising awareness generally with border agencies and ports. As Martin said, it is not something that is really on their agenda. Probably the key thing is banning the sale of invasive non-native species, which is done quite legally. These are brought in under licence. They are sold openly, but there are so many possibilities for them to escape into the water environment, so that would be a really key move. But as we have established there are problems with world trade regs.

Charles Nodder: Very briefly on this, I think it is important to get our terms right, because there are a huge number of species that are used in agriculture, in forestry, in wildlife management, and certain deer species; Muntjac, Sika are all alien—they are all non-native—but they are not particularly invasive. The thing we have to really keep our eye on is the ones that are the problem. They are invasive in as much as they spread when they get here and they do harm, rather than being invasive just because they are from across the Channel.

Q90 Mark Lazarowicz: One question on this directive. Is it a draft directive or is it actually now law? What is the position on it? Is it making a difference now?

Mark Lloyd: I am afraid I don’t know but I can let you know what the status is.

Chair: On that point, particular thanks to all three of you. I am sure we could have talked at great length on this, especially with your workforce here, Mr Lloyd. May I say thank you very much to you and to Martin and to Mr Nodder as well, and to our previous witnesses? I remind everybody who has given evidence this afternoon that if you wish to provide further information to us, we will be very happy to receive that, from whatever has arisen during the course of taking evidence. Thank you very much indeed.
Thursday 22 March 2012

Members present:
Joan Walley (Chair)
Peter Aldous
Zac Goldsmith
Mark Lazarowicz
Caroline Lucas
Sheryll Murray

Examination of Witnesses


Q91 Chair: Thank you all very much indeed for coming along this afternoon. It is not the usual day for our Committee session so we are slightly depleted in numbers, but it is an important inquiry for us and we are very grateful to all of you for coming along. I wonder if at the very beginning you would like to introduce yourselves to the Committee, so we know exactly what your area of interest is—perhaps starting with you, Ms McCrea-Steele.

Tania McCrea-Steele: I am Tania McCrea-Steele. I work for the International Fund for Animal Welfare, and we work on animal welfare and conservation issues around the world. We have over 40 projects spread throughout the world. My role within IFAW is as our enforcement officer. I work within the UK and within Europe promoting the need for better enforcement of wildlife trade issues specifically. We work closely with Interpol. We are members of the Partnership for Action Against Wildlife Crime. We work closely with the National Wildlife Crime Unit, so we have a lot of international and UK specific experience.

Mary Rice: My name is Mary Rice. I am the Executive Director of the Environmental Investigation Agency here in the UK. EIA works on the illegal trade in wildlife and natural resources, and also looks at environmental crime. We focus predominantly on illegal international trade. That covers a whole multitude of sins, including timber and wildlife products.

Simon Pope: I am Simon Pope. I am Head of External Affairs at the World Society for the Protection of Animals. We have been working very closely with the Wildlife Crime Unit of the Metropolitan Police, in order to give them a means of being able to properly resource up their unit to make it a combative force for enforcing on wildlife crime in London. In particular, my association with the issue is I worked in rhino protection in southern Africa for the Save the Rhino Trust for two years, back in the early 1990s. I have also carried out undercover investigations for IFAW, and the David Shepherd Foundation, into the ivory trade and rhino horn trade in Namibia and Zimbabwe.

Stephanie Pendry: I am Stephanie Pendry, the Enforcement Programme Leader for TRAFFIC. TRAFFIC is a joint programme of the World Wildlife Fund and IUCN, the International Union for the Conservation of Nature. I have been with TRAFFIC for 14 years. TRAFFIC monitors the wildlife trade—both legal and illegal—around the world. We have about 120 staff in 30 different countries. I am also seconded part-time to the National Wildlife Crime Unit. TRAFFIC is a member of PAW, and I coordinate the PAW forensics working group.

Q92 Chair: Thank you. That is very helpful, and it puts the inquiry we are doing into perspective. I want to start off by saying it is some time since this Committee looked at the whole issue of wildlife crime, back in 2004, and I would like to get some idea of the scale of it. We are very much aware that it is somewhere behind drugs, counterfeiting and human trafficking, but we are also aware that there are linkages. It would be helpful to get on the record what the scale of the trade is, in financial terms, if that is something you could help us understand a bit better.

Tania McCrea-Steele: Just before coming into the room we were talking about how difficult it is to measure the scale effectively. In the last investigation you did in 2004, I saw that one of the recommendations was for the Home Office to have a specific code for wildlife crime so that we could measure it within the UK. Internationally, the recent Global Financial Integrity Report, Transnational Crime in the Developing World, estimated the trade to be worth US$10 billion annually, so it is certainly operating at a very large, significant scale.

In terms of the UK data that was available, I note the Home Office submission that from 2004 to 2011 you are looking at almost 1 million seizures, so again it is very significant here. It was not possible to get the prosecution figures. We have done a lot of investigations on the internet in terms of IFAW’s specialist areas, and any day of the year, and I guarantee if you go on to the internet today, you could find ivory items for sale on there. It is not clear whether they are legal or illegal, and often the sellers are disguising those items. In a snapshot survey that we did in 2011, in just over a period of two weeks, we found 61 items for sale in the UK and that was just over those two weeks. Again, that would indicate a significant level of trade. Internationally, seizures of illegal ivory are increasing dramatically, with 2011 being the worst year for large ivory seizures since records began. That shows that it is really a significant problem.
In terms of rhinos—which I know is another area you are asking us to look at—the western black rhino has just been declared extinct at the end of 2011. Over a period of three years 800 South African rhinos were killed, and now their horns are worth more than gold. In terms of tigers, at the start of the 20th century we had 100,000 tigers and now we are looking at about 3,000 in the wild. So you can see the real cost to animals in the wild from this illegal trade. I note that in your last report the EAC noted the links to organised crime. Now there are reports from Interpol, Europol and the United Nations Office on Drugs and Crime that make those links as well. I have gone to uncounted meetings with enforcers who continually repeat that this is not just about the ivory trade or the trade in rhino horn; this is about wider organised crime and, in some instances, ivory being sold to support militias and terrorists in certain countries: for example, the Janjaweed.

Q93 Chair: Do you think that that interconnectedness with other crimes gets the profile that it should actually be getting?

Tania McCrea-Steele: I think there is room for improvement, in terms of making the wider public aware of that.

Simon Pope: Just to echo what Tania said, there was a very useful report that the Congressional Research Service produced for the US Congress in 2008. They said that the trade could actually be up to $20 billion annually. Again, to reinforce what Tania said, this is not a niche kind of illicit trade. We are talking about members of the Italian Mafia, the former Medellin drug cartel in Colombia, other groups in Central Asia and Brazil allegedly being involved in trafficking rare parrots and falcons, East Asian triad societies, and Japanese Yakuza reportedly being involved in smuggling elephant ivory, rhino horn, tiger, shark fin and whale meat. To give you some indication of the scale of this, and the scale of the individuals who are involved, people are making an enormous amount of money out of this and they are not about to stop.

Mary Rice: I agree with everything that my colleagues here have said, but putting an actual cost or value is contentious. The very nature of illegal trade makes it very difficult to determine what it is worth, also what people forget is the cost towards ecosystems and livelihoods lost and species extinction. The involvement of criminal elements can undermine national security in countries. These are all side effects of the illegal trade in any of these species. Stephanie Pendry: I want to add to what Tania was saying. In the report that she quoted the $10 billion figure is for illegal wildlife trade, but that excludes fisheries and timber, which for fisheries is a further $4.2 billion to $9 billion and for timber another $7 billion. So, actually, it does become very close to or above the $20 billion that we are talking about here. Fisheries and timber are by far the biggest.

Chair: You get the sense that it has all intensified since we did our last report. You are all nodding; okay.

Q94 Caroline Lucas: Can we try to work out what is driving that? Is it that enforcement has gone down or is it that other options for people to get involved in ways to make money have gone down? What do you think is driving the fact that 2011—I think you said, Tania—has been the worst year?

Tania McCrea-Steele: One key issue is that it is a low-risk, high-profit activity. No doubt, if you were looking to trade in drugs or arms, and you were mindful of the chances of being caught if you engage in this trade, while you can make a huge amount of profit—and, as we have said, the amount of money you can get now for rhino horn has dramatically increased—you are going to be more motivated to shift into that level of criminality. An example of that is the Irish gangs that have been operating in the UK targeting museums and stealing rhino horns from museums. I understand that Europol were monitoring that group because they were a group that was already identified as being a criminal syndicate, but they expanded out into rhino horns because of the sheer value of them. I guess they are just looking at it, from a business case, that the chances of them being penalised are slim.
Tania McCrea-Steele: Yes, it is a major problem.

Q98 Sheryll Murray: Let’s go back on to something that perhaps you do know a bit about. Given the financial scale of international wildlife crime, is this a battle that can be won if it is fought on the current terms of engagement?

Mary Rice: I think, in order to address it, focus has to be on both the supply and the demand side. They are equally important, and you can’t tackle one without the other. Demand probably takes longer to address and there are organisations working on site in demand countries to try to raise awareness, but certainly countries need to improve their enforcement. There are examples where improved enforcement has provided positive results; for example, in Indonesia with ramin and, as an implementing body, CITES is only as effective as parties are willing to make it. There needs to be investment and intelligence-led investigations. Seizures need to be seen as just part of the enforcement, not as the success. There needs to be a lot of inter-agency co-operation and communication, because what we find is that jurisdiction is a problem when you are looking at international trade and you are crossing borders. There needs to be a lot more joined-up thinking.

Q99 Sheryll Murray: Since the implementation of CITES in 1975, international action against wildlife crime has largely focused on tackling the supply. Has this approach worked, or might it be more effective if we were looking at influencing the demand?

Mary Rice: From EIA’s point of view, the approach needs to be holistic—you need to employ all the different tools in the box. As the demand countries increase in disposable wealth and go up the socio-economic scale, there will be greater demand, so awareness is key to how you address any trade.

Tania McCrea-Steele: In terms of what the UK can do, again I know from the 2004 report there was talk about penalties not being implemented. Since the 2004 report there are more stringent penalties, so in some cases you can get up to five years in prison and an unlimited fine. Sadly, what we are seeing—harking back to your previous investigation—is that those penalties are not being applied. Frequently, when I am working with enforcers, I am seeing penalties of £500 to £1,000 being dished out for very serious offences. That is not enough to act as a deterrent, when they can make hundreds of thousands of pounds in the sale of these items. It is great that those penalties are in place, but we need to get the judiciary to use them. In order to do that, we need to put together stronger cases, we need to have more joined-up policing and we need to make sure that the judiciary have sentencing guidelines. Another recommendation was that they have sentencing guidelines on these issues, because they do not come across these issues very often. In fact, I was talking to a Crown Court judge this morning about this very issue and asking him if he has seen any guidelines about wildlife crime. He has never come across it and he wouldn’t know where to begin if a case appeared before him in court.

Q100 Chair: Are you saying that there is no guidance given?

Tania McCrea-Steele: There is no guidance. There are no sentencing guidelines for the judiciary. There is a booklet called Costing the Earth, which PAW partners have worked together to provide for magistrates, but it is an issue of raising awareness that this booklet exists, keeping it up to date, and making the Crown Court aware of it as well as magistrates. You could issue sentencing guidelines for the Crown Court that encourage them to apply stronger penalties. You could also ensure that police officers have the level of support they need in order to put together strong cases. Often, wildlife crime officers put in a lot of their own spare time to carry out these investigations. They could do with support because some of the investigations are really complicated. That is what the National Wildlife Crime Unit is there to do, to provide them with additional support. Basically, the UK has the infrastructure; it is just a case of improving it and using it, so there are tangible steps.

In terms of dealing with consumer demand, I note that one of the submissions—I cannot remember if it was from Defra or the Home Office—talks about a lot of the seizures being from people accidentally bringing items into the UK. There is clearly a need for stronger public awareness of what items are illegal, and the impact that that has on wildlife. IFAW has a Think Twice campaign, and I know Operation Charm have a display cabinet that I hope you will soon be seeing in the House of Commons. You can use those tools to address the issue. The Think Twice campaign is basically a cabinet with items of confiscated animal parts and supporting materials, which informs people of the impact purchasing these items has on wild populations and makes them aware that they would be breaking the law. Governmental support for that is another tangible outcome that the Committee could consider recommending, to encourage airports to give us space to put up these types of displays because, at the moment, they want us to pay commercial rates, and I am afraid that is just not possible.

Q101 Chair: Before we move on from that, would you say there is sufficient clarity in the UK about licensing procedures?

Stephanie Pendry: For CITES at least it is a complex issue, and I think for the layman it can be quite a difficult thing to battle through. Animal Health have done a good job about putting information on their website, and give guidance, but we could definitely do more in terms of licensing.

Tania McCrea-Steele: One area within licensing that we are concerned about, especially in terms of the internet trade, is the antiques derogation. At the moment, when you are dealing with wildlife products, anybody who claims to be an antique dealer can say that an item is an antique. That is sufficient within the law for them to write—and it can take various forms—and basically say, “I am an experienced antique dealer and I say that this item of—” let us say—“ivory is an antique”. What IFAW would like to see is experts carrying out that analysis, so it is not
Joe Bloggs, who does not have experience in terms of identifying whether an item is genuinely antique.

Q102 Zac Goldsmith: I hope this has not already been asked; if it has, my apologies. If that were to happen, if you were to discover an online dealer of illegal products—let us say rhino horn products of some sort—and if that was exposed, what would the authorities usually do in response? What could that kind of person usually expect to happen to them as a result of being caught?

Tania McCrea-Steele: Let us say it was rhino horn, for example. If IFAW was to find that information, we would share that with the National Wildlife Crime Unit and we would hope they would follow that up with an investigation. If that investigation led to a successful prosecution, then the individual could get up to five years’ imprisonment and an unlimited fine but, in practice, would probably get quite a small fine. Most of the fines I see are in the area of £1,000, which does not serve as a deterrent. IFAW is working with Interpol at the moment on a project called Project Web, where we have engaged with 10 European countries and they are carrying out investigations into the online trade in ivory. The report is yet to be compiled so that information is yet to be made public, but it has been a useful tool for engaging with enforcers. It has taken investigations online, beyond just scoping the level of the problem but taking it to the investigators and getting them to look at whether they have enough evidence to prosecute people.

Q103 Caroline Lucas: What is the resistance to sentencing guidelines? It seems such an obvious thing, and I am shocked that they do not already exist. Presumably, you have been lobbying for that for some time, so why would Government not wish to put that in place?

Stephanie Pendry: It might be a good indicator of where wildlife crime sits in terms of Government priorities. With regard to offences involving CITES species, the problem is there are not enough cases for magistrates and Crown Court judges to be aware of to use previous case history, so that is where they struggle. Yes, on paper it seems like a really obvious thing to do, but the trouble is, although we are pushing for it, there has not been a desire from within the justice system for this to happen.

Q104 Chair: Before we leave this matter, can I ask about captive breeding? Is there a distinction that needs to be made between wildlife crime and captive breeding? Is that something that you would have a view on?

Mary Rice: Within the UK or—

Chair: In the UK.

Stephanie Pendry: In terms of whether there is any wildlife crime involving captive-bred specimens?

Chair: I just wonder whether there is an area of confusion around what is legitimately produced through captive breeding, given the concerns that there are in this inquiry about the extent of wildlife crime and the extent to which it needs to be addressed.

Mary Rice: We do not have any specific information on that as an organisation. We are aware that there are major problems in the bird trade and in relation to reptiles, but we do not have any expertise, so we would not be able to offer any data on it.

Q105 Zac Goldsmith: Would you mind if I go back one step, just on this point of the guidelines. Presumably, that would be a key recommendation, or a key ask, from the point of view of all your organisations. Would you regard that as a priority?

Stephanie Pendry: Yes. I think it needs to be part of a set of recommendations that apply to how these cases are prosecuted. From the point where the police officer is investigating the crime, he has to build his case file. He then has to take to CPS. We have an issue with continuity with the CPS because there aren’t specialist prosecutors for wildlife. A police officer may meet with one CPS person; the file is then passed to another one, who is the one who takes it to court and so on. We have that issue in terms of specialization within the CPS. Beyond that, insufficient information is being provided to magistrates and judges when penalties are handed out.

Q106 Zac Goldsmith: I cannot think of any obvious arguments against it—the first one would be police time—but actually if you have guidelines presumably you make it easier for the prosecutors to take a view. Have you heard any arguments against guidelines that could be described, even loosely, as compelling?

Stephanie Pendry: Against it, no.

Simon Pope: The only thing we have heard is obviously that it means you have to have a CPS and a prosecutor who is up to speed and expert in this issue, and probably not one but several.

Q107 Zac Goldsmith: But is that not precisely the problem that having guidelines solves?

Stephanie Pendry: No. The guidelines are for sentencing, not for the prosecutors. We need prosecutors who have the expertise to be able to take these cases, because often the prosecutor will take the case file half an hour before the time at court, has no expertise and has not seen a case like this before, and basically has to wing it.

Simon Pope: And may well be up against a defence lawyer who is much more expert in any case.

Q108 Zac Goldsmith: How do you resolve that?

Stephanie Pendry: By having a specialization within the Crown Prosecution Service. They are doing it in Scotland for wildlife crime, and it is something I think we should introduce here.

Q109 Zac Goldsmith: With the full range of wildlife crime?

Stephanie Pendry: Yes, not just for CITES elements.

Tania McCrea-Steele: In the UK we are told that there is a list of Crown Prosecution Service prosecutors who are experts, and there is supposed to be one per constabulary. I haven’t been able to get a list of who these people are, so that when I am working with police I can say, “Why don’t you get in touch with so and so”. Then when I have been
working with police at a constabulary level, they are quite often aware that there is a point person but they either don’t know who they are or they can’t get to them because, although they have been appointed, they don’t actually get the case files. There are actually clear, tangible steps or recommendations that the Committee could come up with, which, if implemented, would make a really big difference.

Going back to your point about the sentencing guidelines, I do not know if you were in the room when I was mentioning that the Partnership for Action Against Wildlife Crime has come up with guidelines for magistrates called Costing the Earth. That would be in need of review, especially probably after what is happening with the Law Commission, but that is something that could be a starting point. The bulk of the work has been done in conjunction with lots of NGOs or wildlife crime officers, who have the expertise already, and the Crown Prosecution Service. It is just taking it to the next level.

Chair: Okay. We are going to have to move on.

Q110 Caroline Lucas: It does not sound like rocket science. I cannot quite understand why it has not been done. I wanted to ask you about the relationship between legal wildlife trade and the illegal wildlife trade. First of all, to what extent is the legal trade being used as a cover for illegal wildlife traffickers? If it is the case that that happens quite a bit then—to be provocative—is the legal wildlife trade sustainable, legitimate or even useful? To the extent that it gets used as a cover for illegal trade, should we be trying to get rid of it altogether?

Mary Rice: That question really only applies to Appendix I species. From EIA’s experience, if you look at the ivory trade or the one-off sales, it would appear that that has worsened the situation in terms of the illegal trade. For example, legal trade in farmed bear products has not stopped bear poaching. By sustaining and perpetuating demand, new products are brought on to the market and they are developed. From our point of view, the idea that legalised trade will stop poaching of wild animals is very simplistic and rather naïve and it is an enormous risk, especially when you are looking at species like rhino and tigers. It also assumes that there is a set, fixed demand for wildlife, but we have seen it growing. I think, as long as there is a legal trade, there will always be a means through which illegal product can be laundered.

Q111 Caroline Lucas: If you were writing the rules, would you prefer to see no legal trade of that kind of animal in Annex I at all?

Mary Rice: I would say, yes.

Stephanie Pendry: Mary has referred to one of the one-off sales, which was to Japan and China. ETIS, which records all the levels of illegal ivory trade, has shown that it is true that it did increase after those two sales. However, if we look back in time to the sales in 1998 when it was just to Japan, it did not increase after those sales, so it is not such a simple equation. You can’t say the sales caused an increase in illegal ivory trade. In one instance it didn’t, in one instance it did, so there were other factors at play there. What is good to focus on—and is one of the drivers for the illegal ivory trade—is the very large unregulated domestic markets in countries like China and Thailand. In China they have a system of regulating, but it is not being properly enforced, and in Thailand there is no system of regulation at all. These very big domestic markets are really the drivers of the illegal ivory coming from Africa to Asia.

Q112 Caroline Lucas: Just to be clear on your position, would you say then that the legal trade is not something we should be focusing on specifically, but that it is other things that are going on that are the problem?

Stephanie Pendry: Yes.

Simon Pope: To give a practical example, fairly recently Namibia attempted to create a tourist market for ivory ekipas, which are little tribal badges of hierarchy. They were being made and manufactured from Namibia’s own stockpile. Word went out basically that these were being marketed and sold in Namibia and actually being promoted. As a consequence, copies started coming into Namibia from places like Congo, Angola, Zambia and Zimbabwe, all over the place. So the creation of a legal market there for tourists, then had the consequence of actually pulling in ivory trade from other countries.

Tania McCrea-Steele: Just to add to those points, IFAW’s position is that we are concerned that a legal trade provides a smokescreen for illegal trade, agreeing with Mary’s point about 2011 being the worst year for large ivory seizures on record. At the same time, we are seeing the impact of the countries that are pushing for that legal trade: the decimation of populations of elephants in some parts of central and western Africa. We have just had colleagues on the ground in Cameroon. I don’t know if you have seen the recent press coverage, but since the beginning of the year 300 to 400 elephants have been killed in Cameroon. Their ears had triangles sliced out of them, which would indicate that they are being hunted by Sudanese coming over the border, perhaps working in conjunction with the local people in Cameroon who have the knowledge of where the elephants are. The cutting of the ears is something that is not done in Cameroon, but is done in Sudan. We are seeing elephant populations being decimated in Chad, going from thousands down to hundreds so it is having a real impact. I know sometimes we talk about legislation and it removes us from the reality on the ground, but it is useful to really think about the impact that it is having on those animals and those populations. IFAW would also like to say that we welcome the current Government’s position, which is to push for an international ban on ivory sales.

Q113 Mark Lazarowicz: On the point about the decline in the elephant population, this is purely driven by ivory—the demand for ivory.

Tania McCrea-Steele: Yes. I guess we are focused on that because there have been the 2008 stockpile sales that went ahead, then subsequent to that we have seen an increase in ivory seizures.

Mary Rice: There is an issue of mixed messaging as well because with ivory it is particularly complicated,
because you have split listings. You have some elephants on Appendix I, some on Appendix II, which in theory would allow trade. There is a quota and the one-off sales were intended to flood the market and reduce the price, particularly in China, and thereby remove the need for illegal ivory but that hasn’t happened.

Q114 Mark Lazarowicz: Why hasn’t it happened—because demand is so high?
Mary Rice: Demand has increased and the prices have been maintained. In effect, the Government has a monopoly on the ivory it bought, that stockpile, and is controlling the prices. It is controlling the speed at which it is releasing that ivory into the marketplace. The illegal traders have, in effect, recognised an opportunity and they can undercut the legal price. What you are seeing is a massive number of large seizures that are heading towards China. EIA’s investigations and other people’s investigations have documented that. There is clearly a problem. You also have a situation where, for example, Zimbabwe is allowed to sell ivory as tourist products, and people are allowed to take that out of Zimbabwe and take it home for non-commercial purposes. In 2011, there was a new notification on the Chinese website, which said that, because the Zimbabwe Wildlife Authority had amended its parks and wildlife regulations, allowing export of elephant ivory from legal trophy hunts as well as worked ivory for personal use, they were now going to allow Chinese nationals to import products in personal luggage as travel souvenirs. Each permit would allow them to bring in a maximum of five pieces, the value of which should not exceed $5,000 or 10 kilograms in weight. But 10 kilograms is a significant amount of ivory. They are meant to be decorative objects, but it doesn’t include whole tusks unless they are carved or worked. There are a lot of mixed messages, people out there taking stuff back, either knowingly or unknowingly, and that is aside from the criminal syndicates operating.

Q115 Caroline Lucas: I want to get a bit clearer in my mind how strong the evidence base is both for the issue of the legal trade being used as a cover for the illegal trade but also, perhaps more widely, the legal trade fuelling the demand for illegal wildlife products. It seems that there are slightly nuanced positions between, say, TRAFFIC on one side and IFAW on the other. How strong is the evidence base in order to be able to try to make recommendations on the basis of it?
Mary Rice: EIA conducted investigations with Mandarin speakers at the end of 2010. They met with legal and illegal traders to try to assess what was happening on the ground, what the level of the illegal market was. The perception in Guangzhou, which is the epicentre for ivory trade in China, was that 90% of the ivory that was available on the marketplace at that time came from illegal sources. We have that documented on film, and that was the perception both from the legal and the illegal traders.

Q116 Zac Goldsmith: Can you tell me what percentage of ivory is sold in China?
Mary Rice: What percentage?
Zac Goldsmith: Of global illegal or general ivory sales? How much of it ends up in China?
Tania McCrea-Steele: It is difficult to measure because a lot of it is the illegal trade, so there is no facility for measuring it, but China has been identified as the new largest market. It overtook Japan recently. It was reported by the Elephant Trade Information System—ETIS—which we talked about earlier. They have now identified China as the emerging market. But, yes, it is difficult to quantify these things, as it is difficult to quantify poaching, because we are concerned that that is going under-reported. Again our colleagues who were in Cameroon—I think it was a week or two ago—were finding it difficult to find out exactly how many elephants had been poached, even though they were there, because there were safety issues about them going out into the field and getting to the elephants before they had been removed or decomposed. It is a real challenge getting hard figures on this, but last year probably 3,000 elephants were killed to fuel the ivory trade, and there are encouraging statistics on the fact that 2011 was the worst year for large ivory seizures since records began back in the 1980s.
Stephanie Pendry: I want to follow up on that with a few more statistics about the year 2011. On ETIS we count seizures of over 800 kilograms as being significant. There were 13 of these large-scale seizures in 2011. That equalled about 23 tonnes, which is about 2,500 to 3,000 elephants. They mainly came from Kenya and Tanzania and nearly all of them were going to China and Thailand, so those are the two major markets. A lot of them are transiting through Malaysia. Six out of those 13 transited through Malaysia.
Mary Rice: Also, all the CITES documents have identified China as the single biggest destination for illicit ivory since 2005. Year on year, it has been identified in formal documents.

Q117 Zac Goldsmith: What do you think is the most useful thing the British Government can do to try to slow or tackle that illicit issue? As a Government dealing with China, what is the most useful thing we can do?
Tania McCrea-Steele: I think going out there and pushing for better law enforcement in the countries where the poaching is taking place, using the colonial routes to promote best practice. As we have identified, the UK has a really good structure in place, albeit there is room for improvement, but going out there and sharing the model that we have for enforcement, encouraging greater engagement from enforcement bodies. IFAW has just completed—well, Interpol funded by IFAW—Operation Worthy, which is an enforcement operation across 14 south African countries where poaching is taking place. We provided them with training on identifying and gathering intelligence on people engaging in illegal ivory sales or in poaching, as well as with rhino horns. We would like to see more of that with Government support. I know that Defra are contributing to Project Predator, which is another Interpol project, and through that...
they can use that as a mechanism to engage with law enforcers on the ground in countries where the poaching is taking place.

Simone Pope: Another example of what the British Government can do: we lobbied the Foreign Office and Jeremy Browne quite heavily on an issue about bear bile farms in Korea, and there is a Bill passing through the Korean Parliament at the moment, which they are being slightly sticky about and not pushing as hard as they could do. Jeremy Browne made representations to the Korean authorities describing the practice as “abhorrent”. That really hit home and made a big difference. We had a meeting with the embassy here in London as a consequence of that, and they were extremely anxious about the idea that a Foreign Office Minister had said to them that the practice that was going on in their country was to be described in that way. It is that kind of thing that could help.

Mary Rice: In terms of what the British Government can do, the British Government supported approving China as a trading partner based on their commitment that their system worked. The system does not work, so I think the British Government and the EU have a responsibility to redress that decision. China’s system does not work, so at the very least there needs to be a review of that system. We would go further and say that their trading partner status should be revoked, because they are clearly not implementing the system. You have figures of 63% to 90% of ivory on the market being illegal. The Chinese Government are aware of these figures, and they are doing very little to address that.

Q118 Zac Goldsmith: I thought they had massively ramped up the penalties in the last year—penalties for people being caught? Maybe they are not being enforced but the threat is there, and that is a new thing, isn’t it?

Mary Rice: The legislation may well be in place, but whether it is followed through is another matter. The Chinese authorities will go into a shop and seize goods if they have been told, but there is no proactive enforcement and there is no intelligence-led enforcement. They are not dealing with the networks and they are not dealing with these huge seizures that are coming in. They are aware of the level of illegal ivory available on the market, and doing nothing about it, Trade is going on in front of police.

Tania McCrea-Steele: Another couple of points that the UK Government could follow up on is writing enforcement requirements into trade agreements. This is something that IFAW is specifically looking at, trying to get that written into general trade agreements, because then it is also showing that wildlife crime is an issue. It is not just about the animals, it is about the social well-being of that country, it is about their political stability. We have seen that the ivory trade is funding some parts of the militias in certain areas within Africa. That is one tangible thing. Another thing is it is great that the UK Government have this position that they want to push for an international ban on ivory sales. We would like to see them talking to other countries within Europe about that position, and forming a body of like-minded countries that are there to push for elephant conservation. It is possible there are other countries, Germany being one of them, that are supportive of our position, but it would be good to see more liaison there to build those ties.

Stephanie Pendry: Very briefly, just to echo what Mary was saying, if the UK Government could encourage China to enforce this regulatory system that they have in place, which clearly they are not enforcing at the moment, then that would be a big step.

Q119 Chair: How do you think the UK Government could do that?

Stephanie Pendry: As Simon was talking about, making approaches through the ambassadors and that sort of thing would be really helpful.

Mary Rice: Also through the EU, because any decision on this would be taken at CITES and the EU has to vote as a bloc. In order for any of this stuff to go through, we need consensus within the EU and that has been very difficult.

Q120 Zac Goldsmith: Are there any particular countries in the EU that are dragging their feet or preventing consensus?

Mary Rice: Based on the last COP, the majority were in support of trade; it was only a small blocking minority that forced an abstention.

Q121 Zac Goldsmith: We can only speak through Europe on this?

Mary Rice: Yes, through the CITES platform, but as Simon has highlighted, you can use other means: one-to-one representations and raising the issue through different bilateral agreements.

Tania McCrea-Steele: Also doing it well in advance of CITES because in the past these positions have been made very late on in the day, so you need to have a longer lead-in time for lobbying. CITES is in March 2013, so I would say it would be good to start building those ties now.

Chair: Okay. I think we are in danger of looking at a whole lot of different issues all at one time. One that we did want to home in on a little bit was rhinoceros, and I think Peter Aldous is going to do that.

Q122 Peter Aldous: Looking at the rhino, we understand there has been a significant increase in killings in recent years. That can largely be attributed to the belief—particularly in south-east Asia—that rhino horn cures cancer. Is that the case? Has there been a longstanding view, a cultural belief, that that is the case?

Stephanie Pendry: No. The whole issue about rhino horn being a cure for cancer is something very recent, in the last few years I would say. It has come out of Vietnam. It is not something that has been taken on board by any of the other south-east Asian countries. Rhino is not prescribed in Chinese medicine as a cure for cancer. Rhino horn has not been prescribed at all. It is just this rumour, this urban myth, really, that has come out of Vietnam. We have tried very hard to try...
to pinpoint where it has come from, that a Minister in the Government has been cured by taking rhino horn. **Mary Rice:** Nobody has been able to identify who said it.

**Stephanie Pendry:** No, but it has been taken on board.

### Q123 Peter Aldous: Has that belief increased; that is the main reason for the—

**Stephanie Pendry:** Yes. That is the main driver of the poaching in South Africa going from South Africa to Vietnam.

**Tania McCrea-Steele:** In China, people are buying rhino horn as an investment. That is why it is comparable with the price of gold but being more than gold; the rarer the animal, the higher the value of that animal’s product. Rhino horn is being bought from UK auction houses. It makes its way into China and they are banking it, basically like they are banking gold. It is one of the secure things that you can bank in. IFAW carried out an investigation of a website called Taobao, which is like China’s eBay. Taobao means “treasure hunt”. Of all the wildlife products found on there, 99% of them were being sold as antiques or collectibles. Only 1% was traditional Chinese medicine products. That is an indicator that people are purchasing this because they are putting it in a bank. They see it as having investment value.

### Q124 Peter Aldous: This myth that started off in Vietnam in recent years—what attempts have actually been made to dispel that myth, to challenge that belief?

**Stephanie Pendry:** Attempts have been made not just for this, but in previous years in carrying out scientific research to show that there is no medicinal value in rhino horn. There have been papers produced and published in scientific journals about it. But what we are talking about here is a belief system of a different culture, and it is very difficult to change those beliefs quickly. It is back to this argument, “Control the supply but also try to change the demand”. Demand reduction takes an awfully long time for us to achieve.

### Q125 Peter Aldous: A few minutes ago there was a response that the Korean Government had been responsive to approaches. Have any approaches been made to the Vietnamese Government, and how successful have they been?

**Stephanie Pendry:** The UK through CAWT, the coalition against wildlife trafficking, has led a bilateral visit that took place between South Africa and Vietnam. South Africa went to Vietnam, and then vice versa, to try to encourage an increase in dialogue between the two countries and to show the impact that the Vietnamese demand is creating and causing on the rhino population in South Africa. I think some sort of memorandum was drawn up after that meeting but, as far as I am aware, it has not been signed. Perhaps that is something else that the UK could push on.

**Simon Pope:** This has been described as a bubble economy that will burst because, inevitably, anybody who has cancer and takes rhino horn is not going to get better in the long run. At least in part, the extent of the rhino poaching that is going on at the moment has capitalised on something that is a bit like the emperor’s new clothes. Eventually, people are going to realise that this is not something that is going to benefit them at all. Traders have a fairly short window of opportunity in order to get as many rhinos as possible, stockpile those horns if necessary, and sell them at the highest possible price they can.

**Mary Rice:** There is a fairly significant dialogue going on in South Africa at the moment that, in order to save their wild rhino populations, the best thing is to actually allow international trade in the horn to countries like Vietnam and China. For example, there are companies who have developed business plans involving the use of rhino horn, so as the discussion around the economic value increases, then so does the pressure on rhino increase. This is the result now that you are seeing in South Africa.

### Q126 Peter Aldous: I think last week the European Commission announced new restrictions on the export of rhino horn. That is obviously designed to address this stockpiling. As I said that is going to deal with some rhino horn, which may be several hundred years old, but how will that protect rhinos today?

**Tania McCrea-Steele:** To put that in context, Animal Health—the body within Defra who are responsible for issuing the CITES licences on CITES protected species—saw an increase in demand for re-export of rhino horn from the UK, and that mirrored the increase in poaching. That led to the concerns that the UK was being used as a transit route. By clamping down on the permits, and encouraging European countries to do that, they are shutting down Europe as a transit route market. It is good because then that means Europe is doing all that they can, and we welcome that. We would encourage Britain and Europe to get other countries to adopt a similar approach. I was talking to enforcement colleagues in Australia and New Zealand and they were saying that they do not have these measures in place, so it would be good to use the British ties with countries such as Australia and New Zealand and encourage them to adopt stricter measures.

### Q127 Sheryll Murray: A similar sort of question, really. Tigers seem to have been a major focus of international wildlife crime. What is driving the demand for tiger products and where does it come from?

**Mary Rice:** China is still the primary consumer, and that is evidenced from the seizures from neighbouring countries. Tiger and other Asian big cat skins are used for luxury home décor, taxidermy, among the business, political and military elite, and for personal purchase as gifts. Raw bone is also available in the marketplace in China, and the areas where it has been easiest to infiltrate trade include the major cities in Tibet, Qinghai and Guangzhou. Tiger meat, teeth, claws are also in demand in China. Traditionally, the focus has been on traditional medicines, but skins and non-formal tonics—wine, for example—have become perhaps the primary problem now.

### Q128 Sheryll Murray: What can be done to address the behavioural and cultural factors that underpin this?
At the same time, can I ask you: what is the extent of demand for tiger products in the UK?

**Stephanie Pendry:** To take the first part, as Mary has described, the demand for the various parts of the tiger is quite broad. It is not just for medicinal purposes. A lot of it is for status, it is for show, so it is going to be difficult for us to combat that, because we need to try to get a change in the motivation behind individuals in China. They are buying items, like tiger bone wine, which are conspicuously expensive, as gifts to their superiors, as gifts to others. It is very much a social status thing. It is the kudos of the items. It is difficult to know how to get around that, and try to encourage them that there are other gifts that they could buy that would have the same impact and the same—

Q129 **Sheryll Murray:** Okay, and the UK?

**Mary Rice:** The UK can actually discuss the issue of tiger conservation bilaterally at the highest levels of Government in China, in a diplomatic way, and urge the Government to take a zero tolerance approach on tiger trade, perhaps by getting the same message from the Home Office to the public that there will be no further trade in any part or derivative, or from any source, and that all the stockpiles of skin, including those from the registration scheme, bones, parts, bone wine and other products, should be consolidated and destroyed.

Q130 **Sheryll Murray:** The question was, is there a demand for tiger products in the UK? Do you know whether there is?

**Tania McCrea-Steele:** I was going to say it is difficult to get figures for that, going back to this issue that the Home Office do not require the police to record these crimes so we cannot measure it. A number of our organisations work as part of Operation Charm, which is the initiative between the Met Police and a number of NGOs. They have targeted TCMs in the past, so they certainly believe it to be an issue. It is a case of making sure that all that information is given a code, so it can be recorded so that we can be more specific in answering this. I do not know which law enforcers will be presenting to the Committee and she has a lot of expertise in this specific area. She will be able to give a more comprehensive answer to you about what is happening on the ground in China with tiger farms.

**Gabriel, who is our Regional Director for Asia, will be presenting to the Committee, but maybe that would be a good question to ask them to see if they have records that we do not have access to.**

Q131 **Sheryll Murray:** Thank you very much. Could I also ask what evidence is there that tigers are being bred or farmed for their body parts? Do you know of any?

**Tania McCrea-Steele:** We work in China. We have an office in China, and they tell me that there are 6,000 tigers being farmed in captivity. We know this to be the case, because they have gone and they have seen those farms. We have seen photos, horrific photos, of tiger bodies in vats. Our concern about the farming of tigers is: one, the welfare of those tigers. The conditions are terrible. They are kept in absolutely tiny cages. The lives that they would have in the wild cannot be replicated or accommodated in those conditions. But also because, going back to that point that we made before, the legal trade in tiger parts provides a smokescreen for the illegal trade. There was an incident with online sales of tiger bone, and although I do not have the figures to hand, I know that there were examples of items that had been confiscated, and those tiger items have been made from wild tigers rather than farmed tigers.

Q132 **Sheryll Murray:** I know you want to come in, Mary, but before you do perhaps you would like to consider that a recent CITES decision states that tigers should not be bred for their trade in their body parts. Is there any case at all for allowing this tiger farming to go on—no matter how distasteful it is—as a way of relieving pressure on wild tigers? Do you think you could just address that for me as well?

**Mary Rice:** Okay, there have been seizures in Thailand in the last 12 months that indicate widespread farming of tigers, which are slaughtered for their meat and bones, and there have been cases in Vietnam and also in China. In terms of farming, EIA is not expert in this particular area. We look at it in terms of legality. Farmed tiger is going to be more expensive than a wild poached one, so ultimately the pressure will still be there for wild tigers.

Q133 **Zac Goldsmith:** Why would that be? Sorry, that does not make any sense at all. Why would a farmed tiger be more expensive than a wild one?

**Mary Rice:** The cost of raising the tiger and keeping it, compared to a poacher going out and shooting one.

Q134 **Zac Goldsmith:** Really? They are very easy to breed, aren’t they?

**Tania McCrea-Steele:** It is the cost of farming it. Like in the UK, I guess, if you were farming deer that would probably cost you more money than if you went out and stalked a deer that was out there in the wild.

Q135 **Zac Goldsmith:** Yes, but there are a lot of deer.

**Stephanie Pendry:** You need to look at the issue that TRAFFIC has—and this is probably the same as the others here—that because there are only 3,200 or so of these tigers left in the wild, any legal trade in tiger could encourage an increased demand. With the huge population that we have in China, even a very small increase in that demand could put additional pressure on the tigers in the wild. We just don’t have enough left to risk it, I think.

**Mary Rice:** It also provides a means of laundering.

Q136 **Zac Goldsmith:** I simply do not believe that. I think you said that some of it sells for tens of thousands of dollars, and you could pay for a farm three or four times over with selling two or three tigers.

**Tania McCrea-Steele:** I am mindful that Grace Ge Gabriel, who is our Regional Director for Asia, will be presenting to the Committee and she has a lot of expertise in this specific area. She will be able to give a more comprehensive answer to you about what is happening on the ground in China with tiger farms.

**Simon Pope:** On London, I have spoken recently to enforcement officers here about the extent to which there are still tiger products on sale in London. Obviously, the problem that occurs is that when you
have a legal trade in a country like China, whether it is in bear bile or tiger bone, it is sometimes very difficult. Particularly for those traders, if the first language is not English, to know that the trade is illegal here. The fact that there is a legal trade in China means that it is more likely in a way that there would be illegal items on sale here as well.

Q137 Peter Aldous: CITES was established 35 years ago in 1975. I would suggest there have been quite a lot of changes since then, in terms of conservation theory and practice. Is it still fit for purpose? Does it do what it is meant to do?

Stephanie Pendry: In the main, yes, it is. It is fit for purpose. One of the issues about CITES is that, although it does have power in the sense that it can impose trade suspensions, it is not using those powers to the extent that it could do to try to bring other CITES parties in line. I think that is one thing that if it could use its teeth a little bit more, that would be great. Also in an ideal world CITES would base all its decisions on the science, but obviously that doesn’t happen, politics comes into play and the profits that are made. Particularly when you look at species for timber and fisheries, many of those species should have been listed on CITES and biologically qualify for listing on CITES. They have not been listed because countries are voting against listing them, because they are just far too valuable and the trade that they are involved in is far too valuable. We have seen that happen time and again in the past, blue fin tuna being a prime example at the last COP.

Tania McCrea-Steele: In terms of IFAW’s position, CITES was created as a conservation tool, and when it is used as a conservation tool it is a very good—if not one of the best—international conventions to assist us with the protection of wild animals. Our concern sometimes is it can be viewed as a mechanism to facilitate trade. When that is the case, then we are concerned; we would urge the Government to adopt a precautionary principle, which it is doing with its position on ivory and its recent actions on rhino horn. Yes, basically it depends how people perceive it and how they try to use it, but it is a very, very good tool. In and of itself it is not enough to save animals. It needs to be complemented by consumer awareness and dealing with consumer demand, as the others on the panel have raised. I would argue in some cases there is a need for national legislation because CITES governs trans-border crime, but that can make it a challenge to prosecute people within the UK who may be selling some of these products.

Q138 Peter Aldous: Obviously, we talk of it being a political battle of costs. Are there any particular countries that are failing to live up to their obligations and dragging their feet?

Stephanie Pendry: I believe it would be quite hard to identify countries that are doing this well. I think it is a very complex—

Q139 Peter Aldous: Most people are not doing it? Stephanie Pendry: It is very difficult. I think it is a very complex treaty to enforce. A lot of countries struggle with it from a resource point of view. There are not many countries that we could say are doing it brilliantly. The majority are struggling with CITES.

Q140 Peter Aldous: How could that be addressed? Tania McCrea-Steele: This is the point I raised earlier, about using Interpol as an opportunity to engage with those countries to help them improve their enforcement. Operation Worthy was the largest operation of its kind, and there need to be more operations like that because there are lots of officers out there, where wildlife crime is part of their remit, but they do not have the expertise, the support, the training or the knowledge to go out there and implement it. Operations like that focus their minds and get them actually out on the ground because it is happening over a targeted period with input from the support, with people looking over their shoulders to urge them to do it but also to assist where the enforcement officers might have shortcomings. That is a tangible model that could be rolled out and increased.

Mary Rice: The terms of engagement have changed significantly as well. For example, that is moving along but it needs to move along quickly and needs to be implemented. Part of that review is pushing for stronger, newer powers for the police; for example, carrying out test purchases. They sometimes need to do that in order to show that somebody was going to engage in illegal trade, that type of thing. There are lots of tangible steps that the Government can do here, and to look at this antiquites derogation and make a recommendation that it should be experts who verify whether an item is antique or not because, again, that provides a smokescreen for people to smuggle in new items. We have seen that happen here.

There was an Inside Out investigation, where they went out and bought a piece of ivory from Portobello...
Road and then they went and tested it. They claimed it was antique but it wasn’t, and it is so easy to do that. The Met Wildlife Crime Police Unit, if you go down there they can show you examples of ivory that has been soaked in tea to try to stain it to make it look old. They have the new piece of ivory and the old piece of ivory, the same carving, but pre- and post-stain. There are lots of measures that can be done within the UK to improve our enforcement and, most importantly, maintain and continue the funding for the National Wildlife Crime Unit. I think that was one of the main outcomes from the 2004 EAC review of the state of play. It is excellent that we have that in place. Our concern—and I think you have heard this from the RSPCA and the RSPB—is that the funding is always under review. It is going to come under review in March or April 2013, or it will run out then in 2013. One of the challenges with the unit is they are always thinking about funding, and so part of their attention is always on funding and not on enforcement. If they had a secure future, then the unit would be all the stronger for it.

Q142 Zac Goldsmith: I want to talk about the UK legal framework protecting wildlife. To echo Peter Aldous’s question, do you think it is fit for purpose here?

Tania McCrea-Steele: Yes, in terms of I believe we are talking about tigers, rhinos and elephants, so we are talking about CITES.

Stephanie Pendry: Talking about the trade, not national legislation, Wildlife and Countryside Act and so on.

Q143 Zac Goldsmith: Does the British legal framework need any kind of amendment? Is there anything missing from it in your view?

Stephanie Pendry: If the COTES regulations become updated, as is planned, I think everything is in place. The problem is not about the legislation that is in place; the problem is about implementing the penalties that are within it.

Q144 Zac Goldsmith: Take an example. The British Government has said that it wants to end shark finning, as it recognises that this is rapidly depleting the world’s oceans of many different varieties of sharks. That is the aspiration of the Government but, as I understand it, it is not illegal to serve shark fin soup in this country. Would you not advocate extending legislation to cover things like shark finning?

Stephanie Pendry: Then that should be done through CITES.

Q145 Zac Goldsmith: You think it should be done?

Tania McCrea-Steele: You can give sharks greater protection under CITES. If they were on Appendix I, they would have the most protection, which means that trade in them would be illegal so shark fin soup would be illegal. That could be something that the Government could consider.

Q146 Zac Goldsmith: Is that something that you are pressing for?

Tania McCrea-Steele: It is something that I would need to get more information on before—

Mary Rice: There are people pushing for the listing of sharks and various other marine species. CITES is just one way of doing it. The UK Government could take a unilateral decision to, say, ban the serving of shark fin soup or whatever. It does not need to wait for CITES to do it.

Q147 Sheryll Murray: On that point, I know that there are moves with the review of the COP to actually outlaw shark fins, but it is a problem. Predominantly now I think they are being landed in places like Taiwan. How can we perhaps use UK legislation to stop those dried shark fins from coming into this country in the beginning? Do you think that is one thing that we should be doing?

Simon Pope: You can do it again through CITES. When I worked at IFAW, we got an Appendix II listing for basking sharks. The populations were being hammered quite considerably by shark finners. They are very large animals, and you can understand the fin is worth an awful lot of money. They were not at home in UK waters, but you could find them in UK waters. By putting them on Appendix II they had to have a management plan attached to them being fished for shark fin and that basically stopped the illegal trade in it.

Q148 Zac Goldsmith: Can I just come back to UK lessons?

Simon Pope: It was the UK Government that actually took that listing.

Q149 Zac Goldsmith: But I think foreign vessels in British waters could—

Sheryll Murray: Yes.

Zac Goldsmith: Is that right? You are the expert. That is the same as shark finning. I don’t think UK vessels are allowed to engage in any kind of shark finning in British waters, but it doesn’t—

Tania McCrea-Steele: The UK Government could push for an up-listing of shark species at CITES. If you lobbied for that and other countries got on board, and it was put on one of the appendices, then they would be provided a greater level or absolute protection, depending on which appendices they are put on. It is the mechanism for doing that. I am not an expert on sharks. I have a German colleague who knows a lot about it, so I could find out more about it for you in terms of what the process would be. I know that he is saying that it would be good to push for uplifting of certain shark species.

Q150 Zac Goldsmith: In the absence of that, in the absence of being able to win the argument at the level of CITES, is it legally possible for Britain to decide not to allow restaurants to serve shark fin soup, for example? Are we legally able to do that, or is that a trade tariff of some sort?

Stephanie Pendry: Under the current legislation that is in place, you mean, or it would mean creating new legislation?
Q151 Zac Goldsmith: Yes, it would require new legislation, but would that put us in conflict with EU legislation or the WTO: anything like that?

Tania McCrea-Steele: It didn’t come up as an issue in terms of our work on seals. We were lobbying for a ban on seal products and my understanding from our European office, based in Brussels, was that we were able to do that because seals do not fall within the remit of CITES. We had freedom to come up with an independent trade ban, which is now in place. There is a WTO—World Trade Organisation—challenge, but we are confident that we will be able to address those points.

Q152 Zac Goldsmith: It is being challenged?

Tania McCrea-Steele: It is being challenged, yes.

Q153 Zac Goldsmith: Who by?

Tania McCrea-Steele: The Canadian Government have, yes, pushed for the challenge, but we are confident that all those points can be addressed. We were thinking about that at the point of lobbying for the ban. We welcome the fact that it has been banned at a European level, but we are aware of the WTO challenges. So I am saying that seals could be treated separately, because it does not come under the auspices of CITES.

Stephanie Pendry: Whatever is decided at this point or any other, and sometimes the focus is lost a little bit—certainly at CITES COPs—is the practical element of listings and annotations to those listings. It is very useful to always be able to consult with enforcement about how practical these things that are being put into law are, because for shark finning, if you list three species of shark and you come across 10 tonnes of fins, how do you know what shark species that is? If there is no test that we can apply, then listing it will have no impact because we can’t determine what shark species they are.

Q154 Zac Goldsmith: I suppose unless—and it applies to all the other offences that we are talking about as well—the punishment was so high that it would not be worth those engaging in it risking it. If by selling illegal shark fin, perhaps by dressing it up as a different type of shark, if the risk of doing that is a substantial period of time in jail, then you would have thought that the upside was so small that it would not be worth taking the risk. Logically the same applies to a lot of these issues we are talking about. You are saying that CITES is one option, but we could also look at the seal option as well. Can I just branch out for a second, I am not going to take up too much time but are there any—

Chair: We have four minutes left.

Zac Goldsmith: I have one question that is back to the script, which is an important question. I wanted to know whether or not—as some of our previous panellists have suggested—you believe there would be advantages in drawing together all wildlife crime legislation in a single Wildlife Crime Act in this country?

Tania McCrea-Steele: IFAW is a member of the Wildlife and Countryside Link, and I know it is part of their submission. We said yes, in principle, but we would have to look at the nuances, and we would have to make sure that there wasn’t a weakening of any of the current penalties or protections in place. I guess the issue is if you start to review all the legislation, then you have people who would seek to weaken it, and we want to make sure that no animals lose the protection that they currently have in that process.

Simon Pope: The former head of the Wildlife Crime Unit, I put this question to him directly and he said, “Wildlife legislation in this country is like a very old car that we keep making modifications to, and sticking new bits on, until we have reached the stage where it looks a complete mess and it is so difficult to drive that only a few people can do it. Instead of making more and more modifications, we should just scrap it and get a new one”. This is the situation. They are telling us that they have to deal with bits of legislation going back to the 1820s or 1830s.

Q155 Zac Goldsmith: Does everyone agree with that position on the panel?

Stephanie Pendry: I am not so much in favour, no. I think there is such a broad range of wildlife legislation in the UK, going from poaching all the way up to the CITES species that it is going to be difficult to try to make it all fit. I think would be quite difficult. Yes, we can certainly simplify the law and bring some of the legislation up to date—like the poaching offences, definitely—but to have it all in one, all-encompassing, I think that we as opposed to end up making something so complex that it actually will deter law enforcement from taking action as opposed to encourage it.

Q156 Chair: That is really difficult to do. Just to compound things, we have the changes for the National Crime Agency proposed and coming in. Finally—and it is going to be finally because we are now very pushed for time—can I ask you how you see the National Crime Agency fitting in, how that sits with the co-operation that is already there between Interpol and between the National Wildlife Crime Unit, and how all of that should sit together?

Tania McCrea-Steele: We were encouraged to see that in all the submissions that I read everybody was advocating—including the Government, from what I could make out from the Home Office and Defra submissions—for the National Wildlife Crime Unit to remain a specialist unit that they could call upon, so it was protected and not absorbed into the National Crime Agency. I think that maybe it was—
Q158 Chair: If I could ask, in terms of the operations that there have been within the UK—I am thinking about Operation RAMP—with different countries, with the Interpol operations that there have been, and the funding that Defra has had and the way in which some of the Defra funding has helped to fund some of this joint work, in terms of Defra, what has been the effect of cutbacks on the ability to actually do this work?

Tania McCrea-Steele: It is good to see that Defra have recently, I believe, put into Project Predator, which is about protecting tigers. It is an Interpol project. It is good to see that the commitment is still strong, given the current economic climate. The important thing to stress is that doing better enforcement is not about investing lots more money. It is about using the structure that is in place, yes, and just making it better. By giving the National Wildlife Crime Unit greater certainty over their future that will help. By making sure that each force has wildlife crime officers that will help. By making sure that the Crown Prosecution Service prosecutors who are experts in wildlife crime are accessible to their wildlife crime officers will help. The structure is there; we just need to make sure that it is kept. Also, implementing penalties will have a big impact. It does not cost any more money for a judge to be stricter in court, but it will have a big impact.

Chair: I will give the very last word to Stephanie.

Stephanie Pendry: I would agree with what is being said here. It is great that Defra is supporting more international elements of combating wildlife crime, but I think it is very important that Defra also focuses on what is going on here in the UK. Animal Health have lost the head of their compliance, who is now leading the National Wildlife Crime Unit, which is great news, but as far as I am aware there are no plans to recruit another seconded police officer in that post.

It is very important that that work is led by an enforcement professional, not a civil servant, so I think that is one thing that should be continued. Nevin Hunter made an incredible difference to the work of Animal Health, and his work should not be lost.

Chair: We have covered a lot of ground, and I would like to thank all four of you for your contributions. I hope that you will take an interest in our report when we finally come out with our recommendations. Thank you all very much indeed.
The pieces and the total sale price. This is huge.

Chair: It is huge.

Grace Ge Gabriel: This is only in the last two years.

Q161 Chair: You talked just now about education. Do you think that there is awareness among those who are using their wealth to buy these products of the damage and danger to endangered species?

Grace Ge Gabriel: There are two types of people involved. One is incidentally engaging in the trade and they may not know, and the other people are the hardcore criminals who are getting high profit margins from this illegal trade. In fact, IFAW did a poll in China where we found seven out of 10 people do not even know ivory comes from dead elephants. In Chinese, ivory—xiang ya—is translated as elephant teeth, so people think teeth can fall out naturally. We developed a public awareness campaign basically using this concept, reminding people that babies having teeth should be a joyous occasion for the mother. However, for elephant families having teeth means slaughter, it means killing, destroying families and hundreds of thousands of elephants. I think these
types of public awareness campaigns, pulling on people’s heart strings, are making an impact. For instance, the PSA that we produced is currently being adopted into an animal welfare curriculum for schools from elementary school to universities, and also that PSA was adopted in Chinese college entrance exams. But that type of PSA can affect the hearts and minds of people who did not know and who happen to buy a piece of ivory, but now they do know. That includes some ivory carvers who wrote to us and said they will not carve now that they know the facts.

But there are people in China, the class with extreme wealth, who did not make that wealth the right way, the correct way, and those are the type of people who may have connections with criminal syndicates. They have power, they have connections. They often have anonymity, and they may order ivory, large shipments of ivory, from Africa on the internet or via the phone. They are conducting this illegal trade and hiding behind it.

Another very important factor in this rising demand is that in the past few years ivory prices in China, in Chinese money, which is RMB, have tripled; in the past six years since CITES approved the one-off sale, the stockpile sale to China, the ivory price in China has tripled. During the same six years the Chinese yuan gained value against US dollar. That means that if the Chinese buy ivory anywhere else in the world, they have to buy it in US dollars. For the Chinese, that makes buying ivory anywhere else in the world cheaper and the profit margin on that ivory, once it is smuggled into China and sold on the market—it is very easily sold illegally on the market because it is covered by the legal trade—is huge. That is a great incentive for people who are engaging in this illegal trade.

Q162 Chair: You mentioned the legal trade, and it would be helpful to the Committee to know whether or not trade in ivory, tiger bone and rhino horn is legal or illegal. We sense that it is not quite straightforward; it is not quite black and white. Could you elaborate on that for us, please?

Grace Ge Gabriel: Tigers and rhinos are both listed on CITES Appendix I, and their international commercial trade has been banned for many years. There is legislation in all of the tiger range countries in Asia to ban domestic tiger trade. In China, it is the same. In 1993, China’s State Council banned tiger bone and rhino horn from use in traditional medicine and basically banned its domestic trade. China has a wildlife protection law that covers hunting and poaching tigers in the wild but it does not cover trade. The State Council banned tiger bone and rhino horn trade, but China has a wildlife policy which states that it basically encourages and promotes captive breeding of tigers or captive breeding of any species, including endangered species, for the trade of their parts. This creates a big conflict within China’s policy. On the one hand there is a trade ban, but on the other the policy allowed many business men to breed tigers; for instance, thousands of them were bred on these tiger farms solely for the trade of their parts and derivatives. Because of that very confusion, that trade stimulates demand and fuels poaching of tigers in the wild. This trade has created so much concern within CITES that CITES parties at its Conference of Parties in 2007 made a decision that specifically stated that countries should not breed tigers for the trade of their parts and derivatives.

Q163 Chair: That is helpful, thank you. Finally from me, how effective is wildlife crime enforcement in China?

Grace Ge Gabriel: The wildlife enforcement—effective enforcement—has to be aided by clear policies and laws. As I stated, unclear laws and policies send the wrong message to the public and create enforcement difficulties. In terms of legal versus illegal, it is very murky for a consumer, for instance. On the one hand, they thought tiger bone is banned but, on the other hand, they can buy tiger bone products on these farms. That is confusing. For elephant ivory, CITES had allowed the stockpile sale of ivory. Basically, China imported 62 tonnes of ivory in 2008 from this stockpile sale, so China has a legal ivory market. All these are creating enforcement difficulties, because even law enforcement officers could not distinguish what is legal from illegal, whether this tiger bone comes from the wild or has it come from a farm.

Also, in fact, there are some law enforcement actions China has taken that demonstrated that a trade ban can be effective. For instance, China now has an online population of 500 million people. Five hundred million people are online and some of China’s websites, e-commerce websites, are bigger than eBay. The users of these e-commerce websites are bigger than eBay. The Chinese Government has worked with NGOs and online websites to ban trade in many of these endangered species. Currently, China’s largest online website, taobao.com, which means treasure hunt, has banned tiger bone, rhino horn, elephant ivory, bear bile, turtle shell, pangolins and shark fin. We have seen websites that have the ban are a lot more effective in controlling the trade. For instance, in January this year in one of the online monitorings, we monitored Taobao and many other wildlife e-commerce and collection websites. At most we found 200 sites that have the trade ban—some had zero, no wildlife—but the sites without the ban reached 12,000 listings of endangered species.

Chair: Mark Spencer is just going to probe a little bit more on CITES.

Q164 Mr Spencer: It has been suggested that South-east Asia has been stripped of wildlife by the legal trade meeting the demand of exotic pets, if you like, in Europe and Japan. Could you compare the impact of the legal trade and illegal trade.

Grace Ge Gabriel: When it is legal trade perhaps it is possible to obtain records of it, but there is no way of knowing the size of the illegal trade. But what we are seeing is the impact of both this legal and illegal trade. One of our concerns is that legal trade provides a smokescreen for illegal trade to be conducted.

Q165 Mr Spencer: What sort of volumes are we talking about in terms of the number of animals that
China does not have animal welfare legislation, so there is no law to prevent the species that are being transported across to Europe and Japan? Have we any idea of the volume?

**Grace Ge Gabriel:** I don’t have the figure specifically, but we can probably obtain these figures from the CITES website, for instance. However, there is no way of knowing the size of the illegal trade. If I may, let me cite one example—a guy named Anson Wong. He is probably the world’s most well-known reptile trader, and he is a kingpin, actually a wildlife criminal. He has a legitimate business in Malaysia selling reptiles, legal reptile trade, all over the world. However, using his business connections and permits, he has been repeatedly found engaging in illegal trade. His most recent arrest and conviction in Malaysia was after he attempted to smuggle reptiles, 95 boa constrictors and vipers and turtles, through Kuala Lumpur Airport to Jakarta in Indonesia. Just incidentally, the lock on his suitcase broke, and all his wildlife contraband spread out on the conveyor belt. That is how he was arrested and convicted. But this criminal unfortunately only served 17 months of his five-year sentence, and he is walking free. That shows that these type of people are able to go free because they have power, money and connections.

Q166 Mr Spencer: How effective is CITES? If an animal suddenly becomes fashionable in another part of the world, how reactive is it to dealing with that sort of demand? Can it react in time to protect that species?

**Grace Ge Gabriel:** It depends a lot on the country where the animal comes from and also on the country where the demand for this animal is. For instance, the turtle trade has been one of the leading trades in Asia and, in fact, China proposed over 20 species of turtles to be listed on CITES. If this trade volume reaches unsustainable levels, it is up to the countries, based on science, to raise the alarm and bring these species to the attention of the international community for their protection.

Q167 Mr Spencer: Of course, at the moment there is a list of animals that cannot be traded. I wonder if you think whether that is the wrong way round, whether we should actually have a list of animals that can be traded so that the list does not have to react because if the animal is not on that list, it cannot be traded.

**Grace Ge Gabriel:** Well, unfortunately, we are in the situation now where we have to react and react quickly. Many of the species that are listed—33,000 species listed on CITES, for instance—because they were heavily traded in international trade. They are listed to protect them from extinction; we have to control that international trade.

Q168 Mr Spencer: You mentioned you have to react. Whether that reaction is quick enough is, I suppose, the core of the issue.

**Grace Ge Gabriel:** Of the species that are currently on CITES, I think there was only one species that became extinct after it was listed on the Appendices, which was Spix’s Macaw. But other than that, the species that got listed on CITES have not disappeared yet, and we hope that that will remain that way.

Q169 Paul Uppal: We are speaking to you because we have looked at the whole issue of tiger farming, and you spoke about this in terms of the decision in 2007 specifically, the CITES decision, about the whole idea of farming tigers and keeping them captive. It seems a bit of a crazy concept, really. This is perhaps a difficult thing to think about, but given the tiger population at the moment of between 3,000 and 4,000, do you think that perhaps, thinking outside the box, tiger farming may be the least worst option that we can consider in terms of the demand that is driving this trade and the pressure it is putting on the tiger population? I know it is a difficult thing, but what is your take on that?

**Grace Ge Gabriel:** Well, farming tigers for the trade of their parts stimulates demand and fuels poaching of tigers in the wild. If we do not care that the remaining 3,000 to 4,000 tigers go extinct in the wild, yes, what you are saying may be okay, but can we accept that? I do not think we can as an international community. This species is a charismatic species that has been the king of the jungle I think for Asians—I think for Africans probably the lion is the king of the jungle, but for Asians tiger is the king of the jungle. They keep the ecosystem in check by being the king of the jungle. I have worked on tiger issues a lot and I have seen the tiger farms as well. The way they are doing it means—and being Chinese, I know it—it costs a lot more to raise tigers in a farm. It costs thousands of dollars to raise a tiger to maturity for the trade, but it costs very little to kill a tiger in India or Thailand. With this discrepancy, it will always be cheaper to buy tiger parts from wild tigers. Also, I know that when Chinese consumers want to consume tigers or any other endangered species for medicine, they want it from the wild. I have research to prove that, too. If you allow farmed tiger to be traded, again it confuses consumers, it creates law enforcement difficulties and it stimulates demand. The fact is that the use of tiger bone and rhino horn have been banned by the Chinese Government and that demand has reduced since the ban. There was a survey done in 2006 visiting 523 traditional pharmacies in 12 cities in China, and only 11 shops said they have tiger bone to fill a prescription that has tiger bone as an ingredient. Only two shops were able to really produce tiger bone. The official traditional Chinese medicine community has stopped using tiger bone for the past nearly 20 years, and tiger bone was removed from official pharmacopeia. It is also removed from TCM college curriculum, and the demand is being reduced. However, we who are seeing is these farms stimulate that dying demand in China.

Q170 Paul Uppal: I just want to reassure you, Grace, that I have a very strong emotional attachment to tigers as well. I know you spoke about that as well. I was just asking a very awkward question. You just touched on the issue of the conditions. What sort of conditions are these tigers kept in?

**Grace Ge Gabriel:** China does not have animal welfare legislation, so there is no law to prevent the
abuse and cruelty to animals once they are in people’s hands. Many of these tiger farms actually also run as safari parks, as zoos and circuses, so they have circus performances in the parks. Because there is no law and no welfare standards, animals are deprived of the opportunity to follow their natural behaviour. Tigers are solitary animals, but they are housed in large groups together and in barren enclosures. If there are trees, the tree trunks are covered with metal so that tigers will not claw on the bark. Also, to get tourists to pay for tiger food, many of these parks run a show called live feeding. They basically ask tourists to buy livestock, chicken or cow, to feed the animal. In order to attract tourists to buy livestock to feed tigers, they actually let tigers go hungry. They are so starved that they will go into the enclosure for that prey species. Also, to entice visitors, animals are trained to perform circus acts, such as tigers jumping through fire rings or bears riding on a bicycle. I have seen tigers have teeth and claws pulled and chained to the ground for people to climb on their back to take pictures with them.

Q171 Paul Uppal: I remember there was a piece, I think it was in the Mail, a few years ago—I cannot remember—which described how livestock was actually just thrown into the pen for tigers. Do you think there is anything we can do to highlight the matter, particularly some of the conditions? I have only seen coverage in dribs and drabs in the media. Do you think we as a Committee could do more to focus on that by highlighting those conditions?

Grace Ge Gabriel: Other countries, and Chinese citizens, should ask China to introduce animal welfare legislation to prevent cruelty to animals. In fact, this effort has already been started in China. A few years ago, IFAW and RSPCA helped China’s Academy of Social Sciences in a research project and drafted the first version of China’s anti-cruelty legislation, but what we need is Chinese citizens realising the cruelty and abuse of animals and not tolerating that, and then voicing their opinion to China’s legislature in asking China to put that anti-cruelty law into the legislative plan. That is what we are trying to do.

Q172 Chair: Do you think our Committee could help you in any way in that?

Grace Ge Gabriel: Perhaps I can help draft something in written form for the Committee to consider.

Chair: If you wanted to submit anything further, we would be very happy to receive it.

Q173 Martin Caton: You just gave a very positive report about how legislation in China had reduced the use of tiger bone products in the pharmacies in China. Do you have any idea of what proportion of illegally trafficked wildlife products in Asia is still for traditional Chinese medicine?

Grace Ge Gabriel: Yes, traditional Chinese medicine is composed of three types of ingredients: plants, minerals and animals. In fact, animal ingredient in traditional pharmacopoeia constitutes only 3% and that includes wildlife and also domestic animals. It is not a very big ingredient. Also, TCM use of wildlife or animals is really based on availability. Three thousand years ago when there was no other type of medicine, a doctor may have used a tiger bone to treat rheumatism or he found that a rhino horn ground up could reduce fever, but all these illnesses and diseases have alternative treatments now. Also, when these products become unavailable, TCM practitioners are already shifting to some of the alternatives themselves. They have to just out of necessity.

Q174 Martin Caton: So the market actually directs them to find alternative substitutes. Do you as animal welfare campaigns need to try to persuade the practitioners to find alternatives?

Grace Ge Gabriel: We did and we have funded alternative research for TCM practitioners. We have also done surveys of TCM, what type of ingredients they are using. We also did the other part of the pieces of research that was done—IFAW funded the research, but it was done together with Middlesex University, Kew Gardens and Defra in the UK, and a report should be available in English—was looking at plant substitutes for tiger bone, rhino horn and bear bile.

To answer your question, one of our concerns is that while we see the demand for TCM use of wildlife is reducing, the other demand for even some of the products that were traditionally used for TCM are now being promoted as an investment, including rhino horn. We are seeing the auction prices of rhino horn—are these all carvings. For instance, last year Hong Kong Customs seized 33 rhino horns, the whole rhino horn. If they are going into China, they are not going into medicine; they are going into carved artefacts and collectibles for investment.

Q175 Dr Whitehead: On that subject, we heard evidence a little while ago that rhino horn in particular, and indeed other wildlife products, are literally becoming stockpiled as they see the value of the materials increase, presumably, therefore, with a view to not just investment but speculation for release in the market at a future date as scarcity increases. Do you have any evidence of that from your researches and findings?

Grace Ge Gabriel: We are monitoring the physical markets, which include auction markets, collections, shops, galleries, and we are also looking at online wildlife trade. Indeed, in the last few years we have seen an increasing amount of rhino horn carvings. The price that I just mentioned, the 2,750 pieces of rhino horn in trade and the price increase of 111%, these are all indications of people, in fact, buying rhino horn for investment. Another piece of data: one of the auction newsletters actually claimed that due to the rising demand of rhino horn and ivory carvings, an investment bank in China has established an investment fund focusing on the trade of rhino horn and elephant ivory. I only saw this auction newsletter in March, so we have not looked deeper into this investment fund, but this type of investment and the promotion of the product as investment continues to raise its value. As its value rises, more people want to buy it and probably hold it, waiting for the species to be extinct and what the price will then be—they have cornered the market. This is the kind of fear that we
have for many of these species, for rhinos and elephant ivory.

Q176 Dr Whitehead: We talked about the use of rhino horn and other products in traditional Chinese medicine, but we have also heard of more recent upsurges in beliefs of the efficacy of various products, particularly rhino horn as a cure for cancer in Vietnam. Is your understanding that that belief is gaining currency, and what efforts have been made to tackle that particular rumour/belief through outreach programmes, education and so on?

Grace Ge Gabriel: Well, as far as we know it is a rumour. All of the NGOs that work in the region could not find the origin of the rumour. But I believe the ingrained belief about rhino horn use in traditional medicine runs deep in many of the cultures in Asia, so it is not surprising that somebody would come up with that rumour. It could be somebody trying to jack up the price using that rumour. In fact, Vietnam lost its last Javan rhino last year, only last year. Now wildlife crime syndicates are buying up rhino horn from around the world. Just recently I heard that South Africa, for instance, lost 448 rhinos last year versus 333 in 2010. Up until today, this year, 171 rhinos have already been killed in South Africa and most of them in Kruger National Park. One of our other fears is another rumour that South Africa is going to propose to legalise rhino horn trade. If elephant ivory trade is any indication, legalising rhino horn trade is going to spell disaster for this species.

Chair: Final question to Zac, and we do have one eye on the clock now, Zac.

Q177 Zac Goldsmith: Yes, okay, I am going to be very quick. You mentioned earlier the e-commerce sites that have removed these things from their inventory. Has that led to a noticeable and measurable reduction in that sector or not?

Grace Ge Gabriel: Yes, it did. When taobao.com banned these products, we then repeatedly checked the websites, and we have seen a significant reduction.

Q178 Zac Goldsmith: I am sorry to rush you. Are there signs that the other sites, the other big competitors, have been encouraged to do the same and is there any pressure being applied by consumers or campaign groups?

Grace Ge Gabriel: Yes. In addition to the e-commerce sites, currently about seven or eight big collection websites have banned wildlife products. Just last month, China’s largest search engine, baidu.com, which has many forums—they call them bars, but they are like forums—banned and completely removed 13 forums that are selling wildlife products. They removed more than 30,000 listings.

Q179 Zac Goldsmith: On the UK Government and its potential role, we provide some funding to Interpol initiatives and a couple of examples we have here are Project Predator, which targets the illegal trade of tiger products, and Project Wisdom, which targets the illegal trade in ivory and rhino horn. Can you tell us, first of all, how effective you think that those two and other Interpol schemes are in the big scheme of things?

Grace Ge Gabriel: Interpol operations can be very effective. Interpol is able to mobilise law enforcement agencies in countries beyond just the wildlife departments in fighting wildlife crime in a collaborative way. By doing so, it elevates the priority level for wildlife conservation in that country. The recent Operation Worthy, which was mentioned in the Panorama programme, was actually funded by IFAW. It was organised in 14 African countries targeting illegal ivory trade and it is sending a strong message to the consumers around the world that wildlife crime is not tolerated. It is also collecting very good intelligence on the illegal crime. Also, one of Interpol’s projects called Eco-Message is helping to collect intelligence on wildlife criminals. When information on wildlife criminals is entered into the database it can be compared to see if those individuals have linkages with other crimes, which is very important.

Q180 Zac Goldsmith: I think this is the final question, and I am lucky enough to have it, but it would be useful to hear from you, as a sort of final statement really, what the British Government can do most usefully. What are the most effective things the British Government can do, addressing all the concerns that we have heard about today in addition to our financial support for various Interpol schemes? What would be your message to the British Government? Where are we lacking and where should we be more bullish? What should we do?

Grace Ge Gabriel: I think strengthening laws and regulations to control wildlife trade on the internet is one of the things, because it is so global now. The demand may be in China, but the buying could be here, could be happening in the UK. We are seeing some of the auctions happening in the EU are selling wildlife and the products are bought by consumers in Asia. Also, we would really like the UK to take a leadership role in opposing any ivory stockpile sale or the sale of any endangered species for which the demand is rising. It is very, very dangerous when this floodgate is opened. One other ask is to make those who commit wildlife crime pay. We really need to make wildlife criminals feel that their business is a high-risk, low-profit business. Currently, it is a high-profit, low-risk business.

Chair: On that point, Grace, I think you have brought a great deal of both clarity and compassion to the session we have had this afternoon. We must move on, but may I thank you and we look forward to receiving the further written evidence that you referred to. Thank you very much indeed.

Grace Ge Gabriel: Thank you very much.
Q181 Chair: Mr Crompton, thank you very much indeed. I think you have just sat in and listened to the earlier session, so we will perhaps carry on where we have just left off, if we may. To begin, thank you not only for the written evidence that you have submitted to us and for the work that you have done in your role as lead officer, but for coming back from retirement to give evidence today. What I hope is that it perhaps might make you a little bit more lucid in perhaps pointers for the future and lessons that can be learned.

Richard Crompton: Of course.

Chair: I think that the evidence that we are getting gives us the feel that we are at a bit of a critical time in terms of what the future direction of policy is going to be and, more importantly, what manner of resources are going to be committed and how those resources are going to be balanced between the various parts, if you like, of cross-cutting work between Defra and the Home Office. I think we would just welcome you to start us off in this second part of our inquiry, which will end at 3.50pm I have to say, by perhaps giving us a feel of how much Governments of the day, the previous Government and this Government, have committed the amount of resource that is needed to deal with all aspects of this, including the work with Interpol as well.

Richard Crompton: Okay, that is a huge question. I will try to do my best. I became the ACPO lead for wildlife crime about three years ago. Before that I had absolutely no connection with this world at all, so I am talking from my experience over the past three years.

In terms of Government support, and in terms of interest among members of the Government, both the current Government and the previous Government expressed very great interest. Bluntly, there is a huge amount of public interest in this area, so perhaps that is not surprising. But the subject of wildlife crime, the breadth of wildlife crime, is huge. We have just been hearing from your previous witness about perhaps the most serious end in terms of conservation and some of the most, I suppose, eye-catching examples of wildlife crime as well, but there is another end of the spectrum, which is the day-to-day work perhaps of force wildlife crime officers, which is frequently as much about welfare issues as it is do with conservation. I think different Governments and possibly different individuals in Governments have had more or less interest in those various aspects of wildlife crime.

In terms of practical support, however, both the previous Government and this Government through funding from the Home Office and from Defra have been supportive. For what is I have to say a very small amount of money in general terms—

Q182 Chair: Should it have been a bigger amount of money?

Richard Crompton: I don’t suppose you would find any chief or ex-chief who said, “No, don’t give me any more money”. Most certainly I could have done with twice the amount of money that was given to wildlife crime. But I have to say that for a relatively small amount of money both British policing and the Government and other partners got a fair amount of bang for their bucks because the money was spent on the National Wildlife Crime Unit, which has been instrumental, I think, over the past few years in really raising the profile of wildlife crime, the importance of wildlife crime, in British policing and co-ordinating work, much in the way that your previous witness was talking about internationally, across the forces of the UK and actually to a significant extent playing a co-ordinating role internationally as well; so, for a relatively small amount of money, it was quite a big return.

Q183 Chair: Has there been a change of emphasis since the Coalition Government came in, would you say, or not particularly?

Richard Crompton: I think possibly the answer is yes, if I can express it in these terms. The money has stayed the same, so we have no more or no less money. The level of interest has stayed roughly the same, but I think the most significant change certainly that I saw in the early days of the new Government was expressed in the Coalition Agreement. I was very taken aback and very pleased to see that wildlife crime was specifically mentioned within that agreement as a priority issue for the border element, as it was then expressed as, of the National Crime Agency that is currently in its inception. I think to have it registered at the national strategic level signalled a significant change in policy direction. I think it has to be said that my understanding of that particular level of interest relates understandably to the illegal trade in endangered species, as opposed to some of the other welfare aspects of wildlife crime that I have referred to.

Q184 Caroline Nokes: The Committee has received some quite interesting written evidence, and certainly as a constituency MP in a rural area I have also had reports from local farmers about wildlife crime that has been both unintentional, people disturbing ground-nesting raptors, disturbing spawning grounds for salmon, but also the intentional, where they are illegal hare-coursing and poaching. The written evidence to us has been that although police forces have been enthusiastic and good to respond, they have not necessarily had the right equipment or training to deal with specific aspects of wildlife crime. In your view, does the average police officer have the right equipment, and have they had enough training to address some of these issues?

Richard Crompton: Can we talk about training first of all, and then perhaps get on to equipment? No doubt we will talk further about legislation at some point today, but wildlife crime legislation is a labyrinth of fairly old legislation and very complex legislation, and the truthful answer to your question is the average cop out there has a rudimentary understanding of that at best, probably based upon a
half an hour or an hour’s lecture that was given many years ago in a classroom somewhere during their initial training. However, the fact that virtually every force in the country has wildlife crime officers who receive very significant levels of additional training helps to address that. So, for example, if a police officer was called to whatever, just a run-of-the-mill incident in a force area today, they would have at the other end of the phone, the other end of a radio, possibly on their way out to assist them, somebody who was trained and experienced to give them perhaps the extra advice that they would need. I can certainly envisage maybe your constituents being frustrated by that from time to time perhaps, because of the time it has taken to bring these people together or something of that nature, but I think it would be probably unrealistic—well, undoubtedly unrealistic—to expect every police officer in the country to have the sort of knowledge of wildlife crime procedure, legislation and so on that the specialists have, but that is a model that you see in many other aspects of policing as well, where specialists assist generalists with their additional knowledge. In terms of equipment, I am not quite sure what—

Caroline Nokes: The specific point made in terms of equipment was that if you are dealing with poachers, is the best solution to send a bunch of coppers in hi-vis jackets after them?

Richard Crompton: Right. We did suffer from hare-coursing in Lincolnshire, and what was frequently said to me was, “Why aren’t they all in 4x4s so they can chase people across muddy fields?” and what have you, and to a certain extent of course forces do have that equipment, but it is limited. In terms of hi-vis jackets for hare-coursers and what have you, without getting into the detail of how you would deal with that sort of incident, routinely what happens in a force where there is a problem with hare-coursing, which absolutely I understand is of huge concern to farmers and people in rural communities, is that there will be some sort of force-wide operation in place to get officers to the scene, but also to put officers on checkpoints around the county to try to identify, stop and arrest perpetrators of that crime as they move away from the often quite isolated areas where the crime is being committed. But it is the age-old problem of—and I will use Lincolnshire as an example, because it is a good example in relation to hare-coursing—a massive county with not enough officers to be spread liberally across that county, so they have to use them at strategic points to enable us to do anything about that sort of crime. I can understand why a farmer would perhaps expect to see people turn up in a van and a dozen people pour out five minutes after they have phoned. Sometimes that is just not possible, I am afraid.

Chair: Okay, we must move on. Simon Wright.

Q185 Simon Wright: Thank you. We heard evidence that certainly in some parts of the country, wildlife crime officers are increasingly taking on more general policing duties, rather than focusing on wildlife crime full-time. I wonder whether you believe that this is the most sensible use of specialised resource.

Richard Crompton: First of all, I wouldn’t agree that there is evidence to show that that is happening at what I would consider to be a disturbing level. Two or three years ago, I have to admit I did anticipate that we would see a reduction in the number of wildlife crime officers. I am glad to say that to date we have not seen that reduction. In some forces, we have seen some reductions, but in fact, in other forces, we have seen an increase in the number of specialist officers put to that purpose, and it has basically evened out across the country. What has happened, and I think this is a positive, good move, is that wildlife crime officers are increasingly being seen as wildlife/environmental crime officers, so perhaps they will be dealing with the Environment Agency in relation to fly-tipping, illegal dumping of waste and that sort of thing. They are the wildlife crime/rural crime officers more generally. To link it back to the question about hare-coursing, your average hare-courser will also be your average rural criminal as well; the two things are different sides of the same coin, so it does make operational sense for officers to look at it through that lens rather than just the wildlife crime lens.
**Richard Crompton:** It is a pretty broad question; I think in some areas, an astute candidate would probably be talking to their rural communities, finding out that things like hare-coursing and so on are a real local concern and having, I suppose, a pretty good idea about that in their campaign, and picking up on what I consider to be a real depth of public concern more generally about wildlife crime. However, on the other side, there is, I think, a risk that both Police and Crime Commissioners, and also Chief Constables in the years to come, have to make increasingly difficult decisions about how to resource and prioritise different things. Some tough decisions will have to be made, and there is a risk, undoubtedly, that the resources that are put to wildlife crime could be put at risk as a result.

**Chair:** Just in relation to wildlife crime.

**Richard Crompton:** Yes, absolutely. There are some potential advantages, but also a risk as well, depending on different factors, I suppose. I think in some areas, we were not in a position to prioritise and action that we were able to harvest huge amounts of additional evidence through operations to bring people to justice.

**Richard Crompton:** I absolutely agree, and I have to say that my initial thought a couple of years ago was, “Great. This is a way of creating a long-term sustainable unit by making it part of the new agency”. However, on reflection, while I think that would have better be specific in my answer. In relation to wildlife crime, I suppose both—

**Chair:** Moving on now.

**Q187 Simon Wright:** A quick question. I wonder whether you had any thoughts on the risks and opportunities posed by the introduction of elected Police and Crime Commissioners, and what in the run-up to November you would like to hear from candidates for those positions?

**Richard Crompton:** My particular view—I cannot say it is an ACPO view; I suspect there isn’t an ACPO view at the moment on this—is that I am fully in favour of it. I think that we are rapidly entering into an environment where we will have to be more creative about seeking funds from elsewhere. The bottom line for me, the thing that has to be in place if we are going to exploit that sort of external funding, comes with the governance. In other words, there will always be a suspicion that people will buy your resource to do what is number one of their priorities, as opposed to what it should be. So as long as the governance and the protocol is in place, then I think we should be moving into that sort of partnership.

**Paul Uppal:** Fine. You have answered the next bit. That is fine.

**Caroline Lucas:** You touched a moment ago about the introduction of the National Wildlife Crime Unit being a stand-alone unit.

**Richard Crompton:** Yes.

**Caroline Lucas:** I know ACPO’s position is that it should remain that way, but would there not be an argument that if wildlife crime were included within the remit of the proposed National Crime Agency, you might get more long-term resources on a more stable basis going forward?

**Richard Crompton:** I absolutely agree, and I have to say that my initial thought a couple of years ago was, “Great. This is a way of creating a long-term sustainable unit by making it part of the new agency”. However, on reflection, while I think that would
potentially have a very positive impact in terms of the high-end conservation, serious and organised crime aspects of this area, I am afraid the attention given by the National Crime Agency to the plight of bats or freshwater pearl mussels inevitably would be quite low, and I would understand it. So my concern would be if you put the unit wholly into the National Crime Agency, it would lose its ability to look at the whole rich breadth of wildlife crime. If that happened, we would very, very quickly lose the support of many of the partners that are instrumental in our work at the moment, and I think we would also lose the support of Defra as well, who are of course very focused upon some of those other areas. So my own view at the moment, and the official view at the moment, is that we would see a future with the unit remaining separate. However, there would have to be developed—and I am sure this can happen pretty easily—some very clear tasking and co-ordinating linkages into the National Crime Agency, who would of course then be a very, very significant additional enforcement resource, well over and above that which we can call upon at the moment.

Q192 Caroline Lucas: Thank you. It seems to be my role is to be playing devil’s advocate a little bit. Just to press you a bit further on that, we have heard that organised international criminal gangs are profiting from wildlife crime.

Richard Crompton: Yes.

Q193 Caroline Lucas: Is it most effective to investigate such wildlife crime in isolation rather than considering it as part of serious and organised crime, and if it were part of the wider Crime Agency, would that not enable you to do that?

Richard Crompton: Again, I do agree with you. I think that frequently, whether it is today or next year’s world, it can be possible—or it is possible, rather—to get into the ribs of serious and organised criminals by addressing their wildlife crime criminality, as opposed to perhaps some other aspects that are more difficult, on the face of it, to address. So I think there is a tactic that is used and should be used in the future to address serious criminality through that avenue, and I think that is possible, but I would still have the same concerns that I have already expressed about putting the unit into the NCA in its entirety.

Caroline Lucas: That answer answers my next question as well.

Q194 Dr Whitehead: When we reported last time in 2004 on wildlife crime, we put a recommendation forward that what is now the National Wildlife Crime Unit should maintain a central, national database, which would record all the incidents of wildlife crime. At the time that was a pretty practical and uncontroversial recommendation, but it has not been implemented. Why is that so, in your view?

Richard Crompton: Yes. I can understand that, and on that level of course it sounds perfectly straightforward, but it takes us into the world of what are and are not recordable offences. At the moment, the national crime recording arrangements do not make the majority of wildlife crimes recordable offences. Now, if we could just pause on that for a moment, it is a matter for Government, basically through the Home Office, to say what is and what is not a recordable offence, and of course the Home Office officials work with policing to agree those things.

When the NWCU came into existence in 2006, shortly after that—sorry about the acronyms—the National Standard for Incident Recording, NSIR, was introduced, and that is the standard that we have used since in the Wildlife Crime Unit to populate the database, basically. That has taken us much further forward than we were a few years ago, so we do have a national database. It does contain a huge amount of data now in relation to incidents relating to wildlife crime, but it would be incorrect for me to say that it was a totally accurate reflection of wildlife crime across the country for a number of reasons. First, an incident is not necessarily a crime; second, it really is a constant battle in the unit to ensure the accurate submission of regular data from all forces. They are not obliged to do it; they sometimes have to have their arms twisted to do it, to be frank. There are always one or two forces at any one time who are not submitting that data.

So although we have come far further forward in this, it is not reflecting perhaps the vision that you had in 2004. There is a dilemma at the heart of that, because of course the Government could say, “Every wildlife crime is going to be recordable. We will have this ability therefore to press a button and find out exactly how many wildlife crime offences are reported, exactly how many in relation to bats, to raptors, to badgers and so on”. The ACPO position, and I have to say also the Home Office position, is that we should not do that, and the dilemma relates to the additional bureaucracy that that will bring to the piece. For every additional crime that is made recordable, there is an additional level of bureaucracy that goes with it, and strategically across the wider environment, there has been an effort to reduce the number of recordable categories of crime as opposed to increase it. I think that has played into the whole history of that particular recommendation, but we are further forward today than we were then.

Q195 Dr Whitehead: Does that mean in terms of, shall we say, the interrogatability of any database that although crimes are recorded on a much better basis than was previously the case, nevertheless they may shunt into other areas in a way that is not retrievable?

Richard Crompton: Yes. To be specific, the proportion of wildlife crime offences that merit a Home Office code that can be searched against largely relate to the CITES offences, the illegal trade in endangered species offences, but they are given the sort of general code. The words have escaped me, I am afraid, but there is a general code for everything else basically, and it fits into that. So even there, we don’t have a specific code for CITES-related offences. I know the Metropolitan Police—and I suspect you will hear evidence from them at some time—have argued that there should be a specific code for CITES-related offences in order that we can be exact about the level of offending in that nature, and I think that
is probably very wise. The alternative argument that I understand from the Home Office is, “Well, the figures are very, very small, so they would not be statistically helpful anyway.”

**Dr Whitehead:** Presumably that itself would not be a great increase in bureaucracy, whatever one may think about it.

**Richard Crompton:** Well, we are dealing with a relatively few number of offences in that so, no, it would not be huge.

**Chair:** Okay, we have three further questions that we want to get in before the votes, from Martin Caton and then from Neil Carmichael.

**Q196 Martin Caton:** In response to Caroline Nokes’ question, you described current wildlife crime legislation as “elaborate”. We know the Law Commission is currently undertaking a review of wildlife law and is supposed to report in February next year. Do you think the various pieces of legislation on wildlife crime should be consolidated into a single Act?

**Richard Crompton:** Yes, I do. Very briefly, the reason for that is expressed in your question, really, and we have talked about the difficulties that the average police officer will face in making sense of this. Things have been amended and amended and amended again over the years, and replaced and replaced again by different sorts of regulation. I think it is timely now and we will work with the Law Commission to recodify that, and I think that will work to everybody’s advantage.

**Q197 Martin Caton:** Thank you very much. Your ACPO written evidence mentioned the introduction of the concept of vicarious liability for offences involving raptor persecution in Scotland and suggested it might be useful to be applied in England and Wales. Would this concept help to overcome the difficulty of securing evidence of raptor persecution?

**Richard Crompton:** I think the evidence says that we should monitor it and look at it with great interest, because it may be something that will be helpful in England to address the raptor persecution problem. I have spoken to both police officers and to the judiciary in Scotland, and they will all say at the moment, anecdotally, there seems to be a very positive impact of that new aspect of legislation, but they would also say that it is too early to say whether there is going to be a real impact. My gut feeling as a consequence of those discussions is that it would be helpful to raise the degree of responsibility to the most appropriate level among those who are involved in the persecution of raptors.

**Q198 Martin Caton:** We took evidence from a representative of the gamekeepers, and he has certainly been concerned that law-abiding gamekeepers might suffer from this.

**Richard Crompton:** Yes, and again, I have worked and others now work with the Gamekeepers Association on this, and I know there are different views. I would say that any gamekeeper who is not in the business of illegally persecuting raptors would have absolutely nothing to fear from that particular piece of legislation.

**Martin Caton:** Thank you very much.

**Q199 Neil Carmichael:** Hello there, I was wondering if Natural England, the Environment Agency and the Border Agency were using their civil enforcement powers in a sufficient and robust way and what your thoughts were.

**Richard Crompton:** First of all, to be fair and even-handed, I know that Natural England have fairly recently launched some prosecutions using their powers in that respect, but I think the answer—and from your question, I suspect you know it already—is that there has not been a huge take-up of those new powers. I suspect almost certainly that comes down not to a lack of will, but to a lack of resources and perhaps different priorities, and an expectation that if it is enforcement, then it should more often than not be done by policing anyway. So I don’t think there has been a huge take-up. I would love to see a situation where there was a greater take-up of those powers. I have to say, I do understand the difficulties that those agencies face.

**Q200 Neil Carmichael:** Just on that, is there a sort of clear line of differentiation between the role of the police and those three agencies?

**Richard Crompton:** Well, yes, in the sense that I think with all three we have protocols in place in terms of the way we work with them.

**Q201 Neil Carmichael:** This next question is not a plea for equality, but a plea for less crime. But it has been brought to our attention that most, if not all, of the people who are committing wildlife crime here at least are men. Is that something that you have found? Is that evidence correct?

**Richard Crompton:** I think bearing it in mind that we have noted that the intelligence picture and the real picture about wildlife crime is still incomplete, it is virtually without exception that wildlife crime offenders that I am aware of are, I am afraid, all men. There may be exceptions, and there may be cases where they are in groups, but the overwhelming majority are men. Indeed, from your question, I suspect you know it already—is that there has not been a huge take-up of those new powers in that respect, but I think the answer—and from your question, I suspect you know it already—is that there has not been a huge take-up of those new powers. I suspect almost certainly that comes down not to a lack of will, but to a lack of resources and perhaps different priorities, and an expectation that if it is enforcement, then it should more often than not be done by policing anyway. So I don’t think there has been a huge take-up. I would love to see a situation where there was a greater take-up of those powers. I have to say, I do understand the difficulties that those agencies face.

**Q202 Neil Carmichael:** So do the Partnership for Action Against Wildlife Crime outreach programmes take that point into consideration when they are reflecting on selecting a target audience? Do they take that fact, that basically it is men, into account?

**Richard Crompton:** Yes, in the sense that the partnership has a very significant educational arm to what it does, and of course we will target the most appropriate groups, whether they are people who are potentially offending or going to be offenders, or whether they are groups of people who might have some sort of influence over those offenders or potential offenders. So it is not quite so straightforward as saying, “Well, it just has to be targeted against men”.

**Q203 Neil Carmichael:** Okay. Last but not least, since we have two minutes to go, is there anything that you would have done differently?

**Richard Crompton:** Taken a different portfolio. Crumbs—done differently? It has been a massive...
privilege to have had this portfolio, and I really have enjoyed the work. I would have loved to have raised the profile even more, but my objectives when I took it on was to keep the current level of enforcing at the unit and in each of the forces, and that has been achieved. I think just to extend that question very slightly and quickly, for the future, I would hope that my successor, Stuart Hyde, chief in Cumbria, would be able firstly to keep the resources, and secondly, be more proactive and aggressive really in terms of using the intelligence that we do get, because there is a huge amount of intelligence that is received that is not actioned, some work has to be done on that. Again picking up on a previous question, I think there are emerging strategies to get additional funding and additional resource through developing partnerships with others who perhaps have not been part of the funding stream in the past.

Neil Carmichael: Thank you.

Chair: I think we are bang on time; there we must end it.

Richard Crompton: Thank you very much.

Chair: Thank you very much indeed, Mr Crompton. This is an important inquiry to us, and we very much hope that the expertise that you have brought to the table today can still be used for this work in the future, so thank you very much indeed.

Richard Crompton: Thank you very much indeed.
Wednesday 16 May 2012

Members present:

Martin Caton (Chair)

Peter Aldous

Neil Carmichael

Zac Goldsmith

Mark Lazarowicz

Sheryll Murray

Caroline Nokes

Mr Mark Spencer

Paul Uppal

Simon Wright

Examination of Witnesses


Q204 Chair: Good afternoon. Welcome to this session of the Environmental Audit Committee. I apologise that we failed to hold our meeting last week where you were to give evidence, and our special appreciation that you managed to turn up to this afternoon session. Can I start by asking a general question about Environment Agency strategy? The agency has a wide range of responsibilities in relation to rivers, flooding and pollution. Where does wildlife crime fit in the Environment Agency’s order of priorities, and what proportion of resources do you dedicate to dealing with wildlife crime?

Ed Mitchell: To put some kind of context around this, our annual spend, for instance, is around £1 billion. Of that, £500 million is spent on environment, as opposed to flood risk and flood risk management. Two-thirds of that, £350 million roughly, in round terms, comes from fees and charges from industry that we regulate. Then the amount we spend on fisheries, which we get through licence fees but also from grant-in-aid from the Government, is £31 million, and then fisheries enforcement, which is the bit that I think falls within your area of interest, is £5.5 million. In one sense, it is a small amount of money. However, it relates to a lot of our other work in and around rivers and in the water environment. To my mind, the money aspect is not a good indicator of its importance in our organisation and its strategy. It is more important. It punches above its weight, if I can put it like that.

Q205 Chair: Have you specific priorities in that wildlife work? Do they change over time and do you co-operate with other agencies to establish those priorities?

Ed Mitchell: Yes. The starting point for everything we do is the legislation or the statutory duties we are given. Those are then further interpreted in Government guidance. That is the framework we operate within. That leads us to have three or four priorities in this area, the first one is protecting and enhancing salmon and sea trout populations. The second one is the social and economic benefits of angling; making sure that the fisheries resource is there for fishermen and women to exploit within sustainable limits and the contribution that then makes to the economy, particularly in rural areas and less well-off areas. The third one is protection of coarse fishery stocks.

Q206 Sheryll Murray: Since the Committee last considered wildlife crime in 2004, we have seen new byelaws introduced covering the illegal landing of salmon and sea trout in particular. Do those byelaws provide the Environment Agency with the legislative tools they need to prosecute those who land fish illegally?

Ed Mitchell: I believe so. Byelaws are great, in that they allow a degree of flexibility that a statutory instrument might not, in terms of open and closed periods or responding to the specific circumstances around a particular river or fishery or fish stock. Perhaps this is the way with all legislative instruments. If you are not careful you end up creating more, and not taking a step back and looking at whether you have taken away the ones that are no longer needed, and we have recognised that. If you look at the full suite of byelaws that we have, they can be a little bit complicated. We are going through an exercise at the moment of looking very carefully at rationalising and simplifying them. But, yes, byelaws are really valuable and important because they give local flexibility.

Q207 Sheryll Murray: How have you measured the impact since the introduction, and do you have any data you could share with us?

Ed Mitchell: I can tell you that the general trend, over the 10 years or eight years since the Committee last looked at this area, is that we have had a steady increase in overall fisheries prosecutions. I will ask Adrian, in a minute, to remind me of the exact figures. We have had an even steeper increase in reports of illegal fisheries, a relatively small proportion of which we are able to substantiate. It is quite difficult to interpret crime statistics in all cases. I think it shows a number of things: one, we are catching more people; two, potentially there is more wildlife crime going on in this area; three, that awareness is significantly higher. That is not just about the byelaws, but our byelaws are part of that. It is quite difficult to unpick the different parts of that equation.

Q208 Sheryll Murray: In its oral evidence to us, the Angling Trust suggested that the penalties for illegal fishing have not kept pace with recent increases in the value of the fish. Using carp as an example, what is your view about that? Are the penalties sufficient, do you think?
**Ed Mitchell:** There was a very big step change in the penalties that are allowed in the legislation with the introduction of the Marine and Coastal Access Act in 2009. Prior to that, many of the fisheries offences attracted fines in the low thousands—I think up to £5,000 in most cases—and that has been increased to £50,000. So we are not yet seeing those higher fine limits feed through into our statistics about higher fines being levied.

**Q209 Sheryll Murray:** That is a maximum of £50,000?

**Ed Mitchell:** Yes.

**Q210 Sheryll Murray:** That brings it in conjunction with sea angling and the illegal landing of sea-caught fish?

**Ed Mitchell:** That is right, yes. The actual fine levied depends on the courts and the sentencing guidelines that they are given, and of course that has to fit from the scale of murder through to a parking offence. That aspect is covered by Government policy. Our average fine at the minute is in the low hundreds but, as you rightly say, many fish are worth much more than that. We try and maximise the deterrent effect of fines. I don’t think that people make entirely commercial decisions about, “I’ll have a fish worth 600 quid for a fine of £300”. They worry about criminal record, reputation and so on, and we are able to spread that effect by publicising, for instance, the prosecutions that we achieve.

**Q211 Sheryll Murray:** Could I just have one more question, Chairman? Are the new IFCAs that we saw introduced going to help you because you will be looking at inshore waters as well as the rivers and waterways? Will that assist you in any way, perhaps in working closer with the MMO on enforcement?

**Ed Mitchell:** I will defer to Adrian in a minute, because he knows more about this than I do. Before IFCAs we had those responsibilities alone. So it is beneficial, in terms of the partnership working. Whether we have any data or evidence about the impact of the IFCAs that are relatively new, I am not sure.

**Adrian Taylor:** No, we don’t. The main point is we are working collaboratively and potentially cross-warranting with the IFCAs.

**Q212 Caroline Nokes:** I am sticking with illegal fishing, and perhaps because the River Test—sorry, small advert—the finest trout river in the country, runs from you. It is worth adding that it was partly in the late 1970s. Adrian, I don’t know if you can help on that one.

**Adrian Taylor:** You are talking about the burbot, because that is extinct. But I think what you are referring to are species like salmon and eel. The impact of illegal fishing, for those two species, is something that is perhaps important locally, but we don’t think there is illegal fishing going on at a scale that threatens them as a species. As Ed has said, there are much bigger impacts, such as habitat, fish passage and those sorts of things.

**Ed Mitchell:** The very important one I have not mentioned—sorry—is invasive non-native species, which are a big pressure.

**Q214 Caroline Nokes:** Yes. I think that is coming up later on. A final question from me. We had evidence from the Angling Trust that there were some particular problems in some locations with immigrants from Eastern Europe who are ignoring byelaws and are not purchasing rod licences. Are you aware of this as a specific problem and, if so, where is it a particular concern?

**Ed Mitchell:** We have experienced a significant increase in complaint reports of illegal fishing by, particularly, Eastern Europeans. It is often quite difficult to substantiate these things, because by the time you get somebody there the person may have moved on or whatever. So the number of reports that we have been able to substantiate, as with most of our reported illegal fishing instances, are in the order of 20% of the total reported. There may well be an issue around understanding of the legal position among visitors, immigrants, whatever, because the rules are very, very different in other parts of Europe. We don’t differentiate our approach to enforcement depending on nationality, but we do have a number of partnership projects—including with the Angling Trust—to raise understanding and awareness. As I recall, they now have somebody employed, for instance, who is a Polish speaker. We produce multi-language leaflets and posters. We are trying to educate and they are part of our targeted activity around illegal fishing as well. In terms of where in particular it is an issue, I know from previous experience that some parts of London are affected, but Adrian may be able to answer that.

**Adrian Taylor:** Parts of East Anglia, in particular, are a problem. It is worth adding that it was partly in...
response to the increase in the taking of coarse fish—partly by foreign neighbours—that we brought in new coarse fish removal byelaws a couple of years ago, because in fact, while it was perceived to be illegal that they were taking the fish, it was purely a matter of theft and not a fisheries offence. It is now a fisheries offence.

Q215 Sheryll Murray: Could you tell me how you assess the state of the stocks and the knock-on effect that it has on issuing licences? I know there are areas, particularly in the south-west, where licences have been put on hold or revoked for a period of time while the stocks recover. Fishermen are saying now that the stocks have recovered, but I just wondered how you do it.

Ed Mitchell: That is presumably netting rather than angling?

Sheryll Murray: Yes, netting salmon.

Ed Mitchell: Yes. There is automaticity about a rod licence. You just get one if you ask for it and pay the money. We try to make that as simple and easy for the customer as possible. We assess different sorts of fish stocks. For instance, one of our corporate scorecard targets, which is the deal we have between us and our sponsoring department, is around salmon and sea trout rivers at risk, and there remain a number of salmon and sea trout rivers at risk in this country. Adrian mentioned eels. There is a European-wide—if not global—issue around eel stocks that nobody quite knows the cause of, but we are seeing massively reduced numbers of eels in the main areas they come to in England and Wales.

Where it is netting rather than angling, it is not quite a quota system but we are able to adjust the number of nets we license according to the state of that stock. Some of you may be aware that we have just gone out to consultation on the net limitation order for the north-east of the country, which I think runs right from the Scottish border down to the Humber. We go through a regular process of assessing the stock and making a judgment about how many nets we can license under what conditions, in order to enable the commercial and economic activities to continue while returning the stock to a sustainable level.

Q216 Sheryll Murray: Presumably you are looking at things like maximum sustainable yield and spawning stock biomass, and that sort of thing, when you are looking at the stock?

Ed Mitchell: It is quite complicated, yes. Because these are migratory fish, we look at where they are coming back from, whether they are a mixed fishery or a single-source fishery and so on.

Adrian Taylor: There will be a number of fish required in each river to maintain spawning stock—this is for salmon—and we would monitor that through, say, electric fishing surveys of juveniles, through the catch returns, from the nets and from the anglers, and also through fish counters.

Ed Mitchell: Yes. It is important that there are fish at each stage in the lifecycle and in each year group, not just loads of old ones or loads of young ones, for instance.

Sheryll Murray: Maximum sustainable yield. Thank you very much.

Q217 Mr Spencer: You mentioned the Angling Trust. They are telling us that they now regularly report poaching incidents, but they seem to get passed between yourself and the police, backwards and forwards, and no one seems to want to take responsibility. Can you clarify what your responsibilities are on the riverbank and how you go about enforcing that?

Ed Mitchell: Adrian has already referred to this in the byelaws discussion. There are fisheries offences and there are theft offences. We regulate fisheries offences. The police regulate theft offences under the Theft Act. Historically, if you take coarse fishing, most illegal fishing was about taking fish without the owner’s consent, which is a theft offence and, therefore, prosecutable by the police. On the salmon and sea trout side, many more issues were covered by fisheries offences.

What we have chosen to do—in a potentially slightly risky move for the Environment Agency—is to step into that area to make it clearer for people by ensuring that the byelaws for coarse fisheries make it clear that it is a fisheries offence if you take a fish without the owner’s permission. We can now prosecute on, for instance, still waters for taking coarse fish without the owner’s permission in what would previously have only been within the remit of the police. That appears to be working. We are not getting a huge number, but it appears to have provided much greater clarity to anglers about what they can and cannot do.

Q218 Mr Spencer: The other criticism by the Angling Trust is that you have this network of bailiffs out there, but you have diluted their role by not only getting them to consider fishing but also looking at fly-tipping and other sorts of antisocial behaviour on riverbanks. Do you feel that you have diluted their responsibilities and also lowered the specification of that role of a bailiff?

Ed Mitchell: We have provided a lot of information to the Angling Trust on this. We have something called the England and Wales Fisheries Forum on which they and other interested parties sit, and we have discussed this several times with them. The approach we take to all of our crime work is intelligence-led. There is this permanent balance between visible crime prevention/detection and targeting it and making the best use of the resources.

In all of our crime-related work we are becoming much better at using what are—in the police and other places—standard intelligence-led enforcement approaches.

The money that we spend on enforcement is £5.5 million. That pays for—I think it is—130 bailiffs. We have to direct those as best we can to achieve the outcomes we are after, and it is a very difficult balance between visibility and effectiveness. Just to give you some sort of metrics, I think there are 30,000 still-waters fisheries in England and Wales and 65,000 kilometres of river. So even if we had 10 times as many bailiffs they would only visit once a week for an hour or something. You can never cover everything
all of the time, which is why I think the intelligence-led targeted approach actually delivers a better outcome. But I understand there is concern around that, and visibility is an issue.

Q219 Mr Spencer: Yes, quite. You obviously have your 130 bailiffs, but there are 3 million rod licences out there, I suppose, and most of those anglers are pretty responsible and very keen to support your aims. 


Q220 Mr Spencer: What are you doing to work with those 3 million extra pairs of eyes to help that?

Ed Mitchell: We have 1.5 million rod licences. You are absolutely right; in all sorts of ways I regard the angling community as great friends of the environment. They are our eyes and ears out there looking after the water environment in a really, really helpful way. They do a lot of sampling and assessment for us that is incredibly valuable, through something called the Riverfly Partnership. We have a specific pilot going on around voluntary bailiffs with the Angling Trust, where we are seeing whether we can make better use of anglers in an enforcement sense, in terms of preventing illegal fishing. Adrian, maybe you can add something on where that pilot is and what the next steps are?

Adrian Taylor: That pilot is taking place is the south-east. They are looking at it in three phases. The initial phase is about providing us with intelligence and information about illegal fishing and people fishing without licences. If that works, we might move to another stage where they are more actively engaged in enforcement and possibly, as a third stage, even warranted to do fisheries enforcement. That is what we are looking at. One other factor worth bearing in mind is that, over the past four or five years, we have seen a significant increase in the number of reports of illegal fishing. Part of that is reflected in anglers acting better as eyes and ears for us on illegal fishing.

Ed Mitchell: Our fisheries bailiffs are constables. They have powers of arrest. They have quite strong powers. So a relatively steady and thoughtful approach needs to be used in terms of allowing other people access to those powers. There is quite a high training requirement that goes with them.

Q221 Mr Spencer: I suppose you would recognise that communication is quite key; if you make a report as an angler you need to see that action is taken.

Ed Mitchell: Yes. We do routinely try and respond. The problem is that a lot of reports that come in are about an individual or some activity and by the time one of our people gets there they are long gone. But we very much recognise that we need to tell people what we have done and explain how we followed it up and so on, because we want more, not less, of these reports coming in.

Adrian Taylor: It is the nature of fisheries offences that they are transient and if we can’t be there to catch somebody, we still use that information for intelligence to focus our efforts.

Q222 Mr Spencer: Chair, with your permission, I will move on to invasive non-native species. The Centre for Agricultural Biosciences International estimates that the direct cost of invasive non-native species is costing the economy about £1.3 billion. I am talking about things like Himalayan balsam, Japanese knotweed, and, to pick on one, I am told that floating pennywort costs us £25 million year. How much does the agency spend on combating these invasive species?

Ed Mitchell: I am afraid to say, I am not sure that I have a figure on how much we spend specifically on tackling invasive non-natives. We do a lot on it. The ones that we are particularly involved in are, for instance, dikerogammarus villosus—the killer shrimp, of recent press coverage—signal crayfish and a number of others. Invasive species are very difficult. We have some non-native species that are now a fully integrated part of river ecosystems in this country. I think zander is one that was introduced some time ago and now are regarded as a native, even though they are not.

Part of the problem is that if an ecosystem has a sufficient amount of time to assimilate and absorb a newcomer then you get a better outcome. It is the very aggressive, very fast-moving invaders that are really the problem for us. They can completely change the ecology of a river. They can completely out-predate the native species, and they can really upset the ecology. Our approach is a mix of preventing—we license fish movement, specifically to avoid the introduction of non-native or invasives and the diseases that go with them—and we try and eradicate where it is possible. That is often only possible in a still water fishery, where you can effectively poison it, because often you are killing everything in there, along with the targets. So it is the nuclear option, and almost impossible to do in a moving river.

We also try and slow down the spread. With something like the killer shrimp, there is no way I have yet come across where you could eradicate these things—which, although their name suggests they are massive, are only about two centimetres long—from the whole of Grafham Water, which appears to be the first sighting in this country. It is a major drinking water supply. You just can’t kill them off, therefore what we are focused on is restricting their movement enormously both out of the reservoir and, for instance, through sailing craft and anglers and all the rest of it.

I have to say that people are incredibly co-operative, and in terms of trying to contain or eradicate non-native species relates only to fish. We do a lot of work in terms of the native species, and they can really upset the ecology. Our approach is a mix of preventing—we license fish movement, specifically to avoid the introduction of non-native or invasives and the diseases that go with them—and we try and eradicate where it is possible. That is often only possible in a still water fishery, where you can effectively poison it, because often you are killing everything in there, along with the targets. So it is the nuclear option, and almost impossible to do in a moving river.

Q223 Mr Spencer: Just to go back to killer shrimp, which sounds like a Channel 4 late night movie, how alarmed should we be about killer shrimps?

Ed Mitchell: It is now endemic across large parts of Europe. We are just the front of that spread across the whole of Europe.
Europe. Basically, it out-competes native shrimp and native shrimp are an important part of some ecosystems. When it was first found—in fact, I think, by an angler—in Grafham Water, we put in place significant monitoring across the whole of England and Wales to see whether it had spread more widely, but we subsequently found it in a couple of other places only.

The experience, for instance, from the Netherlands is that it can move up to something like 1.5 kilometres a year in terms of range, so it wouldn’t take it all that long to get right across the country. The impact is difficult to judge, but it is sufficient that we are worried about it. The only good news might be that I think we are approaching the environmental limit of its range, so it may not spread here as fast. We were very worried that we would see it spreading very quickly when we first found it. So far that has not proved to be the case, partly because of the measures we and others put in place, but I suspect partly because it might be at its ecological limit.

Q224 Mr Spencer: Can you give us an example of a successful campaign where there has been an influx of an invasive species and you have managed to control it and eradicate it? What tools do you have?

Ed Mitchell: To talk about top-mouth gudgeon is one of the best, and I think I am right in saying that most of the eradication we have achieved so far have been in still waters.

Adrian Taylor: They have all been in still waters.

Ed Mitchell: Yes. So if it is in a lake and the lake is not the size of Grafham Water you have a chance of eradication. Once it is in a river it is much more difficult. We have an interesting project going on in the River Lark in East Anglia, near Bury St Edmunds, around signal crayfish. One of the things I try and instil in everybody in the Environment Agency is not to give up hope and accept that this is just an inevitability. What is interesting on that particular project is that we and a local angling group and others, have had more success than we expected in restricting the spread of signal crayfish in that particular river. What we are doing is trying to learn from that and see whether there are new tools and techniques that we might use elsewhere. It is a hard grind and it is very, very expensive.

Q225 Mr Spencer: You are saying we shouldn’t give up but at the same time you are saying, "Look, if it’s in an open river then we have no tools available to control this". Therefore, prevention is absolutely vital. What powers are there to prevent this from happening?

Ed Mitchell: This is where the fish licensing legislation comes into play. Anybody who wants to introduce, or stock or move fish needs permission from us, and on occasion that can seem heavy-handed to some people. But the risks are quite high if you mess it up and you get either a disease or an invasive species. So we have done our bit along the principles of better regulation, for instance, to allow a certain degree of earned autonomy, so those that regularly stock from known hatcheries can perhaps have a licence for a year for all their stockings rather than on an individual basis. None the less, we retain that level of control and we prosecute against it fairly regularly. We license something in the region of 8,000 fisheries a year—

Adrian Taylor: It is about that.

Ed Mitchell: And we have in the small hundreds of prosecutions. Is that right? I may be overstating that.

Adrian Taylor: I don’t have a figure to hand.

Mr Spencer: Are the prosecutions against private landowners?

Ed Mitchell: No. For each individual transfer, the person wanting to make the transfer—whatever that is, collecting the fish from somewhere and putting it somewhere else, or moving it from the hatchery into the river—needs a licence. Hopefully, what we are going to move to shortly is a situation where the hatchery is licensed, as well as the individual movements, and the receiving fish lake is licensed. So you get much tighter control over exactly where the fish are going, and I think that will be beneficial.

Q226 Mr Spencer: Finally, just so I understand it in my own mind, if you are the riparian owner and you have Himalayan balsam or Japanese knotweed or one of these invasive plants, are you then going to prosecute the landowner or the person that deposited that plant there?

Ed Mitchell: As Adrian says, our enforcement responsibilities only extend to fish. So we are doing a lot of work on invasives that is about our more general work in the water environment but is not a legal duty issue. You might want to ask Natural England about that aspect of it for land-based invasive species. Adrian Taylor: I could answer the question if you were asking it about fish—for instance, sturgeon in the water. For preference, we would work with the owner of the water to remove those fish and prosecute as a second—

Q227 Mr Spencer: We have almost gone full circle. My first question was about when you get a report and you pass it from pillar to post between the police and Environment Agency. It feels like we are now doing exactly the same over invasive species, where we are sympathetic that we can do it with fish, but we can’t do it with other species.

Ed Mitchell: I would respond that we have clearly differentiated legal responsibilities, from, for instance, Natural England, around land-based invasive species. I am very willing to be told otherwise, but I don’t think in that particular instance there is much confusion among the riparian owner about where their responsibility lies and what their responsibilities are.

Q228 Mark Lazarowicz: How far is the problem or invasive species, as far as fish is concerned, resulting from illegal importation ultimately or how far is it a natural phenomenon?

Ed Mitchell: It is very difficult to put figures on that. For instance, if we go back to what I should call the invasive shrimp, rather than a killer one—that gives a slightly more balanced picture—we still don’t know exactly how it was introduced to Grafham Water. The leading theory is—as it attaches itself to smooth objects—that it was probably on the hull of a sailboat.
There are a lot of international regattas; people coming over from Holland to sail and so on. That is probably how it arrived.

Q229 Mark Lazarowicz: Yes. So we can’t really say that is a wildlife crime issue, can we? I mean it is obviously here of its own accord.

Ed Mitchell: There are elements that are criminal if you deliberately introduce top mouth gudgeon or something, but something like that, no.

Q230 Mark Lazarowicz: But a lot of problems will just be species arriving of their own accord or assisted in some way, but not deliberately introduced.

Ed Mitchell: Yes, like pests, absolutely. Climate change will have an impact on that, as it will on all sorts of other pests and invasive species.

Q231 Mark Lazarowicz: Is that more likely to be the problem rather than illegal importation?

Ed Mitchell: I am not able to tell you the relative percentages, I am afraid.

Q232 Zac Goldsmith: How big a problem are the garden centres and the pond centres, not so much in terms of breaking the law but in the sense that they bring species in legally that then turn out to be very serious problems?

Ed Mitchell: I will defer to Adrian on that one.

Adrian Taylor: You are absolutely right. There are many species of fish, for example, that can be brought in legally and kept and sold through garden centres, often under licence. These are not licensed by the Environment Agency, but the Fish Health Inspectorate licenses the keeping of non-natives in aquarium retail centres and also the import of fish. There is no doubt that some of these species, such as sturgeon, then do find their way into fisheries and into the wild, often because they get too big for the aquariums that they are sold for. That is a problem.

Q233 Zac Goldsmith: That would constitute a crime rather than an accident?

Adrian Taylor: The release of the fish into the wild is where the crime occurs, yes.

Q234 Zac Goldsmith: You mentioned the better regulation process, simplification of the regulatory system, which is a big part of this Government. In relation to regulations around imports of species into pond centres and garden centres, is there a risk that we are going to be opening ourselves up to an increase in these problems going forward?

Ed Mitchell: You are absolutely right; this Government has put a particular emphasis on better regulation. Successive Governments have had a focus on this; it has perhaps taken a higher profile under the current Government, but it has been a fairly long process. The key to it is that it is about risk-based regulation. It is not deregulation. It is about risk-based regulation, and it is about finding the bits of regulation where the burden is disproportionate to the risk posed. That applies right across the board. I am not aware of any specific current moves around invasive non-native species that are in any way deregulatory. We are coming to the water theme of the red tape challenge, which has a crowd-source element where people can suggest bits of legislation they find burdensome. That has started only fairly recently. It is one to keep an eye on, in terms of what demand there is out there and what response there is in terms of the burden of fish-related legislation. But from what I have seen so far I have not seen anything that concerns me.

Q235 Zac Goldsmith: Clearly a lot of these species are getting through the regulatory net that we have in place at the moment, so literally better regulation is needed. I do not know how far you can speak on this issue, given the positions that you have, but does it not make sense, logically, that the holes in the net should be plugged before we see any scale-back in the Government’s general regulatory approach?

Ed Mitchell: To my mind regulation is a balancing act, and it is always a finely balanced balancing act. For every bit of the net that you plug you potentially put somebody out of business, you affect jobs, you affect the economy. So there is a real and very difficult case by case balancing act that has to go on, and I think the guiding principles of making it proportionate to the risk is the only way you can approach it. You could envisage some daft ideas, but I hope they would never get through because people would take a serious look at the implications.

Q236 Zac Goldsmith: In short, do you think that the regulatory system, as it currently stands, and the protection that it provides at the moment, is enough to prevent an escalation of the problems that we are discussing here?

Ed Mitchell: There is one bit of legislation—

Zac Goldsmith: I just have to say that every expert I have spoken to, without exception, who has anything to do with river ecology, ponds and all the rest of it, has told me the exact opposite.

Adrian Taylor: Are you talking there specifically about non-native fish?

Zac Goldsmith: Invasive species, not just fish but also plants in the water ecosystem.

Adrian Taylor: Okay.

Ed Mitchell: Within our remit there is one bit of legislation that we would very much like to see pushed through to completion, which is this bit about enhancing fish movements legislation. It is on the cards but has not quite been landed yet—if that is not an inappropriate phrase. As we have already discussed, there are many other people involved in invasive non-native species. I honestly do not know what the position is with regard, for instance, to Himalayan balsam and things like that. Adrian, are you able to offer anything else on that?

Adrian Taylor: As far as fish are concerned, non-native fish can only be kept in still waters. We don’t allow them in rivers anyway. We wouldn’t allow them to be stocked. They can only be kept under licence in still waters. So I think there is strong regulation there. One of the improvements that we are looking for, through the new live fish regulations, is to be clear about whose responsibility stocking and release of fish is; who is culpable for that if an offence is committed, because it is often not clear at the moment.
Chair: I am afraid we are running out of time. Sheryll Murray is going to come in with one short question. I would be very grateful for a brief response.

Q237 Sheryll Murray: We talked about fish getting into the natural environment. What about the boatyards that are popping up all over the river banks? What powers do you have to regulate what they do?

Ed Mitchell: The short answer is it depends whether it is a navigation or not a navigation. If it is a navigation then we, or British Waterways or the Port Authority or the Navigation Authority, have quite strong powers. Where it is not a navigation, I am going to defer to Adrian.

Q238 Sheryll Murray: I am just going back to your previous answer, where you said that some of these species could come in on the hull of a boat or whatever.

Ed Mitchell: Yes. I was talking more about recreational dinghy-type sailing, so sailing clubs and so on.

Adrian Taylor: We work with others collaboratively on a sort of check, clean, dry campaign; those sorts of things. That is the way that we can work there.

Ed Mitchell: Yes.

Adrian Taylor: We do not have any regulatory control over those sort of sites, but we can work with others to advise on biosecurity measures and stop non-natives being spread around accidentally, say, with boats.

Chair: We are going to have to conclude there because we have further panels of witnesses. Thank you very much for the evidence you have submitted to us this afternoon.

Examination of Witnesses

Witnesses: Janette Ward, Director of Regulation, Natural England, and Dr Paul Horswill, Senior Specialist Wildlife Crime Team, Natural England, gave evidence.

Q239 Chair: Good afternoon. Welcome to this session of the Environmental Audit Committee. Our apologies for not being able to take evidence from you last week as we originally intended, but our gratitude to you for managing to attend today.

Peter Aldous: At Natural England, you have a wide range of conservation responsibilities. Could you explain where wildlife crime sits in your order of priorities and what proportion of your resources is committed to tackling it?

Janette Ward: Yes. Our responsibilities broadly cover sites—that is Sites of Special Scientific Interest, so designated sites—and we have specific and generally complete responsibility for regulation and enforcement in relation to those sites. We also cover species, particularly in relation to the licensing of species. This is where we are licensing activities with protected species that would otherwise be illegal. That is quite an important one to understand because there is a distinction there between what we do and what the police do, which is to cover protected species in a wider context. We also have a number of other responsibilities around regulation, which includes enforcement responsibilities. These are around the Environmental Impact Assessment Regulations, the Heather and Grass Burning Code, injurious weeds and the Environmental Liability Directive, and they are fairly small parts of what we get involved in.

In terms of priority for us, wildlife crime is a very high priority. It is worth saying that clearly, as with other public bodies, we have been through a period of some reduction but have maintained our resource around regulation, including wildlife crime, at the same level. Directly, that equates to about £5.6 million in terms of spending and it is about 120 staff. That is the direct effort. Having said that, because what we do is a combination of enforcement but also compliance—lots of advisory work, lots of guidance, lots of support work—in terms of resources, it is more widely spread across the organisation. We have land management teams who are dealing with sites, monitoring sites or working with landowners, and lots of that is about compliance, so a very high priority for us.

Q240 Peter Aldous: From what you are saying, it is very much entwined with your day-to-day work?

Janette Ward: Absolutely. Yes, it is. We have focused people doing specific things, but they are supporting that bigger piece of land and species management.

Q241 Peter Aldous: What would you see as your actual wildlife crime priorities?

Janette Ward: This falls into two things. There is a priority for us always to respond to incidences, whether it is habitats or whether it is species. That is reactive. We cannot specifically determine what that is going to be, although it tends to keep a fairly similar level. That is always a priority. Otherwise, our priority is linked very much to the UK wildlife crime priorities. We obviously work with the police and the various organisations linked to those networks and support their priorities. The two that are particularly important for us in the current list of priorities are the bats and the raptors. In terms of our strategic work, they figure very highly for us.

Q242 Peter Aldous: You mentioned the police. What other agencies do you work with in assessing these priorities?

Janette Ward: Paul covers this for us.

Dr Horswill: Yes. We sit on the Wildlife Law Enforcement Working Group, which is chaired by the Joint Nature Conservation Committee. In terms of establishing those priorities, we have given evidence to that. That was alongside the police and the Environment Agency, our sister organisation of CCW...
and SNH in Scotland, as well as the voluntary sector who are also represented on that group.

Q243 Peter Aldous: Do you review these priorities from time to time?
Dr Horswill: The UK’s priorities are reviewed every two years.

Q244 Simon Wright: When and how does Natural England inspect SSSIs in order to check compliance with regulations? Do you have an inspection regime of your own?

Janette Ward: Yes, we do. We have what we call our ‘integrated assessment programme’, which covers all the SSSIs and HLS agreements, and works as a rolling programme of assessments with the frequency of monitoring assessed against specific risk based criteria, depending on the nature of the site, the fragility of the site, any past history, relationships with owners and occupiers and so on. That is the standard operating procedure for us. Because we administer the agri-environment schemes, we also have a link with the RPA who also do inspections that will cover SSSIs. So we liaise with them around the inspections they do. That is also then captured as part of our formal process.

Q245 Simon Wright: How confident are you that you are picking up offending and any significant trends in offending on SSSIs?

Janette Ward: We are fairly confident, I suppose, because what I just said is the formal and, in some ways, the minimum bit. Clearly, because we are a delivery body, we work closely with landowners. We have ongoing relationships. We are working with these people. We are visiting sites. So there is a lot more that goes into it than that, and I guess we also get alerted to things from other organisations, members of the public and so on. I think we are fairly confident, yes.

Q246 Simon Wright: Why are the numbers of prosecutions relating to SSSIs so low? I think there have been just 10 since 2006.

Janette Ward: I will let Paul give you some examples. One of the things that we feel is that although the numbers remain low, they are low across the piece, not just for Natural England; in relation to wildlife crime, they are relatively low, and that is a factor of the difficulty of getting sufficient evidence, sufficient information for a criminal investigation and all that that means, relative to the ability to actually see that something has happened. So the difference between those things is quite significant, and clearly quite a high level of evidence is required.

One of the things we have observed since the last report of this Committee is an improvement in terms of the ability for prosecutions that bring with them quite a high level of fine or whatever, which we have seen as improvement in terms of things being taken rather more seriously when they actually get into court.

Dr Horswill: I think that is right. Wildlife crime is notoriously difficult to detect and then prove cases beyond all reasonable doubt. In addition to that, we classify offences on a four-point scale in the same way as our colleagues at the Environment Agency do: technical, minor, medium or significant. That is taking into account both the environmental impact of the offence as well as other aggravating and mitigating factors. Most offences do come out as technical or minor. The incidents that we deal with are less serious than those that the police are dealing with, where you have more serious organised crime.

I suppose the specific one for us is that if offences are committed then we are often able to negotiate voluntary restoration. It is much more important to make sure that the environment is restored to the position it was in before it was damaged, rather than maybe get any form of punishment.

Q247 Simon Wright: When restoration is ordered or agreed upon, how do you check whether that agreed action is carried out and who conducts such checks?

Dr Horswill: Certainly on SSSIs that would be the land management advisers, and there will be extra visits in addition to the programme of integrated site assessments that Janette outlined earlier. We have not had any non-compliance issues with any of the restoration orders that the courts have served.

Q248 Simon Wright: How do you evidence the effectiveness of the collaborative approach that you take to enforcement issues? If you felt that you were in a position to instigate more prosecutions and impose more penalties, how do you know that that would not have a stronger deterrent effect?

Janette Ward: What we do increasingly is to have a number of panels with various stakeholders, including for enforcement, where we work with other bodies—people like, for example, the RSPB and the Moorland Association—to get their input for their sense of how enforcement is having an effect on the things that we are concerned about. We are testing it increasingly through external relationships like that. Is that what you were getting at? I am not entirely clear that I have answered your question.

Q249 Simon Wright: Yes, I think so. I think that is in the right area. In your evidence, in paragraph 2.2 you talk about the focus on helping your customers to comply. I was intrigued by your use of the terminology “customers”. Isn’t there a danger that you might be seen as being a bit too close to the landowners?

Janette Ward: It depends whether you like the word “customers”. I guess. Some people do and some people don’t!—including our customers. Clearly it is a broad category. In terms of the point you make about getting too close, I think we do have something that we have to manage, which is for an organisation whose priority in many respects is to work well, collaboratively, together with landowners, with farmers, with fishermen and so on and so forth. That clearly is very important, and we believe that that is the way to get the right outcomes for the environment as much as possible.

We are very conscious of understanding that there is almost a Chinese wall type of thing around us also having the ability to take regulatory action and
enforce where necessary. To some extent that is why, in part, we have a function that provides some specific input to regulation enforcement, which is separate but not separate from the people who are going out on a regular basis advising on the ground with those sorts of people. It is something that we recognise, and I think we do need to continually think about that and make sure we manage it appropriately. Yes.

Q250 Paul Uppal: I am going to continue on the theme of SSSIs. I appreciate that you probably answered this a little bit in your last answer. I am going to mention a specific site, which probably will not surprise you, which is Walsham Moor and particularly issues around there. This is the initial question. You dropped the action on 7 March of this year. Could you elaborate on why that specifically happened?

Janette Ward: Walsham Moor and our work to try and secure agreement with the estate is a long-running thing. It has been happening over a number of years, during which time we have tried continuously to find a way of settling with the estate. That is what we would prefer to do—reach an agreement that is a reasonable agreement that we can work together on. We have continued over that period to try and do that. That had not happened, so we took enforcement action. I suppose one might say, as a result of that, we did get to a place where the estate was willing to come to the table and talk about settlement.

We took the view as a result of what that looked like, in terms of moving us forward with this site and our ability to move from a place where we had a situation that is quite specific to this place, where we moved from a position where we had a completely unregulated situation but with the estate having old consents that allowed that to be the case—so unrestricted ability to do things—to a place where we have a consent agreed with the estate that regulates that situation. That gives us assurance around sets of management regimes for a period of time that will move us forward from a place where we were seeing unregulated activity.

Q251 Paul Uppal: As I understand it, the agreement was a 25-year agreement?

Janette Ward: Yes.

Q252 Paul Uppal: It covered specifically the issue of heather and grass burning, making it an issue in certain areas of the estate. Do you think it would have been better to make it much more comprehensive in covering the whole of the estate, in terms of its environmental impact?

Janette Ward: I am not entirely sure I follow the question. I suppose all I can say is that the—

Q253 Paul Uppal: I think the management agreement you have is ambiguous on the idea of the whole impact environmentally, on the entire estate, whereas it is specific on some bits of the estate in terms of where there should be grass or heather burning.

Janette Ward: What the agreement does, if this is what you are getting at, is specify regimes around moorland management, including burning and other things. It specifies that, but it also has within it—which is fairly normal—an agreement for certain parts of the estate to map areas, in a way which gives more specific definition to parts of the habitat that then will fall within those management regimes.

Q254 Paul Uppal: One of the issues was also around drainage channels. Does the agreement cover that, and did you guys check in terms of whether any unauthorised drainage channels were dug out on the moors? Does the agreement cover it and then was there any checking on that?

Janette Ward: The agreement is taking us into the future, and that is what the agreement is about. As part of the agreement there is a management scheme which is designed to restore drainage on the moor through a procedure that is called moor gripping. What it will do is restore water levels on certain parts on the moor so restoring their wildlife interest.

Q255 Paul Uppal: Obviously in all of these things there is an element of compromise. The guiding principle here is sustainable development. Was that very much the ethos here in terms of taking things forward with the estate as it currently stands?

Janette Ward: I am not sure I would use the word “compromise”. As I say, what we have are particular circumstances, and they will be variable and require rather different solutions sometimes. This is a solution that takes us forward, in that what we were specifically thinking about is, for these sites, where we need to get to in the future is a place—which applies to all sites of special scientific interest—where they are in favourable condition. That is a key part of what we do for all of these sites. What we have determined is that this agreement will be a constructive step in the direction towards achieving favourable condition.

Q256 Paul Uppal: Do you see it very much as a model for the future—that these agreements will very much portend where you see things going with other issues—a collaborative approach in this respect?

Janette Ward: I don’t see it as a model in the sense that, as I said, this is an agreement that has come about because of a specific set of circumstances, a specific position that we were in, in terms of our regulatory position. That does not apply elsewhere, or it certainly does not apply widely. It is not a model in that sort of sense. Sorry, I have lost the second bit of your question.

Q257 Paul Uppal: What I am getting at is that this is quite unique, I guess.

Janette Ward: I think it is quite unique, yes.

Paul Uppal: Okay. That is what I am really getting at.

Q258 Peter Aldous: Just before I come to my detailed question, I want to be slightly more holistic for a minute. Our line of questioning might give the impression that your role is very much an ongoing war of attrition with landowners and so on. I just wonder if that is correct, or whether in fact the vast majority of the time you are actually working in partnership with
organisations—whether they be wildlife trusts, the RSPB, the National Trust or private landowners—who have the same goals and objectives as you. I want to put in context what the real situation is. Is it what I am describing or is it a war of attrition?

**Janette Ward:** The real situation is the one that you are describing. If you are making a comparison with the previous question then that is the exception.

**Q259 Peter Aldous:** That is fine. Thank you. Moving on to the point of detail, from January of this year you have had access under the Environmental Civil Sanctions Order to civil sanctions. I think in your written evidence you describe that as the final piece of the jigsaw. Can you explain why civil sanctions, in your view, are so important in running an effective enforcement regime?

**Janette Ward:** I will hand this over to Paul because he is the real expert on this. But essentially it is a part of the jigsaw because, previous to that, one had both ends of the spectrum, which is going to full-scale enforcement prosecution or just sending a warning type letter. This gives us something in the middle, which we think will be very useful. Paul, can you say a bit more?

**Dr Horswill:** Yes. That is quite right. A lot of cases do fall between the gap where a warning letter is too light-touch and a prosecution might be a bit disproportionate. The problem with any warning letter or prosecution is that it does not guarantee you any outcomes. Civil sanctions are designed to achieve environmental outcomes. The outcomes we are most often seeking are restoration of the damage that has occurred, and the restoration notices allow that, and stopping ongoing offending, and the stop notices allow that. So that is where I think the key benefit is. As I mentioned earlier, we do often manage to agree voluntarily environmental restoration, but sometimes that is so informal it can be a little bit uncomfortable and these new enforcement undertakings allow us to enter into agreements to achieve that.

**Q260 Peter Aldous:** Is it relatively early days but how is it going? How many civil sanctions—

**Dr Horswill:** We haven’t served any yet.

**Mr Spencer:** You haven’t served any yet.

**Dr Horswill:** They can only apply to offences that have been committed from 3 January this year, and so there are investigations ongoing and we are considering them but obviously we can’t—

**Q261 Peter Aldous:** Does that indicate it is a longer process and you probably need to be reviewing it in a year’s time, or does it indicate that perhaps it was not necessary?

**Dr Horswill:** No, I think it is a longer process. I know they are called civil sanctions, but you do still have to prove the case beyond all reasonable doubt; it is the criminal burden of proof. We do need to take witness statements from witnesses and interview suspects under caution, so it is a long process to use.

**Q262 Caroline Nokes:** This may not be an appropriate time to ask you this, and I am about to lurch off on SSSIs and civil sanctions with great enthusiasm. We heard from the Environment Agency earlier that they do not have the appropriate enforcement powers to deal with invasion by plant species, and they pointed a finger in your direction when it came to tackling things like Himalayan balsam. Could you give me some indication as to whether you do have the civil enforcement powers to deal with that, whether that comes under the sanctions that you can use from January of this year and whether you will be using them?

**Dr Horswill:** Let us get this one right. The police are responsible for investigating breaches of section 14 of the Wildlife and Countryside Act and the CPS are responsible for prosecuting. Let us put the record straight on that one. So, no, we do not have many enforcement powers, but obviously that will be a key part of our agri-environmental funding and other grant schemes on getting invasive species, such as Himalayan balsam, under control on rivers, for example.

**Janette Ward:** What we do is more management support work to try and address these things. We have been involved in projects and funding for Himalayan Balsam control. As Paul said, there are agri-environmental schemes we use to help with this. Another recent example is controlling the spread of Phytophthora, which is a disease of trees that has been an increasing problem across the country; we are working with the Forestry Commission in particular because of its link to woodlands and forestry.

**Q263 Zac Goldsmith:** Moving on to a different issue, given the wide range of legislation under which you issue species licences—I have the number here but I can’t see it, apologies—as an organisation, do you favour the consolidation of current legislation; for example, the creation of a single Wildlife Act? Is that something that you would back?

**Janette Ward:** Yes. Broadly we do very much favour it, and we are working very closely with the Law Commission. We had one of our board meetings/workshops with external partners involving the Law Commission at an early stage to get involved. The answer is, yes, consolidation, simplification, so on and so forth. We also have some specific areas that we would like to see addressed through this. Paul, I think you can enlarge on those a bit.

**Dr Horswill:** Yes. For some offences, at the minute, there is no specific offence of breaching our licence conditions particularly under the Wildlife and Countryside Act, where there is in the other Acts. So that is one thing we would like to be addressed. That is an inconsistency. Similarly, there are no civil sanctions available under the habitats regulations for breaches of European protected species legislation. Again, there is for a lot of the other Acts. So it is very inconsistent at the minute. We want to see that addressed.

**Q264 Zac Goldsmith:** What are the prospects of this kind of consolidation happening? What is the political appetite for a move in that direction? Probably you should be asking us.
Janette Ward: Can I comment on that? We are clearly working very closely with Defra and other partners on this. Personally I get no sense, other than that there is a view that this will be a useful thing to do and people are up for it.

Q265 Zac Goldsmith: What are the main arguments against? What is the downside of consolidating the vast range of bits and pieces of legislation that exist at the moment?

Dr Horswill: I cannot see that there are any downsides. It is a huge piece of work for the Law Commission. There is no doubt about that. They will have to invest a lot of resources in it and so we and Defra, but it has to be worth it.

Q266 Zac Goldsmith: You do not see any downsides at all?

Janette Ward: Not from what we can see so far. Like all things, the devil is in the detail, I guess. With simplification, when one looks at the detail, there may be things that do not look so good, but at this stage it does not feel like that.

Q267 Zac Goldsmith: On the licences themselves, can you describe what factors you take into account when you issue them? What is the process? How does it work?

Dr Horswill: There are five factors that are taken into account for every licence that is given. The first one is whether there is a genuine problem to resolve. So if you want some examples, you could take the example of a huge number of gulls on an airfield. Are they causing an airstrike issue? Have there been cases where there have been near misses or pilots have had to take evasive action? The second one is whether there are alternatives to killing the species—are there ways of scaring those birds away, for example, by the use of pyrotechnics? The third and the fourth are a bit of a balancing act. You want the licensing action to contribute to resolving the problem. Obviously there are a certain number of gulls that would need to be culled in that area but, similarly, you do not want to be disproportionate. So we would want it to be restricted to that airfield only and not to anywhere in the wider environment if possible. Then finally, the licensed action cannot have an adverse effect on the favourable conservation status of that species in its natural range.

Q268 Zac Goldsmith: I see that you issued 10,000 last year. Is that right?

Dr Horswill: Yes. That is correct.

Q269 Zac Goldsmith: What would be the most mundane example of that? You mentioned runways and so on.

Dr Horswill: For example, a mundane one might be bird-ringers—people who just want to check nest boxes of birds or, if they are monitoring populations, capturing birds and putting rings on their legs.

Q270 Zac Goldsmith: Do you want to answer that?

Janette Ward: Just to qualify that, it does look like a big number but, yes, it does break down into European protected species, normal species and then a lot of scientific work as well.

Q271 Zac Goldsmith: I am going to move on again, as I am conscious of time. The National Gamekeepers Association told us that buzzards are now so numerous “that they are becoming a serious problem and Natural England is having to look at a licensed control system as a route to saving wildlife.” Is that the way you see it? Clearly not. Can you explain why not?

Janette Ward: It is not the way we see it, and certainly not the sort of language which is to—what is it?—“to control wildlife” or to—

Zac Goldsmith: “To look at a licensed control system as a route to saving wildlife.” That is the quote.

Janette Ward: Yes. First of all, we see it as a great success in many respects, that buzzards and some other raptors have been recovering, after a time in the past when clearly their populations plummeted and were very low—pesticides, persecution and so on. The buzzard recovery story is a great one. They are across the country more widely; people see them and so on. Although, in truth, there are still not the numbers that there were historically, but that is a great, great story. I think it is important for us to think of that. We have had a very limited number of licence applications for control of individual buzzards linked to pheasant release situations—shoots and pheasant release pens. I think it is four.

Q272 Zac Goldsmith: Applications. Have you granted any?

Janette Ward: We haven’t granted any of those. That then plays on what Paul was saying about going through those criteria. We haven’t seen those criteria met.

Q273 Zac Goldsmith: Basically you flatly reject the notion that they are too numerous at the moment and that they are causing problems.

Janette Ward: Yes. We do not think they are too numerous. There may be something that we need to look at and think about as we go into the future, where we may get some specific circumstances with specific problems. We are working with Defra who have set up a working group—and this is a group with the Moorland Association, with the National Gamekeepers Organisation, ourselves, RSPB—to have a look at what that looks like, and particularly to look at how we can ensure a consistent approach, increasing research on the position including the use of other deterrent mechanisms. That is always our first route.

Q274 Zac Goldsmith: I want to check I heard you right. You began by saying that they are not back to the numbers that they ought to have reached, but just now—I don’t know whether you meant to say it—you said they are too numerous. You are agreeing with me.

Janette Ward: Oh did I? No, sorry.

Zac Goldsmith: You did say that.

Janette Ward: Did I say that? Okay. No, I don’t think they are too numerous.

Zac Goldsmith: You are repeating what I was—
Janette Ward: I don’t think they are too numerous. What I do think is that we have to acknowledge that in the future there may be particular circumstances where individual buzzards become problematic, and we would have to think about that within the context of the current licensing regime.

Q275 Zac Goldsmith: I have one last question that is way off-piste. It is an issue that has not come up yet in this entire inquiry, but I am compelled to ask you. I think you are the right people to ask about wild boar. Their numbers have grown, as you know. They have reached a point where it is accepted they are here for good. There are populations all over England. They are not going anywhere. But because they have not been formally recognised, I suppose, or they do not have a formal status, there is no closed season, there is no hunting season, and the effect is that it is still legal to shoot a sow with very young—are they called piglets?—wild boar piglets. I think they are. There are none in Richmond Park, but it is an amazingly concerning issue to my constituents and I share that concern. Is there any likelihood that your remit will grow to cover wild boar? After all they were here only 400 years ago.

Dr Horswill: It is possible. Deer are a problem in woodlands. Maybe wild boar will get to that stage.

Zac Goldsmith: But deer are indigenous, wild boar because—

Janette Ward: Not all deer.

Q276 Zac Goldsmith: But do you see any merit in pursuing that?

Janette Ward: I am not sure.

Dr Horswill: It is logical to have a closed and an open season for the shooting of any animal.

Janette Ward: Yes.

Q277 Zac Goldsmith: You think it does make sense? Is that something that you would support?

Dr Horswill: We would be happy to look into it further.

Zac Goldsmith: Okay, we will carry that over to another time.

Janette Ward: We will take it away and have a think about it.

Zac Goldsmith: All right. I am going to stop there. Thank you.

Chair: If there are no further questions to these witnesses, I thank them very much for the evidence they have given us this afternoon.

Examination of Witnesses

Witnesses: Sergeant Ian Knox, Metropolitan Police Service, Wildlife Crime Unit, and Detective Superintendent Ron Knight, Metropolitan Police Service, Wildlife Crime Unit, gave evidence.

Q278 Chair: Good afternoon. Welcome to this session of the Environmental Audit Committee inquiry into Wildlife Crime. The first question is from Mark Lazarowicz.

Mark Lazarowicz: Good afternoon. I understand that yours is the only force-level Wildlife Crime Unit, at least in England and Wales. Is the model really defined very much by the special circumstances in London, or is it one which could be taken by police forces elsewhere in the country?

Detective Superintendent Knight: The MPS model works for London and it is a matter for each force whether they identify the same issues that we identify and follow that model, and whether they choose to make that investment. It is probably more a case for the Metropolitan Police that we recognise if we did not invest these resources, then it would be extremely difficult for us to co-ordinate activity and deal with things at a strategic and tactical level. Our unit works with our partners and with our Wildlife Crime Officers across London. There is one in almost every borough in London, and we co-ordinate that activity. I think if we didn’t have the model that we have, we would not be able to do that. Whether that would fit with other force areas is probably a matter for them.

In terms of our unit, I have been a detective for quite a long time now, nearly 30 years, and it is a very specialised area of business. We recognise that it is an area of specialism and we need to maintain that specialism to be able to properly identify and address wildlife crime.

Q279 Mark Lazarowicz: How would the focus of your activities be divided between the different types of areas of interest? For example, how far would you have a concern particularly on international trafficking, how far on domestic trafficking and how far on other wildlife crime within the London area? Can you give us an idea of what kind of areas you focus on, and how your interest is broken down?

Detective Superintendent Knight: We have a local level with our Borough Wildlife Crime Officers. They are dealing with it at the level of local issues, and we support them in relation to that. In terms of the cross-border issues and the national and international picture, that is more where the Wildlife Crime Unit comes in. We do liaise with international partners and have worked with international partners on both overt and covert investigations. Ian, do you have anything to add?

Sergeant Knox: Broadly, the remit of the unit can be split into two areas: indigenous wildlife crime and exotic endangered species. Over and above that, we have the remit to enforce the laws that protect all wildlife within London, which is covered by both areas. We also have the remit to implement initiatives to prevent wildlife crime. So we do have a very broad remit within London.
Q280 Mark Lazarowicz: By “indigenous wildlife crime”, are we talking more about cruelty to animals and some of the issues we have been hearing about—species being transported illegally and international crime as well? It speaks for itself, really.

Sergeant Knox: Indeed. Not so much cruelty issues. But the Wild Mammals (Protection) Act, yes, we cover that and the Wildlife and Countryside Act. By indigenous wildlife crime I mean crimes affecting those animals that are native to the UK and Europe and protected by that type of legislation. Largely the endangered species trades, of course, are those species that are protected by the CITES, the Convention on the International Trade of Endangered Species. We use the Control of Trade in Endangered Species within the UK to implement that convention.

Q281 Mark Lazarowicz: During our inquiry we have heard different views as to how far London is indeed a world centre for wildlife crime in general and, in particular, the trafficking of endangered species. What is your assessment of London’s role in that, both at a European level and also globally?

Sergeant Knox: There are a couple of reasons. The method for recording wildlife crime is not exact. We rely on Home Office codes for counting and statistical purposes, but there are not many Home Office codes for wildlife crime. For instance, when we are talking about the endangered species trade I think there is only one specific code for one offence within that regulation. The rest are found within a general code. When we talk about recording crime for summary offences, for instance, there are a number of Home Office codes for that, but our recording systems do not recognise those codes. They recognise them as a general group, but we have to sort through many different types of offences to draw that information out. That is one area where we find it difficult to quantify the level of crime within London or within the UK, but I would point out that we do have other indicators; for instance, Customs and Excise. They do record their seizures, and for the year 2010–2011 they seized over 42,000 items coming into the UK.

We have other indicators within London. For instance, one of the largest seizures ever of rhino horn was made in South Kensington. Admittedly, that was in the late 1990s. Additionally we had the world’s largest seizure at the time of shahtoosh, which is the wool of the Tibetan antelope. There are indicators that it is a significant problem within London, and I know that similar seizures have been made by various forces in the UK.

Q282 Mark Lazarowicz: I understand that your unit has had funding from the World Society for the Protection of Animals. Has this had any difficulties as far as the operation is concerned? How far do they set the priorities for the unit?

Detective Superintendent Knight: We welcome our partnership with WSPA. They have provided grant funding. That has been able to provide the salaries for two members of staff, an additional police officer for investigation enforcement and a member of police staff, in terms of research and analysis to support our work going forward. The grant is in pursuance of the Police Act and signed off by the Metropolitan Police Authority, and there is a review process in place in relation to that. The funding is £100,000 a year. I believe that equates to a pound for every UK member of WSPA. The partnership works very well and it has allowed us to recruit staff, which will give us better enforcement opportunities, more opportunities around prevention initiatives, and also better opportunities around intelligence collection and intelligence development around individuals, or groups of individuals, that are involved in wildlife crime. It is a welcome partnership. They do not have direct control over the resources. We are working together towards a common goal, and there is no friction as such in relation to our relationship with WSPA. The resources remain under the auspices of the Commissioner of the Metropolitan Police.

Q283 Peter Aldous: Can I pursue this line a bit further? You say you are happy with it. You do not feel it in any way compromises police operations? Perhaps, if you were concerned that the level of the funding might undermine, you might be looking to get results that otherwise would not be the case. You are entirely happy with it from an operational point of view?

Detective Superintendent Knight: Yes, I am. If we did not have the funding from WSPA, we would still have the Wildlife Crime Unit and we would still engage in the activity we engage in now. The funding has just given us additional resources and more opportunity to tackle more around wildlife crime. We would still function. We just would not be able to function to that level, to that extent.

Q284 Peter Aldous: You are happy there are sufficient safeguards in place to ensure that it does not—

Detective Superintendent Knight: Yes. There are review processes in place. The Metropolitan Police Authority has some oversight around that. It is grant-funded. It is all pursuant to the Police Act, so everything has been bolted down. In terms of our working relationship with WSPA, they do not have any direct control over the unit or the staff. They do not have any control over the decision-making. That rests with me and my team. It is early days, I suppose, because the funding was only signed off in October last year, and there are targets within the funding, as part of the funding agreement, but at the moment there has been no friction and no challenges, shall we say, and certainly no undermining of our authority in the police to enforce.

Q285 Peter Aldous: Moving on, do you think wildlife crime should be included within the remit of the National Crime Agency?

Sergeant Knox: We do not really know what the National Crime Agency’s remit is going to be yet. My guess is that they will be looking at the top end of crime, the more serious and organised crime. What we have to realise is that the majority of wildlife crime is at what we would call level one. I would guess that the National Crime Agency will not be looking at that.
The majority of wildlife crime is at that level, and that is the level of crime that impacts most on people, in fact. Local communities and individuals care about the wildlife that lives with them in their local area. It affects their quality of life. When they see wildlife crime at that level going unchecked it makes them feel less safe. That is an important area of crime that we must not lose sight of, and my fear is that if wildlife crime was to go into the National Crime Agency, that aspect of it may be lost.

**Detective Superintendent Knight:** I agree with Ian. The National Wildlife Crime Unit does not just deal with the serious and organised crime aspects. It would be a neat fit if it moved over into the National Crime Agency, if that became one of their responsibilities, and it might help resolve some of the funding issues. But the general feeling of those involved in wildlife crime would be that it could be lost within other crime, and would be competing in the same forum against other organised crime. Would it still get the same service? The general feeling from people who are working within wildlife crime is that the National Wildlife Crime Unit is probably better as a stand-alone, but we need proper mechanisms in place to be able to task and co-ordinate against organised crime. Organised crime does exist, and of the 7,200 organised crime groups currently mapped in England and Wales, some of them see wildlife and wildlife products as a commodity that they can exploit and market. I am not quite sure that the National Crime Agency, if it had the responsibility, would be able to service wildlife crime. It may get watered down with other crime taking priority.

**Q285 Peter Aldous:** The majority of wildlife crime you are involved with does not involve organised criminal gangs?

**Detective Superintendent Knight:** The majority does not, no. The majority is at a local level, or what we call cross-border, whereby we have people who offend, say, in one part of London, who are offending in another part of London. There are occasions where that goes outside the London area and into the different regions, and we liaise with those regions for those cross-border issues. There are some occasions when we liaise, either nationally or internationally, particularly around importation of ivory and those types of commodities. Intelligence suggests that organised crime groups are seeing wildlife and wildlife products as a commodity, and that is an emerging trend, but it is a commodity and it is a commodity like drugs or firearms or trafficking. Targeting that group, you are targeting them through wildlife crime, but we could probably target them for another commodity and we are probably more likely to get the resources to target them through another commodity. Looking at organised crime and wildlife, there may be better opportunities with other crime types that will impact and have a good impact on the wildlife crime issues.

**Q286 Simon Wright:** What scale of increase are you talking about?

**Sergeant Knox:** For instance, we heard earlier that the National Unit publishes a strategic assessment every two years. I have the figures for 2008. The incidents recorded there were 2,000. This is across the country. In 2010, it was 9,500 plus, so a marked increase. For the Metropolitan Police, for instance in 2009 we had 148 incidents; in 2010 we had 904. This may well have been brought about by the National Standard for Incident Recording that was adopted nationally. In 2011 that went up again to 1,990 incidents reported. So the more we look, the more we find. As officers have been looking at wildlife crime—myself since the mid-1990s—and as the systems have become more professional, so our ability to detect and record has improved.

**Detective Superintendent Knight:** I think the picture is incomplete. Some crimes are easier for us for recognition. If your car is broken into, it is very easy; you have had your car broken into, it’s either damaged or you have had property stolen. It is difficult for police officers and members of the public to identify that a crime has been committed that they can or should report for investigation. Part of the work that we are doing with partners is educating people to say, “This is a crime and there is something you can do about it. If you report that crime, then we get a better opportunity to try and identify the people who have committed that crime and bring enforcement action, implement crime prevention initiatives, or identify whether there are any trends or series: is this a one-off or is this part of a series of crimes that are happening elsewhere?” If we don’t have that data, we can’t analyse the data and we can’t identify those trends and series. It is partly our own recording practices, education from within and education from without, as shown in the year-on-year increase. But I still think that there is under-reporting and the picture is incomplete. That is probably not just a picture for London; that is probably the national picture.

**Q289 Simon Wright:** In your written evidence you say, “Separate Home Office recording codes for indictable and non-indictable wildlife crimes would significantly improve our knowledge of the scale of this issue”. Would there be a significant bureaucratic
cost in giving the few notifiable wildlife crimes a specific Home Office code?

Detective Superintendent Knight: I can probably do a joint answer on that. I think the answer is, yes, there would be. That is an easy fix. If we can code it then we can count it. If we can find it we can analyse it, and then we can do something with that data. But every force area has a different crime recording system, and every one of those forces would have to take changes in Home Office coding into consideration, and whether they could update their systems, whether their systems were compatible with the new codes. There are always potential costs in these things. For the Metropolitan Police’s position, our crime recording system has somewhere between 900,000 and 1 million crimes a year that go on to the system, and if there were any changes to that system there is a cost implication. On the one hand, it would be nice to see that and it would be very welcome, but there are probably risks or barriers to that in terms of cost. I would not like to guess what they would be.

Q290 Simon Wright: Are you aware of any work that has been done on trying to quantify the costs that might result?

Detective Superintendent Knight: We have engaged with our Directorate of Information to see whether there are better ways that we can capture the data. Without having to resort to changes in terms of Home Office codes, are there any simple things that we can do in-house that are cost free or cost neutral, where we can better identify the crime and crime types and then be able to analyse that data? We are in negotiation with our Department of Information at the moment. We are competing with others around similar ground, so I would say it is very much work in progress.

Q291 Mark Lazarowicz: I know time is tight, so I just have one question in two bits about legislation. First of all, you give some examples in your written evidence of how you think wildlife crime legislation is not fit for purpose. To be clear on one particular point, can you confirm that it is the case that a vet rather than a horticulturalist is required to attend when the police take samples of dead plants under the current regulations?

Sergeant Knox: Under the regulations it is a vet that needs to be present if the owner does not allow a sample to be taken, or assist to—

Q292 Mark Lazarowicz: With plants it has to be a vet?

Sergeant Knox: Yes. I had a case where I was looking at importation of furniture made from Brazilian rosewood, and it was considered that I would need a vet to assist there. Fortunately, it was not necessary.

Q293 Mark Lazarowicz: I hope it was not alive, anyway. Again, on legislation, you propose empowering the police to be able to request evidence of lawful importation, which currently the UK Border Agency apparently can do, but you cannot. How would that improve enforcement?

Sergeant Knox: It would streamline how we deal with offences. It would make the investigation far more efficient. The power exists. It just has not been given to police.

Q294 Mark Lazarowicz: Does that mean you have to bring someone from the UK Border Agency along with you sometimes?

Sergeant Knox: Yes. I can give an example where I seized a polar bear skin, as opposed to a polar bear. That was controlled by importation regulations. I could not disprove the reason I was given for the importation, but I was highly suspicious of it, and I had to ask Customs and Excise whether they would feel it justified for them to make the seizure for me to continue the investigation. Fortunately they did, and we found that it had been imported not 25 years ago but two years ago, and we were able to complete the investigation successfully. Had there been time restrictions, that negotiation with Customs and Excise—as they were then—may have meant that the offence could not have been investigated properly.

Detective Superintendent Knight: Indeed, if they had made the opposite decision, the crime would have remained unsolved and that individual would not have been brought to book.

Mark Lazarowicz: It might be subject to pressures upon their time for other purposes as well, yes. Okay, that is fine.

Q295 Peter Aldous: There has been some concern expressed by the legal exotic pet trade that they have been punished for what they would regard as paperwork offences, relating to CITES protected species. Is this a view that you have heard before and have sympathy with?

Sergeant Knox: I think that there are paperwork offences, but what we must look at is that the Convention on the International Trade of Endangered Species is a global convention. Yes, it is to support legal trade but it is mainly to ensure that wild populations of endangered species are sustained—that they are maintained. To do that, we have a global licensing system. That is the backbone of the convention, so it has to be robustly monitored and enforced. Quite frankly, if people are going into business legitimately, part of their business is to understand the regulations that control it.

Q296 Peter Aldous: Do you think these regulations are fair and reasonable at the moment?

Sergeant Knox: Yes, I do. I think there are improvements that can be made. The improvements I would like to see are, for instance, on the certificate that allows the sale of any given endangered species. We know it as an article 10. There are two. One is transaction-specific, which means it covers one sale, one transaction, or it can be specimen-specific, which effectively means it is a logbook for that animal. Whatever the specimen is, it has to be uniquely marked. That unique mark will be on the certificate, and it goes with the specimen throughout its life. Once it goes past the first transaction, it is lost to the system. There is no requirement for the new owner to inform the management authority that they are the new
owner, unlike the car registration scheme, where of course you have to inform DVLA. What that means is that we no longer know where that specimen is and who has it, and I can see that as an avenue for fraud offences. It is an EU regulation and the EU has to agree for that change to be made, but I think that is something we should look at carefully.

Q297 Peter Aldous: Has there been any work done, or do you think there should be any work done, to help the exotic pet trade understand and be able to meet the requirements of the regulations so that we are not ending up with a lot of prosecutions?

Sergeant Knox: There is very comprehensive advice on the Animal Health and Veterinary Laboratory Agency website. We have a link to that website from our own Operation Charm website. Operation Charm is the Met Police initiative against the illegal endangered species trade. Equally, the pet trade are members of the PAW group—the Partnership for Action against Wildlife Crime—and there is an open forum there for these matters to be discussed, and they are. But I think, yes, there is very reasonable advice and guidance available.

Q298 Peter Aldous: Do you think it might improve the situation, and would CITES be more effective, if it consisted of a positive list of species that could be traded, rather than a negative list of species that cannot be traded?

Sergeant Knox: I think it amounts to the same thing, because if you have a list of animals that can be traded, that would mean that it will not include those that cannot, and as long as there are no exceptions to those that cannot, it amounts to the same thing. The difference being that if you had that positive list, there are between 9,000 and 10,000 species of birds, goodness knows how many fish, mammals, insects, reptiles and so on—not to mention plants—and the list would be enormous.

Q299 Peter Aldous: The positive list would be longer than the negative list.

Sergeant Knox: Yes. The problem is the exceptions that are allowed to the trading of endangered species that are on the list. That is what causes the problem. I do not see any way around that, because the idea of CITES is to allow sustainable trade, so there have to be exceptions. I do not think a positive list will take us any further forward.

Q300 Peter Aldous: Is there any evidence, do you feel, that the legal exotic pet trade is used as a cover for illegal wildlife traffickers?

Sergeant Knox: Inevitably, wherever you have a legal trade, it will conceal—I have to be careful here. Often where there is a legal trade—I mean that generally, not individuals—that will cover illegal trade in some cases. I don’t think there is any doubt about that.

Q301 Peter Aldous: Is it a significant proportion?
Wednesday 23 May 2012

Members present:
Joan Walley (Chair)
Pete Aldous
Neil Carmichael
Martin Caton
Katy Clark
Zac Goldsmith
Mark Lazarowicz
Sheryll Murray
Dr Alan Whitehead
Simon Wright

Examination of Witnesses


Q304 Chair: Thank you very much indeed, all three of you, for coming along this afternoon to our wildlife inquiry. I think today’s session has a little bit of déjà vu about it, Chief Constable Hyde, because we of course interviewed your predecessor. It might be appropriate for us to start by, as well as thanking you all for coming along here today, asking you, on having taken over the brief, what you see the key challenges are at this time.

Chief Constable Hyde: Okay. Thank you for the opportunity to speak and, as you said, particularly after Richard had come to speak to you. On behalf of ACPO, I would just like to recognise his fantastic work in this area in bringing it to life. Before I go into those issues, I think it would be useful to let you know where I come from in terms of things that I think are important.

Several years ago, I wrote the business case for CEOP and helped to bring that to life as a partnership and bring people together to try to tackle child abuse online. More recently I have been engaged in helping to build the concept of Action Fraud through the NFA, which is again, I think, both national and internationally accepted as another partnership between a whole range of agencies that are engaged in this work.

On wildlife crime, I think we are almost now at a bit of a crossroads as to whether we continue with the structure that we have, or reach out and do something perhaps a bit more creative. You will have gathered from the first two examples I gave where I am coming from: I believe that if we want it to succeed, we need to reach out and bring people into the unit and develop it in some way.

Some things are clearly of concern. The first one, I think, is probably whether it should sit in the National Crime Agency. My personal view is that where it sits is not as important as how it delivers and what we can get to go with it. My emphasis would be on trying to ensure that we have more agencies becoming part of the Crime Unit and having really strong relationships, building on the excellent stuff we have going at the moment with UKBA, police forces across the country, Natural England, Scottish National Heritage, Defra and other statutory as well as third sector bodies such as the RSPB and RSPCA. That is what I would see as my mission. If that can be delivered as part of the NCA and we can guarantee that some of the work that has been undertaken by the National Wildlife Crime Unit can continue, particularly at the lower end—the sort of level one end—then yes, it can go in with the NCA, and that will be a good home.

If, by putting it into the NCA, we end up with an organisation that has a consistency of funding and consistency of organisation—at the moment, it is funded through various sources. Its staff is managed through North Wales Police, the website is managed through Lincolnshire Police, and it is currently situated in a Scottish police force building, so there is an opportunity for confusion, to say the least. If the NCA could provide a solution to that, then I would be in favour of it.

I think in terms of working with forces, though, specifically from a policing perspective, I would like to see the unit working with forces more to encourage them to take on some of the challenges, but clearly, against a background of reducing budgets and a background of the levels of priorities that this covers, that is a big challenge. There is, as you know, no word in the English language for something that is not a priority, but for a great deal of the work, most forces do not have this as a formal priority. That is something that your Committee may wish to comment on and perhaps raise it across all of the agencies and all Government Departments as a greater emphasis.

I am not sure whether I am allowed to make requests here, but from my perspective, what I have been looking for from you is some direction as to whether you would like to see a greater collaboration between the issues of wildlife crime and rural crime—I represent both for ACPO—and whether you would want us to grow the Crime Unit to bring in people from other agencies. Those are certainly two issues that I would value in the very early days after taking over this responsibility. I hope that helps as an introduction.

Q305 Chair: Thank you. You have covered a lot of ground, and I know that Mark Lazarowicz will be asking shortly about the new arrangements with the National Crime Agency. Given the way you were saying that such-and-such is done in Lincolnshire, part of the brief is done in Scotland, part of it is done in Wales and part of it in England, I think that geographical separation is something that perhaps needs to be addressed. Do you have any comments
about your own geographical location in respect of how the whole lot fits together?

Chief Constable Hyde: Speaking on behalf of Cumbria, we made the decision two years ago that wildlife crime is a very important aspect of policing and one that we certainly cannot ignore. We have a full-time wildlife officer, and he is part of the network of wildlife crime officers across the country, but we have linked it very closely in with rural crime as well, and I think that has been quite helpful to us.

Chair: I know that Mr Hunter wants to come in on that—I can tell from his face.

Nevin Hunter: I don’t have anything, sorry.

Chair: No, okay. Then can I just go back to what you were saying about welcoming the views of the Committee?

Chief Constable Hyde: Yes.

Q306 Chair: Mark Lazarowicz will cover some of the specific questions on this, but I think we want to get a sense of what conversations are going on at the moment, whether it is with SOCA, the Home Office, or whoever else, so that the different options for how this might be set in place are set out for consideration. Obviously whatever the new unit or arrangement is going to look like isn’t going to come out of thin air; it is going to come out of a series of informed discussions about where the new unit should be placed. Do you have any sense of how much priority is currently being given to all of this, when the Home Office is perhaps looking at other priorities—Heathrow Airport or whatever else it might be?

Chief Constable Hyde: I have had a very brief conversation with the Policing Minister, Nick Herbert, and I have written to him to ask for some idea of Government’s views, but also to try to arrange to have a proper discussion about where this should fit. Equally, I will be arranging meetings with Keith Bristow to talk through what options are available. Going back to the point I made about the different locations and the different structures, it does take me back to the child abuse world in about 2003–2004, where we had all sorts of things going on separately and funding streams that were perhaps not as solid and reliable as they could have been. That is why we created CEOP—to fix that. I think the one thing that certainly the unit wants is some certainty in relation to its funding and its location, but I will go back to what I said earlier: I really do believe that we must get a sense of what conversations are going on at the moment, whether it is with SOCA, the Home Office, or whoever else, so that the different options for how this might be set in place are set out for consideration.

Q307 Chair: Do you feel that priority is being given from within the other different organisations or within the Government? Is one meeting with Nick Herbert enough?

Chief Constable Hyde: No, that will not be enough.

Q308 Chair: I know that you are in a position to answer this because you have just got your new post—it is not as if you are applying for the post. Where do you think the leadership in all of this should come from?

Chief Constable Hyde: I think the police leadership can deliver some of that, but it does need Government Departments and particularly third sector organisations, NGOs, to work together. I am more than happy to provide the leadership from the police perspective, but I expect that to be reciprocated in other agencies.

Q309 Simon Wright: Chief Constable Hyde, you have already mentioned the budgetary pressures and priorities, and I wonder whether each of you could comment on your view on the sufficiency of police resources currently allocated to tackling wildlife crime. In particular, are sufficient resources allocated to the National Wildlife Crime Unit?

Chief Constable Hyde: I will let Nevin lead on that to start with.

Nevin Hunter: Okay. The National Wildlife Crime Unit is funded from a number of different agencies, and a lot of the challenge that I have is to constantly look at securing the future funding, which takes me away from that day-to-day role of trying to address wildlife crime. That is definitely something we would be really keen to get a firm foothold on in terms of finance, so that we have a constant stream and I, as a police investigator, will not have to constantly spend my time worrying about that side of the business.

There is a real need for us to make the best use of it, though. We have a very small unit, but I think we punch way above our weight in terms of our interaction with police forces around the UK, but also with key partner agencies and on a global perspective as well. We are small, but you do have very specialised officers working within the team and focused around that. It is not necessarily a mass resource that is needed. It is a targeted resource at the right place.

Pete Charleston: I provide an England and Wales-wide view in saying that of course the resources allocated to wildlife crime are matters for individual chief constables. That said, I think every force now in England and Wales—certainly the vast majority—do have wildlife crime officers, whether full-time or part-time. Very few forces, if any, do not recognise that wildlife crime is something that needs to be considered.

Q310 Simon Wright: Are you working to secure those extra resources, perhaps at force level, where that is required?

Pete Charleston: As I say, these are matters for individual chief constables. Certainly forces do review their approach to wildlife crime on quite a regular basis and there are recent examples of forces creating full-time posts; equally, though, other forces are choosing not to go down that route and have wildlife crime officers who carry other responsibilities. More and more, we are also seeing the link forces are making between wildlife crime and rural crime, and officers are being asked to carry both responsibilities or wider responsibilities.

Chief Constable Hyde: If I can just add to that that in relation to Cumbria—and I think we are fairly typical of large rural forces—we have a full-time officer, and then in each of the command units we have somebody who takes on that responsibility in addition to other duties, and they all receive a reasonable amount of
Chair: But supposing it is not anybody's priority?

Chief Constable Hyde: Do you want to start?

Nevin Hunter: Could I? One of the areas that work very well is that we have investigative support officers. The National Wildlife Crime Unit collates and disseminates intelligence, producing analytical packages that go out to police forces and also to people like the UK Border Agency and other agencies that we work with. The glue that sticks it all together with us is our investigative support officers, who work with the police forces. They physically go out and work with the police forces and wildlife crime officers, providing specialist expertise to support investigations. We don’t take over the investigations; we support them. So the resource that is available in a particular police force will then depend on the level of support that we may need to provide. It may just be advice over the phone, or it may be physically going out and supporting them, and that is hugely important.

There are some very good recent examples over the last year: a well-known egg collector being caught coming off the island of Rum last year; an investigative support officer going out with a police officer from a Scottish police force, searching the gentleman, seizing eggs and then, within a short period of time, warrants being executed down in London and a huge egg collection seized from him and eggs seized from him personally as well, and then co-ordinated actions across Scotland and England to prosecute him. That shows the glue that we are able to provide using investigative support officers.

Q312 Sheryll Murray: I would like to ask you—it is probably partly wildlife crime and partly animal welfare—what link you have with local authorities, for instance, who have responsibility for policing and enforcing the Animal Welfare Act, and the RSPCA. I am particularly looking at areas like keeping primates as pets, because sometimes these find their way into the country, and are then kept in unsuitable circumstances and fed on an inadequate diet. I seem to perceive that there is not the joined-up working relationship and the only things to suffer in the end are the animals. What sort of working relationship does your unit have with local authorities?

Nevin Hunter: It is very much an evolution role that we have been involved with. I explained earlier about the contact we had with police forces. We are increasingly liaising with local authorities at an appropriate level. We were involved the year before last in Operation Ramp, which looked at trading in tortoises and reptiles across the UK. Where it was appropriate and where we identified there was a need, we worked very closely with local authorities. It was felt appropriate that we would look at licensing issues, animal welfare issues as well as endangered species trade issues, and assure them that we took the overall view and dealt with it in an appropriate way, depending on which were the most appropriate areas to be progressed, either through prosecution, warning or taking no further action.

Chief Constable Hyde: Most of the liaison with local authorities will come through forces rather than through the unit. For example, in our force, we do have a number of relationships with the county and district councils that cover some of these issues.

Q313 Sheryll Murray: Do you think that is working adequately at the moment?

Chief Constable Hyde: Adequately? I think it is working. Could it be stronger? Yes. Could we do more in partnership with both local authorities and the third sector? Yes, absolutely. In fact, I am in the process of a number of meetings with different pressure groups both locally to cover things in Cumbria, and clearly in my new role nationally.

Sheryll Murray: Thank you very much.

Q314 Peter Aldous: I am interested in the types of wildlife crime you normally police. You have touched on rural crime; Chief Constable Hyde did not mention what he co-ordinated to.

Chief Constable Hyde: Yes, do you want to start?

Nevin Hunter: Yes. We have a process of priorities and we currently have six national priorities relating to badgers, bats, poaching, freshwater pearl mussels, endangered species issues and raptor persecution. To take a typical one, poaching is a classic issue of rural criminality often and, depending on where the particular issues are—where I live down in the south-west, deer poaching and fish poaching are big issues; up in Lincolnshire and East Anglia, we have hare coursing, and same is true in parts of Scotland—where we are going to run anti-poaching initiatives, we will then link them almost automatically into rural crime issues as well. So they are often initiatives run at night. We will be looking to deal with rural crime issues at the same time as we work with wildlife crime issues.

Chief Constable Hyde: From a local perspective, we have an excellent working relationship with the NFU—in fact, only last week I was selecting for the NFU Crime Fighter of the Year Awards, which will be coming out in two weeks’ time. That relationship is built on types of crimes such as theft of oil or diesel, theft of plant, particularly trespass and damage and criminal acts such as that.

Q315 Chair: Just one very quick question before I move on. You mentioned that resources were a matter for the chief constable. How is that going to change with the new regime that is coming in terms of police commissioners? How much of a priority is that going to be given?

Chief Constable Hyde: Well, it will depend on the commissioner. My view on this is the manifesto of the commissioner that gets elected is my new policing plan and if somebody is elected on the basis of investing a lot of money into this area then that is what I will have to do.

Chair: But supposedly it is not anybody’s priority?
Chief Constable Hyde: Then I am going to have to negotiate.

Q316 Neil Carmichael: The process is a kind of a dialogue between the police, the crime commissioner and chief constable—not a matter of, “I’ll read his or her manifesto and see what happens”, but a dialogue?

Chief Constable Hyde: Yes, it is, but I think the starting point would be the content of the manifesto, because that is where the electorate has agreed to select somebody. I think it would be very unusual for a chief constable to turn round and ignore the manifesto—that would be critical in that discussion—but yes, it would be down to me to discuss issues that perhaps a candidate would not have been exposed to, for example, counter-terrorism or high-level risk that we would need to discuss.

Q317 Neil Carmichael: It is quite an important point because, of course, you have statutory responsibilities. In the unlikely situation that a police and crime commissioner turned up and said, “I want to abolish the police force,” or something like that and was elected, obviously that would put you into a funny position if you insisted on implementing his/manifesto.

Chair: Can we stick to wildlife crime?

Neil Carmichael: I am coming on to that. The real issue about wildlife crime that I have picked up in this evidence session so far is that it is cross-border, cross this and cross that. One of the interesting things about legislation that includes the police and crime commissioner is the requirement for you to co-operate with other chief constables in different fields.

Chief Constable Hyde: Absolutely, absolutely.

Neil Carmichael: I think that is a really important point and the most important point.

Chief Constable Hyde: We do operate pretty well at the moment. I mean, the fact that we are able to identify people to take on these other responsibilities so quickly is a pretty good indication that we do collaborate. I have a whole range of collaborative arrangements with forces within my region over a whole host of different issues.

Neil Carmichael: Excellent, because that is what you should have and is what hopefully will develop even more.

Chief Constable Hyde: Yes, yes.

Q318 Martin Caton: The creation of the National Wildlife Crime Unit seems to be a positive development since this Committee last looked at this subject back in 2004. Why do you think it has been more successful than the National Wildlife Crime Intelligence Unit that preceded it?

Chief Constable Hyde: Do you want to start that one off?

Nevin Hunter: Yes. We stand alone now, and I think that is perhaps one of the lessons. We were part of the National Criminal Intelligence Service. The Wildlife Crime Unit went into that. We are now standalone. Financing, although a challenge, has led to us being able to apply resourcing at a more appropriate scale, so we have some resilience in terms of some staffing to enable us to be able to deliver and to work with police forces in particular. Do you want to take it on from there?

Chief Constable Hyde: I think we have all progressed. Policing has moved on. The instigation of SOCA has given us a better understanding of how to use intelligence properly and, because of that and because of the intelligence model itself, units such as the National Wildlife Crime Unit have been able to deliver a lot more for probably a lot less, I would guess, than it did before. It is not just about the unit, however; it is about the environment in which the unit operates. We are far more willing to listen where there is intelligence that has been collated, analysed and is ready for some action. So it is not just about the unit; it is about the whole policing model having changed.

Q319 Martin Caton: Our 2004 report found that that predecessor body, the Intelligence Unit, was “expending time and resources on intelligence packages for police forces who had no intention of devoting any real resources to the crimes themselves”. Is that still a problem?

Chief Constable Hyde: I have to say, coming back to Richard’s contribution as my predecessor, I think he did a massive job in getting forces to understand that there is something important about wildlife crime and getting them to invest. The decision that we took as a chief officer team about two years ago, I think, was taken because of the efforts that had been put in by the unit and by Richard to encourage us to do it. There has been a sea change. Now, on whether that is enough, I would argue it is probably not. I think we need to be reaching out to our partners more and getting them much more engaged, but, in terms of policing, I think we have come a long way and made some substantial investments.

Nevin Hunter: I mentioned earlier evolution, not revolution. The National Wildlife Crime Unit now is seen as the contact, certainly for the police service, for wildlife crime issues. We work, in the way that statutory law enforcement agencies do, with the national intelligence model. I also mentioned earlier that glue provided by the investigative support officers. That is why we are able to progress things in a way that perhaps in the past we have not been able to do. When we first started, we did not have investigative support officers. We now have those and they provide absolutely key support, and not only to police forces; they also go out and work with the partner agencies, statutory agencies as well as the non-governmental organisations, and that glue is extremely important to raise the profile but also to support cases.

Q320 Martin Caton: The unit’s website appears to have been a work in progress since you were set up in 2006. Are we going to see it properly up and running any time soon?

Chief Constable Hyde: I will give you a commitment. At the moment, the website is run through Lincolnshire, I think. We have an excellent capability within Cumbria for both website and, probably more important, social media, and I would want to try to move the site up into one of our servers so that we can deliver a proper site that meets people’s needs,
but also link in with all the social media contacts that we have. Is that blunt enough?

**Martin Caton:** It’s very welcome.

**Nevin Hunter:** The website is important, but also important is that we take internet crime seriously. We are looking to address that. We have had some very good prosecutions as a result of close working, particularly with the UK Border Agency, leading to prosecutions where information and intelligence has come to us and has been acted upon as a result of internet trade with some substantial penalties for people. So the website is important but also the internet as a mechanism for criminality is something that we are looking at and take very seriously.

**Q321 Sheryll Murray:** Can I ask what happens to the live animals if you have a successful prosecution?

If you have, for instance, a case of cross-border trading in exotic animals, what happens to them?

**Nevin Hunter:** Well, there are two aspects to that, and perhaps when colleagues from the UK Border Agency speak after us they could explain the issues in terms of how they deal with illegal imports and the like. In terms of the internal trade, the legislation requires, when a person is prosecuted, the court to confiscate specimens that are the subject of criminal investigation and we would then work with agencies to find suitable homes for them. They are often zoos and other places, but they will be suitable places, and also places where specimens could not then go on and be traded again in any way. They will go there and normally be housed for the rest of their lives.

**Q322 Mark Lazarowicz:** Can I be clear on a couple of things about the territorial extent to the financing of the current Wildlife Crime Unit? Mr Hunter referred to various operations in Scotland and also, at an earlier stage, to a UK-wide activity, and Mr Charleston, at some stage, referred to England and Wales. I mean, is this a UK-wide or GW-wide unit?

**Nevin Hunter:** Yes, it is.

**Mark Lazarowicz:** What is it, a GB-wide or UK?

**Nevin Hunter:** Well, we cover all four countries; Northern Ireland as well.

**Q323 Mark Lazarowicz:** As a matter of interest, where is your headquarters? You said it was in a Scottish police office somewhere.

**Nevin Hunter:** In Livingstone.

**Q324 Mark Lazarowicz:** In Livingstone, all right. You said your funding streams come from various sources. What are the main sources of funding currently for the Wildlife Crime Unit?

**Nevin Hunter:** The Home Office and Defra.

**Q325 Mark Lazarowicz:** Not any individual police forces?

**Nevin Hunter:** No. The Association of Chief Police Officers and Association of Chief Police Officers Scotland provide funding as well.

**Mark Lazarowicz:** What about the Scottish Government, Welsh Assembly Government or Northern Ireland?

**Nevin Hunter:** The Scottish Government provide funding as well for a particular post within the unit.

**Q326 Mark Lazarowicz:** Is this funding year by year, or is it on a longer-term basis?

**Nevin Hunter:** Well, in the past it has been three-yearly and the next round of funding is due for review in April next year.

**Q327 Mark Lazarowicz:** I get the impression that you spend a lot of time really scrabbling around to get the funds to keep going. Is that fair?

**Nevin Hunter:** We spend time having to consider those issues. Yes.

**Q328 Mark Lazarowicz:** If you do get a National Crime Agency—yet it is meant to be certainly GB-wide, isn’t it, and not just England and Wales—then I suppose, on the one hand, there is a possibility that you will get resources on a firmer footing. Isn’t there also a possibility that resources that are being used for your purposes might be subsumed into the general pot and diverted to other areas that might at a particular moment be more headline?

**Nevin Hunter:** Yes, it could be. Serious and organised wildlife crime may not in itself fit into the “serious and organised crime” general definition, and that can be the challenge that we have for the future, exactly along the lines that you are suggesting.

**Q329 Mark Lazarowicz:** Is there a view among you which is the best arrangement? Should it be a separate unit, or should it be part of the agency?

**Chief Constable Hyde:** There are two elements for me. Certainly in relation to CEOP, I saw that putting it under what was then SOCA was an important aspect of providing an umbrella of protection, providing HR advice, providing finance, providing that somebody could look after it. So you could argue it from that point of view. The second element is that wherever it goes—whether it stays as an independent body or goes into NCA—I would not want to lose its connection with frontline level-one crime: that is local wildlife crime as opposed to serious organised importation of exotic species, for example, or anything like that. I think I could imagine a model where it is delivered inside NCA. I could equally imagine a model where it is delivered outside NCA. If it is outside, however, it has to include more partners within it, not least of all to make it of a size that is sustainable, and we would need to ensure that its funding is more consistent and is guaranteed so that it is not going to operate on a sort of an annual basis.

**Q330 Mark Lazarowicz:** Because there is a real tension there, isn’t there?

**Chief Constable Hyde:** There is, yes.

**Q331 Mark Lazarowicz:** Because you can very much see how a National Crime Agency could be almost, not a side-effect, but a kind of parallel to investigating other types of smuggling. Smuggling in various exotic animals might be seen as a part of that investigation and yet, on the other hand, investigating...
the local animal cruelty issues wouldn’t really be at all a priority, would it, for a National Crime Agency? Chief Constable Hyde: Yes. With CEOP, I think there was a real strength in being part of SOCA. I am not sure if it is exactly on all fours with the current status of the National Wildlife Crime Unit, but I think it could be delivered as a separate entity only if the finance is sorted out and we grow it with other agencies.

Q332 Peter Aldous: If we come on to the co-ordination with other organisations and bodies, we have taken evidence from such organisations as Natural England, the Environment Agency and later today we obviously have the UK Border Force. How do you feel that you are co-ordinating with those bodies? Is the Partnership of Action against Wildlife Crime an efficient means of co-ordinating everyone’s activities?

Nevin Hunter: Yes. PAW is held up as best practice globally. It is an umbrella organisation that harnesses support from not just statutory organisations but non-governmental organisations as well, and it is pretty much a unique partnership. We have people within the partnership that have totally opposing views, but the commitment is to tackle wildlife crime, and that is the overarching one that we all sign up to.

Q333 Peter Aldous: And it works?

Nevin Hunter: It works, yes.

Q334 Peter Aldous: If we just look at sort of mass membership organisations like the RSPB and the Angling Trust, how do you engage with them and their members?

Nevin Hunter: Directly, PAW has a number of groups that we interact with, and I will give an example. There is a forensics working group on which sit police, the UK Border Agency and a number of non-Government organisations, as well as scientific bodies, and we then harness the strengths of all of those to tackle issues, to identify any developments and work with those. Looking at some of them specifically, the RSPB provide direct support in terms of direct operational support for things like identifying eggs and collections, but also, where we have prosecutions, they produce a publication called Legal Eagle that highlights a number of prosecutions—sort of wildlife crime community news—which is available online for people to look at and raises the whole profile of wildlife crime, as well as using their own magazines and that to highlight the role of wildlife crime officers.

Q335 Peter Aldous: Because a lot of the crimes take place in very isolated areas, the RSPB and Angling Trust may have members out in those areas. Are you happy that they are very much your eyes, so to speak?

Nevin Hunter: Yes. People like the RSPB have their own investigation services; they collate their own information and intelligence and they feed that naturally to the Wildlife Crime Unit. In fairness, the RSPCA, the SSPCA and the majority of the NGOs are looking towards those sorts of processes. So there is a natural feed in to the Wildlife Crime Unit, and if it is something that comes in to us that is perhaps not a policing role but is something for our partners in the UK Border Agency, we will make sure that it is passed on to them.

Q336 Peter Aldous: Just broadening things slightly and looking at the international co-operation, Interpol have told us that the UK haven’t implemented their system for sharing wildlife crime information in terms of Ecomessage. Is there any reason for that? Do you have any plans to do that?

Nevin Hunter: Yes, can I nail that one, because it is a real concern to me. The Ecomessage is a 20-year-old format of messaging. It doesn’t meet international intelligence handling requirements that law enforcement agencies meet. To reassure you, since 2006 we have submitted more than 400 intelligence logs to Interpol and to Europol. In 2011 we submitted 21% of all intelligence received by Interpol in the Environmental Crime Programme, the majority of which was relating to wildlife crime. When I say “we”, that is the UK. That would involve the UK Border Agency, Environment Agency and others as well. To put it in perspective, in 2011 we in the UK provided more intelligence than the combined efforts of the USA, Canada, New Zealand, Australia, China and South Africa—more than all those countries put together. We do submit intelligence, but there are agreed protocols and, unfortunately, Ecomessage doesn’t meet them. However, we don’t have the time and nor do our partners in the Serious and Organised Crime Agency and UKBA, to transmit them into that format.

Chief Constable Hyde: Can I come in? There is an absolute principle to create efficiency, but to comply with this, we would be double-keying. In other words, officers would be having to submit for our intelligence system and then writing exactly the same text in a different system. I am absolutely and totally against any double-keying.

Nevin Hunter: A practical outcome that I could give you is that work has been done on rhino horn that we in the UK have progressed, and it supported hugely the work that Interpol have been doing to tackle both illegal rhino poaching, but also the implications of illegal trading in antique rhino horn. So we put in a substantial amount of intelligence over the last few years, ourselves, UK Border Agency and others, to help address that problem.

Q337 Peter Aldous: Are you happy that Interpol are fully acting on the information that you provide them, because I would imagine, in the relationship with Interpol, that is where we are getting involved with serious organised crime?

Nevin Hunter: Yes we do, and we provide direct support. They have their own intelligence and analytical functions that work in a way that the law enforcement agencies do, but we also provide direct support. I currently have an officer out supporting an operation team in Nepal. We have people out there working with Interpol that lead to co-operations.
Q338 Peter Aldous: You are happy with Interpol and they respond in a proactive and helpful way to what you are doing?
Nevin Hunter: Yes.
Chief Constable Hyde: I have worked in a number of areas with Interpol. If you watch a crime movie, it makes it look as if Interpol is this huge army of people. They are quite small, but they work very effectively at exchanging information and data, and that is something that law enforcement across the globe cannot do collectively. It is a very important part of their business, but they are not an enforcement agency going out and taking out gangs of villains, as it were.

Q339 Zac Goldsmith: Before we move on from this, I would love to hear a little bit more about PAW. Principally, who chairs it? Who convenes it? How often does it meet? Who sets the agenda? I do not know whether I missed that at the beginning, but it is useful to know.
Chief Constable Hyde: I am going to have to defer to one of my experts.
Nevin Hunter: Yes, the PAW structure has a strategic lead. It will be Mr Hyde in the future from an ACPO lead, but also a senior officer from Defra, who jointly chair the partnership. They meet every six months to look at strategic issues and, in addition to dealing with general partnership issues on that day, they will look at the UK strategic task and co-ordinate it. We are looking at a structure that mirrors the way police enforcement works. Part of the role that my unit produces is an assessment that then provides the baseline for future action both identifying key areas of criminality, how we are delivering on the priorities that we have identified and then being accountable to the chief constable and to the Defra lead. They will then be tasking us and our respective partner agencies to take action over a period of time.

Q340 Zac Goldsmith: You effectively run it in partnership with Defra. I think there are 90 members. Is that right? Maybe I made that up. Yes, 90 organisations. Of all the various parties who form the PAW partnership, how many of them are not statutory? How many of them are NGOs and organisations of that sort?
Pete Charleston: I think the vast majority are NGOs and they make contributions of various size according to the size of their own organisation and the resources they have. Some, such as RSPB, are very involved in many of the working groups. Others are unable to contribute to the individual working groups but, nevertheless, their being a member is sending out a very strong message across a broad spectrum that they are interested in tackling wildlife crime.

Q341 Zac Goldsmith: Just the last question on PAW: when was it established? Do you know when PAW was established?
Pete Charleston: I was going to say mid-1990s. Yes, it was.

Q342 Chair: Before we move on, these options that are going to determine what the next phase of the operation looks like: to what extent will Defra and all the other NGOs—everybody else involved in this collaboration—be part of that process of drawing up the options that will determine what the future service looks like? Has thought been given to that?
Chief Constable Hyde: Do you want to answer that and then I will come back?
Pete Charleston: I think it is very difficult for PAW to come up with agreed policies or views on these matters. PAW is a very broad umbrella of interests. We have the RSPB. We have the British Association for Shooting and Conservation. It would be, I think, a very difficult task to come up with views that are agreed by all the partners and, because of that, we tend not to come up with PAW views on these matters, but partners have individual views on them.
Chief Constable Hyde: In relation to the broader question there, yes, I think if we were moving now to a solid option of taking the unit, for example, and changing its structure or moving it into NCA then, yes, I would want some consultation on that with as many people as possible.

Q343 Chair: Would that be a matter for you, or would it be for Government to decide who that is?
Chief Constable Hyde: It is more likely to be a ministerial decision on the basis that the NCA is being set up through the Home Office, but I will be engaged in debate and discussion, as will Nevin.

Q344 Chair: In that one meeting that you referred to with the Minister, Nick Hurd, was there any indication that this kind of discussion, which would presumably need to be with Defra as well—
Chief Constable Hyde: It was not a formal meeting. It was actually a discussion at a funeral. He did make it clear that he is very keen to progress wildlife crime within the agency, but there were no formal agreements.

Q345 Chair: There is no mechanism for that to materialise?
Chief Constable Hyde: Well, I have written to him and I am really looking forward to the response.

Q346 Chair: How long ago did you write to him?
Chief Constable Hyde: Probably 10 days, something like that. It is very recent.

Q347 Peter Aldous: Just for clarification, it is Nick Herbert rather than Nick Hurd, I think.
Chair: I am so sorry.
Chief Constable Hyde: Nick Herbert, yes.
Chair: Yes, thank you for the correction.

Q348 Dr Whitehead: There are a couple of questions on which we have had some rather conflicting evidence given to us, so I guess you are the deciders. The first one relates to the status of the various bits of legislation on wildlife crime and how that stands in terms of how effective your work may be. Do you favour consolidating those various bits of legislation into one new Wildlife Act?
Chief Constable Hyde: From a personal point of view I favour consolidating masses of legislation, not least...
of all because it is easier to train. I think, in terms of the specifics, I know Nevin is in that view as well, but maybe you want to explain some of the choices.

**Nevin Hunter:** I think there really are two issues when we look at wildlife crime and one is around domestic issues. Domestic legislation, the Wildlife and Countryside Act or the Poaching Act, Deer Act and the like, is very much about restrictive legislation in terms of “it is an offence if”. On the other hand, we then have endangered species trade legislation, where as long as people comply with the rules in terms of endangered species trade, it permits them to do certain things. As I say, there are two schools of thought there. We have the consolidation of domestic legislation, which will certainly make it much easier for us, for police officers in particular, if you are trying to think of some of the Acts that go back to the early 1800s to do with poaching. Then we have the Wildlife and Countryside Act and the various amendments. There is a mass of stuff. A single consolidated piece of legislation will certainly make it a lot easier for training issues and raising the profile generally across the police service, but when it comes to trade issues, they are separate and, of course, we have the wider implications of the global issues to do with CITES.  

**Q349 Dr Whitehead:** Are you actively promoting that wish to have the legislation consolidated? I am thinking in the context of the Law Commission review of wildlife law that is under way at the moment.  

**Pete Charleston:** We have had contact with the Law Commission. They are aware of the interest of ACPO and we will be responding to consultation when they issue it, yes.  

**Q350 Dr Whitehead:** The second piece of conflicting evidence, shall we say, that we have had relates to the available penalties for wildlife crime. Some of the evidence that has come our way has suggested that the penalties are not commensurate with potential profits for criminals and, therefore, not effective. Other people have suggested that the penalties themselves are sufficient, but the issue is one of sentencing and whether the actual sentencing relates to the range of penalties that are available. How do you see this?  

**Chief Constable Hyde:** I think it is not right for us to comment on specific sentences in a particular case, but do you want—  

**Nevin Hunter:** There is an interesting issue in that, if somebody illegally trades a Hermann’s tortoise, which is the most commonly traded species of tortoise and ranched in huge numbers, they could attract a sentence of five years’ imprisonment. However, if I was to shoot the last hen harrier in the UK, I will get six months’ imprisonment as a maximum.  

**Q351 Dr Whitehead:** Deducing from that that you are concerned about the penalties?  

**Nevin Hunter:** It is a comment, yes.  

**Chief Constable Hyde:** I think society needs to demonstrate what the offences are that cause the most damage and then sentence accordingly.
Q356 Martin Caton: Mr Hunter, you just put forward the prospect of shooting the last hen harrier in the United Kingdom. Sadly, that is not a million miles away from being a possibility now, because the population is tiny and declining, isn’t it? That is in marked contrast to other raptors—the red kite and buzzard populations are a marvellous story. It is another case where we have had conflicting evidence. To what extent do you think persecution of hen harriers plays a large part in their decline?

Nevin Hunter: I do not think that we are in a position to comment from a police service point of view. We are not scientists and we don’t have that sort of background. Academic research has suggested it is the case. We have been called upon in recent years to investigate a number of cases, but we do not have the expertise to enable us to express a view as to whether decline can be attributed just to persecution. We have a role from a policing point of view to investigate.

Q357 Martin Caton: The ACPO written evidence pointed us towards the introduction of vicarious liability for offences involving raptor persecution in Scotland and suggested it might be usefully applied in England. In practical terms, how would this help to overcome the difficulty of securing evidence of raptor persecution?

Chief Constable Hyde: I think the document actually suggested that this might be encouraging learning for us and that we should see what happens, study how it pans out in Scotland and then, if it does create the benefits that it could deliver, look at whether we could bring the legislation south of the border. I know we have done that on a number of occasions in different areas of criminal justice. I think our position would be let’s wait and see how it develops. I don’t think we should draw conclusions until it has been tried.

Q358 Martin Caton: We took evidence from a representative of the Gamekeepers Association who was very much opposed to this. Would law-abiding gamekeepers and landowners have anything to fear from the introduction of vicarious liability into English law?

Chief Constable Hyde: I think in just about every area of this there are probably two sides and no ends. This is probably a good example of it. I would hope that law-abiding landowners would have nothing to fear with this—clearly, principles of English law would protect them—but I come back to what I said just now about seeing with an open mind how it progresses in Scotland, and if it is something that works and is of value then we can make suggestions to bring it in. If it doesn’t work or adds to or creates some of the fears that the gamekeepers have expressed to you, then clearly we would not suggest that we bring it in.

Martin Caton: Fair enough; thank you.

Q359 Chair: I just wondered if your position is the same as your predecessor’s or if there has been a slight change of direction.

Chief Constable Hyde: I think I just want to see how it operates. That is the position at the moment.

Q360 Peter Aldous: In the 2004 report there was a recommendation that the National Wildlife Crime Intelligence Unit, as they were then, should maintain a centrally managed national database recording wildlife crime. On the face of it, that seems fairly uncontroversial. We had a discussion a minute ago about getting too much red tape and bureaucracy, but I just wondered why that has not been done.

Chief Constable Hyde: Do you want to do that and then I will come in?

Nevin Hunter: Yes. I think the picture we have of wildlife crime and wildlife crime incidences is incomplete. Over the last few years we have tried to gather incident data, but we are very much reliant upon the 50-plus police forces around the UK to feed that incident data to us. Of course, an incident could be men walking in woods with terriers but, at the same time, somebody may report a similar incident saying men with dogs are attacking badgers. We gather incident data and we have done that. We are dependent upon all the police forces feeding to us. What is clear, though, is that the majority of wildlife crime offences are summary-only offences, so they fit into that category for the Home Office of non-recordable offences. In terms of how we can gather records, that is difficult.

Q361 Peter Aldous: The majority of offences would be, let us say, the local character shooting a pheasant for the pot rather than organised crime—going around the country badger-baiting?

Nevin Hunter: Yes, but you have to deal with both and everything in between. Therefore, undoubtedly, incident data would then give a huge extra responsibility for police forces to collate.

Q362 Peter Aldous: You are happy that there is sufficient co-ordination—that, say, the organised criminals badger-baiting are not going to slip through the net somewhere?

Nevin Hunter: Well, the key is not so much just incident data but intelligence and, because of the way in which we work, dealing across the board, we will be able, working with police forces, to access intelligence about other criminality that people may be involved in. If they are badger-baiters and poachers and are involved in illegal use of firearms, because we work in the same way as the police and we are a police unit, we will liaise with the local police force and deal with things in an appropriate way.

Q363 Peter Aldous: You get appropriate feedback and co-operation from all forces?

Nevin Hunter: I said earlier on it is an incomplete picture. Some forces are better than others, but it does depend on the resources available to be able to provide incident data. What is key is that, because there is a national intelligence structure for the police service, intelligence does get fed to us but, again, the picture is variable. What is not doubted is that we have increased the amount of intelligence we receive and act upon. We are getting better at it but what—
Q364 Peter Aldous: That picture is variable mainly because of a lack of resources rather than any reluctance to engage with you?

Nevin Hunter: Resource is one issue, and also understanding about what it is we need, which is why the priorities are so important. We want police forces to know that we need to know about those six priority areas.

Chief Constable Hyde: Just by way of a sort of analogy, in the area of fraud a few years ago we went through a number of reviews that said there was a complete mismatch in the quality and quantity of recording across the country. Working through the concept of Action Fraud and the National Fraud Authority, now all fraud can be reported directly, either on the telephone or on the web, along with cybercrime as well, which is mostly fraud related. What we have done is had one system: if you make a phone call, it goes through a call centre in Manchester and then that is all aggregated into the National Fraud Intelligence Bureau. It is a much more co-ordinated approach—in fact, it is probably world-class in terms of recording of fraud. Now, that was an approach that worked for fraud. Whether that approach would work for here to guarantee consistency I don’t know, but it is certainly something that we could look at.

Nevin Hunter: Could I just flag up that a single consolidated piece of wildlife crime legislation covering the UK may make it easier, because it will all go under that umbrella in terms of recording?

Q365 Peter Aldous: You don’t get any feedback from forces along the lines that they were doing things perfectly properly before you came along and they can get on quite happily and do it on their own?

Nevin Hunter: I am not quite sure I understand the context.

Q366 Peter Aldous: They are happy to co-operate with you, all forces?

Nevin Hunter: The vast majority of forces we get very good data, both incident data but also intelligence, provided to us through the processes that I mentioned.

Chair: Well, there we must leave it. Can I thank all three of you? It has been very helpful. We very much hope that our report, when it is published, might help to establish some kind of basis for the next five years’ position. Anyway, thank you very much indeed for coming along this afternoon.

Examination of Witnesses

Witnesses: Mark Fuchter, Deputy Director, Operational Policy, Border Force, and Grant Miller, CITES Team Manager, Border Force, gave evidence.

Q367 Chair: A very warm welcome to your contribution to this afternoon’s inquiry. I think you have sat through the previous session, so you are aware of the general concerns that we have, and can I thank both of you very much for coming along and helping with this afternoon.

It will start off. Your written evidence to us states that you agree enforcement priorities with the Home Office Ministers and with other key external partners. It would be helpful to have an indication of how you go about doing that, what the regularity of meetings with the Home Office is, how it actually happens, and who the other external parties are that you are conferring with.

Mark Fuchter: Thank you, by the way, for the invitation to come back here again. In simple terms, to put it in context, we are now Border Force and we are a director-generalship of the Home Office. That statement in our submission was partly in the sense of line management, but our key stakeholders in terms of strategic priorities in this area are, of course, Defra and ACPO. I am conscious that we are probably going to go over similar ground that you have just been over, but we look to take our strategic priorities in terms of CITES very much as a lead from Defra, but also with an eye on the direction that the European Commission may be taking, because it is their regulation that we are enforcing.

Q368 Chair: In terms of the relationship that you have with the Home Office and with Defra, how do you see that working out in a cross-cutting way?

Mark Fuchter: I think it works very well actually. We deal with Defra in their policy leadership role and ourselves as an operational directorate charged with putting into place and enforcing the policies for which they lead within Government. To be honest, it is business as usual. Many of our border control responsibilities are led at policy level by Defra; others are led by BIS and others are led by other parts of the Home Office. It is quite usual for us to have that sort of partnership working relationship, and the test for us is to make sure that we are meeting their overall priorities, balanced against our other priorities internally for which we follow the process that you have been hearing about—the national intelligence model tasking and co-ordination process. At the top level, we have for CITES and wildlife crime, I should say, the tasking and co-ordination process chaired now by the incoming chief constable that you have heard about. We have similar processes within the organisation that take CITES alongside firearms, alongside counterterrorism, alongside drugs, and allow us to prioritise those operationally.

Q369 Chair: In terms of the debate about what the future shape of the organisation will look like, do you have any recommendations on whether it should sit as part of the National Crime Agency or separately?

Mark Fuchter: I think we are neutral on whether it sits in the NCA or whether it sits in the way Chief Constable Hyde described. All we would like to see is that it continue in its form and perhaps get ever better. I have been associated with this area since the
early days of the NWCIU, and I think it is fair to say we have watched it grow and mature; we have helped each other to the extent that we feel we can go to a unit like that. We have similar units that we can go to in terms of firearms crime and drugs, as well. It works well.

Q370 Chair: What would you say your current enforcement priorities are?

Grant Miller: I chair the CITES Priority Delivery Group on behalf of the chief constable. It is made up of representatives of the police—from the Metropolitan Police currently—the head of the National Wildlife Crime Unit, ourselves as Border Force, and Defra. Also, when required, we bring in expert speakers to talk about particular issues. All the priorities are based in line with the national intelligence model in that, first and foremost, we must have intelligence to suggest that there is a problem before it comes on to the table. The current priorities we have at the moment is we have four operational CITES priorities, those being the illicit trade in ivory; reptiles, with a particular focus on tortoises; the illegal trade in raptors; and all forms of traditional medicines, including the use of rhino horn.

With regard to each of those operational priorities, we have a plan for taking them forward. That is based on enforcement action, on education and then compliance to see if the work that we have put in place has taken place. Currently, the trade in ivory is a new priority that we have started to look at again. We have had an ivory threat assessment been completed and we have moved into the first phase of enforcement action, which is tackling the trade in ivory on the internet. In the last eight months we have successfully referred nine cases to both Border Force investigation and police forces, and three of those cases have been referred to international customs authorities, two to Belgium and one to Italy. Two have come through or have been completed with the result of formal cautions being issued. The remainder have still to come to trial. On all of the jobs that we have done significant quantities of ivory have been returned, but we are in its infancy of enforcing this as a key priority.

Trade in reptiles is now coming towards its close. It coincides with Operation Ramp, which was a compliance exercise going out looking at the trade in reptiles. I am very pleased to say that after a period of enforcement and education by our partners in Defra, we found the trade in reptiles in the UK to be largely compliant. I think that is a great success story for our method of working—if trying to move the priorities forward, improve and educate the trade.

The illegal trade in raptors is new—it came on at the last TCG planning meeting. It centres on the issue of semi-complete article 10 certificates within the world trade. We have intelligence now to suggest that these documents are being misused and we are moving into the first phase of bringing them back in and recovering them, so that we can take more reliable enforcement action.

On traditional medicines, we are seeing more and more of these products involving CITES-listed plants, ayurvedic medicines from India and other continents. So we are developing our skills in those areas and moving forward.

Chair: That is a very comprehensive list.

Q371 Zac Goldsmith: The emphasis you put on ivory as a new avenue of activity is interesting. It cannot be new. You mean renewed?

Grant Miller: We look at all the CITES products in relation to their being traded. What we have is intelligence to suggest that ivory from the UK was being smuggled to China and Vietnam and that was a growing threat. Therefore, it became a particular focus of our enforcement activity. In effect, we have said we need to shine the light on that.

Q372 Zac Goldsmith: If we have time, can I ask you why would ivory be traded from the UK? Is it brought here, laundered and sent on?

Grant Miller: I think some is almost certainly brought in here, but within the UK we hold a large quantity of old ivory from snooker and billiard balls from yesteryear. Those have a value as the elephant populations are under threat, and former ivory is now being trafficked. It does require licences, permits, to be moved, and we are finding that people using the internet are trafficking and are not complying.

Q373 Zac Goldsmith: Do you mind if I pursue that? How easy is it to get? How strict is the licensing regime, and how easy is it to launder fresh ivory and dress it up as old ivory?

Grant Miller: I think there are techniques as to how to do it. They try to age, for instance, new ivory using tea, burying it so it takes on the patination. Yes, it can be done. We have built up expertise within the team to recognise, for instance, the carving techniques of a particular period in history when ivory was more popular. We learn things like that and those are mistakes that the smuggler makes. They may try to conceal it, but they may well carve things that, quite frankly, were not in fashion during those periods.

Q374 Zac Goldsmith: If you had an old piece of ivory in your house from 100 years before and you wanted to sell it, you would not have a licence now. You would have to go and get a licence. How would that process work?

Grant Miller: You would make an application to Defra, to Animal Health, for a licence and the licence would come. We are looking at the exportation and those goods are being shipped out to China, predominantly.

Q375 Zac Goldsmith: Would someone actually come and examine it, every piece, or would it be—

Grant Miller: No, no, absolutely not. It is about the licence. When you are exporting over the border then we would—

Q376 Zac Goldsmith: Yes, but if you want to export your ivory that you have and you want to get a licence from Defra, how proactive are they in ensuring that that ivory is legit?
Grant Miller: That would be for Defra to comment on. If you have an ivory item, they would issue a licence. What we would do on the border is we would check that licence, and, if we felt there was a requirement, we would conduct an examination.

Q377 Chair: On that point, would you agree that there is quite a lot of awareness-raising that needs to be done on this whole issue?

Grant Miller: Absolutely, and the next stage when the priority group meets will be to discuss how we go about educating. Mistakes have been made by NGOs in the past, with the best of intention, around the ivory trade. For instance, one of the online auction houses was contacted and told, “You are allowing ivory to be traded on your website.” The online auction site then responsibly said, “Well, we are not going to allow ivory to be traded.” What we found overnight was that the ivory was still there but it was then described as ox bone, as white wood or as other commodities. From an enforcement point of view, that then creates another problem for us because we, first of all, have to prove the guilty knowledge—that the individual who is selling the item knew it was ivory. From a very well-intentioned step it became a problem for us.

Zac Goldsmith: Chair, do you mind if I ask some more on this?

Chair: Please do.

Q378 Zac Goldsmith: There is the ongoing question of whether or not there should be any trade at all in ivory—that when you have a legitimate angle you are simply facilitating this process you have just described of laundering the illegitimate ivory. Is it your view that there should be no trade at all in ivory?

Grant Miller: I am not a scientist. I will leave that to the conservationists to inform that. I am a customs officer.

Q379 Zac Goldsmith: Can I ask you then not whether you should or should not, but whether it would make the job of people in your position easier if it was a black-and-white position that all ivory trade was banned?

Grant Miller: Yes.

Q380 Chair: Just before I move on, in terms of shipments that are coming in, I wanted to try to get some idea of how many consignments are coming in that just are not detected by yourselves and how that proportion compares with illegal drugs, for example, or firearms?

Mark Fuchter: We do not have any estimates of the extent of deliberate smuggling. People do not report that they have got away with it.

Chair: No, but do you have any sense of—

Mark Fuchter: The sense I have is that anything that is getting through—that is, if you like, beating our controls—is very small. Part of the reason for saying that is our confidence in the relationships we have with the NWCU and the intelligence framework. I think this works very well. I am also responsible for our operational policy on drugs. If you look at class A drugs over the years, SOCA have been able to publish estimates of the amounts that are targeted either on the European Union or on the UK, and they have tended to be very high. We have had to look at ourselves and ask ourselves quite challenging questions about the proportion of drugs that we seize against those proportions. Nothing like that exists in this area.

I should add that we are also policing and regulating all of the lawful trade in endangered species that is going on. Compared to drugs and illegal firearms, what we are dealing with here is both the illegal smuggling probably of annex A species, and that is certainly a priority for us, in among all the regulatory trade. Our first duty is to ensure that the permits for the regulatory trade are checked. That is a whole load of stuff going on every day, day in, day out. I think even in terms of ivory, the quantities that we are talking about are small, but I have to say that is my assertion looking at responsibilities in this area compared to drugs when, for example, in terms of all the new synthetic drugs coming out of the far east, that is a challenge to deal with—just the sheer volumes targeted at the UK. I do not get the same impression here.

Grant Miller: To add to that, it is certainly not the intelligence that we are missing vast loads. With regards to all animal shipments into the UK, they must travel through a border inspection post from third countries, which is at Heathrow and at Manchester. At both locations we are linked in very much with the local council, and particularly the City of London, who run the animal reception centre at Heathrow. There are no animal shipments that are not examined either by ourselves or by Animal Health for health reasons. It is about being joined up and educating each other. They know what we are looking for; similarly, we know the things that they are interested in. It is a partnership between us that has proved very successful.

Q381 Chair: Can I check you do not have the same resource issues that the Border Agency has had in respect of people coming through?

Mark Fuchter: We are the same organisation. Very much the Border Force—

Chair: I mean in respect of the provision of this part of the service that you provide.

Mark Fuchter: No, not at all.

Q382 Mark Lazarowicz: To what extent are your efforts in CITES control undermined by less effective border control regions elsewhere within the EU? Getting into one part of the EU and up on the French side of the Channel, how effective is it?

Mark Fuchter: We are very conscious that the levels of control across the European Community vary. Are we undermined? We would be undermined on any case where a sophisticated organisation decides to penetrate the EU external border elsewhere. To that extent, the UK could be undermined. As you know and I think we made clear in our memorandum, we can’t mount controls within the European Community. We are enforcing an EU border regulation. Yes, to some extent there is some truth in what you say. What do we do about it? We do a number of things. While we are protecting the external border,
again we come back to our relationship with the police enforcing the COTES regulation. That is the whole point about working in partnership with them, because we are dealing with people who can effortlessly move goods across international borders if they wish to. We also work with the Animal Health Agency in terms of their compliance activity.

Specifically, in terms of the external border, we do a number of things. Grant’s team, and you can explain more, have done, over the years, a number of specific things to help build capacity in other member states, particularly those States that over the last eight years joined the Community. I think it is eight years ago now. We have provided standard training packages to certain member states and it is fair to say—I think Grant will be able to explain—some member states have got up to speed very, very quickly and are very competent. We have provided training to some of those.

We have also provided training to some of those member states on the border of the European Community, which I think is also very important. Specifically, we have provided resources to come up with a training programme for both police and customs officials or border guards across the Community going into the details of CITES as we enforce it. On top of that, there is an exchange network called EU-TWIX that Grant’s officers use to share good practice and information with other European partners. Have I missed anything?

Grant Miller: No.

Q383 Mark Lazarowicz: There are powers under the COTES regulations to be able to seize goods in the UK that were previously illegally imported into another EU member state. How frequently have you made use of those powers?

Mark Fuchter: This is Article 5 of COTES?

Mark Lazarowicz: Yes.

Mark Fuchter: We have only used it three times in the last, I think, four years and we have not been asked to use that power at all for two years, but if I could hand over to Grant, because you are the authority in Border Force who makes those decisions.

Grant Miller: The Article 5 decision about reverse burden of proof is clearly a very powerful power tool within our toolbox. We cannot use it for every item that arrives from Europe because, quite clearly, there are large numbers of CITES specimens that are held and bred within captivity within the European Union that are held lawfully and are moved down to the UK. For instance, with a request for a rock python, which is a question that arises when goods are discovered inland? If you mean that, I would say never say never, but at the moment we have a framework in place—an agreement with the police...
that they can contact us 24/7 every day of the year to ask for our authority to use that power. I would say there is not a demand operationally for them to have that power. We would probably have to take legal advice. The law as it is written does not preclude it being a policeman and, of course, we are in the process of a transition to a National Crime Agency and the Border Police Command, and so all of these things, if you like, are on the agenda. It could well happen, but the point to emphasise is that the standard of tests that Grant outlined earlier would have to be applied, whoever does it.

Q388 Chair: Your view there is at variance with that of the Metropolitan Police.

Mark Fuchter: Okay. Well, I am prepared to accept that. I am happy to elaborate if—

Q389 Dr Whitehead: We have been talking about penalties and their appropriateness. As far as penalties relating to CITES-listed endangered species are concerned, they are pretty tough. Do you think that has a deterrent effect and does that, therefore, extend out to the informal economy and other penalties? What is it that we can evidence is that, it takes up about 20% of my time. CITES is about the control of known can be legally imported on an unlimited basis? Does that imply that species that are not importable. Does that mean that power. We would probably have to take legal advice. The law as it is written does not preclude it being a policeman and, of course, we are in the process of a transition to a National Crime Agency and the Border Police Command, and so all of these things, if you like, are on the agenda. It could well happen, but the point to emphasise is that the standard of tests that Grant outlined earlier would have to be applied, whoever does it.

Q390 Dr Whitehead: I am a bit curious about that. I saw a little while ago a piece of film on the identification of a previously unknown species that was identified as a result of it being on sale in a particular marketplace in a particular country. CITES consists of a list of known species that are not importable. Does that imply that species that are not known can be legally imported on an unlimited basis?

Mark Fuchter: I think that would ultimately be a question for Defra or perhaps the JNCC, but we could not use our CITES powers if the goods were properly imported, properly declared, but were not caught by the CITES regulation and they were not on any of the annexes. We could not use our CITES powers. We might be able to if the goods were not properly imported and we had other suspicions. We could perhaps question the import using our general Customs powers and contact Defra about it if we suspected something.

Q391 Dr Whitehead: A defence could be, “This is a species or subspecies not known to science and, therefore, you can’t get me”?

Mark Fuchter: Right, but, in a sense, isn’t the principle of CITES that it is about known identified species that have been identified by experts as being at some risk? I guess the first question would be, “Is this species at risk?” We would have to be very careful about how we act upon those goods if we detect them.

Q392 Dr Whitehead: I was going to say if it was unknown to science previously I guess it probably would be at risk on the grounds that it had not been seen running across the landscape in large numbers.

Q393 Martin Caton: Can we move on to data recording? You have submitted comprehensive statistics on seizures to us. Do you have such a detailed data set simply because you are dealing with notifiable offences that must be reported to the Home Office?

Q394 Martin Caton: Is it a costly process?

Q395 Martin Caton: Do you report your statistics to the National Wildlife Crime Unit or other enforcement agencies?
Mark Fuchter: Yes, we do. The underlying principle of any ACPO unit that we work with is to share everything we can. I think, Grant, your team sends them a spreadsheet every quarter and, in the meantime, you send them other materials?
Grant Miller: Absolutely, a quarterly Excel spreadsheet with all seizure information and, again, if any significant seizures are made or we issue any alerts, they are issued in real time to the NWCU.

Q396 Mark Lazarowicz: In your written evidence you refer to a training scheme that you helped to run in China. I think on your concept of using wildlife detection dogs that can sniff out various items. How far did that prove of interest to the Customs administration in China?
Grant Miller: Very interesting, yes. In November 2011 we deployed one of our dog unit trainers based at Heathrow to a workshop in China that had been sponsored by the WWF. This followed on from a visit to China of our former Customs manager, the previous incumbent in this post, a representative of the Metropolitan Police and the head of the National Wildlife Crime Unit. The aim of the exchange was to exchange working practices with the general administration of China Customs and to give advice as to how China may choose to develop its detector programme. Our trainer was accompanied by representatives of both Germany and Russian Customs enforcement.
The visit included a visit to the Beijing training centre, where a review was conducted of both kennelling and training facilities. The UK trainer provided advice on the type of training samples that we use in the UK, along with their storage and handling procedures. Also, we demonstrated techniques for the dog to employ search patterns as well as making recommendations as to the speed that these searches should be conducted at. We conducted video demonstrations as well as practical sessions with our Chinese colleagues on target scent recognition training and different types of reward methods for the dog.

Q397 Mark Lazarowicz: Do you know if the Chinese have taken up this idea yet to any extent?
Grant Miller: They certainly have and, now that we have come back, we have continued to build on that relationship by providing China with a copy of the Border Force dog handlers’ training manual, which WWF very kindly translated into Chinese for us, along with our kennel build review and guidance to both the Chinese and now the Indian Customs authorities. More widely, in April this year Border Force at Heathrow entertained a visit from senior Customs officials from China along with the head of the anti-smuggling division in Beijing. The visit covered the full range of anti-smuggling duties as well as, specifically, CITES enforcement.

Q398 Mark Lazarowicz: Could I interrupt? You mentioned India before that. Are you working with other Customs border agencies in Asia as well?
Grant Miller: Absolutely. Certainly, within Europe; we work with all the European agencies.
to be restored. If we believe that it has been an error then we would look to restore the goods on favourable terms. With the actual buyers, we would still seize the goods, but then potentially the individual could get them back if it was felt proportionate.

Chair: Well, I think that brings us to our full-time. It has been a very interesting session, and we appreciate that you do a lot of hard work as well, particularly Mr Miller and your team on the ground. So can I thank both of you very much indeed for coming along this afternoon.
Members present:
Joan Walley (Chair)

Martin Caton
Mark Lazarowicz
Caroline Lucas
Sheryll Murray

Mr Mark Spencer
Dr Alan Whitehead
Simon Wright

Examined Witnesses


Q402 Chair: It gives me great pleasure to welcome you before our Committee, Under-Secretary, and also Lord Henley, who we know has considerable previous experience in another life in Defra as well. In welcoming you and your colleagues to our session this afternoon, it might be helpful if I tell you that we may be expecting a vote, possibly at 4.34pm which, as you will appreciate, is going to cut our session right down the middle. We will endeavour to see how much progress we can make. Let me also say that we are at an advanced stage of our inquiry, and we have received considerable written evidence and had a good number of oral hearings. We have very specific questions that we wanted to put to you in the hope that that might help both your future work and our recommendations on the Committee so that we have as constructive a report as possible. Bearing that in mind, I will go straight into the questions, if that is acceptable to all of you. Could you share with us your thoughts on whether you see wildlife crime sitting in the order of priorities in both Departments—Defra and the Home Office—perhaps starting with you, Under-Secretary?

Richard Benyon: All areas of wildlife crime are absolutely at the core of our priorities. Our strategic objective to enhance the environment and biodiversity and improve the quality of life is right up there. Wildlife crime is one of the pressures facing our biodiversity—our work to combat it is part of our strategy to halt the loss of habitats and restore biodiversity. Internationally, we have a commitment to the Natural Environment White Paper that we published just over a year ago. We will continue to work with CITES and the global enforcement agencies to share expertise and strengthen international capability, and, at home, we will ensure continued co-operation across Government Departments. The National Wildlife Crime Unit fits very much into that programme.

Q403 Chair: That is helpful, thank you. And in respect of the Home Office?

Lord Henley: In respect of the Home Office, first, I think one wants to look at our overarching approach to crime. Let me start at the local level. Obviously, at a local level, wildlife crime should be a matter for each individual police force. My own constabulary, Cumbria, have quite an interest in certain aspects of wildlife crime, whereas I imagine there are some rather urban constabularies that have a lesser interest in it, unless it involves importation, exportation and those sorts of matters. Having said that, how they do things at a local level is a matter for individual police authorities.

At a national level, we appreciate that organised crime can enter the picture a great deal, whether it is dealing in tortoises that are being bred illegally or importation of other animals. There, we think it is important that there should be some overarching approach. That is what we do in our strategic policing requirement, which sets out the national threats and the appropriate national policing capabilities required to counter those particular threats.

There is a local issue, which should be a matter for each local police force. There is a national issue that we should also look at, and it is obviously a matter for the National Wildlife Crime Unit, which I imagine we will come on to and discuss later.

Q404 Chair: But you recognise that there might be some fragmentation or that there may well be some areas where police forces would not perhaps give the same priority on the same basis right the way across the country, so how does one deal with that? The new policy of police commissioners, is that going to further—

Lord Henley: I hope that the police commissioner in Cumbria will take a different approach to this, say from the police commissioner in Merseyside, because they will have different priorities according to what is necessary in their different areas, and that is a very important part of our whole perspective on policing. I do not expect every single police force to give the same priority to wildlife crime. It will depend on what is going on in their areas at a local level. But obviously, as I said, there are national issues involving organised crime that need to be looked at in a different way.

Q405 Chair: In terms of the forthcoming elections in November, does the Home Office envisage that it will be down to local people to make the case to get this further up the agenda as a priority?

Lord Henley: Again, I think this is a matter for the police commissioners themselves to consider once
selected—and no doubt this will be part of the election—as to what priority it should have. I will just take two examples—Merseyside and Cumbria are going to be different—that is how we want to look at policing.

Richard Benyon: In the international work that we do at Defra, supporting CITES and making sure that the international capability is strong, we come across frequent cases where wildlife crime, whether it is the export of ivory or rhino horn, or whatever is very much linked with very serious crime as well. So, for international policing organisations, such as Interpol and, of course, in the work that SOCA does, this is a key priority because it is also part of a much wider crime picture.

Q406 Chair: Do you feel that you have the working relationships, at ministerial level, but also for those lower down working on the ground, particularly in relation to CITES and through SOCA, and that there are those channels of communication to get this work carried through?

Richard Benyon: It might be helpful if Trevor gave an indication of how that co-operation works at a lower level. He is the head of the CITES management authority in Defra.

Trevor Salmon: Thank you, Minister. To answer your question, I think it does work very well. We have already mentioned the National Wildlife Crime Unit, and the Ministers have talked about the Wildlife Crime Strategy. CITES is one element of the Wildlife Crime Strategy, as well as obviously tackling domestic crime. The NWCU provides a linkage between UK Border Force—between the Home Office—and the individual police forces to make sure that any issues are tackled from an intelligence point of view. Rather than simply putting people at the ports, checking lots of different imports they will be working with Europol, Interpol and so on to target their activities.

Q407 Chair: But the mechanism for that liaison—does your counterpart in the Home Office wish to comment on how it works at the operational level?

Michael Warren: I work in the policy area rather than the operational area, but it would be fair to say that the relationship between the two Departments is very good at the policy level and the operational level, both in the enforcement of CITES and the tasking of the National Wildlife Crime Unit. We have a good relationship in terms of jointly engaging the voluntary sector as well. This is one of a number of areas where the Home Office and Defra work very closely on a particular crime issue—bringing different skills and expertise and relationships with the outside partners to bear.

Q408 Chair: Did you want to come back, Mr Salmon?

Trevor Salmon: Yes, I was talking more about the strategic level earlier, but to answer your question about the operational level—at the ground level—under CITES specifically, we have regular meetings with UK Border Force, who are for the most part taking these actions forward—stopping and checking consignments at the port. We have a very good relationship with the Metropolitan Police Force, which is where a lot of CITES products happen to turn up, more in the Greater London area. There are regular meetings and regular discussions about how we should operate.

Q409 Martin Caton: Can we look at the Partnership for Action Against Wildlife Crime? Is this basically a discussion group or does it have a strategic function?

Richard Benyon: It very much has a capacity building strategic function. It is a fantastic drawing together of expertise—I think there are well over 100 NGOs and different organisations involved—from land management groups to animal welfare groups to people who are dealing with wildlife crime issues on a daily basis, like the RSPCA. The knowledge-sharing that exists within that partnership gives an enormous benefit in terms of increased value, and it is a partnership that we value and want to see enhanced.

Q410 Martin Caton: Thinking of strategic leadership of that body, have you looked at what they have done in Scotland, where the Environment Minister that chairs the Scottish PAW? Do you think that clearly sends a signal about how important the Scottish Government regards the problem of wildlife crime? One would imagine that that enhances the strategic leadership. Do you think that is a possibility that you might follow?

Richard Benyon: To be perfectly honest, not at present because we believe that the current arrangements—where Defra and the police co-chair PAW and have shared responsibility—work well. That kind of hands-on chairmanship is better than a Minister, who, through the demands on our day, could not give it the absolute commitment that they can. I have attended meetings of the partnership, I meet the people who form it in various different guises regularly, and our commitment to it is total.

I think the reasons for what happens in Scotland are particular to Scotland, and I respect that. I think that what happens in terms of UK PAW is exactly the right structure at the moment, but whether that changes in the future, and we want to send a message, that is fine. I think that commitment from the current chairs is the right one at the moment.

Q411 Chair: Just before we move on, short of a Minister from Defra taking on that chairmanship role, do you think there are any other actions that could enhance the strategic role and importance of that body?

Richard Benyon: That is a very good question and I am open to any suggestions. Other than shouting its virtues from the rooftops and the Dispatch Box and attending the very good meeting we had at Kew some months ago, I cannot think of anything else I can do to big up the advantages of such a partnership, but I am always open to suggestions.

Q412 Sherryl Murray: The police and various NGOs have informed us that the appropriate powers to tackle wildlife crime already exist but they are scattered across different pieces of legislation, which
makes enforcement, particularly police training and compliance, problematic. Are you attracted to the concept of consolidating all the existing pieces of legislation into a single Wildlife Act?

**Lord Henley:** I understand that the Law Commission at the moment is looking at consolidating all this. One always has to remember that consolidation can only be consolidation if we want to get through a Consolidation Bill quickly; that is, you cannot make any substantive changes. It is just bringing everything together.

Having been around for a very long time, I can remember the Wildlife and Countryside Bill going through in 1981, and there have been many since. Obviously, it is going to be quite a big job to bring it all together. No doubt we will have to go back before any of us were born or thought of, or even before our grandparents were thought of, because there is a lot there.

All I can say is that we have asked the Law Commission to look at this. It is part of its programmed work and if they can bring forward something that is purely a Consolidation Bill, obviously that can go through the Consolidation Bill process; that is relatively smooth and easy.

**Q413 Sheryll Murray:** Can I interrupt and ask you very quickly because you have raised this—is there any possibility of your giving them a steer in the direction of consolidation and asking them to speed up the process?

**Lord Henley:** We could ask them to speed up the process if they could, but they have an awful lot of work on board. The important point to make is all they can do is consolidate. If you want to make changes, which I think you might want to come to later in terms of rationalising some discrepancies and the fines and other punishments available, that would require proper legislation and, as we all know, it is often very difficult to find the appropriate legislative slot, whether you are the Home Office, Defra, or whoever, to do these things.

**Richard Benyon:** Would it help if I gave an indication of the timescale? The public consultation is due to run between July and November this year. The Law Commission are due to deliver the final policy paper by March 2013. A draft Bill—if that is deemed to be the way forward—is due to be produced by April 2014 and the project seeks to replace the provisions, including the species protection elements of part 1 of the Wildlife and Countryside Act. The reason we put this to the Law Commission came under various headings that were put to us about the current legislation being inflexible, inconsistent, outdated, as Oliver says, and confusing. There are various examples I could furnish you with, if we had the time, about why we thought the legislation came under those headings.

Some of it is perfectly fit for purpose, let’s face it. There is a plethora of wildlife legislation; some of it is very good, but there are many examples of where it is not.

**Q414 Dr Whitehead:** I want to just talk for a moment on penalties and sentencing. Lord Henley, you touched on some of those issues. The maximum sentence, I think, at the moment for most wildlife crimes is a £5,000 fine, except for CITES-related crimes. We heard evidence certainly from ACPO that they felt that that level of penalty was not dissuasive. What is your view on that? Do you think the penalty regime at the moment is about right?

**Lord Henley:** I need to be fairly careful here because these are largely matters for the Ministry of Justice, but as a former Home Secretary once said before these things were taken away, prison sometimes works and one example of that is that there is now a maximum penalty of up to six months in the case of egg collecting. As a result, we have seen a dramatic decline in the amount of active illegal egg collectors around. So, yes, one could say prison does work, and I think some work possibly ought to be done on looking at this, and this obviously will have to be across Government. In the end, it is for Parliament to get it right. I cannot promise that this will be a result of any Consolidation Bill because the Consolidation Bill obviously cannot change things and we might have to look at things later to make sure that we get it all right, but I accept that there are some strange anomalies there.

**Q415 Dr Whitehead:** There is an issue that does not impact on consolidation of legislation to any extent, and that is what sentencing guidelines might look like.

**Lord Henley:** In the end, these matters have to be for the courts, but we are more than happy to talk to the Sentencing Council and make sure that they are aware of concerns. As I said, I think there are some anomalies there, some of which obviously would need in the end to be addressed by Government and Parliament.

**Q416 Dr Whitehead:** Have you had any discussions with the Sentencing Council on these issues?

**Lord Henley:** There are relatively few cases that ever come to court. They probably have other priorities at the moment in the grand scheme of things. As I said earlier, bringing in the possibility of imprisonment for people taking eggs has made a difference.

**Q417 Dr Whitehead:** I think the problem is perhaps rather more that there are no sentencing guidelines than that the guidelines may not be entirely appropriate. Would just having a sentencing guideline regime produce much greater consistency in sentencing, whether or not one thought the sentencing regime as a whole was appropriate? Would that be a way forward? I appreciate the Sentencing Council’s difficulties.

**Lord Henley:** They have to operate within the sentences that Parliament has made available and offer guidelines only within that. It is up to the Government and Parliament to get that right, then after that, it is a matter for the Sentencing Council to look at. I am more than happy to have discussions with colleagues in the Ministry of Justice to see what they would say. As I said, there are relatively few wildlife offences that come before the courts at the moment. I think it is not quite their top priority.
Chair: Just for the record, that was a key recommendation of an earlier report of this Select Committee. Also linked to that is training for magistrates—that is an important issue for us.

Q418 Mr Spencer: I wonder if we could move on to raptors and the persecution of raptors. Since 2006, there has been primary legislation to criminalise the possession of certain poisons but, unlike Scotland, we have not introduced an order that specifically makes the possession of those poisons a criminal offence. Have we any plans to look at that again?
Richard Benyon: The intentional use of poisoned bait to kill wildlife is already prohibited under the Wildlife and Countryside Act 1981, and the abuse or misuse of pesticides is also an offence under the Food and Environment Protection Act 1995. Pesticides most commonly occurring in wildlife poisoning incidents are not, or never have been, approved for use in the UK, so people should not have them in their possession. They would be committing an offence if they do. In view of the legislation already in place, an order under section 43 of NERC will not be pursued at this time.

Q419 Mr Spencer: Just looking at our commitment to end all human-formed, if you like, extinctions. We have agreed that we are going to do that by 2020, as I understand it, and the hen harrier is particularly under threat at this moment in time. Are we looking to do anything specific to protect the hen harrier?
Richard Benyon: Yes, we are. I have frequent conversations with a variety of different stakeholders on this, and I am determined that we should see this bird increasing numbers in England. Its number of breeding pairs is dangerously low. I hear varying reports of between one and three pairs. It is a migratory bird, and more pass through or visit England, but we want to see it much more established. As things stand, I am looking at a possibility of a project that might work. I do not want to go into too much detail because it is at a very conceptual stage, but in terms of its natural breeding habitat, there is plenty of space in England and Wales for it to thrive, as there is in Scotland. I want to make sure that everything has been done to make that possible. The illegal killing of this, or indeed any other raptor is, of course, a criminal offence and people should be held to account if that is happening.

Q420 Mr Spencer: The Scots have looked at the vicarious liability of landowners, whereby if something is poisoned on your land, you are liable as the landowner, are we looking at doing that?
Chair: There is the Division, and I know members will want to go and vote. Perhaps this is an opportune time for us to go and vote and return to vicarious liability when we have done that.

Q421 Chair: We will resume on the merry subject of vicarious liability.
Richard Benyon: We watch with interest what the impact of this will be in Scotland. It is a fairly major change, and this is not a Government that wants to legislate unless we absolutely know that it would make a quantum difference to enforcement of wildlife crime prevention. We do not have plans to introduce vicarious liability, but we will be watching the impact of it north of the border.

Q422 Mr Spencer: Some people, I suppose, will be critical and say that that is because the Scottish Government takes wildlife crime more seriously than we do in England. What would be your answer to that?
Richard Benyon: I would reject that, and I think the record speaks for itself. We have wildlife crime measures that are making a difference. We are seeing an increased number of birds of prey in particular, but other species as well, that were in almost catastrophic decline a decade or two ago, and there are some good news stories to tell out there. We are not, by any means, complacent. We think there is adequate provision in the law to prosecute those who are committing crimes. We have an absolute commitment right across the ministerial team in Defra to see a reversal in the decline of biodiversity, and one of the key indicators of that is birdlife. We want to see restoring bird numbers, raptors as well as the farmland bird index, and we see this all as part of the same commitment.

Q423 Mr Spencer: If I could just change tack a little bit there. I suppose that one of those success stories has been buzzards. Recently Defra has dropped its research team to look at controlling buzzards. Why did you drop that? I hear talk about looking at other schemes to control them. Can you just update us on where we are at with that?
Richard Benyon: I rejoice with others at the restoration of the numbers of buzzards in this country. We now have somewhere between 55,000 and 90,000 breeding pairs, more with juveniles and other birds, so it is a success story and we want to see that continue. Under the Wildlife and Countryside Act, there is a provision whereby a business owner of whatever sort, or land manager or other individuals can apply for a licence to control a protected species. What I wanted to do from the start was to make sure that the Defra agency—in this case, Natural England—is making a decision, if such an application is made, on the basis of the best possible evidence. I want at all stages to avoid any form of lethal control. The only way to do that, I felt, was to instigate, in this case, a piece of research and to do so in a non-lethal way, which had had a minimal impact on this particular bird of prey. I recognise that it hit a wall of credibility because of the large number of people who protested against it. Indeed, some did so on the basis of believing that the research was going to do things that it simply was not going to do. But that is the world in which we live, and I have now retreated and I want to engage with all interested parties: nature conservation NGOs, businesses, representatives, such as the NGO—National Gamekeepers Organisation—and others, to make sure that we are back to what I wanted to achieve, which is all pulling in the same direction, all being...
Q424 Mr Spencer: What sort of evidence led to the original decision to even consider it because we have been told that only 1% or 2% of pheasants are taken by birds of prey. I am just thinking that, if they are not eating pheasants and partridges, maybe they are eating leverets, coots, moorhens, cygnets, plovers and goodness knows what else. I just wonder if it is worth analysing what those buzzards are consuming and the impact that they are having on our natural environment.

Richard Benyon: I consider myself a countryman, and I see a lot of buzzards and I know that they are pretty idle feeders—they will feed on a carcass of a bit of road kill before they would go through the more exertive activity of trying to despatch something in order to eat it. I also believe that the countryside needs managing and we have to have a balanced approach. Sometimes that requires organisations and Governments to consider things that are unsatisfactory and unwelcome. None of us wants to control badgers, but we feel that, in order to stem the rise in TB, we have to make that very tough decision. I do not ever want to be in a position where any Minister or any arm of Government has to make a decision without the basis of full knowledge.

So I want the raptor group to produce a good level of understanding about where we think there are gaps in evidence, and to work across the board to make sure that Defra—we have a large scientific research budget, which we have defended in the spending review—use it in a thoughtful and intelligent way. We have to recognise that the Wildlife and Countryside Act provisions that caused this furore have not gone away. I just want to make sure that we can find all the evidence we need to ensure sure that, only in the last possible case, there ever needs to be the lethal control of one of these birds; they are beautiful. We want to see more of them, but it has to be done on the basis of the best evidence.

Q425 Mr Spencer: My understanding is that the cash put aside for that was around £375,000; is that still in a pot somewhere for similar projects? What has happened to that money?

Richard Benyon: It is £125,000 a year for three years, so that would be right. That is still earmarked for research, but I have no intention of spending it in the same way as the research project that we were originally looking at. We want to make sure that it is spent in a way that provides the evidence that we in Natural England need, and other applications may or may not come forward. I don’t want us to be in a position of having to say, “Well, we have to organise a piece of research to fit that request.” We want to do it now so that Natural England is as well informed as it needs to be in order to make decisions in the future.

Q426 Mr Spencer: Would you consider recommendations from this Committee for possible research projects to which to allocate that money?

Richard Benyon: Certainly, yes. None of us has a sum total of all the knowledge on these matters. I recognise the sensitivity of this, and I know the Committee does as well, but we want to ensure that the recommendations that we take forward, as well as being mindful of that sensitivity, push Government to make the right decision for biodiversity. Sometimes that is the tough decision. We are prepared to be tough if we have to, but I want to make sure that it is right.

Q427 Mr Spencer: Finally, I just wonder if you recognise that, in some communities, there is a feeling that there are too many buzzards and that causes a negative feeling towards birds of prey in general. Do you recognise that there needs to be some form of control of those species? Are they successful in order to make sure that the others are not dragged into this negative feeling?

Richard Benyon: It comes down to a subjective view for some people. Some animals that prey on others are more attractive to a wider population than others. That is in our human nature, coupled with the fact that this bird was persecuted very severely in the past and its numbers were very reduced, and that affects how people think. I sometimes think that people are not prepared to look at the wider complexity of biodiversity and the way it inter-reacts. There are extreme views on both sides. Maybe it is possible to get a consensus view around the middle about proper management control. There are thousands of crows and magpies in this country, but they are not as attractive and do not excite so much high feeling as birds of prey. Crows and magpies are controlled in large numbers every year by land managers. I think that birds of prey have some special status for us and I want them to continue to have that, and I want their numbers to continue to increase. However, I also want to do it on the basis of evidence and a clear understanding that wildlife and wildlife habitats need to be managed, and we spend hundreds of millions of pounds on agri-environmental schemes. The taxpayer needs to be absolutely rewarded for spending that money by seeing a reversal in the decline of biodiversity. I do not want future generations of Ministers sitting here, while my children or grandchildren, if I ever have any, are not able to see the birds and the species that I have been able to see; and that requires, at times, difficult decisions.

Q428 Chair: Backtracking on buzzard control is the operative phase for now. Before we move on to policing, may I just go back? I want to check, if I may, Mr Benyon, for clarity, whether, when we were talking about raptor persecution, you said that it was an offence to possess poisons such as carbofuran. I raise this because it relates to section 43 of the Natural Environment and Rural Communities Act 2006, and my understanding was that there is a distinction between possession and use. I just wondered if, for the record, you could clarify the position for me.

Richard Benyon: In view of the legislation already in place, an order under section 43 of the NER Act is not deemed to be required to be pursued at this time. Pesticides are most commonly—
Q429 Chair: Sorry, may I just interrupt? It is not going to be required to be used; does that mean that it is currently an offence to possess poisons, such as the one that I just described?

Richard Benyon: Can I confirm this in writing to you because I want to get this absolutely right?

Chair: This is not in any way intended to catch you out, but my understanding is that there is legislation on the statute book that would require an order to come in to make possession an offence, as opposed to use. My understanding is that Scots law has recognised the difference between use and possession, and for the purposes of our current inquiry, we want to try to get to the bottom of whether that particular power would need to be brought in. That is the reason why I am asking for clarification, and I would very much welcome, if you wish to do so, your providing the Committee with absolute clarity on that.

Richard Benyon: I will seek to provide that in writing. What I do know is that the international use of poisoned bait to kill wildlife is already prohibited under the Wildlife and Countryside Act, and the abuse or misuse of pesticides is also an offence under the Food and Environmental Protect Act, but I will get details to you on that specific point.

Chair: That is most helpful. Thank you very much indeed.

Q430 Simon Wright: On policing, the National Wildlife Crime Unit has been widely praised by many of the people giving evidence to us. However, there have also been some concerns about the possible implications that arise as a result of its short-term funding arrangements. ACPO, for example, spoke of difficulties potentially of recruiting, retention and development of staff. Have you considered reinforcing the success of the National Wildlife Crime Unit by setting out a long-term financial plan?

Lord Henley: I agree with you. I think it does a very good job. We fund it in part, Defra fund it in part and then there is funding from the Scottish Executive, from ACPO and one or two others. I appreciate that they would like longer-term funding, rather than just moving from year to year. At the moment all I can say, and I apologise for this, is that both ourselves and colleagues in Defra will consider the case for continuing funding in the current spending review, and I hope that we will be able to come to a positive conclusion, but I cannot make any positive guarantee.

Q431 Simon Wright: Is that currently under consideration? You said “will consider.”

Lord Henley: As part of the spending review that all Departments are going through at the moment, I am not going to make any promises at this stage, but I agree with you that it has done a very good job. Remember, overall, we are putting a very large sum of money into policing, and so even if, in the end, we cease to fund the National Wildlife Crime Unit there are still other funds going into policing and dealing with these matters. This is only one part of it. All I can say at the moment is that we will consider these matters, and I think the same is true of ACPO which, as I said, provide funds, and the Scottish Executive.

Q432 Simon Wright: Are you in a position to resolve the uncertainty about the relationship between the proposed National Crime Agency and the National Wildlife Crime Unit?

Lord Henley: The NCA is currently being set up. It has been set up by statute because the Crime and Courts Bill has started its progress through Parliament. Rather unusually, it started its progress in the Lords because I think you have some other matters that you want to discuss in the Commons at the moment. I cannot think what they are.

Chair: I do not think that is our Committee.

Lord Henley: The National Crime Agency is in the process of being set up. There is already a shadow of it and in the Bill—what will become, I hope, the Act—there will be a power to take things like wildlife crime into the NCA in the future. I have to say I do not think that is likely in the immediate future because the NCA will need to settle down and will have other things on its page. Similarly, as you probably know, there is a power to bring counterterrorism into the NCA, but we have made a firm commitment that we will not do anything about that until after the Olympics are over, and then we will consider it. Again, these are big issues that require some thought, but I think wildlife crime is something that will possibly come in later on.

What I can say is that I have had some discussions with, fortuitously, my own Chief Constable, Stuart Hyde, of Cumbria who is also the ACPO lead on wildlife crime about these matters, so I am hoping to have further discussions with him just about the future of the Unit as a whole. I would like to repeat what you said: I think it does a very good job and I hope we can find means to ensure that it continues to do that job.

Q433 Simon Wright: We heard that the work of the Metropolitan Police Wildlife Crime Unit is partly-funded by the World Society for the Protection of Animals. What are your thoughts on the part-funded schemes? Can you see the potential for more of these to be developed in future, or have you some concerns about those sorts of setups?

Lord Henley: We always welcome any outside body offering support to tackle crime. That starts with things like Crimestoppers, and a whole many others. We have to pay due regard to the appropriate governance arrangements to ensure the propriety of any funding arrangement. I am sure what the WSPA is offering comes within that. It is all dealt with, I am told, by section 93 of the Police Act 1996, which sets out exactly what are the appropriate terms and conditions. I do not think from what I know and what the Department knows that we have any particular concerns about the WSPA and their part-funding of the Met’s unit.

Q434 Simon Wright: But you would be alert to the fact that there could, in future, be a possible conflict of interest?

Lord Henley: I think one should always be aware of it and that is why section 93, which deals with acceptance of gifts and loans, sets out the appropriate nature of those. But, as I said, I think we should
encourage people who want to assist in the fight against crime; I cite Crimestoppers as a classic example of that.

Q435 Simon Wright: Can I turn to civil enforcement matters? To what extent are you satisfied that Natural England is making sufficient use of its civil enforcement powers in relation to SSSIs? How do you measure Natural England’s performance in protecting those sites?

Richard Benyon: With the relatively low number of offences that are reported, we would not expect a large number of opportunities for civil sanctions to be used. It is more important that the powers are used correctly and appropriately than quickly, but we will look at any suggestions that are being made. We have a very clear commitment in Defra to see the number of SSSIs that are in good or recovering status increase. All, with the exception of very few cases, are done through good working relationships between Natural England and land managers. Where sanctions are required, there are the means which they can use against land managers.

Q436 Simon Wright: Their approach to enforcement is clearly more collaborative and perhaps more tolerant than a lot of other enforcement agencies, such as perhaps the police or UK Border Force. Is there a potential or real danger that Natural England is seen as being too close to landowners sometimes?

Richard Benyon: I get a lot of positive comments about Natural England, but negative comments come pretty evenly from those in the land managing community who think that they are being too rigorous and overbearing in how they operate, and those NGOs who think that they are not being rigorous or overbearing enough. So perhaps we are getting it just about right.

It is very hard to talk about these situations in general. It is also very important that Natural England is an arm’s length body with the necessary statutory basis that they have, and that they are able to operate the laws and sanctions that they have freely and unencumbered. I make that distinction and space

Q437 Chair: Lord Henley, can I just come back to the comments that you made in response to the question from Simon Wright about policing? It was just to ask about the future, whatever the outcome is, of the corruption and the NCA. The NCA is going to have a big enough job as it is. But there is the power to bring all sorts of matters within the NCA.

Lord Henley: Put very simply, the NCA will come into effect with the passage of the Bill. There are no

Q438 Chair: But the power will only come about if it is driven, won’t it?

Lord Henley: One has to decide whether it is a good thing or a bad thing. An awful lot of wildlife crime is very much a local issue, it is not involved with organised crime and things of that sort and therefore it is probably, at that level, best left with the individual constabularies to deal with themselves. But we have a power to bring such things within the NCA in due course. What I am saying is there are no current plans to do so, and I think it is unlikely that it would come within the NCA in the near future.

Q439 Chair: I have to admit, I was a little surprised, if I put it that way, to learn that there have not been detailed discussions with SOCA. I wonder, Mr Benyon—obviously we mentioned at the outset the importance of priorities and the liaison with policing—whether this is a matter that you have concerns about and whether you are, in a cross-cutting governmental way, putting pressure on the Home Office to come up with ideas before it just takes its time and comes up with them perhaps more often by accident than by design.

Richard Benyon: There are considerable overlaps of understanding on this. Lord Henley was a Minister in Defra; Nick Herbert, who is the Policing Minister, was my line manager, if you want to use that phrase, when we were thinking up our approach to these matters in opposition. With those regular discussions at that level and certainly I think that the model is built around a core whereby, backing up what Lord Henley said, local police constabularies can call on a real centre of expertise. When they have a local problem of crime, they can call on the National Wildlife Crime Unit and get good information, and information through the partnership. There are frequent discussions—I cannot be more specific than that. We feel involved in decision-taking of this nature but I cannot be more precise than that.

Q440 Chair: Mr Salmon, do you wish to come in?

Trevor Salmon: If I can just help out, just to reassure the Committee. I am Defra’s link into the Home Office in preparing the National Crime Agency. I sit on the Tasking Co-ordination Group for the Border Police Command and that gives Defra a link in, so again there is co-ordination and, indeed, the NWCU has been talking to SOCA and the various tasking co-ordination groups, so it is not something that has been left to one side. It is part of the puzzle but, as the Minister said, there is quite a lot on the plate already to deal with, so this is not at the top of the list. That is not to say that it is being overlooked; it is part of the consideration and Defra is feeding into those considerations through myself and others.

Q441 Chair: I want to move on to international wildlife crime because that has exercised us quite a lot. I also want to refer to the sentiments that were
expressed to me by many people from different African countries who were, throughout the process of the Rio+20 conference, concerned about the whole issue of wildlife crime and the way in which that again had an implication, if you like, for people’s understanding of the biodiversity and natural resources as well. We have taken quite troubling evidence about the price of iconic species such as the tiger, rhinoceros and elephants, and heard how, in some cases, they face extinction due to poaching. Given that this is not something the UK has direct responsibility for, but nonetheless given that we all need to be concerned about biodiversity internationally, I wonder what your views are from both Departments about what active part the UK could play through whatever channels in helping to combat this and to raise awareness about it.

Richard Benyon: We are active on these issues through our role in CITES and other fora. We also give sums of money. In some cases not large but in the case of the Darwin Fund a very large amount indeed. But we give smaller sums of money to, for example, an operation called MIKE—Monitoring of the Illegal Killings of Elephants—and there is another one called ETIS, which monitors the trade in ivory. We see this as very much part of our international role and it fits in with what we are spending on habitat and making sure that local people see an endangered species as a potential source of revenue and something they can feel supportive of rather than threatened by, which they have felt initially until now. That is why the Darwin Fund is so important. But we take our responsibilities internationally very seriously. We absolutely connect with the sentiments that were put to you around Rio on these matters. Trevor might want to add some information on CITES and opposition on the committee.

Trevor Salmon: We have taken very much a leading role in my time. We were elected to the standing committee of CITES about five years ago and since then, bearing in mind that CITES is a matter of EU competence, we have had to work with our EU colleagues to make sure that they agree with us, and we take a very strong line. We have been engaging in a number of elephant-related working groups—as the Minister said, on MIKE and ETIS, and review of the resolutions they have there. We currently chair the Rhino Working Group that was established last year in light of the alarming decline in rhinos in the wild. On tigers, just to pick the examples you mentioned, we have been the one country continuously supporting the Global Tiger Forum and we have given $500,000 to the Global Tiger Initiative. All that is aimed at improving both habitat and persecution of those species. But those are just the iconic ones; there is a vast range of other species like pangolins and sea urchins that are also traded illegally. We take those seriously.

Q442 Mark Lazarowicz: As you pointed out, one of the driving forces behind the need for such measures is of course the international illegal trade. Clearly, all of these species are not native to the UK, and equally there is a relatively limited demand in the UK. It would appear that the demand is mainly in Asia, as I understand it. But there is some evidence that London, by the kind of place it is, is quite a major source of the actual trade, even if it is only a virtual trade at times. I wonder how far that is something you are trying to take a more aggressive attitude on, given there is evidence that London is certainly important in the trading arrangements, if not the actual production and sale of the species.

Lord Henley: Obviously, the Home Office’s role here is that policing role, and it is one that particularly the Met takes very seriously. It is deeply depressing. I was just looking at this press release from the BBC News that underlined the fact that rhino horn now can be sold for as much as £60,000 a kilo. That is twice the value of gold. It is a very serious, expensive commodity. It is one that a lot of organised crime gangs are going to be interested in. Yes, there will be a lot in London and obviously we, through the Met or other police forces, through Border Force, Border Agency, have an interest in that and take it very seriously indeed, if for no other reason than where you find organised criminals getting into one bit of crime, you normally find they are often involved in another bit. I suspect that you might find that people who are involved in illegal dealing in rhino horn are involved in a lot of other things that are equally distasteful, whether it is drugs or whatever. We have an interest and take it very seriously.

Q443 Chair: But is it a trade issue, isn’t it? These are being sold on the internet in the UK. We have them being illegally shipped to Southeast Asia. It is a matter of trade. Again, where is the rule of law and what further action could be taken if we were absolutely determined to do more to deal with this issue?

Mark Lazarowicz: Could I come in on that point? One can see how the National Wildlife Crime Agency is going to co-operate in terms of the domestic, UK-based climate. A relatively small constabulary does not have the status and base that London has. Do we need a co-ordinated approach at UK level to control this type of activity that comes into, say, a smaller port or a smaller community outside the main cities?

Lord Henley: I think the Unit performs that function very well and you are quite right to say that, let us take that relatively small constabulary—my own in Cumbria—yes, obviously it is not going to have the resources to deal with this, but I do not think importation into Cumbria is a major problem and that is why the Met takes a lead on these matters and that is probably appropriate. I think that is why I said this is a matter that can be considered for the NCA in the future. But let us get the NCA set up and let it settle down before we move on that.

Q444 Chair: I am just trying to understand what the position of the Home Office is. You observe that organised crime is involved in wildlife crime, yet when we were talking just now about the new body that is going to be set up, it seemed to me you were saying that there is no wildlife crime role for the National Crime Agency.
Lord Henley: No, I think you misunderstood me. I acknowledge that there is organised crime in wildlife crime but I also made it quite clear that I think an awful lot of wildlife crime is at a very local level and is not organised crime.

Q445 Chair: That part that is organised crime, how is the Government dealing with it?

Lord Henley: There is organised crime, and we have the Unit that we have been discussing, and I said that we will be making decisions about its funding in the future. That is right and proper, and it will be a joint decision by ourselves and Defra. Just as we have not made any final decision about whether, say, counterterrorism—which is obviously a very serious problem and a lot of that can be organised crime—should come into the NCA, we have not made a decision about whether wildlife crime should come in. I think, as I was saying to Mark Lazarowicz, that that is one of those things where we prefer to see the NCA settle down before we make any final decision.

Q446 Chair: Our concern is that there seems to be this limbo. What are we waiting for? I think what we want to know is what the mechanism is and what process there is. If you like, what machinery is working between your Department and Defra, and possibly BIS, and even the Foreign and Commonwealth Office, about the way in which we are not planning service at the very first opportunity of the new agency being set up, when we know that there is a direct continuation and follow-on from where the responsibilities are at the moment?

Richard Benyon: One visit to the Animal Rescue Centre at Heathrow will reveal how the UK has become a centre of real knowledge and understanding about the trade in endangered species—that is not just picking people up at Heathrow carrying rhino horn, it is about understanding the whole dynamic of crime that goes right to organised gangs in other parts of the world. I have just come back from Central America, and the meeting of the International Whaling Commission. In the SOCA operation there on illegal logging, they are tracing very rare species of timber, just as they are networked in on wildlife crime through ivory and rhino horn trading. There is a huge amount going on, a huge amount of expertise, and I think there is a co-ordinated sense of the importance of this from our international role, from our national role, and through our cross-cutting work.

Q447 Chair: Finally on this, going back to CITES and the run-up to that. I wonder what the most ambitious position that could come out of the EC in the run-up to the conference of the parties in Thailand, March 2013, might be?

Richard Benyon: You will have heard from Trevor that the UK is a proactive member of CITES and will continue to be so. It is one of three biodiversity conventions, along with the CBD and the Convention on Migratory Species. CITES, as has been said, is a matter of EU competence and we work very closely to make sure that there is a strong and clear line coming from all European countries, I think we are the leading edge of that and we want to see a stronger voice on this from the European Union. The UK is actively working with the EU to ensure that our lines are supported, and much of this will commence after the forthcoming standing committee, which is due to take place in Geneva later this month. The UK, as one of the standing committee’s 16 members, has taken a leading role in developing orientation lines that will represent on behalf of the EU at the Geneva meeting, and the UK currently chairs three CITES working groups, as Trevor said, on rhino, internet trade and on reporting.

Chair: Lord Henley, I am mindful of the fact that you need to leave at 5.30pm, and we will excuse you at 5.30pm, but we have one final question from Dr Whitehead.

Lord Henley: Fine. That is marvellous, thanks.

Q448 Dr Whitehead: This really is the final question. We have taken a lot of evidence on the huge financial and environmental cost that arises in the UK from non-native invasive species. Certainly as far as plants are concerned, most of it would appear to be concentrated at the bottom of my garden. Various agencies have said that they have limited responsibility in this area, and nobody takes overall responsibility for it. For example, there appears to be no unified financial strategy relating to those species. Is there an understanding of that and a willingness by the Government to get a grip on this issue?

Richard Benyon: There is a very urgent need to get a grip. We are getting a grip on this issue because there is a very big financial cost. It has been estimated it is going to cost us £1.3 billion to deal with invasive non-native species. Two weeks ago, I was down in Bristol launching a programme to make people aware, which leads on from other partnership working that we have done in terms of dealing with, for example, the killer shrimp, which is a very serious threat to our waterways, and a number of different plant species, which are having a huge impact on, for example, clogging up some of our internal drainage board waterways. We are starting to see a picture, whereby, because of the free-flow of people—and frankly the ignorance of some people—we are seeing plant and animal species brought into this country. Because of that and also because of climate change, there is an absolute imperative and that is why we are trying to draw together our actions to make sure that Government is doing its bit, recognising that Government cannot do it all. There is an onus on not just enforcement agencies but also business organisations, land management groups, the CLA, NFW, the Horticultural Trades Association and others, to make sure that everything is done to keep people aware, firstly, to identify, secondly, to know what they can do to mitigate and, thirdly, to understand that if we do not deal with these now, an irritant and a minor cost problem to a business will infringe on its ability to work in the future, just as we do with animal disease, and so this is absolutely a top priority.

Q449 Chair: Lord Henley, do you have a perspective that you wish to add?
**Lord Henley:** I do not think I want to add anything to that. I remember from my days in Defra problems with all those things I could not pronounce, such as phytophthora ramorum and such things, Southern Oak disease and Southern Oak decline, and all that. It is a very serious problem. I do not think it is one that the Home Office has any view on. If I could just go back to one particular Home Office point and that was what we were saying about the National Wildlife Crime Unit and its relationship with the NCA. Even if it is not within the NCA, do remember that the expertise of the NCA—particularly when it relates to organised crime as a successor to SOCA—will still be available to that Unit. It is not as if not taking it in means it loses out on that. All these things work together and we certainly very much hope that the NCA will be offering that help and advice.

**Chair:** I will allow Dr Whitehead to finish his questioning of Mr Benyon, but please feel free to leave and thank you very much indeed.

**Dr Whitehead:** I appreciate the commitment of Defra particularly and observe that in its activities on non-native invasive species. What might be the substance of a more joined-up invasive species strategy between Departments, particularly conjoining what Defra is doing in dealing with species that are already here, with Departments which could perhaps make a much better effort in ensuring that that problem does not arise?

**Richard Benyon:** I think it is right that an environmental Department takes the lead on this, but we have responsibility for cross-Government. First, you have resources beyond Government—the idea that one can just sit back and say we are an island nation and these problems are not going to occur is very short-sighted. That is why we are working at EU level—that is an important point—to make sure that we are sharing intelligence and developing a cross-Europe strategy and beyond, and why we are working across Government. It is important, for example, in our programme for better regulation that Defra makes a strong case. We want less burden on business and better regulation at every level. But there may be an occasion—I cannot think of one—this is absolutely off the top of my head but where, for example, there may be a deregulatory drive in a certain area and it is Defra’s job to say, “Well, hang on, that may cause a problem in terms of the spread of an invasive species of some sort”, and so we would be very forceful in making that point and there are the necessary cross-cutting arrangements, which would allow us to do that. There is also the point I made earlier about recognising this is going to have a major impact, if it has not already, on businesses as well as people’s quality of life. If they are paying more for water because a lot has been spent on clearing it of particularly pernicious weed that is blocking the outflows of a reservoir, it is in everybody’s interests that we are dealing with these things now and that is why we have what we hope is a coherent cross-Government approach.

**Q451 Dr Whitehead:** Does Defra need more money to pursue this?

**Richard Benyon:** No, I think it is a question of sharing expertise. We would always like more money but I do not think that the lack of money is impeding us in making real inroads. I cited the killer shrimp, and when I say it to some people, they smile, but it is a serious problem. If it gets into our water courses in any greater degree than it is now, it will cause serious biodiversity issues. The partnership we did with the Angling Trust, with canoeing organisations, rowers and other boaters—Check, Clean, Dry campaign it was called—was about checking, cleaning and drying equipment, whether fishermen’s waders or your boat. That is precisely the kind of partnership working we want to see. I want to see more business-related organisations—the CBI, CLA and a few others—understanding that we all have a part to play in this, and they would say very clearly that they do, but we have to increase this to make sure the Government is playing its part as a partner in tackling some of these problems.

**Chair:** I think we have come to an end and I sincerely thank you for the time, both of yourself and your colleagues, and Lord Henley. We hope to have a report out in the not too distant future. Thank you, once again, very much indeed.
Written evidence

Written evidence submitted by the National Gamekeepers’ Organisation

Summary

1. The National Gamekeepers’ Organisation (NGO) is the representative body for gamekeepers in England and Wales. It was founded in 1997 and now has over 16,000 gamekeeper and supporter members. We welcome this opportunity to contribute to the Environmental Audit Select Committee’s 2012 enquiry into wildlife crime.

2. The NGO stands for gamekeeping within the law and we condemn those found guilty of wildlife crimes. There is a perception, encouraged by some hostile to shooting, that gamekeepers are on the wrong side of wildlife crime. They are not. The number of gamekeepers involved in offences against wildlife is tiny. Convictions in an average year are in low single figures, in other words well under one in a thousand gamekeepers. The vast majority of the profession conduct their important work within the law and regard those who break the law as letting the side down. The NGO condemns those found guilty of wildlife crimes. It is a matter of great regret that the image of the profession is badly damaged by the disproportionate publicity that this very small number of offenders generates.

3. Gamekeepers are overwhelmingly a force for good in the countryside, managing valuable habitats and assisting a wealth of wildlife. Gamekeepers look after over two million hectares of rural England and Wales, significantly more land than all nature reserves and conservation designations put together. The habitat improvements, feeding and predator management that gamekeepers undertake benefits innumerable other species of flora and fauna, as well as the gamebirds, deer, wildfowl and game fish that the keepers are paid to look after. All these benefits are funded from the private sector and not the public purse.

A survey of 980 gamekeepers undertaken in 2011 found showed the extent of habitat management and species conservation associated with their work. 71% were involved with Government agri-environmental schemes. 84% were planting and managing game habitat and wild bird strips. In the uplands, 90% were involved with heather and grass burning—a practice shown to be of great benefit to many upland species as well as red grouse, when carried out professionally. On virtually every gamekeepers’ patch surveyed, rare and charismatic species of wildlife were present. To take one pertinent example, three quarters of all respondents had four or more species of raptors present on their ground. Scientific research by the Game and Wildlife Conservation Trust and others has confirmed time and again that habitats managed by gamekeepers are richer in wildlife of many types than comparable land where gamekeepers are not present.

4. Gamekeepers are also the eyes and ears of the countryside and a valuable resource for the good in fighting wildlife crime. In rural areas these days, gamekeepers often outnumber the police by a factor of 10 to 1. They work day and night and the demands of their profession mean they are highly observant. They are, quite literally, the eyes and ears of the countryside, highly likely to be the first to detect wildlife crime on their patch, be it poaching, egg theft, illegal taking of protected plants or animals, habitat damage, or even fly tipping. Gamekeepers usually already have a close working relationship with the police and are regarded by many forces as an important resource in fighting rural crime.


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particular, we now have them. For too long decision-making in this area was reliant on the numbers of “incidents reported” to and by campaigning bodies. We always suspected these were faulty, over-emphasising, for example, the extent of raptor persecution. The collation of national police statistics has now shown this to be the case. During the two years from 1/09/08 to 31/8/10, the number of confirmed incidents of deliberate killing or injuring of birds of prey in the UK was, according to the NWCU, 179, an average of 90 incidents a year. The RSPB’s Birdcrime Report for 2010, gives a figure for “shooting and destruction of birds of prey” of 227 incidents for a single year—well over twice the reality confirmed by the police figures.

The good news is that everyone’s statistics show that raptor persecution is falling. In its latest tactical assessment (Oct 2011), the National Wildlife Crime Unit recorded a 19% decrease in bird of prey persecution nationally compared with the same period the previous year. The RSPB’s figures, although they are much too high (see para 5 above) also show a comparable drop of 18% (Birdcrime Report 2010).

Less encouraging are the figures for wildlife crime as a whole, which the NWCU technical assessment of October 2011 shows rose by 6% in the 2010–11.

6. The statistics confirm that poaching is by far the most common wildlife crime. There were, according to the NWCU, 2652 recorded incidents of poaching in the year on which they reported in October 2011. That is 27.6% of all recorded wildlife crime. 767 incidents related to deer, 484 to fish and 1,401 to other game species. These were all increases on previous years. This is corroborated by the experiences of many gamekeepers who have noticed an increase in poaching, particularly for meat (venison especially) rather than just for “sport”. Our suspicion is that the harsher economic times have made poaching for financial gain more attractive once more.

The increase in poaching is mirrored by the huge increase recently in livestock theft which, although not a “wildlife crime” as such, is obviously closely related. So too are the rising incidence of machinery and diesel theft from farms and the dramatic increases in metal thefts in rural areas. It may be that the focus on “wildlife crime” is too narrow to make sense of these patterns. A better analytical unit might be to focus on “rural crime” as a whole.

7. Police action against poachers has improved but is now limited by budget cuts. Worrying though the increase in poaching is, we believe it would have been far worse had many police forces not woken up to the threat since your last enquiry in 2004. Then, we were aware of just a couple of forces that took poaching seriously. Both were near London and both had learned, from experience, that chasing and arresting poachers was worthwhile, not only to reduce this particular wildlife crime but also because those apprehended were often on the wanted list for other serious crimes: gangland killings, drugs and organised theft. Other forces have now woken up to this—and to the fact that poaching itself is a serious crime—and gamekeepers have been involved in many police- coordinated efforts to go after poachers in many parts of the country. Gloucestershire, Hertfordshire, Wiltshire and Lancashire are just some of the counties that have made a big effort in recent years.

To take one example, North Yorkshire Police’s “Operation Juno” has, since 2009, involved hundreds of searches of suspected poachers, dozens of arrests and many vehicles and dogs seized. This year poaching in the county is well down, against the national trend. Gamekeepers, farmers, and landowners have all been involved. The operation’s success shows that serious effort does yield serious reward. Other forces should emulate this type of coordinated campaign.

Budget cuts are not helping, of course, and we recently heard of one rural force in the south of England which has had to mothball most of its 4x4 vehicles because it can no longer afford to run them. Contrary to Government pronouncements about preserving front line policing, this has a direct effect on the ability of police officers in that force area to tackle poachers operating across farmland.

The EAC report in 2004 urged that every force should have at least one full time Police Wildlife Crime Officer. That hasn’t happened. Indeed, we know of forces that have reduced their staff commitment to fighting wildlife crime because of the need to make 20% cuts overall. Arguably, that may be the right thing to have done. Faced with a million crimes in Britain a year—600 murders alone, rapes, drugs trading, terrorism and violence—crimes against wildlife are, perhaps, a relatively low priority but in hard financial times what we certainly need to ensure is that where wildlife crime is being tackled, it is done proportionately to the seriousness of the problem.

8. The emphasis on fighting wildlife crimes should be on those that are most serious. As we have seen above (paragraph 6), poaching is numerically the most serious wildlife crime by far. It can also involve harm to people, notably gamekeepers, and is often linked to other serious criminality. In our view, poaching should not just be one of the Government’s wildlife crime priorities but the most important of them. That is where the effort to fight wildlife crime should be going in. We know that effort gets rewards (see above, paragraph 7) and to let up now, when the financial incentive to poach is high, would be disastrous.

We sometimes see the police, usually encouraged by bodies like the RSPB and the RSPCA, mounting hideously expensive raids on gamekeepers alleged to have committed wildlife crimes. Typically, several police vehicles and over a dozen officers will turn up at a gamekeepers’ cottage early in the morning and spend all day on an intrusive search of the house, outbuildings and vehicles. More often than not nothing untoward is found and when something is found it is often just a rifle round dropped inadvertently in a vehicle or the fact that legitimately held pesticides have been improperly locked up. These heavy-handed operations are a waste of public resources and do massive damage to the generally good relationships between the police and the
gamekeeping community, which are an important part of the more general fight against wildlife crime, as we have seen (paragraph 3 above).

Contrast that with an incident in the north of England last year where gamekeepers followed some poachers through the night for several hours, poachers who were discharging firearms from their vehicle onto and from the public highway. The keepers were able to give a running commentary to the police via their mobile phones throughout, yet no police officer attended the scene until the trail was lost. It could never have happened in a city and it shows that resource allocation decision-making in the fight against wildlife crime sometimes leaves a lot to be desired.

9. The NGO is a member of PAW and is providing free training on wildlife law to police forces throughout England and Wales, endorsed by ACPO. The NGO as a body is as actively involved in the fight against wildlife crime as the individual gamekeepers who sometimes risk their lives to follow poachers and other criminals in the countryside. We belong to the Partnership Against Wildlife Crime, which we promote via our members magazine.

For the last two years we have provided, at no cost to the police, a half-day training course called “Gamekeepers and the Law: Advice for the Police”. This course has now been delivered, at the NGO’s expense, to officers in over half the forces in England and Wales, well over a thousand officers in total, from Chief Constables to PCSOs. The course summarises the law on poaching, firearms, wildlife trapping and shooting and explains what gamekeepers do, how they can help the police and vice versa. It has proved hugely popular and been widely praised by officers who have attended. The course handbook carries ACPO’s endorsement and was launched with their encouragement.

10. The Law Commission’s ongoing project on wildlife law offers an opportunity to simplify a complex area of law, to make it more easily understood and more enforceable. Currently, wildlife law is undoubtedly complex and something of a mess. Some statutes are over 150 years old, some deal with single species (eg badgers, deer, seals), others with whole habitats. One law protects something—another allows scope for a licence to kill it. Species are protected or otherwise not on the basis of their current conservation status but on historical data and public sentiment. Many find wildlife law confusing to abide by and hard to enforce.

The Law Commission has happily become aware of this and is undertaking a review which may result in proposed changes to legislation. We hope that this rare opportunity can be taken to simplify the laws and to have a more rational, practical approach. That itself would make compliance greater and enforcement easier.

Changes to wildlife law were recently made in Scotland but again these were bitty and piecemeal rather than a wholesale redesign based on logic and conservation realities. Some changes were made that may assist the prosecution of poachers. Other changes, to the Deer Acts, for example, may prove unhelpful. The introduction of vicarious liability for wildlife offences seems to owe more to the northern tradition of landlord bashing than to a real attempt to reduce wildlife crime. We retain an open mind on it but feel it should not be introduced south of the border unless and until it is shown to have made a beneficial difference in Scotland.

11. “Over-protection” continues to be a problem, as we said it was in 2004. We expressed the view in 2004 that certain now very numerous species are over-protected in law. The badger is one example, a species doing incredibly well except where it has now become so numerous that TB is endemic—with well known consequences for cattle farmers. Excessive badger numbers are undoubtedly harming wildlife, yet the law protects even the places they frequent and licences to dissuade or remove badgers are almost impossible to get. Another predator, the fox, meanwhile has a similar UK population and no restrictions on control.

Buzzards have exploded from 12,000 breeding pairs ten years ago to as many as 80,000 pairs today (JNCC figures) and an Autumn peak population of about half a million individual birds. Yet licence applications for buzzard control to prevent serious damage to gamebirds and other wildlife have so far all been declined by Natural England. This despite the fact that NE annually licences the culling of up to a fifth of the cormorant population, a bird with no lesser protection in law than the buzzard and a UK population one twentieth of its size.

Illogicalsities like this bring wildlife law into disrepute and build frustrations in the countryside among the farmers, gamekeepers and others who are normally among the most law-abiding sections of society but who are driven to distinction by such over-protection. Their frustration is only increased by the fact that for species like the badger and the buzzard, a licenced route to limited control where it is proven necessary already exists but licences are not forthcoming.

Licensing provides an important, legally sanctioned safety valve to relieve pressure where wildlife populations have grown so large as to create problems but it only works if licences are readily granted when needed. For many species they are; for others never. Consistency in granting licences is essential and urgent. The administration of the system should always make it easier to do the right thing, via a licence, than to do the wrong thing.

Conclusion

12. The fight against wildlife crime has progressed since 2004 and the most important result of the EAC’s 2004 enquiry has been the advent of proper police statistics.
These show that the battle is far from won, and indeed that in tough economic times potentially profitable crimes like poaching are on the increase. Despite huge budget cuts, some police forces are now targeting poaching and are getting good results but there is still too much valuable resource being wasted on the pursuit of generally innocent gamekeepers, who should be cultivated as allies in the battle against wildlife crime, not vilified without justification as its perpetrators.

The National Gamekeepers’ Organisation is working with the police to improve their understanding of wildlife law and gamekeeping practice. We disown the tiny minority of gamekeepers who wilfully break the law and thereby give our profession a bad name. Gamekeepers should be seen by all as a force for good in the continuing fight against wildlife crime. We hope that the EAC’s enquiry can contribute towards a wider appreciation of that reality.

24 February 2012

Written evidence submitted by TRAFFIC

INTRODUCTION

1. Created in 1976, TRAFFIC has grown to become the world’s largest wildlife trade monitoring programme and a global expert on wildlife trade issues, with over 100 culturally diverse staff on five continents in more than 30 countries and territories, and ongoing research in many others. TRAFFIC’s mission is to ensure that trade in wild plants and animals is not a threat to the conservation of nature. TRAFFIC’s information and advice are based on fact and sound analysis and its research and recommendations successfully shape conservation actions and policies on wildlife trade at national, regional and international levels. TRAFFIC actively monitors wildlife trade and provides its information to a diverse audience worldwide as a basis for effective conservation policies and programmes. TRAFFIC is the joint wildlife trade monitoring programme of WWF and IUCN, the International Union for the Conservation of Nature.

2. The comments contained in this memorandum relate to wildlife trade, and not other types of wildlife crime.

SUMMARY

3. The future of the National Wildlife Crime Unit (NWCU) is secured with long term government funding to support a fully operational unit. This should consist of the following posts: Head of Unit, senior intelligence Officer and two intelligence officers, senior analyst and analyst, and six investigative support officers (one in Scotland and Wales, two in Northern England and two in Southern England) and appropriate administration support. The Unit also needs to be adequately supported with up to date tools such as laptops with the facility to upload and download from and to and smartphones which can be used in the field.

4. To improve inter-agency working the possibility of the National Wildlife Crime Unit merging with the Animal Health Inspectorate should be explored and should include a UKBA representative.

5. Ensure the Head of Compliance post at Animal Health and Veterinary Laboratories Agency is filled by an enforcement professional, so that the work of AHVLA can dovetail into the intelligence model used by both police and the UKBA. The recent secondment of a police officer in this post has proved to be of huge benefit and needs to continue.

6. Each Police force should have at least one full-time Wildlife Crime Officer, fully trained in intelligence gathering, to effectively combat this crime.

7. Introduce targets for wildlife crime for the Police to meet and report against, so ensuring work on wildlife crime is not unaccounted for.

8. Make it mandatory for Police and UKBA to submit wildlife incident data to the NWCU.

9. Provide the necessary resources to the National Wildlife Crime Unit so they can record all types of wildlife crime.

10. Encourage more joint prosecutions under both COTES and CEMA legislation, as many offences involving CITES species will involve an element of illegal import or export.

11. Initiate a programme to encourage prosecutors and the judiciary to regard offences against wildlife with due seriousness and to use the full range of sentencing options available to them in order to deter offenders.

12. Encourage prosecutors to use other legislation to prosecute wildlife offences, such as fraud, proceeds of crime, anti-social behaviour orders and serious crime prevention orders.

13. Prosecutors specialising in wildlife should be established in each region (as has been done in Scotland). Training should be provided to support this. The method of case allocation should be changed so that one prosecutor remains in charge of the case file from start to finish, allowing for some continuity in each case.

14. Sentencing councils must develop appropriate guidelines to support jurisdictions in sentencing wildlife crimes.
Q.1 The scale of wildlife crime and its impacts, and how this has changed since our 2004 report

15. Wildlife trade involves hundreds of millions of individual plants and animals from tens of thousands of species. Timber and seafood are the most important categories of international wildlife trade, in terms of both volume and value. According to the United Nations Food and Agriculture Organization (FAO), more than $100 billion of fish were traded and nearly $200 billion timber in 2009. To put this into perspective, in the same year, the global trade value of tea, coffee and spices all together was $24.3 billion.

16. It is estimated that 70,000 species of plant are used for medicinal purposes alone. Additionally, approximately 25% of “modern” pharmacy medicines have been developed based on the medicinal properties of wild species. Little is known about the status of many of these species, although those that have been assessed show a concerning picture.

17. International trade in species of conservation concern is monitored by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). From 2005–09, CITES recorded an annual average of more than 317,000 live birds, just over two million live reptiles, 2.5 million crocodilian skins, 1.5 million lizard skins, 2.1 million snake skins, 73 tonnes of caviar, 1.1 million coral pieces and nearly 20,000 hunting trophies. Although most wildlife trade is legal, wherever trading is regulated by bans and prohibitions to conserve species, there will also be opportunities for a lucrative illegal trade: between 2005 and 2009 EU enforcement authorities made over 12,000 seizures of illegal wildlife products in the EU.

18. In the early 1990s, TRAFFIC estimated the value of legal wildlife products imported globally was around USD160 billion. In 2009, the estimated value of global imports was over USD323 billion. TRAFFIC estimated the legal trade of wildlife products into the EU alone was worth an estimated €93 billion in 2005, and this increased to nearly €100 billion in 2009.

19. By its very nature, it is almost impossible to obtain reliable figures for the value of illegal wildlife trade, but the figure must run into hundreds of millions of dollars. The value of illegal international fisheries has been estimated as between $4.2 billion to $9.5 billion per year while the value of the illegal international timber trade has been estimated as $7 billion per year, and the illegal wildlife trade, excluding timber and fisheries as $7.8–10 billion per year. Combined, these natural resource crimes are estimated to be the fourth largest global criminal market, behind drugs, counterfeiting and human trafficking.

20. In the UK as elsewhere in the world, illegal trade in wildlife presents a serious threat to the survival of many endangered species. High rewards and the low risks of detection and punishment have made the illegal wildlife trade attractive to criminals. The illegal wildlife trade involves serious offences, many committed by serious offenders.

21. There were 108 seizures of illegal wildlife products reported by the UK Border Agency (UKBA) from September 2010 to May 2011. Of those, over 85% were related to traditional medicines, 10% involved ivory and the remainder involved tortoises.

22. TRAFFIC has compiled information on CITES cases that have been successfully prosecuted at court in the UK since 1987 (see table attached). Between October 1987 and May 2003, the cut-off date prior to the 2004 report, there were a total of 93 cases heard that resulted in a conviction. Since May 2003 a further 55 cases have been recorded. The information contained in this table has been compiled from a number of different sources including the Police, HMRC, Defra and NGOs. Although every attempt has been made to ensure it is complete, this cannot be guaranteed.

23. Of these 148 cases, 60% related to bird convictions, 20% to parts and derivatives, 17% to amphibians and reptiles and 3% to plants. Compared to 2004, bird convictions have increased by 10%, parts and derivatives convictions have reduced by 10%, amphibian and reptile convictions have increased by 2% and plant convictions have reduced by 2%. HMRC prosecuted 30% of the cases, with the Crown Prosecution Service (on behalf of the Police) prosecuting the remaining 70% of the cases. Compared to 2004 this is an increase of 5% for the CPS (and corresponding decrease of 5% for HMRC). The high number of bird related convictions can be explained in part by the active role the Royal Society for the Protection of Birds plays in supporting and advising the Police in regard to bird related crimes. Plant crime often goes undetected, partly because of a lack of knowledge of what constitutes such crime amongst the general public, and partly because enforcers have very little experience in this area. The use of other legislation for the prosecution of wildlife criminals has also begun to make an impact, such as fraud, proceeds of crime, and serious crime prevention orders.

Q.2 The extent to which UK legislation and regulations on wildlife crime are “fit for purpose” and the penalties for offences are adequate

24. The response of the UK’s legal system to the illegal wildlife trade is inconsistent. It does not adequately reflect the nature and impact of the crimes, resulting in offences being perceived as a low priority within the judiciary and magistracy.

25. The UK’s laws regulating the wildlife trade do not provide an appropriate deterrent to offenders. There is an apparent lack of seriousness attached to wildlife trade offences, which is surprising given the potentially high rewards at stake for very little risk of detection and penalty, and the seriousness of their impact on species.

sustainability. Issues of seriousness and tolerance need to be examined and attitudes—public and judicial—
towards such offences re-shaped accordingly.

26. The position in the UK does not compare favourably with that in the US, where levels of fines are higher
and custodial sentences often imposed for wildlife trade offences. The UK has the potential to impose higher
penalties, but chooses not to. The current UK system of precedent based guidance is insufficient given the very
few cases that reach the higher courts.\(^2\)

Q.3 How policing of wildlife crime is coordinated in the UK (between bodies and geographically) and
whether enforcement bodies have sufficient resources and powers, and how the proposed National Crime
Agency might affect policing of this type of crime

27. CITES offences are an agreed enforcement priority for the UK, with a particular focus on traditional
medicines (including rhino horn), ivory and reptile trade (especially tortoises). The CITES Priority Delivery
Group exists to co-ordinate delivery of the plan of action for this priority, led by the UK Border Agency. The
NWCU serves a vital role in the co-ordination and support of investigations into wildlife trade. However, the
financial resources committed to the NWCU should be long-term, stable and sufficient for effective
interventions. Current funding is secured only until April 2013.

28. In 2010, two operations co-ordinated by INTERPOL focused on illegal wildlife trade: Operation TRAM
targeted the illegal trade in traditional medicines containing CITES-listed species and Operation RAMP targeted
the illegal trade of reptiles and amphibians. The UK participated in both operations, having also been
instrumental in the conception of the idea, and the NWCU subsequently recorded an increase in intelligence
logs for the traditional medicines priority of 13% and tortoises by an increase of 58%.\(^3\) Due to lack of
resources, enforcement and reporting actions from these inspections are still on-going.

29. Current police response is extremely varied and patchy in the UK and a more uniform level of positive
response from police forces to issues relating to wildlife crime would be possible if there were dedicated
wildlife crime officers in each force.

30. Police Wildlife Crime Officers (WCOs) need support and recognition of the important work they
undertake in tackling wildlife crime from their superior officers, to allow WCOs to allocate sufficient time and
resources to investigating wildlife crime. Each police force should have at least one full time WCO in post.
If it was mandatory for police forces to report on the wildlife crime work they carried out, if they had targets
they needed to meet, then this would ensure wildlife crime matters would be attended to more consistently.

31. UKBA continues to support the CITES team based at Heathrow Airport. This team has a wealth of
experience and expertise in CITES. However, it is difficult for this team to be able to provide assistance to all
other UKBA officers in other ports of entry, especially when posts that become vacant in the team are not
being back filled.

32. The majority of wildlife crime is level 1 and 2, so will not be of interest to the National Crime Agency.
It is important that there is a mechanism in place to ensure information about level 3 serious wildlife crime
can be passed to the NCA for action when it occurs. This can be done via an information sharing protocol, in
the same way as this works currently with information being passed to the Environmental lead in the Serious
and Organised Crime Agency (SOCA) for action.

Q.4 How well are Government and responsible enforcement bodies responding to newer threats and
challenges, including the use of the internet for wildlife trade

33. In 2010, an increase in the number of re-export permits issued by Animal Health for rhino horns was
noticed, and that “sold” prices for auctioned rhino horn antiques far exceeded the estimated price based on
artistic value. As a result of concern over the effects this may have on the conservation status of wild rhino
populations, the CPDG recommended that rhino horn be given concentrated focus within the existing priority
of traditional medicines. In September 2010, in response to this surge in UK trade in rhino horn and concerns
over the impacts on wild populations, Defra restricted the re-export of rhino horn. Recognising this was a
wider problem across the EU, the UK promoted similar stricter measures across other member states. This
reflects a positive response to a newer threat.

34. However, for the most part, government and responsible enforcement bodies are struggling to maintain
pace with any threat or challenge be it new or old.

35. An organised crime group is operating internationally targeting rhino horn from antique dealers, auction
houses, museums and private collections. They offer to purchase the rhino horn, and if refused, return later to
steal it. This group is of Irish origin and have committed offences in 15 different countries, including the UK.
A total of five thefts have occurred to date in the UK. Although the UK has knowledge about this issue,
proactive action has been limited to warning auction houses and museums to be vigilant, as well as zoos with
live animals.

\(^2\) Crime and punishment in the wildlife trade. WWF / TRAFFIC report 2002

\(^3\) NWCU Tactical Assessment October 2011
36. The National Wildlife Crime Unit (NWCU) has received funding for a one year post to investigate illegal wildlife crime on the internet from Defra. We look forward to seeing the results of this in due course.

Q.5 How fully are wildlife crimes recorded, and how rigorously are available penalties applied

37. The penalties associated with wildlife trade offences often bear little or no relation to the profit to be made by those committing the offences (eg Trevor Lay sold lepers to the value of £20,000—at court he was fined £1,500 and £950 costs; Brynn McDonagh imported £26,000 worth of birds of prey from South Africa to sell on, and received a suspended sentence and £1,000 costs; David Brett had Indian Star Tortoises sent to him in the post to the value of £8000 and was given a suspended sentence and £360 costs; Heng Low sold arowana fish to the value of £10,000, and was fined £2,000 with £800 costs at court; the Renaissance company had £353,000 worth of illegal shahtoosh shawls in stock, and was fined £1,500 at court). When presenting wildlife cases, it is imperative that prosecutors are aware of the seriousness of these crimes, and bring this information to the attention of the judiciary in a clear and concise manner. Having prosecutors who specialise in wildlife cases is useful in this regard. When considering the seriousness of these offences, the judiciary should take into account the ecological impact of the offence and the impact on the sustainability of the species, as well as the economic gain made by the perpetrator of the crime. When endangered species are involved it will often be that the case is more appropriately tried/sentenced in the Crown Court, and the level of fine should reflect any economic gain from the offence. These recommendations are laid down in more detail in “Costing the Earth” information for sentencers produced by the Magistrates Association in 2003, and updated in 2009. Although useful, these are no substitute for sentencing guidelines, which currently do not exist for wildlife crime.

38. Wildlife incidents are recorded centrally by the NWCU. However, neither police nor Customs are obliged to submit data, making collection of information problematic. If a police force doesn’t have a WCO in post it can mean no data is submitted. Wildlife incident data is also submitted by the Environment Agency, the Ministry of Defence and some NGOs such as the RSPB, Scottish Badgers and the Bat Conservation Trust. However, the reporting of incidents to the NWCU does not replace the need for a centralised database recording all wildlife crimes.

39. There is an ongoing concern that the majority of wildlife crime goes both under reported and unrecorded. The Control of Trade in Endangered Species (Enforcement) Regulations (COTES) and Customs and Excise Management Act (CEMA) convictions are recordable, and details should be centrally held by the Home Office and accessible to obtain a national picture. A freedom of information request has been submitted to the Home Office for details of COTES and CEMA convictions, but at the time of writing, no response has been received so it has not been possible to make a judgement on whether the Home Office records are an accurate representation of the cases that have taken place.

40. It is important that some parity is found across the board as there is a need to ensure tougher penalties and custodial sentences are addressed consistently throughout the UK and that the penalties available for wildlife crime offences are used to their fullest when such a deterrent is needed.

41. While the UK has a legislative framework that is generally supportive, it lacks effectiveness in some areas as a result of the imposition of low penalties in some prosecuted cases. This can be a result of a lack of awareness of the impacts of wildlife crimes on behalf of prosecutors and the judiciary, but also because the judiciary must judge the criminal’s ability to pay a fine, and consider reducing sanctions in response to offender mitigation. Because of this, fines become too low to act as an effective deterrent to repeat and future criminals, particularly those who stand to make considerable profit from illegally traded wildlife.

42. Overall, it appears that there are varying and inconsistent approaches to the law and the imposition of penalties for illegal wildlife trade. This clearly raises questions concerning any deterrent value. The fear of a high judicial penalty is not sufficient on its own to deter offending—the potential offender must perceive there is a certainty of detection, arrest, and a clear belief that the authorities will prosecute. This is currently an unlikely scenario in the UK context. The risk to wildlife offenders is minimal, and the rewards are extremely high when balanced against the chance of getting caught or the likely penalty that would be imposed.6

Q.6 How effectively is behaviour-change and attitude-change being promoted?

43. Defra lead a CITES Communications Group consisting of Defra CITES and international species policy team, Animal Health and Veterinary Laboratories Agency (AHVLA), Defra marine conservation team, UKBA, NWCU, Metropolitan Police Wildlife Crime Unit, WWF, and TRAFFIC. Although this group holds meetings, it has no budget and as such is unable to achieve much. AHVLA have no budget to print their own guidelines and have requested financial assistance from WWF to do this for eg a traditional medicines leaflet. The NWCU, Defra, AHVLA and UKBA have jointly produced a poster for police offices with WWF. The UK updated the FCO website around the time of the World Cup in South Africa. UKBA produced the sniffer dog guide and posters with financial and project assistance from WWF/TRAFFIC (EU funding obtained by WWF/TRAFFIC). The Partnership for Action against Wildlife Crime (PAW) publicity group maintains the PAW trailer.

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6 Crime and punishment in the wildlife trade. WWF / TRAFFIC report 2002
Q.7 The UK's role in influencing the EU and International agreements on illegal wildlife trade

44. The UK plays an active role in influencing the EU and international agreements on the illegal wildlife trade, and UK representatives are much sought after for assistance with training law enforcement agencies in other countries. The UK is the present Chair of the Coalition Against Wildlife Trafficking (CAWT), the lead for the CITES rhino working group and the CITES e-commerce working group, is a CITES Standing Committee member representing Europe, and is very influential in EU CITES policy decision making, sitting on the Management Committee, the Scientific Review Group and the Enforcement Group of the EU. In 2010, the UK took the lead in introducing stricter measures on the trade in rhinoceros horn, influencing key changes to rhinoceros conservation policy across the EU. The result was a new set of standards for use across the EU and better regulation of the trafficking of rhino horn from the EU to Asia. The UK was responsible for leading or being instrumental in negotiations in the EU at CoP15 on issues such as tigers, elephants, and Atlantic Bluefin Tuna.

TRAFFIC recommends:

(a) The future of the National Wildlife Crime Unit is secured with long term government funding to support a fully operational unit. This should consist of the following posts; Head of Unit, senior intelligence Officer and two intelligence officers, senior analyst and analyst, and 6 investigative support officers (one in Scotland and Wales, two in Northern England and two in Southern England) and appropriate administration support. The Unit also needs to be adequately supported with up to date tools such as laptops with the facility to upload and download from and to, and smartphones which can be used in the field.

(b) To improve inter-agency working the possibility of the National Wildlife Crime Unit merging with the Animal Health Inspectorate should be explored and should include a UKBA representative.

(c) Ensure the Head of Compliance post at Animal Health and Veterinary Laboratories Agency is filled by an enforcement professional, so that the work of AHVLA can dovetail into the intelligence model used by both police and the UKBA. The recent secondment of a police officer in this post has proved to be of huge benefit and needs to continue.

(d) Each police force should have at least one full-time Wildlife Crime Officer, fully trained in intelligence gathering, to effectively combat this crime.

(e) Introduce targets for wildlife crime for the police to meet and report against, so ensuring work on wildlife crime is not unaccounted for.

(f) Make it mandatory for police and UKBA to submit wildlife incident data to the NWCU.

(g) Provide the necessary resources to the National Wildlife Crime Unit so they can record all types of wildlife crime.

(h) Encourage more joint prosecutions under both COTES and CEMA legislation, as many offences involving CITES species will involve an element of illegal import or export.

(i) Initiate a programme to encourage prosecutors and the judiciary to regard offences against wildlife with due seriousness and to use the full range of sentencing options available to them in order to deter offenders.

(j) Encourage prosecutors to use other legislation to prosecute wildlife offences, such as fraud, proceeds of crime, anti-social behaviour orders and serious crime prevention orders.

(k) Prosecutors specialising in wildlife should be established in each region (as has been done in Scotland). Training should be provided to support this. The method of case allocation should be changed so that one prosecutor remains in charge of the case file from start to finish, allowing for some continuity in each case.

(l) Sentencing councils must develop appropriate guidelines to support judiciaries in sentencing wildlife crimes.

23 February 2012

Written evidence submitted by the Association of Chief Police Officers (ACPO)

EXECUTIVE SUMMARY

1. Introduction

— This evidence represents the views of the police service in England, Wales and Northern Ireland. We provided both written and oral evidence to the Committee’s 2004 inquiry.

— We believe that since 2004 the police service has made much progress in the way in which we address wildlife crime. In particular in 2006 the National Wildlife Crime Intelligence Unit was established. The Unit is now held in high regard due to the commitment and enthusiasm of all involved. That said challenges remain.
2. The scale of wildlife crime and its impacts and how this has changed since the 2004 report
   — There is now wide understanding within the service of what is meant by the term wildlife crime.
   — In 2007 National Standards of Incident Recording were introduced allowing us to capture statistics on wildlife crime. These are however only a record of the number of incidents that are received and may not provide an accurate indication of crime trends.
   — First identified in 2004, the UK wildlife crime priorities have been reviewed on a regular basis. In some areas regional and local wildlife crime priorities have also been identified. There have been a number of international, national, regional and local operations that have addressed those priorities.
   — The police service undoubtedly also has a greater understanding of the impacts of wildlife crime than it did in 2004, in particular with regard to our priorities.

3. The extent to which UK legislation and regulations on wildlife crime are “fit for purpose” and the penalties for offences are adequate
   — Since 2004 we have been provided with the additional police powers we had been seeking. In addition, guidance produced by both DEFRA and the European Commission has been of assistance.
   — Conservation legislation is, in our view, badly in need of consolidation; we have also identified other areas where legislative change is needed. We will work with both DEFRA and the Law Commission as they conduct reviews into these matters.
   — Recent years have seen legislative divergence with the devolved administrations having responsibility for biodiversity. In particular we are interested in the concept of vicarious liability recently introduced in Scotland.
   — The award of civil sanctioning powers to government agencies might lead to a conversation about the role of the police in relation to less serious wildlife crimes of a conservation nature.
   — The majority of wildlife crimes carry a maximum sentence of £5,000 and/or a six-month custodial sentence. Those who engage in the illegal trade in endangered species may face up to seven years’ imprisonment whilst the shooting of our own protected species brings only a maximum penalty of six months’ imprisonment. Wildlife crime is unusual in that it is one of the few exceptions in the field of environmental law that cannot generally be heard in Crown Court.

4. How policing of wildlife crime is coordinated in the UK (between bodies and geographically) and whether enforcement powers have sufficient resources and powers and how the proposed National Crime Agency might affect the policing of this sort of crime
   — Since the establishment of the National Wildlife Crime Unit, organised criminal wildlife crime activity has been identified and addressed by a tasking and coordinating process informed by strategic and tactical assessment. All the UK enforcement agencies and other appropriate bodies contribute to this process.
   — A number of information sharing agreements and memorandums of understanding have been signed off by those working to enforce wildlife crime legislation.
   — The partnership between the police and the Countryside Council for Wales, identified in 2004 as best practice, not only continues but has also expanded. Other agencies have adopted the idea of seconded police officers working with them.
   — In some areas regional coordination is undertaken with the position in Wales being particularly strong. Elsewhere the number of full time wildlife crime officers has decreased but there have been a number of recent examples where officers have been appointed to tackle wildlife and rural crime. We have recently seen one wildlife crime unit being funded in part by a non-government agency.
   — Reviews into the prevention and investigation of wildlife crime have been undertaken in both Scotland and Wales.
   — Whilst the responsibilities of a National Crime Agency have yet to be decided, we have doubts about the National Wildlife Crime Unit being included within its remit. The National Wildlife Crime Unit should remain as a stand-alone unit with the ability to feed serious and organised wildlife crime threats into any national crime agency.

5. How well Government and responsible enforcement bodies are responding to newer threats challenges including the use of the internet for wildlife crime
   — The National Wildlife Crime Unit places the UK in a very strong position to identify and respond to new threats.
   — The internet is a wildlife crime enabler that requires dedicated resources if it is to be addressed. Funding for such a resource is available for 12 months but difficulties have been experienced in recruiting.
— The short term funding cycles that the Unit experiences do present problems in terms of recruiting and retaining staff and also impact on operational capability. Nevertheless we accept that in the present climate funding for a greater length of time is unlikely. The present funding structure is, we believe, of benefit when discussing the future of the Unit as it requires the contribution of a range of agencies and government departments each of whom benefit from the whole.

6. How fully wildlife crimes are recorded and how rigorously penalties are applied
— The National Standards of Incident Recording should not be relied upon as a recording process for wildlife crime. Police forces have been asked to submit monthly returns of wildlife incidents to the National Wildlife Crime Unit. Many do so but challenges remain in persuading a small number to contribute in a meaningful manner.
— Even where wildlife crimes fall within the national crime recording systems they are difficult to identify, as they are not allocated a specific Home Office code.
— The penalties that are available for some wildlife crimes appear in some cases not to be dissuasive. This may need to be addressed in light of the European Directive on protection of the environment through criminal law.
— In many wildlife crime cases conservation impact statements are provided in order to assist the courts in making informed decisions as to appropriate penalties. The police service has appointed and trained many hundreds of wildlife crime officers. In Scotland specialist wildlife crime procurators have been appointed. In England and Wales the Crown Prosecution Service have nominated specialist prosecutors but their knowledge and expertise is not always available to investigating officers.

7. How effectively behaviour change and attitude change are being promoted
— We feel that the police service uses the limited resources we have available to influence behaviour and attitude very well. We provide displays on wildlife crime at events across the UK whilst wildlife crime officers are regularly called upon to speak on their work. The Metropolitan Police’s “Operation Charm” has a high public profile and its wildlife crime display is shortly to appear in the House of Commons’ dining room.
— Effective enforcement has a role to play in changing attitude and behaviour. Police operations undertaken in relation to specific portions of the illegal trade in endangered species appear to have been instrumental in behaviour change, as does our long running operation to address the activities of those who collect birds’ eggs.
— Within the police service we have also done much to promote attitude change with the production of posters, standard operating procedures and minimum standards of investigation. We have trained over 800 wildlife crime officers during the past 15 years and have an annual Wildlife Crime Conference, now in its 23rd year.

8. The UK’s role in influencing the EU and international agreement on illegal wildlife trade
— The profile of the NWCU globally is huge and seen by many as an example of best practice. A number of significant wildlife crime investigations have revealed international aspects that we have been able to pursue because of the international liaison that has been undertaken. We are closely involved in the work of both the EU and the Interpol wildlife crime working groups.

Evidence
1. Introduction
1.1 Thank you for providing me with the opportunity to present evidence to your inquiry into wildlife crime. I do so not only as Chief Constable of Lincolnshire Police, but also as the lead on wildlife crime for the Association of Chief Police Officers. As such, the views expressed can be taken as the views of the police service in England, Wales and Northern Ireland.
1.2 This evidence has been submitted following consultation with the National Wildlife Crime Unit and police forces throughout England, Wales and Northern Ireland. In 2004, my predecessor, Chief Constable Richard Brunstrom of North Wales Police, provided written evidence to your first inquiry into wildlife crime and arranged for oral evidence to be presented by Sergeant Peter Charleston. Sergeant Charleston has since retired from the police service but continues to provide me with advice on wildlife crime.
1.3 It is very satisfying to be able to evidence that since 2004 much work has been done not only to implement the recommendations of your first inquiry, and also I believe to improve the approach of the Service in tackling wildlife crime. Whilst my evidence will highlight many instances of success and best practice, undoubtedly challenges remain. I would however immediately bring to your attention the fact that since your last inquiry, the police service, with other partners, has created the UK National Wildlife Crime Unit (NWCU). This unit, established in 2006 and based in Livingston, West Lothian, is a multi-agency, police-led unit established to prevent wildlife crime, gather intelligence on those involved in wildlife crime and support those agencies involved in its enforcement. The Unit is held in high regard globally and I would like to acknowledge
the commitment and enthusiasm of all involved but in particular the initial Head of Unit, Sergeant Chris Kerr of Cleveland Police (2006–08) and the current Head, Detective Inspector Brian Stuart who, as I write, is preparing to return to Lothian and Borders Police. Undoubtedly the successes achieved by the Unit could not have been achieved were it not for the dedication of such individuals.

2. *The scale of wildlife crime and its impacts and how this has changed since the 2004 report*

2.1 In 2004 we provided evidence to the Committee to the effect that the police service were not well informed as to the scale and impact of wildlife crime. Indeed at that time we highlighted the fact that there was no clear understanding of what was meant by the term “wildlife crime”. Since then, whilst the Partnership Against Wildlife Crime (PAW) has agreed a definition of wildlife crime, other definitions are also in common usage. Enforcers are, I think, now generally comfortable as to what does and does not amount to wildlife crime, accepting that offences of a conservation nature involving animals or plants are wildlife crimes but so are offences relating to the welfare of wildlife whether living in the wild or in captivity.

2.2 Since 2004 better structures within the Service have provided us with a much clearer picture of the levels of wildlife crime being reported to the police. In 2007 the Service introduced National Standards of Incident Recording (NSIR), which, for the first time, provided us with a real opportunity to capture statistics relating to wildlife crime. Of course, those statistics are only a measure of how many incidents are reported and should not be taken as a measure of the extent of wildlife crime. An increase in the number of reported incidents may only reflect improved public confidence in the reporting of such matters and may not provide an accurate indication of crime trends. That said, there are a number of forces who have now been keeping statistics on wildlife crime for over ten years; North Wales Police can demonstrate that over that period the number of wildlife crime incidents reported to them annually has always been about 300.

2.3 In 2004 the police service approached the Joint Nature Conservation Committee asking them to identify species, the conservation status of which, were being affected by criminal activity. Those discussions led to the identification of the first wildlife crime priorities. NWCU now annually review the UK wildlife crime priorities taking regard not only of conservation concerns but also trends in incidents of wildlife crime reported to enforcement agencies. The priorities for 2012 are:

- Persecution of hen harrier, goshawk, and red kite, peregrine falcon, golden eagle and white-tailed sea eagle.
- Illegal trade in endangered wildlife.
- Bats.
- Freshwater Pearl Mussel.
- Poaching (in particular that of deer, fish and brown hare).
- Badger persecution.

The identification of wildlife crime priorities has been very useful in allowing the police service to direct a limited capacity to target specific criminal activities. Examples of such activity include:

- Operation Tram: An international operation involving 19 countries aimed at illegal trade in traditional medicines.
- Operation Ramp: An international operation involving 51 countries aimed at the illegal trade in reptiles and amphibians.
- Actions initiated by the CITES Priority Delivery Group investigating the illegal trade in caviar in the UK.
- Operation Charm: An Operation aimed at addressing the illegal trade in wildlife crime within the Metropolitan Police area.
- Operation Bat: Providing a national approach to the prevention and investigation of offences relating to bats.
- Operation Meles: Providing a national approach to the prevention and investigation of offences relating to badger persecution.
- Multi-force operations aimed at disrupting poaching activities and prosecuting those involved in such activities.

2.4 Beyond the nationally agreed priorities some regions in recognition of the fact that not all of the national priorities are relevant to their areas, have identified regional priorities for example damage to sites of special scientific interest.

2.5 There is now undoubtedly far greater understanding amongst enforcement authorities as to the impact of wildlife crime. As an example the rhinoceros is being driven towards extinction because of the demand for illegal rhinoceros horn used in traditional medicines. The conservation status of other species such as tiger and elephant is also being severely affected by illegal trade.

2.6 Domestically, the government has accepted that criminal activity impacts on the conservation status of bats and hen harriers and there is evidence that such behaviour also impacts on the status of some other birds of prey. Poaching is no longer a crime involving “one for the pot” and can be shown to have substantial
economic and commercial impacts on some communities. Badger persecution, whilst not a matter of conservation concern, is simply so cruel that society in general finds it to be unacceptable.

2.7 For your further information I attach:7
   — The NWCU’s annual report for 2009.
   — The NWCU’s annual report for 2010.
   — The NWCU’s strategic assessment for 2010.
   — The NWCU’s latest tactical assessment.

3. The extent to which UK legislation and regulations on wildlife crime are “fit for purpose” and the penalties for offences are adequate

3.1 In 2004 we made comments to the effect that legislation pertaining to wildlife crime whilst generally being fit for purpose was nevertheless difficult to understand and enforce. The past ten years have seen considerable improvements introduced primarily by the Natural Environment and Rural Communities Act and revisions in 2004, 2007 and 2010 of what are commonly known as the Habitats Regulations.

3.2 The legislative changes have assisted enforcers by providing police powers that did not previously exist, additionally in some instances guidance has been produced both domestically and by the European Commission that has been helpful in providing definitions used in the legislation.

3.3 Whilst the additional police powers and guidance have been of value, it is however the case that most police officers dealing with wildlife crime find it to be a very complex area to understand in the main because of the number of amendments that have been made over the years. For instance in the case of European Protected Species, protection was first provided by the Wildlife and Countryside Act 1981 and seemed in the main to be duplicated by the Habitats Regulations in 1994. The Countryside and Rights of Way Act 2000 increased the levels of protection afforded to these species but in 2007 this was removed (but not in its entirety) with protection being offered instead by amended Habitats regulations. Finally in 2010 the regulations were once again replaced. As can be imagined, it tends to be only police officers working with the legislation on a daily basis who have a full understanding of it.

3.4 Further, since 2004, police operations have revealed weaknesses in legislation in particular in relation to the Control of Trade in Endangered Species Enforcement Regulations (COTES). In 2008 coordinated multi-agency actions took place looking at the illegal caviar trade. It was found that a problem existed around the labelling of caviar products, an issue that was not covered by the regulations. Further issues include the inability of police officers to seize goods, believed to have been imported illegally, without the consent of the UKBA and samples of plants having to be taken by veterinary surgeons.

3.5 Therefore, whilst it can be demonstrated that there are difficulties with wildlife crime legislation, we are conscious of the work being carried out to consider these issues. We will contribute to DEFRA’s work on amending the COTES regulations. We are also engaging with the Law Commission as they conduct their review of wildlife crime legislation.

3.6 Recent years have seen divergence in legislation between England and the devolved administrations. Differences between England and Wales tend to be of an administrative nature (different species being allowed to be shot under the terms of general licences issued under the Wildlife and Countryside Act) and seldom result in any operational policing difficulties.

3.7 Scotland however has made substantial changes to their own conservation legislation. Most recently and perhaps most interestingly the concept of vicarious liability has been introduced for offences involving the killing and harming of protected species. It is as yet too early to make any assessment of the impact of such measures but if a similar measure were to be introduced into England and Wales I suspect that it would do much to address the persecution of birds of prey, an area that at present is very difficult to enforce because of the difficulty in securing evidence of offending.

3.8 There is, I think, room for discussion as to the role of the police in enforcing wildlife crime legislation. It is possible that many less serious conservation offences are best dealt with by those agencies that have in recent years been provided with powers relating to civil sanction. In such instances the regulating authority can, in appropriate circumstances, require restoration or remediation to be carried out that allows for conservation benefit not provided for within the criminal justice system. In circumstances where civil sanctioning is not found to be appropriate those agencies are empowered to institute proceedings for any criminal offence.

3.9 Civil sanctioning legislation permits their application for a range of (but not all) wildlife crimes. Some of the agencies that have been provided with such powers have decided that they will not make full use of them and in the case of Natural England intend to restrict their application for species offences to breaches of licensing conditions. If such decisions have been made because of resourcing issues then that is quite understandable. However the police service face similar resourcing problems and pose the question of whether,

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in the absence of legislative responsibility, the police, rather than other agencies, should carry the responsibility of enforcing wildlife crime that does not involve organised and serious offending?

3.10 There is certainly precedent for organisations such as Natural England to take on wildlife crime enforcement responsibilities, they already enforce offences under several pieces of legislation. Other organisations such as the Environment Agency and the United Kingdom Border Agency do likewise. What is important is that all enforcement agencies work in close partnership with each other and with NWCU ensuring that an overall view of wildlife crime is retained.

3.11 On the matter of penalties, wildlife crime seems to be almost an exception in the field of environmental law in not carrying, in the majority of cases, the potential for custodial sentencing that allows for such matters to be tried in the Crown Court. It is a matter of interest to me that an offence of trading in endangered species in the UK carries a penalty of five years (seven if there is an international element) whilst the killing of raptor species of high conservation concern attracts only a maximum penalty of £5,000 and/or six months imprisonment.

3.12 Notwithstanding the remarks of the last paragraph I believe that existing penalties for most wildlife crimes are sufficient and are indeed dissuasive. Recent years have seen a decline in the activities of egg collectors and there is intelligence to suggest that this is due in part to the custodial sentencing options introduced in 2000. There should, however, in my view be an option that allows for serious and organised wildlife crimes to be tried in the upper court.

3.13 If wildlife crime were to be made triable either way it would undoubtedly provide for an enhanced investigative ability, which can at present be constrained by the fact that such offending does not amount to serious crime. Such a measure, were it to be introduced, would also serve to resolve the issue of wildlife crime recording as these matters would then fall within the crime recording system.

4. How policing of wildlife crime is coordinated in the UK (between bodies and geographically) and whether enforcement powers have sufficient resources and powers and how the proposed National Crime Agency might affect the policing of this sort of crime

4.1 The development of the National Wildlife Crime Unit has led to better coordination of enforcement activity in particular where it involves level 2, cross-border and 3, organised crime. All of the UK’s wildlife crime enforcement organisations and a number of other partners contribute intelligence and statistics to the unit that enable strategic assessments to be produced and actioned through tasking and coordinating meetings held twice a year. The focus of this work is naturally the UK wildlife crime priorities but the wildlife crime scene is subject to constant assessment allowing for emerging trends to be identified and acted upon.

4.2 A memorandum of understanding between Natural England, the Countryside Council for Wales (CCW), the Crown Prosecution Service and ACPO has been agreed setting out not only areas of responsibility but also providing commitment to partnership working.

4.3 The NWCU has signed a number of information sharing agreements with partners that facilitate the lawful exchange of information.

4.4 In 2004 the partnership between the Police and the Countryside Council for Wales (CCW) was highlighted by the Environmental Audit Committee as being an example of best practice. That partnership not only continues but has expanded to a point whereby three of the four Welsh forces have seconded officers to CCW. In addition, there are officers seconded to both the Environment Agency (Wales) and the Forestry Commission in Wales. In Scotland, the Scottish Parliament have funded an officer to work with the NWCU whilst in England, police officers have been seconded to work with the Environment Agency, DEFRA (Animal Health and Veterinary Laboratories Agency), and English Heritage. In England an officer was seconded to work with Natural England for 12 months but the arrangement lapsed at the conclusion of that period.

4.5 At a regional level coordination is often rather more problematic. Natural England has for several years been trying to drive forward regional enforcement groups that unfortunately have not been the success that would have been hoped for. There are a number of reasons why such difficulties exist but generally the problems can be found within partner agencies rather than any lack of commitment from Natural England.

4.6 For a good example of regional working I would once again point to Wales where the Welsh Government’s environmental visions and policies are addressed through the Welsh Biodiversity Partnership. Within that partnership there is a wildlife crime-working group that comprises all enforcement agencies and others with an interest in addressing wildlife crime. That group has recently produced a Welsh wildlife crime strategy.

4.7 In 2004 the point was made that Chief Constables undoubtedly have sufficient resources with which to combat wildlife crime but there were few indications from government that this was an area to which resources needed to be applied. The situation today is exactly as it was in 2004 in that there remains little encouragement from government to direct resources to wildlife crime. Whilst all but one or two forces have appointed wildlife crime officers, most operate on a divisional level and carry other responsibilities. The number of full time wildlife crime officers is lower than it was in 2004, but in recent years there has been a trend in appointing officers who carry responsibility full time for both wildlife and rural crime. Appointments made by
Gloucestershire, Hertfordshire and Humberside Police can evidence this. Most recently the Metropolitan Police have entered a funding agreement with the World Society for the Protection of Animals (WSPA) that has enhanced the capability of their wildlife crime unit.

4.8 In 2008 there was a joint thematic inspection into the prevention, investigation and enforcement of wildlife crime in Scotland carried out by Her Majesty’s Inspectorate of Constabulary in Scotland and the Inspectorate of Prosecutions in Scotland. In 2010 the Welsh Assembly Government commissioned a review of the prevention and investigation of wildlife crime in Wales. Both pieces of work made recommendations to the police on the selection, training and development of wildlife crime officers that have been adopted in those countries. In England, Her Majesty’s Inspector of Constabulary has decided against carrying out a similar investigation or review.

4.9 The responsibilities of a National Crime Agency have yet to be decided. Clearly if wildlife crime were to be included within the Agency’s remit then it would bring stability of resources and funding. On the other hand, to do so runs the risk that most wildlife crime will be seen as non priority work and risks being largely unaddressed. Personally I am reticent about the NWCU being entirely within any National Crime Agency; it should in my view remain as a stand-alone unit. A mechanism is however needed whereby serious and organised wildlife crime can be fed into the agency and addressed via a tasking and coordinating process.

4.10 No matter how wildlife crime investigations are to be managed in the future it is, I believe, vitally important that there remains oversight into wildlife crime as a whole. The NWCU are best placed to perform this vital function. If a National Crime Agency is to have any aspect of wildlife crime within its remit then they must work in partnership with NWCU, similarly those agencies dealing with wildlife crime through the civil sanctioning process will need to have the same close working arrangements.

4.11 For your further information I attach:

- Welsh Biodiversity Partnership wildlife crime working group wildlife crime strategy.
- Humberside Police—changing the stance and views of a police force.
- Metropolitan Police—a strategy map for a funding agreement with W.S.P.A.
- Natural Justice—an investigation into the prevention, investigation and prosecution of wildlife crime in Scotland.

5. How well Government and responsible enforcement bodies are responding to newer threats challenges including the use of the Internet for wildlife crime

5.1 The NWCU places the UK in a very strong position when it comes to identifying new threats as well as responding to them. The partnerships that have been formed have resulted in both the National Intelligence Model and the Management of Police Information guidelines being complied with by all enforcement agencies enabling the NWCU to deal with information and data in a lawful and consistent manner.

5.2 Examples of emerging threats being identified and addressed include issues around the importation of Ramin timber and the trade in European Eels following the introduction of controls. In both instances an intelligence gap was identified which enforcement agencies and other partners were asked to consider. In the event the levels of intelligence evidencing illegal activity did not lead to either of these issues becoming a wildlife crime priority. It does nevertheless demonstrate how the Unit is able to identify and address such threats.

5.3 The internet is widely used to carry out trade in wildlife with much of that trade being entirely lawful. However, equally without doubt the internet is a “crime enabler” allowing unlawful trading, much of which can be considered to deliver high levels of profit with little or no risk of prosecution. If such illegal trading is to be addressed then dedicated resources are required.

5.4 In 2010 the NWCU received funding to appoint a wildlife crime internet researcher for a period of 12 months. Unfortunately the period of funding is such that it has, to date, been found to be impossible to recruit anybody to the role. A very recent recruitment process led to the post being offered to a well-qualified individual who declined to accept it having been offered a position elsewhere providing greater job security.

5.5 I have no doubt that since its inception the NWCU has played a major role in most of the successes referred to in my evidence. Its continued funding is however not guaranteed and has to be renegotiated regularly. The last funding negotiations were conducted in 2010 and secured funding for only two years.

5.6 The resource implications involved in securing funding from a number of partners every two or three years does have an impact on the operational capability of the unit with staff being required to direct their efforts to securing funding rather than addressing wildlife crime. Further, the financial position is such that it

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presents difficulties not only in recruiting staff of the quality required but also in retaining them. In recent years the Unit has lost those holding the post of senior analyst and analyst who both left to take up more secure roles.

5.7 Further the short term funding that has been provided to the Unit does restrict operational capacity. Were the future of the Unit to be financially secure we could look to meeting training and development needs that we cannot at present accommodate. Similarly we would look to purchasing equipment (such as specialist software for detecting illegal wildlife trade on the internet) that at present we cannot commit to.

5.8 Without our funding partners (DEFRA, Home Office, ACPO, ACPOS, Scottish Government and Northern Ireland Environment Agency) there would be no NWCU. I am conscious that in the present economic climate the Unit is unlikely to receive long term funding and is more likely to have to operate on one or two year funding cycles. Whilst such an arrangement does have the disadvantages outlined I am optimistic about the future of the NWCU, believing that the present funding form also has its benefits.

6. How fully wildlife crimes are recorded and how rigorously penalties are applied

6.1 I have earlier explained that due to the introduction of national standards of incident recording (NSIR) the police service now has an understanding of wildlife crime that was not available in 2004. Whilst this understanding is very useful NSIR should not be considered to be a recording system, it is simply a measure of how many reports the police receive that are classed on receipt as being wildlife crime related.

6.2 NSIR does not require forces to do anything more than collect this data. We do not know how many of these initial calls are actually found to relate to wildlife crime (for example a caller may allege that men are going into woods to bait badgers and this will be recorded as a wildlife incident even though there may be no evidence that badger baiting had taken place). Further there is no system in place that provides information as to how many offences are detected or how many incidents are finally written off as not amounting to wildlife crime.

6.3 There is no requirement to report such figures to any central point but police forces and other enforcement agencies have been asked to make monthly returns to NWCU on the number of wildlife calls they receive. NWCU are engaged in a constant battle to get that data. Whilst some police forces contribute meaningful data, challenges exist in convincing a minority of forces to contribute in a meaningful way.

6.4 As in 2004 the only wildlife offences that fall within the crime recording system are those that can be tried in the Crown Court. The Police should formally record such offences in the same manner as other more common offences, which are also triable either way.

6.5 Although offences involving the illegal trade in endangered species (under COTES regulations) fall within the national crime recording system they have not been allocated specific Home Office codes and instead fall within a miscellaneous category used for recording a broad range of offences that are not statistically significant. The consequences being that such offences, although recorded, are difficult to identify.

6.6 Whilst the benefits of a recording system are clear the police service are constantly looking to reduce the amount of bureaucracy required. As such the Service as a whole would not welcome the need for additional paperwork that would be associated with a formal recording system for wildlife crime. I understand such views are also held by the Home Office.

6.7 On the matter of rigorous application of penalties I am drawn to the requirements of the EU directive on the protection of the environment through criminal law (EU 2008/99/EC) which requires member states to have in place dissuasive penalties for specified environmental penalties some of which are wildlife crimes.

6.8 Are the penalties available for wildlife crime dissuasive? In my experience I would suggest that in some instances they are, whilst in others they appear not to be. I have already suggested that the imposition of custodial sentencing seems to be linked to the suppression of egg collecting. Additionally I think that some of the penalties imposed for illegal trade in endangered wildlife are dissuasive. On the other hand the penalties associated with raptor persecution seem to have little impact. The penalties for developers taking illegal action against European Protected Species seem not to be dissuasive with anecdotal evidence suggesting that developers comply with the law only because of the reputational damage that a conviction might bring.

6.9 If there are instances where inadequate penalties are imposed by the courts then some thought has to be given as to why this is. I suspect that on occasion the court is given insufficient information that allows them to make fully informed decisions. To this end the police service are promoting the use of conservation impact statements especially in cases that involve the UK wildlife crime priorities.

6.10 Police officers other than wildlife crime officers are seldom asked to investigate wildlife crime without the assistance of wildlife crime officers or other sources of expertise. The same applies to Crown Prosecution Service (CPS) prosecutors. Most will seldom be called upon to consider wildlife crime offences and will not always have the background knowledge needed to make informed judgements. Whilst the CPS has nominated wildlife crime prosecutors in every area our experience is that those prosecutors are not always available to consider or prosecute wildlife crime.
6.11 In Scotland specialist Procurator Fiscals have been appointed who consider and, where required, prosecute wildlife crime offences. I would welcome such arrangements in England and Wales.

6.12 I imagine that any legislative changes that are introduced as a consequence of the review of wildlife legislation being conducted by the Law Commission will have regard to the requirements of EU 2008/99/EC. This may lead to the ability for Crown Courts to hear the most serious wildlife crime cases. Should this happen the issue of wildlife crime recording would also be addressed.

7. How effectively behaviour change and attitude change are being promoted

7.1 As can be imagined from the comments already made the Police service has few resources available for promoting behaviour and attitude change in relation to wildlife crime. Despite this I believe the resources we do have are used very effectively.

7.2 Some years ago, thanks to generous donations from partners within the Partnership for Action against Wildlife Crime (PAW), we secured an excellent display caravan that is based within my own force but is used extensively across the UK and is available to all PAW partners at no cost. As a consequence the PAW display caravan is often to be seen at various agricultural, trade and interest shows throughout the UK.

7.3 The Metropolitan Police are very active in promoting awareness of the illegal trade in endangered species through Operation Charm. The Operation has a high public profile with posters having appeared throughout the tube system and elsewhere. Their Operation Charm display figures prominently at appropriate events and locations and is to be seen in the House of Commons members, dining room between 4.15 pm and 5.45pm on Tuesday 28 February 2012 with a further event being held some weeks thereafter.

7.4 Where the PAW caravan is not available, and in some instances as an alternative to the PAW caravan, forces and individual officers will arrange wildlife crime displays at local events. Many wildlife crime officers regularly make presentations on wildlife crime to various groups across a broad spectrum of interests aimed at increasing public awareness of wildlife crime. Many forces also carry pages relating to wildlife crime on their websites.

7.5 Enforcement is an important part of changing attitude and behaviour. Without there being a proportionate risk of enforcement offenders are unlikely to change their habits.

7.6 I have previously mentioned that custodial sentencing does seem to have had an impact on the activities of egg collectors in the UK. If this is in fact the case it is also the case I believe that it would not have happened had it not also been for a very effective policing operation known as Operation Easter. That operation used intelligence to proactively target known egg collectors, hugely increasing the risks of prosecution.

7.7 We have also made significant contributions to changing attitude and behaviour in relation to specific areas of the trade in endangered species. Operations carried out in partnership with other agencies have for instance considered the trade in reptiles, amphibians, tortoises, caviar and traditional medicines.

7.8 Whilst convictions arising from such activity contribute to attitude and behaviour change, the wider impact of such operations should not be underestimated. Not only do they lead to heightened perception of the risk of prosecution but reassurance is also provided to those who operate lawfully sometimes to their disadvantage.

7.9 Whilst much effort is given to raising awareness of wildlife crime amongst the public we are also conscious of the need to raise awareness within our own organisation. We have done so by producing posters, standard operating procedures and minimum standards of investigation for many of the priority areas. During the past 15 years over 800 police officers have attended the national wildlife crime foundation course. Many forces, as a consequence of attending joint UKBA/Police courses initiated in 2006 and held at least annually, also have officers who have received specialist CITES/COTES training. Our annual Wildlife Crime Enforcers’ conference is now in its 23rd year and continues to attract over 100 delegates annually.

8. The UK’s role in influencing the EU and international agreement on illegal wildlife trade

8.1 It is particularly pleasing to be able to report that in the relatively short time that the NWCU has been in existence their profile globally is huge. We are now considered to be an example of best practice held in high regard by many.

8.2 Since the NWCU was formed lines of communication have been established with many enforcement agencies throughout the world. In recent years a number of significant wildlife crime investigations have revealed international aspects that we have been able to pursue much more easily than had previously been the case.

8.3 Beyond this the Head of Unit has been closely involved with both the EU and Interpol wildlife crime working groups.
8.4 The international work that the Unit has been engaged in, despite the resource implications involved, provides further argument for securing adequate longer term funding that will enable the Unit to operate with confidence.

23 February 2012

Written evidence submitted by the Environmental Investigation Agency

SUMMARY

— Wildlife trade is a form of serious, transnational organised crime with devastating effects on the global environment.
— EIA has over 20 years experience of investigating and campaigning on this trade.
— The UK plays an important role in tackling global trade, both domestically and through its involvement in intergovernmental bodies such as the Convention on International Trade in Endangered Species (CITES).
— EIA urges the UK to maintain and increase support for relevant units to tackle wildlife crime in the UK.
— EIA urges the UK and its EU partners to provide support to relevant international bodies like INTERPOL Environmental Crime Programme to improve the international response to wildlife crime.
— The UK and its EU partners should continue to push for full implementation of relevant CITES Decisions and Recommendations relating to the trade in Asian Big Cat parts and derivatives.
— In light of the ongoing surge in illegal ivory trade, and the failure of China’s ivory trade control mechanisms, EIA urges the UK and its EU partners to call for an immediate independent review of China’s domestic ivory trade control, regulation and implementation.
— EIA has been requested to provide oral testimony with specific reference to the ivory trade, and is happy to do so.

1. The Environmental Investigation Agency (EIA) is a UK-based non-governmental organisation. EIA is dedicated to exposing and combating environmental crime, and since its inception in 1984 has pioneered investigative techniques to document several major types of environmental crime and abuse; illegal logging and trade in illicit timber, wildlife trafficking, climate change and the smuggling of environmentally-harmful chemicals and waste.

2. EIA has spent more than twenty years documenting illegal and unsustainable trade in wildlife products, with a particular focus on Asian big cat parts and derivatives and the illegal trade in ivory, which are sourced in Asia and Africa and smuggled to end markets in East Asia and elsewhere. This work has involved field investigations in India, Nepal, China, Vietnam, Thailand, Hong Kong, Taiwan, Zambia, Tanzania, Kenya, Mozambique, the US and European Union. In addition to investigations, EIA has carried out comprehensive capacity building for local NGOs and communities across Tanzania, which has yielded valuable intelligence on the wildlife trade in that region. EIA played a unique role in achieving the original ivory ban in 1989 and has monitored the situation closely ever since.

3. EIA’s unique experience of the illegal wildlife trade makes it well placed to provide pertinent information to the inquiry. EIA will limit its submission to several main areas, as laid out below:

BACKGROUND TO THE ILLEGAL WILDLIFE TRADE

4. The illegal wildlife trade represents one of the most serious threats to global biodiversity.

5. The UN General Assembly, UN ECOSOC, UN Commission on Crime Prevention and Criminal Justice and INTERPOL have all recognised that wildlife crime is a form of serious, organised transnational crime, with high profits, low risks of detection and weak penalties, it attracts serious criminals that may use proceeds of wildlife crime to finance other forms of crime threaten security. The same individuals, logistics and trafficking routes used by wildlife criminals are also used to move other contraband. Corruption is a common feature of wildlife crime in many parts of the world. Convictions of those arrested should include the seizure of assets and proceeds of wildlife crime, along with penalties sufficient to shift the high profit—low risk equation of wildlife crime.

6. Illegal killing of elephants and the trade in ivory is driven by demand for ivory products in East Asia, largely China and Thailand, although demand exists in other countries, including local demand in Africa and secondary demand from other countries such as the USA and UK.

7. Illegal poaching of Asian big cats is driven by demand for wildlife products in consumer nations, the largest of which is China. Wealth and status are key demand drivers, as Asian big cat products are consumed in several ways. Tiger, leopard and snow leopard skins are used for luxury décor, taxidermy and clothing, while bones, whiskers, teeth, fat and penises are used in traditional Asian medicine and in the general tonic and souvenir trade.
8. Tiger, leopard, Asiatic lion, clouded leopard and snow leopard and their parts and derivatives are all listed on Appendix I of the Convention on International Trade in Endangered Species, meaning that all international trade in products containing parts of these animals is illegal without a permit, which can only be issued under limited circumstances.


10. The sale of Asian big cat skins is allowed within China, provided a permit is issued by the State Forestry Administration. Notification 2006, issued in 2007 by the SFA, appears to make it possible to obtain a license for animals obtained from legal sources, including captive-bred animals.

11. Currently there are more than 5,000 tigers in captivity in breeding centres in China and elsewhere in South East Asia. There is evidence that these centres continue to provide tiger products to the market illegally. Conservations believe that these tiger “farms” or breeding centres are stimulating demand for wild tiger products and confusing the legal situation, hampering law enforcement. CITES Decision 14.69 adopted in 2007 with the support of the UK and the EU states: “tigers should not be bred for trade in their parts and derivatives.”

12. Asian elephants are listed on CITES Appendix I, while African populations are listed on both Appendix I and Appendix II, depending on where they are located. This has been done to allow limited international trade in ivory from Southern African elephant range states. This trade has been conducted through two “one-off sales” of stockpiled ivory in 1999 (50 tonnes) and 2008 (100 tonnes) to approved buyers in Japan and China. These sales have done nothing to reduce the illegal trade and evidence suggests that they may have increased demand for illegal ivory by creating legal confusion. Recent estimates suggest that up to 90% of the ivory on sale in China is illegal.

13. The number of large ivory seizures (>500 kg), specifically through 2009 to date, continues to be an issue, and African elephant populations, particularly those in Central and Western Africa and many populations in Asia, continue to be vulnerable. Between 2009 and 2011, at least 50 tonnes of illegal ivory were seized, with the indication that much was destined for China.

14. Ivory from the second one—off legal stockpile sale (2008) was bought for an average of US$157 per kilo. The intention expressed prior to the CITES-approved one-off sales was that the aim was to reduce ivory prices and thereby countermand the need for illegal trade. However, for Chinese State Forestry Administration (SFA) accredited (and therefore “legal”) traders, purchase prices for raw ivory from this Government-owned, legal stockpile are as much as US $1,500 per kilo. This price is reflected in the retail prices of ivory products in accredited retail outlets in Guangzhou such as the Government-owned Friendship Store and represents a massive mark-up. Recent reports indicate that prices have escalated as much as ten-fold since 2005. This is completely contrary to the view expressed by proponents of the one-off sales before they happened, and has demonstrated the flawed rationale behind allowing the one-off sales.

15. The demand for illegal ivory, which undercuts the legal prices, has now soared and the illegal traders are cashing in. This is further supported by countless, documented, seizures of illegal ivory indicating China as a destination.

16. A number of African elephant Range State countries have also reported significant increases in elephant poaching and the smuggling of ivory in, through and across their borders. Illegal killing in of elephants in many parts of Central Africa have risen to alarming levels and Kenya, Botswana, Mozambique, Zambia and Zimbabwe are all feeling the pressure of increased poaching.

17. The organisation which manages the Elephant Trade Information System for CITES (Convention on the International Trade in Endangered Species) recently announced that 2011 has been the worst year for large ivory seizures since 1989.

UK response to wildlife crime

18. The UK remains a destination for products containing ivory and Asian big cat parts and derivatives. It may also be a source or transit point for “antique” wildlife products heading to consumers in East Asia. Additionally, there have been seizures of skins of tigers, along with taxidermy specimens, some of which have been the specimens of captive bred tigers that have entered into trade illegally in the UK. While these were most likely sourced from within the EU they are important indicators of demand for products from endangered species.

19. The UK has an active role in combating the illegal trade in ivory and in Asian big cat parts and derivatives. It is currently a member of the Standing Committee of the Convention on International Trade in Endangered Species (CITES), a member of the Global Tiger Forum (GTF) and is currently Chair of the Coalition Against Wildlife Trade (CAWT). It has taken an active role in the Global Tiger Initiative (GTI) and in worldwide activities to tackle wildlife crime. The UK is a significant donor to international efforts to combat Asian big cat trade, and most recently, under DEFRA, has contributed £75,000 to INTERPOL’s Project Predator and £312,000 to the GTI multi-lateral donor fund.

20. The launch of Operation Charm in 1994, by the Metropolitan Police Wildlife Crime Unit (WCU), has made a huge and positive impact on the current availability of products labelled as containing tiger and other...
Asian big cats in London and other major cities of the UK. The UK’s recent participation in INTERPOL’s Operation TRAM shows that nonetheless it is important to maintain this effort, with TRAM resulting in the seizure of parts and products claiming to contain tiger/leopard.

21. The Metropolitan Police Wildlife Crime Unit (WCU) and the National Wildlife Crime Unit (NWCU) are widely recognised and respected as examples of good practice in wildlife crime enforcement, and have been involved in exchanges and training with other law enforcement agencies in other parts of the world. Along with the UK Border Agency and DEFRA’s Animal Health Inspectorate, the Units have engaged with civil society to establish UK Wildlife Crime priorities. The multi-agency approach and engagement with NGOs offers an excellent working model to the countries where UK is investing aid to address wildlife crime, including under DEFRA’s Darwin Initiative grants and DFID’s FLEGT grants.

22. The UK has provided £40,000 to the new International Consortium to Combat Wildlife Crime (ICCCWC)—an initiative of Interpol, CITES Secretariat, World Customs’ Organisation, UN Office on Drugs and Crime and the World Bank Stolen Assets Recovery Division.

**Recommendations for activities to improve enforcement response to wildlife crime**

23. EIA urges the UK government to ensure that funding and resources to the National Wildlife Crime Unit, the Metropolitan Police Wildlife Crime Unit, DEFRA’s Animal Health Inspectorate and relevant sections of the National Borders Agency are maintained and expanded to a level that ensures they can continue to undertake and develop intelligence-led enforcement and inter-agency cooperation, to help combat crime wildlife crime and maintain an example to other countries. This will be particularly important in light of the new EU timber regulations which are due to enter into force, and which could place additional requirements on these units.

24. EIA urges the UK to continue to support measures to conserve Asian Big Cats at CITES, and to seek the full implementation of existing Decisions and resolution relating to ABC conservation including Res. Conf 12.5 (rev. COP15) on enforcement measures and Decision 14.69, which states that tigers should not be bred for trade in their parts and derivatives.

25. EIA urges the UK to continue to support international efforts to improve wildlife crime enforcement, and in particular to provide funding to the INTERPOL Environmental Crime Programme (ECP) to ensure its sustainability as a mechanism for the swift and secure exchange of nominal criminal intelligence and the coordination of international operations to combat the transnational organised wildlife crime networks. EIA would encourage the UK to increase its contributions through core funding, from the Home Office to the INTERPOL ECP. EIA would also urge the UK to work with its European partners to ensure additional core funding for the INTERPOL ECP.

26. The International Consortium to Combat Wildlife Crime (see 22 above) is developing a toolkit to assess gaps in enforcement and related infrastructure. EIA would urge the UK to engage in a self-assessment using this toolkit to aid in the process. This could provide useful information and also an important test-bed for this toolkit. As part of this process EIA urges the UK to take the lead in developing “indicators of enforcement” as this is an area of implementation and reporting which is traditionally very poor at the intergovernmental level.

27. EIA recognises the support given by the UK through the Darwin Initiative for conservation work, but also recognizes that this is largely tied to academic institutions. EIA also acknowledges the support given by DEFRA to INTERPOL’s Project Predator, and therefore calls upon the UK government to make funding available to support NGO activities in partnership with ICCWC members in the field of wildlife crime prevention, with a particular focus on research, capacity building and advocacy.

28. EIA urges the UK to take a lead role in advocating indicators of more effective enforcement at an international level, including at CITES. EIA remains concerned that the evaluation of enforcement effort in the international context is largely based on seizures. In the context of wildlife crime seizures and the arrests of low-level players in the trade chain such as couriers will not deter the serious organised criminal networks and will result in more animals being killed. Convictions, seizure of assets, evidence of investigations, intelligence-sharing and cooperation are what civil society expects to see as evidence of increased commitment and investment in wildlife crime enforcement.

Examples of indicators of more effective enforcement include:

- Proactive, covert, intelligence-led operations that build up a profile of wildlife criminals, and their local, national and international associations.
- The right kind of intelligence being generated to enable the mapping of associations within such networks eg personal identifiable information, information derived from telephones and business transactions, vehicle records and travel histories.
- Multi-agency and transnational sharing of intelligence through swift and secure means.
- The development of national and transnational operations on the basis of intelligence.
- The use of controlled deliveries as an evidence-gathering tool to effectively disrupt criminal networks.
— Assets and proceeds of crime are recovered through invoking “proceeds of crime legislation against wildlife criminals”.
— Increase in detection and conviction rates.

29. In light of the ongoing crisis facing many endangered species, EIA urges the UK to investigate the possibility of tightening regulations regarding auctions of antique specimens of CITES Appendix I species, including how provenance is determined and whether export of all such items should be suspended.

UK position on future ivory trade

30. CITES remains the main mechanism through which illegal trade in ivory can be addressed. It does not predicate operating through other channels, but it is central to affecting change. The closure of “legal” markets would remove the incentive of many of the largest, most profitable syndicates to poach and traffic ivory, arguably constituting the most decisive, unequivocal way of protecting elephant populations across the globe and this remains a long term goal.

31. EIA urges the UK and its EU partners to take a strong position to oppose further sales and trade in ivory. With 27 Member States the EU is a vital stakeholder in CITES Decisions.

32. In light of the ongoing crisis in global elephant populations, and the surge in the illegal ivory trade, EIA urges the UK and its EU partners to call for an immediate independent review of China’s domestic ivory trade control, regulation and implementation.

REFERENCES

ii CITES Secretariat Press Release, Geneva 7 November 2008
iii November 2010, Friendship store, Guangzhou. Prices ranged from 1,240 RMB for 1 pair of chopsticks to 238,000 RMB for a simple, polished tusk; ID certificate stated the weight as 5380g. Based on the exchange rate 1 US$ = 6.43620 RMB, this puts the value of the tusk at US$ 6,839 per kilo.
iv Source: http://www.ttcf.com/?action-viewnews-itemid-101633
Li Ding-ning, renowned arts and craft master who has been carving ivory for many decades is quoted as saying that in the past 5–6 years, the increase in the price for ivory is estimated to be 7–8 times, if not more than 10 times.
Li Bin-cheng, GM of Guangzhou Baoxiang Arts and Crafts Company said that he dared not to touch/use his stock now that it (ivory inventory) is nearly 10 times (of the original prices)”.

v Status of Elephant populations, Levels of illegal Killing and the Trade in Ivory: A Report to the CITES Standing Committee SC61 Dock 44.2 (Rev 1) Annex 1
vii Project Predator is an initiative of INTERPOL Environmental Crime Programme. It was launched at the 80th INTERPOL General Assembly in November 2011, and is designed to support and enhance the governance and law enforcement capacity for the conservation of wild tigers. One of its key aims is to call upon countries to establish National contact units for dealing with wildlife crime. These were originally termed National Tiger Crime Task Forces, but have recently been broadened to become National Environmental Security Task Forces.
24 February 2012

Written evidence submitted by International Fund for Animal Welfare

1. The International Fund for Animal Welfare (IFAW) runs projects in more than 40 countries around the world and has over 400,000 supporters in the UK.

2. IFAW has more than 20 years’ experience campaigning on wildlife crime issues. We work closely with the National Wildlife Crime Unit (NWCU); we are members of Operation Charm, a joint collaboration of NGOs and the Metropolitan Police Wildlife Crime Unit to combat wildlife crime in London and raise public awareness of the scale of illegal activity; partners in the Coalition Against Wildlife Trafficking (CAWT) and internationally we undertake joint enforcement operations with Interpol’s Environmental Crime Programme and member countries of the Lusaka Agreement Task Force (LATF).

3. IFAW welcomes this inquiry into wildlife crime. Given the broad scope of the topic, we will focus the main body of our remarks on illegal wildlife trade.

4. Since the Environmental Audit Committee’s inquiry into Wildlife Crime in 2004, our view is that the scale of wildlife trafficking and subsequent impact on wildlife in range states has increased. Despite positive actions taken in the UK, including the creation of the NWCU, illegal wildlife trade in the UK remains significant. This is especially true of trafficking perpetrated using the Internet.
5. Legislation covering illegal wildlife trade is in need of revision, but the penalties currently in place are generally robust. However, the strong penalties available are rarely applied by the courts, and despite the good work of the NWCU and the Metropolitan Police Wildlife Crime Unit, wildlife crime is not given sufficient priority by many individual police forces. This problem will be exacerbated if the creation of the National Crime Agency sidelines the NWCU.

6. Increased resourcing by Government would increase the ability of enforcement agencies to tackle the problem, and IFAW encourages the UK to take positive steps in the EU and internationally to reduce wildlife crime around the world.

**Illegal Wildlife Trade**

*The scale and impact of wildlife crime in the range states*

7. Illegal wildlife trade is, according to the Global Financial Integrity Report “Transnational Crime in the Developing World” published in February 2011, worth up to $10 billion (£6.3 billion) a year, has strong links to organised crime and terrorism and poses a serious threat to human health as well as an evident threat to endangered species and biodiversity around the world.

8. The Environmental Audit Committee recognised the threat posed by illegal wildlife trade in its 2004 Report into Wildlife Crime, which concluded that, “the link between wildlife crime and other serious crimes, the clear and growing involvement of organised crime, and the increased reliance on the Internet for illegal trade in protected species makes the argument for spending time and resources on this area of crime compelling”.

9. Evidence IFAW has gathered suggests that since the Committee last examined this issue, illegal wildlife trade has increased, with a significant impact on animal species around the world, particularly African elephants. For example, according to the Elephant Trade Information System (ETIS), there has been “a steadily increasing trend in levels of illicit ivory trade from 2004 onwards, with an exceptionally sharp upsurge in 2009…data demonstrate that seizures of ivory reached record levels in 2009 and that these levels were largely sustained in 2010”.

10. Indeed, 2011 witnessed a record number of large ivory seizures (classed as over 800kg), more than in any of the previous 23 years of ETIS records. These large seizures are indicative of the involvement of international organised crime syndicates. In at least 13 of these substantial hordes, the total seized was more than 23 tonnes. Once the records of hundreds of smaller seizures are included, the total amount seized is likely to exceed any previous year on record.

11. The most recent evidence of widespread criminality in relation to the killing of wildlife in range states is the ongoing butchering of elephants for their ivory in the Bouba Ndjida National Park in northern Cameroon. According to sources on the ground, from mid-January to mid-February 2012 more than 200 elephants were slaughtered, most likely by Sudanese poachers, with violence continuing at the time of writing. In the past, poachers targeted elephants in Chad, but with that nation’s elephant population having dropped from several thousand to a few hundred in recent years, armed gangs are travelling further afield. It is now common for gangs of poachers from Sudan to cross into Cameroon during the dry season to kill elephants for their ivory, but the scale of the most recent attacks is unprecedented. There is evidence of militant groups being involved in the trade. The ivory is smuggled out of West and Central Africa for markets in Asia and Europe, and the money raised funds arms purchases for use in regional conflicts, particularly ongoing unrest in key hotspots across Africa.

12. In the last three years, more than 800 South African rhinos have been killed and it is clear we are facing the worst rhino-poaching crisis in decades. Last year alone a record 443 rhinos were killed, according to the South African National Park Service. Late last year the Western Black Rhino was declared extinct.

13. Recent monitoring of wildlife markets in China by IFAW indicates that the overwhelming majority of illegal wildlife products such as tiger bone wine and rhino horn are now exchanged for their investment, rather than medicinal value. Essentially, the closer an endangered species is to extinction, the higher its “investment” value. For example, spot checks on the Taobao.com auction website during four weeks in January, May, July and November 2001 revealed 1,272 listings of wildlife products as collectibles, antiques and artefacts, but only 11 for traditional Chinese medicine products which included tiger bone gelatine and pangolin scale powder.

14. Trade in tiger bone and rhino horn is illegal in China but enforcement is challenging. In December, a large auction of tiger bone wine and rhino horn products in Beijing was shut down after IFAW alerted authorities but more needs to be done to tackle illegal sales. UK support for enforcement measures where demand is highest would be productive.

15. A month-long Independent on Sunday investigation in March 2011 found that “the snaring and slaughtering of animals is driving dozens of species to the brink of extinction… The world’s tiger population has plummeted from 100,000 at the start of the 20th Century to below 4,000 today; 20,000 elephants are killed each year for their ivory; the number of rhino poached in South Africa doubled last year; sea turtles are being harvested at an astonishing rate; and, over the past 40 years, 12 species of large animal have vanished completely in Vietnam”.


16. One obvious human cost of the illegal wildlife trade is the many rangers that are killed every year by poachers, but there are also other negative results of wildlife crime. The same investigation by the Independent on Sunday concluded that wildlife crime is “a major source of funding for terrorist and militia groups, including al-Qa’ida”.

17. For example, the Janjaweed militia that carried out genocidal attacks in Darfur gained revenue from the slaughter of endangered species and the trade in their derivatives. From 2006–08, they butchered hundreds of elephants around Zakouma National Park, according to authorities in Chad, carrying the tusks back to Sudan where they were sold onto ships bound mostly for Asia or traded for weapons. In 2007 Janjaweed militia carried out an abortive attack on an ivory stockpile compound, where Chadian authorities had stockpiled $1.3 million (add GBP equivalent) worth of seized ivory.

18. In the Democratic Republic of Congo (DRC) 15,562kg of ivory has been seized in the last 20 years, with two-thirds of this collected in the last decade. Analysis from ETIS indicates three-quarters of this was obtained through organised crime rings. In Tanzania, the picture is even worse, with 68% of the 76,293kg of ivory seized during this period being smuggled by organised criminals.

19. According to The Independent, in 2008, the trades in bushmeat and ivory were found to be directly supporting rogue military gangs, and providing economic support for several persistent pockets of rebel activity in the DRC, including the Hutu rebels implicated in the 1994 Rwandan genocide. Arms and ammunition were provided in exchange for ivory and illegal bushmeat during the second Congo war of 1998–2003.

20. Loss of wildlife also has significant consequences for development. In 2006, tourism generated more than $800 million (add GBP equivalent) in Kenya, and whilst tourist numbers dropped following unrest in 2007, tourism remains Kenya’s highest foreign exchange earner. A significant proportion of this is based on Kenya’s wildlife.

21. Last year, Yuri Fedotov, the Executive Director of the United Nations Office on Drugs and Crime (UNODC) stated that the “illicit trade in wildlife is a form of transnational organized crime that, just like trafficking in illegal drugs, weapons and human beings, brings negative consequences to security and development”.

The scale and impact of wildlife crime in the UK

22. It is important to make the point that, due to its illegality, it is impossible to assess the true scale of wildlife crime. Experts agree that seizures represent only a fraction of the real level (some Customs officials estimate that approximately 10% of contraband material is intercepted), but also represent the level of resources, for example staffing and training, that are put into tackling such crime. More resources will undoubtedly lead to more seizures, but obviously this does not necessarily mean that the level has increased—only that it has become more visible.

23. Nevertheless, the level of seizures does point to the scale of the crime and in the UK it is significant. For example, in 2008–09 (the most recent figures publicly available), the UK Border Agency seized 61,402 endangered species items.

24. London is a major hub for Europe’s illegal trade in endangered species. Operation Charm, an initiative led by the Metropolitan Police Wildlife Crime Unit and involving NGOs including IFAW, has seized more than 30,000 endangered species items since 1995. The world’s largest seizure of rhino horns—129 horns valued at several million pounds—occurred in Kensington in 1996, and the largest seizure of 138 shahtoosh shawls (made from the hair of the endangered Tibetan antelope) took place in Mayfair in 1998. No seizures as large as these have taken place in recent years, but smaller seizures continue to take place, suggesting the trade through the capital continues to be vibrant.

25. The trade in reptiles and amphibians in the UK is significant. In 2009, a man involved in the illegal tortoise trade was imprisoned for eight months. In May 2011, 15 live endangered tortoises worth up to £4,500 were seized at Stansted Airport. Operation RAMP (Reptiles & AMPhibians), a worldwide action in Autumn 2010, coordinated by Interpol, resulted in seven significant investigations in the UK—six of which are ongoing, with one already having resulted in a conviction. Likewise, a small scale action by Operation TRAM (TRAditional Medicines) in February 2010, again coordinated by Interpol, led to a conviction for the sale of leopard skin plasters being sold; a further major investigation is still ongoing.

26. The illegal trade of ivory online is a substantial issue in the UK as outlined below, but there continues to be evidence of significant offline activity. For example, in October 2011, two men were arrested and a substantial horde of ivory seized from a house in Cheltenham. A man in Bedfordshire was sentenced to eight months in prison in February 2012 for illegally trading birds of prey.

27. The China Association of Chinese Medicines reported an increase in prices of 700% in 2010, with rhino horn now selling for £60,000 per kilogram, twice as much as gold. This has led to a spate of recent thefts of rhino horn from museums in the UK, including in Suffolk, Surrey and Essex. The Natural History Museum and Horniman Museum (South London) have both removed their rhino horns from display. In September 2011, the NWCU issued a warning to all 15 British zoos and wildlife and safari parks that contain rhinos to tighten...
security and immediately report any suspicious behaviour to the police. Enforcement personnel agree that there is a clear link between demand for rhino horn in the UK and the illegal killing of endangered rhinos in Africa.

The extent to which UK legislation and regulations on wildlife crime are “fit for purpose” and the penalties for offences are adequate

28. International wildlife trade is governed by the Convention on International Trade in Endangered Species (CITES) and implemented in the UK through the EU’s Wildlife Trade Regulations (which automatically become law in UK) and the UK’s Control of Trade in Endangered Species (Enforcement) Regulations (COTES) 1997 (amended in 2005, 2007 and 2009) which set out the offences and penalties relating to CITES trade.

29. Amendment in 2005 to COTES increased the maximum penalty for wildlife trade offences to five years imprisonment and/or an unlimited fine. This is welcome, and should be an adequate deterrent. However, penalties imposed are rarely close to this level, due primarily to the challenges faced by prosecutors and magistrates in understanding the severity of the offence and securing suitable penalties accordingly. This point is expanded on below.

30. The European Commission is finalising a review into European Law as it relates to wildlife trade. This will consist of changes to the current Regulations and accompanying guidelines (as outlined below) and so the UK will need to update its own COTES (Control of Trade in Endangered Species) Regulations accordingly. When COTES was last updated in 2009, the Government stated that the Regulations would be “the subject of an in depth review over the next two years, which is likely to result in significant changes”.

31. IFAW’s understanding is that this review did begin under the last Government but has not progressed under the current Government due to budgetary constraints. We understand that a part-time member of staff joined the CITES team in October last year in order to take forward the project, and that informal consultation on the review will take place around Easter this year, with full consultation in autumn. According to Defra, the updated Statutory Instrument is expected by either April or October 2013.

32. Defra has been open in the past to input from voluntary organisations and we are confident that the updated COTES legislation will be fit for purpose. There is general agreement on many of the issues that require addressing. These include the need for new powers: for example the power to make test purchases to assess whether individuals are willing to sell illegal items, and the need to introduce new offences: for example surrounding the sale of caviar. The most important action is that the legislation be updated without further delay.

How policing of wildlife crime is coordinated in the UK and whether enforcement bodies have sufficient resources and powers

33. The UK Border Agency has a dedicated CITES team based at Heathrow Airport which has a UK-wide responsibility for enforcement of the endangered species laws at ports and airports. This team does a good job and works well with other enforcement bodies, most notably the National Wildlife Crime Unit (NWCU).

34. The NWCU is joint-funded by the Home Office and Defra and exists to coordinate intelligence and assist in investigations in order to target enforcement efforts at particular areas of wildlife crime. One of the National Wildlife Crime Unit’s (NWCU) priorities is the enforcement of CITES crime with a focus on ivory, tortoises and traditional medicines.

35. The NWCU does a good job with limited resources in providing support to Police Wildlife Crime Officers throughout the Police Service. IFAW’s view is that Wildlife Crime Officers do not always get the support they need from their forces in order to focus on tackling wildlife crime, where they have greatest expertise. Often, Wildlife Crime Officers will find their workload dominated by other “priority” areas as senior officers do not recognise the importance of the work they are doing. IFAW recognises the leadership provided by the Association of Chief Police Officers (ACPO) and their Lead on Wildlife and Rural Crime, but this leadership is not always replicated at the constabulary level. Police forces should, in general, recognise the importance of wildlife crime.

36. The NWCU notes that the “lack of current quality intelligence” can make effective enforcement difficult. Greater resources for the NWCU would enable it to increase its level of intelligence gathering and give even greater support to local forces so that local forces feel able to devote more time to tackling wildlife crime. IFAW is very concerned by the lack of guaranteed funding for the NWCU beyond 2013. Given the good work the NWCU does, this situation must be resolved urgently, and the Government should guarantee funding for the foreseeable future.

37. According to the Home Office Structural Reform Plan, legislation to establish the National Crime Agency will be introduced this spring. Whilst the NCA Plan states that “the Border Policing Command will strengthen national security and crack down on the trafficking of people, weapons, drugs and wildlife” it is unclear whether the National Wildlife Crime Unit will be protected as a fully-resourced, distinct, specialised unit.

38. When wildlife crime was included within the Serious Organised Crime Agency (SOCA) it was often sidelined with resources diverted away into other more high-profile areas. This is a situation that must be avoided in future. The work of the NCA to tackle wildlife trafficking must be in addition to the work of the NWCU, not instead of it.
In London, the Metropolitan Police have a dedicated Wildlife Crime Unit. Again, this unit does good work with limited resources. Another voluntary organisation, the World Society for the Protection of Animals (WSPA), recently announced that it will be part-funding this unit. Clearly when a voluntary organisation has to supplement Government funding there are significant resourcing concerns.

To complement the work of CITES at a global level the UK also currently chairs the Coalition Against Wildlife Trafficking (CAWT) which aims to raise the political profile of the illegal trade in wildlife and wildlife products. Defra has stated that it is looking to hand over the chairmanship to another party in the immediate future. It is important that despite this move the UK continues to drive action against illegal wildlife trade at an international level, as outlined in more detail below.

IFAW works closely with INTERPOL’s Environmental Crime Division to tackle international wildlife crime by conducting joint operations. We are partners in Project WISDOM, an initiative to support and enhance the governance and law enforcement capacity for the conservation of elephants and rhinos. In the very near future there will be a significant operation in this field which, on completion, we will be happy to provide more information about in a supplementary note.

Defra and the NWCU also partner with INTERPOL to varying degrees. We recommend that the Government continues to fund and provide additional support for future INTERPOL wildlife crime operations to ensure this effective international co-operation continues.

Complementing our work with INTERPOL, IFAW trains national Customs and wildlife law enforcement agents to more effectively police the illegal trade in ivory and other wildlife contraband through our Prevention of Wildlife Trafficking Training programme. IFAW has trained more than 1,200 officials since the inception of this programme. We also train and equip rangers to protect elephants in range states. We would welcome support from the Government for similar initiatives.

**How well Government and responsible enforcement bodies are responding to newer threats and challenges, including use of the Internet for wildlife trade**

The online trade of wildlife is of particular concern to IFAW. Items available illegally on UK-based websites include many species of reptiles and amphibians, rare orchids and ivory.

In 2005 IFAW produced “Caught in the Web”, the first comprehensive report to investigate the online trade of wildlife in the UK. Over the space of several months IFAW found that every week thousands of animals and animal parts are offered for sale online, with a substantial amount of trade in species that are legally prohibited or strictly regulated. Items for sale included live primates, stuffed polar bears, giant ivory tusks and tiny dried seahorses. Within an intensive one-week period, IFAW found more than 9,000 wild animal products and specimens and live wild animals for sale, predominantly from species protected by law. A further 122 traders were identified, each advertising an unspecified number of items but often in sizeable quantities.

In 2008 IFAW undertook an extensive worldwide investigation and report entitled “Killing with Keystrokes”. Over the space of three months, six one-week surveys were conducted in various countries, the main results of which are summarised in the table below:

<table>
<thead>
<tr>
<th>Country</th>
<th>No. of websites tracked</th>
<th>No. of adverts</th>
<th>No. of adverts for elephant products</th>
<th>No. of adverts for exotic birds</th>
<th>Advertised Monetary Value of all adverts ($)</th>
<th>Value of Final Sales Recorded ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>US</td>
<td>28</td>
<td>5,026</td>
<td>3,690</td>
<td>3,921</td>
<td>1,025</td>
<td>1,896,827</td>
</tr>
<tr>
<td>UK</td>
<td>22</td>
<td>551</td>
<td>289</td>
<td>285</td>
<td>217</td>
<td>383,149</td>
</tr>
<tr>
<td>China</td>
<td>5</td>
<td>544</td>
<td>n/a</td>
<td>376</td>
<td>17</td>
<td>654,283</td>
</tr>
<tr>
<td>France</td>
<td>11</td>
<td>380</td>
<td>249</td>
<td>325</td>
<td>10</td>
<td>376,816</td>
</tr>
<tr>
<td>Canada</td>
<td>11</td>
<td>244</td>
<td>167</td>
<td>178</td>
<td>34</td>
<td>197,922</td>
</tr>
<tr>
<td>Germany</td>
<td>14</td>
<td>151</td>
<td>39</td>
<td>90</td>
<td>28</td>
<td>90,019</td>
</tr>
<tr>
<td>Russia</td>
<td>24</td>
<td>144</td>
<td>n/a</td>
<td>35</td>
<td>43</td>
<td>247,832</td>
</tr>
<tr>
<td>Australia</td>
<td>11</td>
<td>82</td>
<td>35</td>
<td>13</td>
<td>42</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>126</strong></td>
<td><strong>7,122</strong></td>
<td><strong>4,470</strong></td>
<td><strong>5,223</strong></td>
<td><strong>1,416</strong></td>
<td><strong>3,871,201</strong></td>
</tr>
</tbody>
</table>

The online trade of protected wildlife (CITES Appendix I and selected Appendix II items) in the UK was the most extensive in Europe, and was high compared with all other countries except the United States. The high volume pointed to an even greater problem as investigators only focused on a limited number of species. The significant trade in ivory was evident, as was the trade through large sites such as eBay. In 2007, eBay announced a ban on cross-border trade in ivory, yet the investigation identified a significant amount of ivory being shipped internationally through eBay. As a result of our investigation, in 2009, eBay announced a worldwide ban on sales of all animal ivory on its websites.

Most recently, a smaller scale IFAW survey in February 2011 of UK-based publicly accessible websites found a total of 61 listings of ivory, with none providing clear proof that they were being sold legally—either they were posted on sites that explicitly ban the sale of ivory or other products from endangered species, for example eBay and Gumtree, or the adverts contained no reference to legality. Websites that have banned trade
in endangered species on their sites are to be commended for their positive stance, but clearly enforcement issues remain.

49. Legislation regarding online trade requires significant improvement if it is to be regarded as “fit for purpose”. The primary challenge is that it is extremely difficult to assess whether items are being sold legally or not. One option for the UK may be to adopt similar legislation to that introduced in the Czech Republic where onus is placed on the sellers and website owners to prove the legality of the items being sold online.

50. In 2009, following recommendation from IFAW, CITES formed a working group on e-commerce of specimens of CITES-listed species. NGOs including IFAW are members of this working group, along with a handful of countries including the UK, which chairs the group, providing it ample opportunity to drive forward change at the international level. In 2010, the Conference of the Parties approved a resolution calling on all parties to ensure that their domestic measures were sufficient to address the challenge of e-commerce in CITES-listed species. In IFAW’s assessment, this is one area in which the UK could do more to drive forward improvement in enforcement both nationally and internationally.

51. IFAW has commissioned an international wildlife crime prosecutor to provide legal advice on strengthening the UK’s legislation on Internet wildlife crime, which we are happy to share with the Committee as soon as it is available. In addition, by this summer, IFAW will be in a position to share the findings of a joint INTERPOL/IFAW investigation into the illegal online trade in ivory in the UK and other EU countries.

52. Another issue we encounter relates to antique ivory. Antique ivory can be legally traded in the UK but in our view dealers should only be able to certify ivory as antique if they are part of a registered team of experts: At present anyone can certify ivory as being antique, which presents significant difficulties in differentiating between illegal and legal ivory.

**How fully wildlife crimes are recorded and how rigorously available penalties are applied**

53. IFAW supports making all CITES crimes recordable offences. This would enable enforcement agencies to make greater use of databases, and make it easier to track trends and prioritise the most important issues. Making CITES and other wildlife crime recordable would enable police forces to monitor wildlife crime more effectively and target resources most efficiently.

54. Ensuring that available penalties are rigorously applied is an important issue, and one that needs addressing. Few prosecutors and magistrates understand the severity of wildlife crime or its impacts and, as a result, strong penalties available in law are rarely applied.

55. One solution would be to ensure that specialised wildlife crime prosecutors in every Crown Prosecution Service area are able to take wildlife crime cases through to court (as is the case in Scotland). At present specialised prosecutors often review the case, agree there are grounds for prosecution but then pass on the file to another prosecutor who may not have the expertise to sustain the case and reach a conviction in court.

56. To complement this step, IFAW considers that the Sentencing Council could provide appropriate guidelines to magistrates and judges to inform them of the complexities of wildlife legislation and the need for strong penalties to be applied.

**How effectively behaviour-change and attitude-change is being promoted**

57. As outlined above, Operation Charm, the joint initiative by the Metropolitan Police Wildlife Crime Unit and NGOs including IFAW, undertakes public awareness work in London. The Greater London Authority has in the past been a member of this coalition but has since dropped its support, and as stated, another NGO has now decided to part-fund the Unit. Increased Government support for Operation Charm and its public awareness programme would be much welcomed.

58. IFAW undertakes public awareness work in European airports and other airports across the globe, to encourage tourists and the travelling public to consider the negative impact on biodiversity when buying souvenirs abroad. Berlin Brandenburg Airport has already offered free advertising space to IFAW to promote these issues when the airport opens later this year. Similar advances to British airports have not been successful, with space not offered below a typical private rate. We would welcome encouragement from the Committee to airlines and airports to make tourists aware of the impact of their purchases abroad.

59. IFAW also hopes that awareness of the scale and impact of illegal trade in wildlife will be increased through this inquiry and publication of the Committee’s report. IFAW would welcome a debate on the Committee’s findings in Westminster Hall to further raise awareness and maintain the issue on the political and public agenda.

**The UK’s role in influencing the EU and International agreements on illegal wildlife trade**

60. The UK both independently and as a member of the EU has a tremendous potential to reduce and prevent illegal wildlife trade. Although the European Union is not a Party to CITES, its provisions have been implemented in Community law since 1982. CITES is currently implemented through Council Regulation (EC) No. 338/97 and specified in an implementing Regulation (Commission Regulation (EC) 865/2006).
61. The first and most obvious opportunity for the UK is in influencing the EU’s own CITES regulation. As has been stated these are currently being reviewed by the European Commission. This review will consist of the adoption of some limited changes to Commission Regulation 865/2006 and the publication of a guidance document which would assist national administrations and stakeholders in the interpretation of some provisions of the EU wildlife trade legal framework.

62. Rather than seek to secure large-scale changes to Commission Regulation 865/2006, the European Commission has decided to make minimum amendments to the regulation itself. It has instead chosen to focus its energies on drafting a set of 24 guidelines for Member States to use. The UK Government has taken a leading role in this process by volunteering to draft five of these guidelines. This is a positive step, but the Government must also ensure that it monitors the other guidelines and actively participates in all negotiations to ensure the resultant legislation is fit for purpose.

63. The CITES Conference of the Parties itself provides an opportunity for the UK to influence. The UK takes an active role in both the EU coordination process and global negotiations at CITES to strengthen enforcement of CITES controls and to tackle illegal trade. According to a May 2007 report by TRAFFIC, the EU tops the list of major importers by value for many wild animal and plant products, including tropical timber, caviar, reptile skins and live reptiles.

64. Given the size of this market together with the voting power of a 27-member bloc, the UK and EU should yield tremendous influence at CITES. Often however, the UK and EU have failed to influence the global agenda to the degree one would expect. This is because the EU spends too much effort—both before and during Conference of the Parties—trying to agree internally on a common position, rather than rallying third parties to its positions. The UK and its European partners must determine its priorities much earlier in future to ensure that it has sufficient time to influence other parties.

65. IFAW supports the Coalition Agreement outlining the Government’s commitment to “press for a ban on ivory sales”. Legal stockpile sales fuel demand for ivory that contributes to the killing of elephants, and so we commend the Government’s position. It must ensure that it works with EU partners to guarantee legal stockpile sales are not agreed at CITES, and that the demand for wildlife products is thus reduced.

66. The EU has also established an Enforcement Group consisting of representatives of each of the Member State’s authorities which have responsibility for monitoring compliance with the Regulations, such as Customs, Police and Wildlife Inspectorates. The group is chaired by the European Commission. The task of the group is to monitor enforcement policy and practice in the EU Member States and make recommendations to improve the enforcement of wildlife trade legislation. Despite this, wildlife trafficking is still not seen as a priority issue amongst many EU member states, resulting in low penalties and enforcement priority.

67. As such, a Commission Recommendation identifying a set of actions to improve enforcement was adopted in June 2007. These included the adoption of national action plans for enforcement, ensuring all enforcement agencies have adequate financial and personnel resources, ensuring penalties act as a deterrent and raising awareness of the negative impacts of illegal wildlife trade. Given the priority the UK Government has given to this issue, IFAW believes the UK should take a leadership role to ensure that these recommendations are fully satisfied.

68. The UK and EU, as a top importer of wildlife and through its policies and commercial activities, has the potential to assist other countries in combating wildlife trafficking. IFAW believes that the UK’s membership of the Commonwealth, the EU’s Cotonou agreements with developing countries (which come up for renewal in 2013), European Partnership Agreements and Free Trade Agreements provide just the mechanisms one could use to provide this assistance.

69. IFAW has begun engagement with a number of countries on trade issues with an eye towards affecting change on wildlife trade. Specifically, IFAW has encouraged governments to discuss illegal wildlife trade during free trade negotiations. The focus of that work is on mandating strong, enforceable standards, education programmes, and implementation and enforcement of international laws affecting wildlife.

70. Under Step 6 of its recent Biodiversity Strategy 2020, the EU has committed to: “Enhancing the contribution of trade policy to conserving biodiversity”. In particular, the EU has formulated a detailed policy regarding how trade specifically should be used to further these goals. These commitments provide a solid platform for the UK to advocate impactful trade policy changes that will significantly reduce the threats to wildlife resulting from poaching, habitat destruction and illegal trade.

71. The United States has already begun introducing such provisions into its Free Trade Agreements, such as the US/Peru FTA which was signed in 2006. Indeed, in its “Green Paper on Conservation and the Trans-Pacific Partnership” the US Trade Representative states that:

72. “Each year, billions of dollars in illegally harvested or taken wildlife and wild plant products move across borders, often through the activities of global criminal networks that also trade in illicit arms and drugs. This global trafficking problem has implications for world trade and the environment, and the United States views the Trans-Pacific Partnership (TPP), a regional agreement that it is negotiating with Australia, Brunei, Chile, Malaysia, New Zealand, Peru, Singapore, and Vietnam, as a unique opportunity to tackle this issue and other trade-related environmental challenges.”
73. IFAW urges the UK to ensure that future EU Economic Partnership and Free Trade Agreements enact and enforce laws to combat domestic and international illegal wildlife trade, bring national laws into compliance with CITES, address the need for wildlife rescue/rehabilitation centres, and work to prevent the killing and trade of endangered species.

Hunting with dogs

74. Recognising that the Committee has chosen to exclude hunting with dogs from its inquiry into wildlife crime as the focus will be on areas covered in its 2004 Report, IFAW will keep our submission in this area brief. Nevertheless, hunting with dogs is a wildlife crime like any other, and should be given the same priority by police and the Crown Prosecution Service as any other crime.

75. The most recent data released by the National Wildlife Crime Unit (NWCU) of incidents reported to it between September 2010 and May 2011 demonstrates that wildlife crime as covered by the Hunting Act is widespread. Using NWCU categories, there were 733 reported incidents of “hare coursing”, more than any other category, and 126 incidents of “fox hunting”. There were 205 incidents of “poaching—deer”, a crime often perpetrated using dogs and so prosecutable under the Hunting Act. Together, these accounted for almost 40% of all wildlife crime incidents.

76. Chief Constable Richard Crompton, the Association of Chief Police Officers (ACPO) lead for wildlife and rural crime, states in a letter to the RSPCA that “there have been a substantial number of convictions under the Hunting Act 2004. Such evidence, in my view, demonstrates that the act is enforceable.” Indeed, more than 180 people have been successfully prosecuted under the Hunting Act, excluding figures from 2011 which are not publicly available, making it more successful than other wildlife legislation in the same period, including the Deer Act 1991, Protection of Badgers Act 1992 and the Wild Mammals (Protection) Act 1996.

77. The law covering hunting with dogs is clear and enforceable, and so the priority should be for police and the Crown Prosecution Service to ensure the law is upheld.

24 February 2012

Written evidence submitted by the World Society for the Protection of Animals (WSPA)

INTRODUCTION

The World Society for the Protection of Animals (WSPA) seeks to create a world where animal welfare matters and animal cruelty has ended. To achieve this we work directly with animals and with the people and organisations that can ensure animals are treated with respect and compassion.

We campaign effectively to combat the world’s most intense and large-scale animal welfare issues, bringing about lasting change by:

— helping people understand the critical importance of good animal welfare;
— encouraging nations to commit to animal-friendly practices;
— building the scientific case for the better treatment of animals; and
— encouraging a worldwide movement towards better animal welfare.

Locally, we improve animals’ lives and prevent cruelty by working directly with communities and owners. Working on the ground with local partners for greatest effect, we are active in more than 50 countries.

Globally, we introduce animals into the most pressing global debates and prove the links between animal welfare and successful sustainable development. We have consultative status at the Council of Europe and collaborate with national governments, the United Nations, the Food and Agriculture Organization and the World Organisation for Animal Health.

WSPA is the world leader in animal-focussed disaster response and risk reduction.

In the UK, WSPA partly funds the work of the Metropolitan Police Wildlife Crime Unit and is a partner in Operation Charm (www.operationcharm.org), the Metropolitan Police initiative against the illegal trade in endangered species in London.

WSPA is, therefore an active participant in the fight against wildlife crime and this submission has been prepared in the light of our experience in working with the Metropolitan Police Wildlife Crime Unit.

1. SUMMARY OF MAIN POINTS

1(1) The scale and extent of wildlife crime in the UK is difficult to measure accurately using the existing Home Office recording system and this needs to be changed so that information can be accessed easily.

1(2) Some types of wildlife crime have increased. These include deer poaching and hare coursing. The methods used by wildlife criminals have also become more sophisticated. For example, the internet is used extensively to facilitate illegal wildlife trade.
1(5) WSPA would like to see the UK play a more pro-active role in influencing EU and international agreements on wildlife trade. We believe that, at present, it is too easy for traders and importers to obtain Government licences to permit trade in endangered species and that licensing authorities should make the basic assumption against trade in the most endangered species.

1(6) The police service needs to make access to covert computers available to Wildlife Crime Officers in order for officers investigating wildlife crime to monitor internet forums and trade.

2. The Scale of Wildlife Crime

2(1) The scale and extent of wildlife crime in the UK is difficult to measure using the existing crime measurement systems. The National Wildlife Crime Unit (NWCU) gathers intelligence information from the UK police forces and uses this to inform the National Threat Assessment but this is a relatively new initiative and so does not yet have the data to identify long-term trends. The perception among Police Wildlife Crime Officers is that wildlife crime, generally, appears to be increasing and, in many cases, becoming more sophisticated, although this can be difficult to measure and may, in part, be the result of wildlife crime achieving a higher public profile in recent years.

The multi-cultural nature of London society, the increasingly varied ways in which illegal products or items can be moved around the globe and the burgeoning economies of countries whose ex-patriate citizens are often affluent and eager consumers of wildlife products (traditional medicine, bushmeat) has created something of a perfect storm for the illegal trade into London.

2(2) However, from information published by the NWCU, it is clear that there has been an increase in some crimes against indigenous British wildlife including deer poaching and hare coursing both of which are often committed by organised criminal gangs. WSPA also shares the widespread concern that the proposed cull of badgers in England will act as a cover for many more offences to be committed.

2(3) At present, the Home Office requires the Police Service to provide information on more serious offences so that they can be recorded and used in the national crime figures. This means that statistics are readily available on recordable offences and it is, therefore, relatively easy to monitor any trends that may appear and ensure which crimes should be prioritised and how police resources should be directed.

2(4) However, offences which are not classed as recordable are not monitored or sent to the Home Office and information on these is kept by local police forces, usually in a “catch all” category of Non-Recordable Offences from which it can be a difficult task to extract information on any particular type of crime. It is also the case that these offences are given a low priority by local forces because there is no requirement to inform the Home Office of them.

2(5) Most wildlife offences are not recordable and so information on the extent and scale of these crimes is not readily available and is considered to be of lesser importance.

2(6) Offences against the Control of Trade in Endangered Species (Enforcement) Regulations 1997 (as amended) (endangered species trade offences) and a few other wildlife offences are classed as recordable but the Home Office does not keep specific records of these offences, recording them with a range of other offences as “Other Indictable Offences”. This means that even the most serious of wildlife crimes cannot be effectively monitored, thus making it difficult to gather information and get an effective “national picture” of wildlife crime in the UK.

2(7) WSPA believes that the categories used to record offences should include a specific category of “Wildlife Crime” so that all such offences can be easily notified and information on them is readily available. This would also have the effect of raising the profile of wildlife crime at a local policing level and would be likely to ensure an enhanced response.

3. Co-ordination of Policing

3(1) The Police Service has made progress in the area of co-ordination and has put in place Strategic Tasking and Co-ordination and Tactical Tasking and Co-ordination Groups at a national level in order to “pull together” the work of individual forces and monitor specific wildlife crime issues and plan cross-border operations. The NWCU also gathers intelligence from local forces and analyses this to inform a national picture which is then considered by the National Tasking Groups.

3(2) However, we believe that there is a need for greater practical co-ordination to ensure more effective wildlife policing throughout the UK. PWCOs do not all have the same level of expertise or practical experience and WSPA would like to see the appointment of a Police Wildlife Crime Officer as a National Wildlife Crime Co-ordinator. The purpose of this post would be to bring practical experience and enforcement expertise to a
specialised area of law enforcement and to provide assistance to officers by sharing the experience gained by other forces in specific types of crime. At present PWCOs in individual forces often operate in relative isolation and have little knowledge of what other forces may be dealing with. This means that different forces may experience similar problems without being aware of it and may all be dealing with them in different ways with different degrees of success. In situations like this a National Co-ordinator would be aware of the issue and could put the different forces in touch with each other to ensure a properly organised, more cost-effective approach which would be more likely to lead to a successful outcome.

3(3) Each of the UK police forces would supply information on current investigations to the Co-ordinator who, armed with this “big picture” of wildlife crime, would act as a point of contact to individual PWCOs who may need practical advice on investigating a particular offence and who could then be put into contact with an officer in another force who had the necessary experience and expertise.

3(4) This would ensure that PWCOs would not need to spend time trying to learn something that is already known and the time saved would probably pay for the Co-ordinator post.

4. Resources

4(1) In the present economic climate it is essential that funding is safeguarded to ensure that PWCO posts are retained and developed in UK police forces. At present individual forces continue to adopt a rather piecemeal approach to wildlife crime and the perception remains that wildlife crime is seen as an optional extra which can be dropped if resources are tight.

4(2) WSPA believes that the status of PWCOs should be the same as that of other specialist officers, given the specialist knowledge required to undertake the role effectively. Wildlife crime should be included in each force Policing Plan and an enforcement model adopted which ensures that there is a spread of expertise across the force area and that training is provided and continuity is planned.

4(3) A typical model might be where a force employs a centrally-based Wildlife Crime Officer as the person who is responsible for all of the work done against wildlife crime in the force area. This would include co-ordinating and supporting the work of local PWCOs, forming partnerships with other interested bodies, devising initiatives against wildlife crime and feeding information into the NWCU. Importantly, they would also be the main point of contact for the public, other forces and partner organisations. In our view this needs to be a full-time position.

4(4) The central Wildlife Crime Officer would be supported by a network of locally-based PWCOs who would be responsible for wildlife crime in the division in which they are based. Each of these officers would be fully trained but would be expected to undertake their wildlife crime responsibilities in addition to their other duties.

4(5) This is a similar model to that operated by the Metropolitan Police where a small, centrally-based unit is supported by a network of local PWCOs across the London Boroughs, although, even here, the status of the Borough Wildlife Crime Officer has not been put on a proper footing in every Borough.

4(6) The important point is that police managers must give the same recognition to these posts as they would to other specialist policing roles and include them in their policing plans.

5. The National Crime Agency

5(1) The new National Crime Agency (NCA) has the potential to improve the police response to wildlife crime across the UK but only if it recognises wildlife crime as a specific crime threat and does not merely classify it with other miscellaneous offences.

5(2) If the NCA does treat wildlife crime as a specific area of crime in its own right and resources its work in this area accordingly, it has the potential to give wildlife crime a much higher policing profile in individual police forces and this would make it more likely that the resourcing issues above were properly addressed.

6. Adapting to New Threats

6(1) The growth of the internet and its scope to facilitate trade poses a significant new threat and enforcement agencies are attempting to keep up with the relatively new demands that this has placed upon them. There have been successful prosecutions of internet traders but we would like to see the police in a position where they are able to do more. In particular, WSPA would like to see a more pro-active approach adopted so that, rather than merely responding to reports of crimes, police are able to pro-actively investigate the activities of suspects.

6(2) To do this the police need to be able to access closed on-line forums using computers which cannot be traced. At present this requires authorities under the Regulation of Investigatory Powers Act 2000 and these authorities are not routinely given. WSPA believes that it should be simpler for the police to carry out these pro-active enquiries in future.
6(3) The sheer volume of internet trade poses a major logistical problem at present and, given the present low profile of wildlife crime and the level of resources available, police in the UK struggle to provide the level of response that is needed.

6(4) WSPA believes that the appointment of a dedicated internet researcher at the NWCU would be a significant step forward and would assist hard-pressed PWCOs with the assistance that they need by gathering and assessing intelligence, at a national level, which could be passed to the appropriate force for appropriate enforcement action.

6(5) More generally, the stretched resources of existing officers, certainly within the WCU, has tended to result in reactive rather than proactive policing. Intelligence gathering about the extent of trade, most frequently traded items, trade routes and methods of smuggling, are all key aspects of wildlife crime enforcement and need to be prioritised in terms of resources so that a fuller picture of the ongoing problems are determined. In this respect, further synergy with organisations like WSPA who can assist in sharing the resource burden of intelligence gathering could be beneficial providing it is conducted within the law and with the agreement of police authorities.

7. LEGISLATION

7(1) A number of improvements have been made to wildlife legislation in recent years and it is more effective as a result. However, WSPA has consulted the Metropolitan Police Wildlife Crime Unit on this issue and these discussions have highlighted further improvements which could be made to ensure that legislation is “workable” as a practical enforcement tool.

7(2) The Control of Trade in Endangered Species (Enforcement) Regulations 1997 (COTES) is the legislation used by police to enforce the EU Regulation implementing the provisions of the CITES convention against illegal trade in endangered species in the UK. This permits the UK CITES Management Authority (DEFRA) to issue licences for the sale of endangered species products where the sale does not breach the Regulations (eg antiques). It should be possible, therefore, when a possible offence is brought to police attention for the police to establish from DEFRA whether a licence has been issued for the sale of the item concerned, and this used to be the case. However, the current Regulations do not require licence holders to notify DEFRA when the specimen changes hands and this makes it impossible for the police to know whether the seller is in possession of a licence because, if the specimen has been sold on, enquiries made of DEFRA will be unable to establish this. Without clear evidence of an offence, the police cannot obtain a Search Warrant and, without this, enforcement action is unlikely.

7(3) WSPA believes that, to assist practical law enforcement, DEFRA should adopt a system similar to that used to register the ownership of motor vehicles so that any change of ownership has to be notified to DEFRA or the licence becomes invalid.

7(4) The EU Regulation does not require this of member states but it does permit them to introduce their own measures to control illegal trade in endangered species, provided that they “go further” than the basic requirements of the EU Regulation.

7(5) It is also the perception of the enforcement practitioners that we have spoken to that it is too simple to obtain CITES licences from DEFRA and that the presumption is made in favour of trade and, therefore, the issue of licences. WSPA believes that, in the case of the most endangered species, (those listed in Annex A of the EU Regulation) this emphasis should be reversed and the licensing authority should consider any applications for licenses from the presumption that trade is not possible. It is important to remember that any licences issued will permit the commercial trade in the most endangered species of the planet and it is the licensing policy which, to a large extent, decides the effectiveness of the controls.

7(6) WSPA also believes that there is an important inconsistency in the penalties available to the courts in the COTES Regulations. Some years ago a concerted campaign by a number of NGOs led to an increase in the maximum penalty for selling, keeping for sale, advertising for sale etc. from two to five years imprisonment. However, regulation 8(9)(b) of COTES states that the maximum penalty for “recklessly or knowingly issuing a false statement” to obtain a licence is still punishable by a maximum penalty of two years imprisonment. We believe that this is inconsistent with the other regulations and should be amended to five years.

7(7) Another specific issue which we believe should be addressed in the current DEFRA review of the COTES Regulations is the requirement for a veterinary surgeon to be present on police enforcement operations to take any blood or tissue samples which the police require as evidence. This applies to both living and dead specimens and, on occasions, has resulted in a vet having to take samples of wood from furniture because the law requires a vet to obtain a tissue sample.

7(8) WSPA believes that this requirement should be simplified so that a vet should only be required in cases where blood or tissue samples need to be taken from a live animal.

7(9) Home Office sentencing guidelines for wildlife crime convictions have not been updated for around a decade. Current levels of sentencing do not appear to be acting as any sort of disincentive to criminals engaged in the activity and this would therefore seem to be an area requiring urgent review.
8. PROMOTION OF BEHAVIOUR AND ATTITUDE CHANGE

8(1) WSPA believes that this is of critical importance in reducing wildlife crime and affording better protection to wildlife. Historically, wildlife crime has not enjoyed a high profile and there remains a very low level of public awareness of this issue in the UK. This makes it relatively easy for criminals to commit crime and escape justice but it also means that crimes may be committed by people and companies who simply do not realise that they are breaking the law.

8(2) The latter point is particularly relevant in the illegal trade in endangered species in the UK and the experience of Operation Charm suggests that many consumers are unaware of the illegal trade in this country and do buy products that they probably would not buy if they knew what they were. Many endangered species products are not obvious in their appearance (e.g., traditional Chinese medicines and some fashion and decorative items) and are often bought and sold in ignorance.

8(3) WSPA believes that the most important role that the UK has in this area is to reduce consumer demand for endangered species products in our country and this needs to be addressed by education and information. Clearly, we cannot expect other countries to take more action against the poaching of rhinos, tigers, elephants and other endangered species in their own countries if we are not prepared to do our utmost to stop the illegal trade in the same species in our own country.

8(4) In London, Operation Charm has cast light on an alarming range of endangered species products sold in the capital and it is likely that this trade also operates in other parts of the UK.

8(5) The main responsibility for crime prevention rests with the police and initiatives to inform and educate consumers and traders alike must form a key part of police forces’ crime reduction strategies but this area also provides opportunities for partnerships with other agencies.

8(6) In Operation Charm, the Metropolitan Police Wildlife Crime Unit works in partnership with statutory agencies like Local Authority Trading Standards Officers and a range of professional bodies and NGOs to increase awareness of the illegal trade in endangered species, to inform traders and consumers and reduce demand. As a country with few indigenous endangered species of its own, the UK’s principal role is as a consumer nation and it is the demand from countries like ours which drives the international trade, provides profits for poachers and traffickers, and threatens the survival of some of the world’s most endangered species.

8(7) WSPA believes that action against the illegal international trade in endangered species will only be truly effective when the difficult and often dangerous work done against poaching in other countries is supported by a co-ordinated international clamp down on commercial demand in the consumer nations like the UK. Unless the profit is taken out of the trade we believe that it is unlikely that poaching will ever stop.

8(8) Some work is being done on this in the UK but, in our experience, the widespread public perception remains that the endangered species trade exists only in other countries and we believe that much more needs to be done to highlight this issue here. WSPA would like to see the Government adopt a national strategy to increase public awareness of illegal wildlife trade in the UK so that the issue achieves a much higher public profile in future. This could be done by using a range of electronic, broadcast and printed media, including television, radio and newspaper advertising and packages for schools and specialist traders and professional bodies covering, for instance, traditional medicine practitioners and antiques traders.

8(9) We believe that such a strategy would go further than existing Government efforts and would provide significant opportunities for enhanced partnership working involving Government, enforcement agencies and NGOs to pool their expertise in a practical way, as Operation Charm does in London.

9. CONCLUSION

WSPA has been pleased to see an improvement in the police response to wildlife crime but we believe that this remains too dependent upon the commitment of individual officers. The present lack of a uniform approach to wildlife crime by UK police forces is restricting progress in policing and enforcement and we believe that the single most important thing that needs to be done to improve wildlife law enforcement is for each police force to recognise the role of the PWCO as an important mainstream specialism and to resource and support the role accordingly.

24 February 2012
Written evidence submitted by the Department for Environment, Food and Rural Affairs

— The Environmental Audit Committee has put out a call for evidence on wildlife crime, following up its 2004 Report.
— A copy of Defra’s progress report in addressing the Committee’s 2004 report, published in 2008 in response to a Parliamentary Question, is attached at Annex A.
— Since 2008, the areas where greatest progress has been made are:
  (i) a better understanding of the nature of wildlife crime in the UK mainly through the activities of the UK National Wildlife Crime Unit (NWCU);
  (ii) a more targeted and prioritised approach to tackling wildlife crime;
  (iii) introduction of the Marine and Coastal Access Act 2009 which included provision for the creation of Marine Conservation Zones; established the Marine Management Organisation which has responsibility for regulation and enforcement in the marine environment in England; and gave powers to Welsh Ministers in relation to fisheries in Wales;
  (iv) introduction of powers for Natural England to use civil sanctions to deal with certain illegal activities;
  (v) strengthened cooperation between Government and non-Government partners, through the Partnership for Action Against Wildlife Crime (PAW), to support implementation of wildlife controls, compliance with them, and capacity building; and
  (vi) influencing of other countries to tackle threats posed by wildlife trafficking.
— Areas where some progress has been made and work is underway are:
  (i) the review of the Control of Trade in Endangered Species (Enforcement) Regulations 1997 (COTES);
  (ii) steps to gain a better understanding of the role of the internet in wildlife crime.

INTRODUCTION

1. Ministers are committed to the fight against wildlife crime. Wildlife crime is one of the pressures facing our biodiversity and our work to combat it is a key part of the strategy to halt the loss of habitats and restore biodiversity.

2. Crimes against wildlife are wide ranging (and include the illegal trade in endangered species which can also pose a health risk to domestic livestock and to the public through the introduction of disease); damage to protected habitats and native species; and cruelty to animals.

3. In June 2011 the Government published “The Natural Choice” the first White Paper on the natural environment for 20 years. It outlines the Government’s vision for the natural environment over the next 50 years, backed up with practical action to deliver that ambition. The White Paper gives the following commitment:

   “Recognising the environmental and economic damage that wildlife trafficking can cause domestically and internationally, and its links to other serious international crime, we will continue to play a leading role in tackling wildlife crime at home and on the international stage. We will work with CITES and related programmes, as well as with INTERPOL and EUROPOL and other national enforcement agencies, to share our expertise and strengthen international capability and resolve to combat the threat. We will ensure co-operation across government departments, within the proposed National Crime Agency structure and its Border Police Command, to share resources and expertise. Following the announcement of our continued financial support for the National Wildlife Crime Unit, we will ensure that it plays an active role on the international stage as well as at home.”

4. In August 2011, the Government published “Biodiversity 2020: A strategy for England’s wildlife and ecosystem services”. The strategy set out how the biodiversity commitments in the White Paper will be put into action. The Strategy developed four priority areas for action and within the first, “a more integrated large-scale approach to conservation on land and at sea,” the Government made the following undertaking:

   “We will reduce wildlife crime by working through the Partnership for Action Against Wildlife Crime (PAW) and by contributing to funding for the National Wildlife Crime Unit for a further two years, from 1 April 2011. We have confirmed new UK wildlife crime priorities for them to target over this period.”

5. Both these commitments underline the importance that Ministers give to the ongoing need to tackle wildlife crime.

6. This memorandum sets out Defra’s response to the call for evidence by the Committee for its inquiry into wildlife crime. Those who have contributed include the Animal Health and Veterinary Laboratories Agency, Natural England and the Marine Management Organisation. A contribution from the Environment Agency is at Annex B. It covers areas of wildlife law enforcement where there is a UK interest, including the enforcement of obligations arising from the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the operation of the UK National Wildlife Crime Unit (NWCU), and the role of the UK
Partnership for Action Against Wildlife Crime (PAW). As nature conservation matters are devolved, this memorandum refers to activities taking place in England.

1. Scale of wildlife crime and its impacts, and how this has changed since the EAC’s 2004 report

Scale:

1.1 Measuring the scale of wildlife crime remains difficult. With the exception of certain offences set out in the Control of Trade in Endangered Species (Enforcement) Regulations 1997 and the Wildlife and Countryside Act 1981, most wildlife offences are not required to be notified to the Home Office. The following paragraphs set out some sources of information about the illegal activity which has taken place and sets this against licensed legal activity.

1.2 As signalled in the Government’s progress report in 2008, the National Wildlife Crime Unit’s (NWCU) database of wildlife-related incidents is improving understanding of the types of incidents which are being reported to the police and others across the UK.

1.3 The NWCU produces a twice-yearly assessment of UK wildlife crime in the light of the information it receives. In October 2011 it noted 2,700 wildlife incident reports over the period September 2010–May 2011 (an increase of 6% over the same period in the previous year). Of these, 1,000 incidents related to hare coursing and poaching. The NWCU’s assessments identify the geographical areas where incidents occur, and allows seasonal activity to be identified.

1.4 In 2010–11 Natural England (NE) recorded 100 offences committed on Sites of Special Scientific Interest (SSSIs), the vast majority of incidents (92) were minor and sanctioned through warning letters. There were eight cautions but no prosecutions in that year. As an indication of the legal activities being carried out, in the same period NE processed 9,770 licence applications arising from the provisions contained in the wildlife and habitat legislation which it implements, principally the Wildlife and Countryside Act 1981, the Conservation of Habitats and Species Regulations 2010 and the Protection of Badgers Act 1992.

1.5 In 2011 the Welsh Government recorded 38 potential offences committed on SSSIs, the majority of which were minor and either advice was offered or a warning letter issued. One prosecution has so far resulted. Again, as an indication of the legal activities which have been authorised, in 2011 the Welsh Government and Countryside Council for Wales (CCW) issued approximately 1,200 licences under the Wildlife and Countryside Act 1981, the Conservation of Habitats and Species Regulations 2010 and the Protection of Badgers Act 1992. Further information about licensing is given in Annex B.

1.6 The United Kingdom Border Agency (UKBA) is responsible for enforcing import and export controls at the UK Border, including on species covered by CITES. The trade in CITES species is regulated through a system of permits and certificates, administered by the Animal Health and Veterinary Laboratory Agency (AHVLA—a Defra Agency). In 2011 AHVLA issued 49,500 import, export and re-export permits for trade in CITES species and 15,800 certificates to allow intra-Community trade.

1.7 The Environment Agency holds records on the number of prosecutions pursued against specific wildlife legislation. A note submitted by the Environment Agency is at Annex C.

1.8 The Marine Management Organisation (MMO) has responsibility for licensing and regulating a wide range of activities in the marine environment in England. Since its establishment in 2011 it has issued a small number of licences under the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010, mainly relating to activities for scientific research purposes. The Welsh Government fulfils the functions of the MMO in Wales.

Impacts:

Conservation

1.9 The UK Wildlife Law Enforcement Working Group (WLEWG, comprising representatives of the Government’s Statutory Nature Conservation Agencies, NGOs, Government and law enforcement agencies) advises Government and the NWCU on the conservation aspects of wildlife crime. It has identified the following UK species as those which are or are suspected to be subject to criminal activity which may adversely affect their conservation status: golden eagle, goshawk, hen harrier, peregrine falcon, red kite, white-tailed eagle, all native bat species, and freshwater pearl mussels. It also identified the following CITES-listed species as known, or suspected, to be subject to significant and persistent criminal activity, and illegal trade to the UK is likely to have a detrimental impact on wild populations: ivory, traditional medicines (including rhino horn, tiger bone and plant products), rhino, and reptiles (particularly tortoises).

1.10 The WLEWG’s advice is pivotal to decisions on the UK wildlife crime priorities for enforcement activity, taken by senior Government and enforcement officials through the UK wildlife crime Tasking and Coordinating Group (UKTCG).
Undermining legitimate commercial use

1.11 In addition to its impact on endangered species, illegal trade in CITES products has the potential to affect legal operations, such as the pet and antique trade, by providing cheaper products that would not be able to gain import certificates. By affecting the viability of legitimate traders, this can result in loss of revenue to the Exchequer in VAT and a cost to the state if those businesses fold with resultant unemployment.

1.12 Difficulties in identification of products in trade eg Traditional Asian medicines (containing tiger or bear products and plant products) and timber products, can also lead to risks to the legal trade. If a trader chooses to give a product a non-regulated species name but tests or identification are not available, or extremely difficult and expensive to carry out, this can hamper an enforcement officer’s ability to differentiate between illegal products and legal products, and to regulate them effectively.

1.13 Several CITES-listed orchid species are highly sought after. Newly-identified species appear at European horticultural shows or are bought online by European buyers from non-EU traders. The improvement in propagation techniques means that once obtained from the wild these newly-described species can be propagated successfully but in some cases are entering CITES trade mis-declared as artificially propagated. Over-collection to feed this trade can threaten species in the wild.

Introducing of invasive non-native species

1.14 Invasive non-native species of flora and fauna are considered one of the biggest threats to biodiversity worldwide and the greatest threat to fragile ecosystems such as islands. The illegal release of these species can adversely affect the conservation of biodiversity, and can be a threat to economic interests such as agriculture, forestry and fisheries. The illegal release of prohibited species can however be difficult to detect and therefore providing adequate evidence to take forward a prosecution can be problematic. To counter this, Defra and the Welsh Government have published guidance on their interpretation of section 14 of the Wildlife and Countryside Act 1981 which makes it an offence to release these species.

Effect on habitats and Sites of Special Scientific Interest

1.15 Habitat damage from causes such as off-road vehicles, wildfires, draining wetlands, overgrazing and the illegal burning of grass and heather on SSSIs without consent can cause irreparable damage to rare habitats and the species they support.

2. The extent to which UK legislation and regulations on wildlife crime are “fit for purpose” and the penalties for offences are adequate

Legislation—species and habitats

2.1 Strong legislation is in place protecting native wildlife and to ensure that the UK meets its obligations under the EC Birds and Habitats Directives, the Convention on the Conservation of European Wildlife and Natural Habitats (the Bern Convention) and the Convention on the Conservation of Migratory Species of Wild Animals (the Bonn Convention).

2.2 The Conservation of Habitats and Species Regulations 2010 updated and consolidated all the amendments which had been made to the regulations since they were first made in 1994. These Regulations and the Wildlife and Countryside Act 1981 are the principal means by which the EC Birds and Habitats Directives are transposed in England and Wales, which ensure that the UK fulfils its responsibilities under the Bern and Bonn Conventions.

2.3 The Wildlife and Countryside Act 1981 contains strong measures to protect all native birds and certain animals and plants. It also prohibits the release of non-native species into the wild. Some species, such as deer and seals, are protected through their own legislation.

2.4 As set out in the Department’s 2008 progress report, the Wildlife and Countryside Act 1981 has been amended to provide improved protection for birds, new powers to help address the issue of non-native species, strengthened police and wildlife inspectors’ (Natural England) powers, and the extension of certain powers to enter premises and ability to apply for search warrants to other legislation including the Deer Act 1991.

2.5 The protection of important habitats (Special Areas of Conservation and Special Protection Areas under the Habitats and Birds Directives and Sites of Special Scientific Interest (SSSIs) is primarily achieved through voluntary measures such as management agreements with owners and occupiers which identify and prohibit operations likely to damage the habitat, and incentive measures operated through agri-environment schemes. Powers in domestic legislation can be used when voluntary measures have either failed to control damaging activities or where such measures are not available for any reason.

2.6 In respect of European protected sites, the Habitats Regulations make it an offence: for an owner or occupier to carry out a prohibited operation without complying with the conditions set out in the Regulations; for any person to either carry out an operation on, or not to comply with a restoration order relating to, land covered by a special nature conservation order.
2.7 Section 28 P of the Wildlife and Countryside Act 1981 (as amended) outlines offences with respect to SSSIs. If a person is found guilty of an offence then they are punishable by a fine of up to £20,000. Offences can be committed when:

— An owner or occupier of a SSSI contravenes the SSSI notification.
— A person intentionally or recklessly destroys or damages any of the features for which the site has been designated.
— A person intentionally or recklessly disturbs any fauna for which the site has been designated.
— A person fails to comply with a requirement of a management notice.

2.8 The Law Commission is carrying out a review of wildlife management legislation to look at how it can be reformed. The existing legislation which regulates the protection, exploitation and control of species has evolved over the last 200 years. The Law Commission has been tasked with putting together a modern, consistent and simple to understand regulatory framework. This project will focus on reform of the enabling framework so regulation is more effective. The Law Commission will report its conclusions on law reform in this area to the Department in February 2013.

Legislation—international wildlife trade

2.9 EU CITES Regulations (Council Regulation 338/1997, and Commission Regulation 865/2006) are directly applicable in all Member States. However, Member States must put in place measures necessary to enforce the CITES requirements, and specify the ports of entry and exit through which CITES trade can arrive or depart from 3rd countries. The UK’s CITES enforcement Regulations are the Control of Trade in Endangered Species (Enforcement) Regulations 1997 (COTES). Ports of entry are specified in the Control of Trade in Endangered Species (Designation of Ports of Entry) Regulations 1985. Both of these sets of regulations are currently being reviewed.

2.10 Changes to the COTES Regulations were made in 2005 (to increase the penalties in line with changes to the Criminal Justice Act); 2007 (to amend references to the new Commission Regulation 865/2006) and 2009 (to remove a loophole by regarding split listed species (those where the species concerned is listed on two different Annexes to the EU Wildlife Trade Regulations because they may be a different subspecies or are from geographically separate populations) as being subject to the higher Annex A penalties where any doubt about their origins exist).

Adequacy of penalties

2.11 The maximum penalties for wildlife offences are set out in the relevant legislation. For example, most Wildlife and Countryside Act 1981 offences attract a penalty of up to six months imprisonment and/or a level five fine, although some offences relating to incidents on SSSIs can be subject to a fine of up to £20,000. For CITES species, import and export offences can attract a penalty of up to seven years imprisonment and/or an unlimited fine, and “internal” trade offences can attract a maximum penalty of five years imprisonment and/or an unlimited fine.

2.12 With effect from 3 January 2012, Natural England has access to "civil sanctions" which enable them to stop illegal activities, order the restoration of environmental damage, and accept voluntary enforcement undertakings where legislation has been breached. This supplements their existing enforcement responsibilities in areas including SSSIs, heather and grass burning, breaches of certain wildlife licences, breaches of the Environmental Impact Assessment (Agriculture) Regulations and damage caused by injurious weeds.

3. How policing of wildlife crime is coordinated in the UK (between bodies and geographically) and whether enforcement bodies have sufficient resources and powers, and how the proposed National Crime Agency might affect policing of this type of crime

Co-ordination:

The Partnership for Action Against Wildlife Crime (PAW)

3.1 The Partnership for Action Against Wildlife Crime (PAW) is a multi-agency body comprising representatives of the organisations involved in wildlife law enforcement in the UK. It provides opportunities for statutory and non-Government organisations to work together to combat wildlife crime.

3.2 In 2009–10 Defra led a review of PAW to ensure that it remained fit for purpose. PAW published its current mission statement in March 2010:

“working in partnership to reduce wildlife crime through effective and targeted enforcement, better regulation and improved awareness”.

3.3 PAW’s overarching, high level objectives are:
— to facilitate effective enforcement to ensure that wildlife crime is tackled professionally;
— to influence the improvement of wildlife enforcement legislation; and
— to raise awareness of wildlife legislation and the implications of wildlife crime.
3.4 PAW operates by sharing the workload amongst government and NGOs (Annex D shows these groups and how they interact).

3.5 Membership of PAW is open to any organisation willing to contribute to the objectives of PAW and/or to measures to tackle the UK wildlife crime priorities. In addition to Government Departments and Agencies and the statutory law enforcement authorities, PAW has over 130 non-Government partner organisation representatives, amongst others, species conservation, animal welfare, traders and keepers, and land management organisations.

3.6 As part of the action to tackle wildlife crime across the UK, specific wildlife crime priorities have been agreed. The priorities are those crimes which are deemed to pose the greatest threat either due to their impact on conservation or the volume of incidents reported, and require an immediate tactical response. The intelligence requirements are those crimes which require a “watching brief”. The priorities and intelligence requirements are determined by the wildlife crime UK Tasking and Coordinating Group (UKTCG—a group of senior representatives of UK Government departments and agencies and the statutory law enforcement agencies chaired by Defra and the Association of Chief Police Officers). After taking into account the NWCU’s Strategic Assessment, and also the conservation assessment compiled by the WLEWG, the UKTCG determines the UK wildlife crime priorities and intelligence requirements for two years. The current wildlife priorities announced in 2011 for 2011 and 2012 are: badger persecution, bat persecution, CITES issues, freshwater pearl mussels, poaching (deer and fish poaching and hare coursing), and raptor persecution.

3.7 The UKTCG also tasks individuals to lead “priority delivery groups (PDG)” to tackle each priority; monitors their progress; and holds them to account. Each PDG has prevention, intelligence and enforcement leads.

3.8 PAW’s Steering Group (also co-chaired by Defra and the Association of Chief Police Officers) determines PAW’s Mission Statement; determines PAW’s objectives and provides challenge and support to the partnership’s activities and its Working Groups and Country Groups.

3.9 Working groups take forward actions in support of PAW’s objectives and/or the wildlife crime priorities. PAW’s Forensic, Training and Conference, Marine, and Publicity Groups work on behalf of PAW to support the policing of wildlife crime through the provision for example of capacity building, species identification expertise and training and through liaison with the NWCU and non-Government organisations.

3.10 The NWCU is a police-led intelligence and investigations unit. Its primary role is to assist in the prevention and detection of wildlife crime. It is the focal point for all wildlife crime intelligence and investigation in the UK and the conduit by which the enforcement bodies can communicate with their international colleagues. It supports UK law enforcement agencies but is not a prosecuting body. It is responsible for managing the UK wildlife crime priorities.

3.11 AHVLA has a Compliance team whose focus is upon the identified national wildlife crime priorities (specifically the priorities involving CITES species), ensuring coordination with the actions of the NWCU, police and UKBA. Where non-compliance is suspected the team apply risk-based processes and where appropriate complete inspections using fee-paid Wildlife Inspectors (22 currently) with expertise in species identification and enforcement experience. Where non-compliance is identified this is referred to relevant law enforcement agencies also.

3.12 The Joint Nature Conservation Committee (JNCC) is the public body that advises the UK Government and devolved administrations on UK-wide and international nature conservation, and is also the UK CITES Scientific Authority for fauna. Although JNCC has no formal enforcement role, it has hosted and chaired the WLEWG since its formation in 2003.

3.13 The Royal Botanic Gardens, Kew, is the UK CITES Scientific Authority for flora, and has participated in over 45 identification cases (2006–11) carried out on timber, timber products, medicinal plants, orchids, trilliums, cacti and succulents and eyecads. In addition, RBG Kew is a centre of expertise with provision of capacity building for enforcement officers.

3.14 Central Government funding for UKBA and the Police Service are a matter for the Home Office, while funding for AHVLA, Royal Botanic Gardens, Kew and Natural England resources are a matter for Defra. Within those overall sums, operational decisions about how resources are deployed to meet legislative requirements are a matter for those individual organisations, within the priorities agreed with Ministers.

3.15 The NWCU is currently funded by Defra and the Home Office (each contributing £144,000 in 2011–12 and £136,000 in 2012–13), the Scottish and Northern Ireland Governments, the Association of Chief Police Officers and the Association of Chief Police Officers (Scotland).
3.16 Under the auspices of the PAW Forensics Working Group and the TRACE Network, a Forensic Analysis Fund has been established. This is a small fund to which TRACE, Defra, RSPCA and WWF have contributed. Law enforcement agencies may apply to this fund for financial support to fund forensic techniques required to provide evidence in support of a wildlife crime investigation. If an application is successful, the Fund has matched-funded the costs of the forensic test.

3.17 PAW partners provide both financial and “in kind” support for wildlife crime awareness raising, capacity building and other activities, for example through providing training, sponsoring wildlife crime awards, publishing publicity and information material including on their websites, and manning the PAW Roadshow trailer.

Powers

3.18 UKBA powers to control illegal movements of CITES protected species are set out by Council Regulation 338/97. UKBA’s powers to seize illegal imports and exports and relevant criminal offence provisions are set out in the Customs and Excise Management Act 1979. The UKBA is responsible for enforcing import and export controls at the UK Border. UKBA officers around the UK are supported by specialist staff from the UK Border Agency’s CITES team, based at Heathrow airport.

3.19 Police powers include specific provisions made in legislation such as COTES and the Wildlife and Countryside Act 1981, as well as through other, wider legislation such as the Proceeds of Crime Act 2002, the Serious Organised Crime and Police Act 2005, the Fraud Act 2006 and the Theft Act 1968.

3.20 Natural England has responsibility for enforcing the Environmental Damage (Prevention and Remediation) Regulations 2009 which apply where damage to land, water or biodiversity is extremely severe; for the protection of Sites of Special Scientific Interest (SSSIs) where landowners/occupiers must obtain permission before undertaking certain potentially damaging activities, and where no person must intentionally or recklessly damage their special features; the Heather and Grass etc. Burning (England) Regulations 2007 which aim to protect soils, wildlife, people and property from inappropriate burning of semi-natural vegetation; the Environmental Impact Assessment (Agriculture) (England) (No.2) Regulations 2006 which aim to protect uncultivated land and semi-natural areas from being damaged by projects that increase agricultural productivity. Parallel country-specific provisions are in place in Wales.

3.21 Natural England issues licences in England for activities potentially affecting protected species. Where such licences are breached Natural England/Welsh Government/CCW is responsible for taking enforcement action. Where offences against protected species are committed by those without a licence enforcement action is undertaken by the Police and Crown Prosecution Service. Similar provisions are in place in Wales.

3.22 In England and Wales the Chemicals Regulation Directorate are responsible for the regulation of pesticides and are the enforcing authority.

Role of National Crime Agency (NCA)—implications

3.23 The National Crime Agency will lead a step change in the response to serious and organised criminality, supporting forces to deliver against a range of threats by providing a single national intelligence picture, underpinned by strong two-way relationships with law enforcement partners, including specialist units such as those working to tackle wildlife crime. Defra is working closely with the Home Office to ensure a complete understanding of the National Crime Agency’s needs across the full range of its responsibilities.

4. How well Government and responsible enforcement bodies are responding to newer threats and challenges, including use of the internet for wildlife trade

4.1 In order to keep abreast of emerging threats, the UKBA, police and NWCU work closely together using an intelligence-led, risk-based, targeted approach and working in close cooperation with their counterparts in Europe and internationally.

4.2 “Horizon scanning” is part of the NWCU’s normal practice to help it identify emerging threats, as is strong and close communication between wildlife law enforcement agencies, Government, the UK CITES scientific authorities, NE/CCW and other agencies as well as non-Government organisations. The NWCU reflect their findings in their Tactical and Strategic Assessments—and if necessary make recommendations to the UKTCG. It may for example lead to issues of concern being identified as “intelligence requirements”; where effort is directed to collecting intelligence to determine whether they should subsequently become wildlife crime priorities.

4.3 AHVLA holds data on applicants for CITES permits and certificates and relating to the keeping of bird species listed on Schedule 4 of the Wildlife and Countryside Act 1981 and subject to registration. AHVLA initiate inquiries if criminal activity is suspected, and respond to requests for support/information from the police, NWCU and UKBA. AHVLA use a risk-based approach to drive compliance activity that dovetails into processes used by UK law enforcement agencies, involving the National Intelligence Model. As a result inspections can be used to check compliance and to provide support to the enforcement agency concerned.
4.4 AHVLA’s Compliance team is well placed to identify changing trends in illegal activity and to work with law enforcement agencies and trade groups to address these. For example:

(a) In 2009 AHVLA carried out inspections of known caviar traders to assess their knowledge and understanding of the controls and other issues affecting them. This identified caviar which had been mislabelled from its source country. AHVLA then supported UK caviar traders in sourcing farmed caviar thereby reducing the impact on wild populations;

(b) As a result of concerns about the increasing level of re-exports of antique rhino horn, and that sales appeared to be based on the weight of the horn rather than on antiquity, and that these activities mirrored increased poaching across Southern Africa, AHVLA recommended that stricter controls be introduced on such re-exports and sales. This was adopted by the UK and subsequently also by EU member states;

4.5 Natural England also directs its resources towards higher risk casework to ensure compliance remains at acceptable levels and to ensure that regulatory outcomes are delivered. Its ongoing but recently invigorated drive to minimise regulatory burdens (through Natural England’s “Regulatory Improvement Programme”) will lead to an increased use of regulatory tools such as class and general licences for activities previously only authorised through bespoke licences. To balance the reduced level of scrutiny that will be applied before people are allowed to undertake many licensed activities, enhanced monitoring and compliance checking will take place. More details of the licensing regime are set out in Annex A.

Use of the Internet

4.6 The special circumstances of the internet make policing it particularly difficult, and because of this the UK has been working with CITES to try to better understand the scale and nature of this medium and its potential to provide an avenue for the illegal sale of wildlife. In 2009, the UK was elected Chair of the newly-established Working Group on E-Commerce of CITES-listed species, and has separately supported the development of amendments to CITES Resolutions and the agreement of CITES Decisions on the subject.

4.7 In support of this, Defra has been developing a project with the NWCU to establish a UK baseline of the scope and volume of legal and illegal wildlife trade activity conducted using the internet; to identify emerging trends so as to inform future enforcement activity; to compare the scope and volume of illegal internet trade with other illegal trade routes to inform future investment in enforcement; and to identify a framework for future monitoring of illegal activity, including a search methodology that can be shared with other enforcement authorities.

4.8 Separately, in 2010 RBG Kew undertook a project to track the sale of CITES Annex A and B orchids for sale on the internet.

4.9 A number of individuals have been prosecuted for CITES offences involving the illegal trade through the internet, including most recently on 9 February 2012 a Bedfordshire man being sentenced to eight months imprisonment for the illegal sale of CITES specimens.

5. How fully wildlife crimes are recorded, and how rigorously available penalties are applied

Recording of wildlife crime

5.1 The issue of crime recording is a matter for the Home Office. Most wildlife offences, with the exception of certain COTES offences and offences under section 14 of the WCA (release of non-native species), are not required to be notified to the Home Office for national crime statistics purposes. The Ministry of Justice publishes Court statistics annually.

5.2 The NWCU’s database of wildlife incidents includes reports from police forces, UKBA, other Government agencies and non-Government organisations. Non-Government organisations, including the RSPB, RSPCA and the Bat Conservation Trust, also keep records of wildlife incidents reported to them.

Application of penalties

5.3 Prosecutors select charges which reflect the seriousness and extent of the offending supported by evidence and which give the court adequate powers to sentence and impose appropriate post-conviction orders.

5.4 Maximum penalties are usually legislation specific but the court will sentence on the basis of seriousness of the case based on the facts presented. Using the Magistrate’s Court Sentencing Guidelines magistrates will assess the factors which may indicate higher or lower than usual culpability and factors which indicate greater or lesser than usual degree of harm before making a decision on the level of the penalty. Magistrates will also take into account any personal mitigating factors.

5.5 The acceptance of a simple caution or other out of court disposal which is complied with takes the place of a prosecution. If the offer of a simple caution is refused, a prosecution must follow for the original offence. Police can consider suitability for a simple caution and administer if warranted.
5.6 The Criminal Justice Act 2003 empowers the Crown Prosecution Service to issue a conditional caution, which requires an offender to comply with rehabilitative and/or reparative conditions, as an alternative to prosecution. Before the caution can be given, the offender must admit the offence and consent to the conditions. In such cases the Full Code Test must be met. This means that both the evidential stage and public interest stage must be satisfied. Prosecutors will offer a conditional caution where it is a proportionate response to the seriousness and the consequences of the offending.

5.7 Prosecutors will start a prosecution only when the case has passed both stages of the Full Code Test ie the evidential stage and the public interest stage. At the evidential stage prosecutors must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction. If the case passes the evidential stage test, a prosecution will usually take place unless the prosecution is sure that there are public interest factors tending against prosecution which outweigh those tending in favour.

6. How effectively is behaviour and attitude change being promoted?

Raising awareness about wildlife crime

Statutory law enforcement agencies

6.1 One of the high-level objectives for PAW is to raise awareness of wildlife legislation and the implications of wildlife crime. Activities to build the knowledge of the enforcement agencies in the UK and beyond have been supported and provided by PAW partners including the International Fund for Animal Welfare, WWF, BASC and the National Gamekeepers Organisation.

6.2 In addition, training courses have been run in the UK (including a Police-UKBA CITES course held twice a year; a Police CITES Foundation Course twice a year; and an annual weekend wildlife crime conference, which has included workshops on specific topics such as the trade in CITES species on the internet. Work has also been carried out by a number of PAW partners, including RBG Kew and UKBA, within these courses and through the development of capacity building tools to raise the awareness and knowledge of plant products in trade (eg herbal products and timber in trade) and the associated identification issues).

Others

6.3 The PAW trailer is a valuable resource allowing not only the messages about wildlife crime to be seen by the public at a variety of agricultural and country shows, but also to give them an interactive experience of the range of criminal activities that take place and the species affected. In 2011 the PAW trailer visited events such as the Rutland Bird Fair, the Lincolnshire Show and the CLA Game Fair.

6.4 PAW partners and others contribute in running a variety of awareness raising activities; some examples include: the RSPCA campaign to raise awareness of badger crime; UKBA displays at major airports and seaports, exhibiting examples of seized CITES specimens to make tourists aware of the impact of purchases they may consider whilst they are abroad; conservation and education activities carried out by zoos which may include information about the impacts of wildlife crime; and regular meetings between Defra/AHVLA and wildlife trade partners/stakeholders/businesses.

6.5 The CITES Priority Delivery Group supports actions taken against identified priorities and international operations. Significantly in 2009 AHVLA-coordinated inspections were used across the UK to identify the level of legal and illegal trade in caviar. This was followed in 2010 with targeted inspections and support for enforcement activities regarding Operation TRAM an INTERPOL-led operation to target illegal trade in traditional medicines. In 2010 AHVLA were a key partner in addressing illegal tortoise trade as part of the INTERPOL Operation RAMP inspecting premises and supporting enforcement actions across the whole of the UK.

6.6 Other opportunities for raising awareness have included positive media coverage; the use of electronic communication—Directgov, PAW website; and through engaging local interest, for example in Farmwatch, Countrywatch, peregrine watch and other similar activities. There has been recent coverage on the BBC1 “One Show” and “Countryfile”.

6.7 The Horticultural Code of Practice was updated and re-launched in 2011 following the publication of a European code of conduct on horticulture and invasive non-native plants (ref 2004 EAC review recommendation 39). The code of practice has been issued by the Secretary of State and the Welsh Ministers under section 14ZB of the Wildlife and Countryside Act 1981.

6.8 In 2010 Defra, the Scottish Government and Welsh Government launched the “Be Plant Wise” campaign, designed to raise awareness among gardeners, pond owners and retailers of the damage caused by invasive aquatic plants and to encourage the public to dispose of these plants correctly. This was followed up in 2011 with the GB-wide “Stop the Spread” campaign to encourage good practice amongst users of waterbodies and prevent the spread of INNS between waterbodies. Both campaigns are actively supported and promoted by key stakeholders.

6.9 The GB approach to non-native species has moved forward substantially since the 2004 review. The three GB administrations published an Invasive Non-Natives Species Strategy Framework for Great Britain in
2008. The many measures undertaken include risk assessment of non-native species to facilitate evidence-based decision making; development of an information portal for non-native species records (NNSIP), including an alerts system for rapid reporting of high priority new arrivals; a rapid response framework between government bodies; communication campaigns aimed at interest groups and the wider public; and an annual stakeholder forum.

7. The UK’s role in influencing the EU and International agreement on illegal wildlife trade

7.1 The UK is an active participant in CITES at all levels. In its current role as a member of the CITES Standing Committee, the UK has played a key role in taking forward species specific initiatives (eg rhino, tiger, elephant, mahogany, and ramin measures), as well as practical matters including internet trade. The UK remains engaged on several issues, including the management of the MIKE (Monitoring the Illegal Killing of Elephants) and ETIS (Elephant Trade Information System) ivory-related programmes, the development of an ivory decision-making mechanism, internet trade, and rhinos (where the UK was elected to chair an intersessional working group at the 2011 Standing Committee, having taken the lead in drawing the issue to the attention of the Committee and proposing the working group).

7.2 In recent years the UK has also provided support in either monetary terms or expert knowledge to programmes aimed at tackling the poaching and international trade in ivory and rhino horn, the use of the internet to facilitate illegal trade in tiger products and coral amongst other things, as well as offering support to our Overseas Territories via training and assistance in ensuring their legislation is fit for CITES purpose.

7.3 CITES is implemented within the EU by Council Regulation 338/1997 and now Commission Regulation 285/2006. In the EU CITES is overseen by a series of committees and groups, on which the UK has been and remains an active participant.

7.4 The EU CITES Enforcement Working Group monitors enforcement policy and practice in EU Member States and makes recommendations to improve the enforcement of wildlife trade legislation. The working group also catalyses the exchange of information, experience and expertise between Member States (eg on trends in illegal trade, significant seizures and investigations).

7.5 In 2006–07 the UK took the lead in developing a set of recommendations to improve the enforcement of wildlife trade legislation. These include adopting national action plans for enforcement, imposing sufficiently high penalties for wildlife trade offences and using risk and intelligence assessments to detect illegal and smuggled wildlife products, and the need for cooperation and exchange of information between member states and with third countries and organisations such as Interpol and the World Customs Organisation. The recommendations were published as Commission Recommendation 2007/425. The Commission has since accepted that the UK has achieved the majority of these actions, making it a model for others to follow in looking for positive examples.

7.6 The UK has used its membership and most recently its chairmanship, of the Coalition Against Wildlife Trafficking (CAWT) to identify opportunities to tackle illegal trade in wildlife, to support others efforts’ to do so, and to publicise these. CAWT is a loose partnership of like-minded countries and NGOs who want to use high-level influence to tackle wildlife trafficking. The UK also convened and chaired a reception and side event to publicise CAWT and its objectives at the CITES Conference of the Parties in 2010. Having taken on the chair in 2009, the UK is now in the process of handing this over to another country partner, and expects this to happen in the first half of 2012.

7.7 The UK has sponsored research and conservation projects around the world, either via voluntary contributions to the major multilateral environmental agreements (in particular CITES) or via schemes such as the Darwin Initiative or Defra’s Sustainable Development Fund. These projects have directly benefitted conservation work including the tackling of wildlife crimes in India and China, with exchanges of enforcement officers between the UK and both countries, and enhanced the UK’s credibility as a country committed to tackling illegal wildlife trade in a constructive and positive manner.

Larnaca Declaration (Bern Convention)

7.8 The UK is a contracting party to the Bern Convention and Defra provides the UK representative. In July 2011 contracting parties to the Convention met to consider illegal killing, trapping and trade in birds. Delegates formed three working groups to consider how to make legislation and enforcement more effective; the biological aspects of illegal activities; and social, cultural and educational dimensions. From the group’s work the Larnaca Declaration was agreed, with the key message being zero tolerance of these illegal activities and noting:

— the need to strengthen enforcement;
— the need to recognise the significance of the illegal taking and trade; and
— the need to develop, finance and support national communication strategies to promote dialogue between stakeholders and the public.

7.9 Each working group’s conclusions were consolidated into a Recommendation which was agreed at the 31st Bern Standing Committee in December 2011.
Invasive non-native species

7.10 A European Code on pets and the risks of introducing invasive alien species has been produced under the auspices of the Bern Convention’s Group of Experts on IAS. The code, drafted by UK industry representatives, was endorsed in December 2011 by the Convention’s Standing Committee and is now ready for promulgating and use by Parties to the Convention.

Annex A

House of Commons
Environmental Audit Committee
Committee’s recommendaton: Progress Report [2008]

Introduction


Recommendations 3–7 and 26: Wildlife Crime and how it is recorded

2. The Government remains committed to tackling wildlife crime, and view it as deserving committed police resources. Defra and the Home Office both provide funding for the UK National Wildlife Crime Unit (NWCU), as the Government recognises the need for a centre of expertise and a coordinating point for intelligence and information to support law enforcement agencies. The National Wildlife Crime Unit was launched in October 2006 as a stand-alone police-led Unit, following the creation of the Serious Organised Crime Agency which took over many but not all of the functions of the former National Criminal Intelligence Service.

3. The UK now has in place a formal National Harm Reduction Strategy for tackling wildlife crime, which brings together all the statutory agencies involved in this area. Following a Strategic Assessment of wildlife crime across the UK, wildlife crime priorities have been agreed and are addressed through the Strategy, which has three distinct work streams: Prevention, Intelligence and Enforcement. As the Strategy develops there should be noticeable improvements in the overall response to wildlife crime. An unclassified version of the Strategic Assessment is at Annex B.

4. Since April 2007, all police forces have been recording wildlife incidents under the National Standard for Incident Recording (NSIR). The NSIR does not provide a comprehensive record of the extent of wildlife crime, but provides an overall picture and will enable trends and patterns to be identified. It should in the future substantially inform the NWCU’s annual Strategic Assessment. Since April 2007, the NWCU has developed, a database of all incidents of wildlife crime of which they are informed.

5. Some wildlife crime offences are “notifiable” and as such are a part of police forces’ regular and audited crime statistics that are supplied to and published by the Home Office.

Recommendation 8: Internet Trade

6. Global trade in wildlife is significant and, when carried out sustainably (and legally), plays a viable and important role in economies. However it is difficult to quantify the scale of the trade carried out via the internet and, in particular, how much of it is illegal. Given the nature of the internet, illegal trade in endangered species must be tackled internationally as well as domestically. Following a proposal put forward by the UK, decisions were made at the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) in June 2007 which seek to assess the nature and scale of the illegal trade on the internet and any measures or codes of conduct used in online sales. Defra is working with NGOs and the trade to agree such a code of conduct in an effort to minimise abuses and illegal sales. Defra also made a contribution of £15k to the CITES Secretariat to implement the relevant decisions agreed at last year’s Conference.

7. The internet is an established means by which goods are traded, and although an acknowledged tool for facilitating criminality, is not routinely monitored. On the basis of the evidence available the assessment is that this would not be an effective use of intelligence resources as a stand-alone priority. However the internet service providers, in particular E-Bay, have been made aware of CITES controls. The enforcement authorities actively investigate any illegal trade involving imports and exports and commercial activity on the internet where there is sufficient evidence, and these fall within the agreed NWCU enforcement priority areas.

9 Except the MPS—not fully implemented due to technological constraints.
Recommendation 9: Rights of Way

8. The Government has implemented its key proposals in “Use of mechanically propelled vehicles on Rights of way—the Government’s framework for action”, published in January 2005. Amongst other things it introduced legislation, through Part 6 of the Natural Environment and Rural Communities Act 2006 (NERC), to extinguish, with certain exceptions, all existing, but unrecorded rights of way for motor vehicles over routes that are not part of the “ordinary roads” network. This has the effect of reducing number of routes legally available to recreational, off-road motorists and removing much of the uncertainty about where rights for motor vehicles exist.

Recommendation 10: Fish Disease Contingency Plans

9. The contingency plan for Gyrodactylus referred to in the Government response has been reviewed and was published on the Defra website in mid-March this year. Moreover, one of the requirements of the new aquatic animal health Directive—Directive 2006/88/EC—which comes into effect on 1 August 2008, is for Member States to draw up a contingency plan for emerging and exotic diseases. Work is ongoing on a contingency plan for these fish diseases. In the meantime, contingency plans for the serious fish diseases viral haemorrhagic septicemia (VHS), infectious haematopoietic necrosis (IHN), and infectious salmon anaemia (ISA) have been developed and publicised. These, together with the contingency plan for Gyrodactylus, will serve as models for the broader contingency plan for emerging and exotic diseases on which consultations with stakeholders will be undertaken.

Recommendations 13–16 and 31: Legislative Changes

10. The recommendations concerning legislative matters were considered at the same time as the analysis and evaluation of views received in response to the review of Part I of the Wildlife and Countryside Act 1981 (WCA). With reference to the Government’s response to the report, in February 2007 the European Commission published its final guidance on the meaning and interpretation of key terms concerning the protection of species in the Habitats Directive. This has been a very helpful and important document to which the Government contributed, and covers the scope of our obligations as regards article 12 of the Directive and the issue of derogations from species protection provisions. Defra and Natural England have published a range of materials for stakeholders which draws upon the interpretation contained within the European Commission’s guidance document.

11. The possibility of adding the element of “recklessness” to offences in Part I of the WCA was also considered and included in the public consultation exercise. It generated a variety of views. These were carefully considered during the passage of the Natural Environment and Rural Communities (NERC) Act 2006 and on balance it was concluded that it posed a risk of criminalising many legitimate activities carried out without the intention of harming wildlife.

12. In August 2007, amendments were made to the Habitats Regulations to better reflect the terms of the Habitats Directive in relation to species protection. In particular, the majority of the defences originally put into the Regulations were removed. This included the “incidental result defence” which applied to acts which could constitute an offence but were the incidental result of an otherwise lawful activity and could not reasonably have been avoided. The species protection provisions contained within the 2007 Offshore Marine Regulations are consistent with this approach.

13. Although the timetable was demanding, adequate resources were provided to enable a number of important measures to be taken forward through the NERC Act, including improved protection for birds and new powers to help address the issue of invasive non-native species.

Recommendations 12 and 17: Marine Bill

14. Defra published the draft Marine Bill on 3 April 2008 for pre-legislative scrutiny. The draft Bill contains a range of measures designed to improve our ability to make long-term strategic decisions about activities in and protection of the UK’s marine area. They include a new planning system for the marine area, streamlined arrangements for licensing marine development, improved ability to protect the marine environment and biodiversity and greater access to the English coast. The draft Bill also includes updated enforcement powers that will enable the Environment Agency to effectively enforce legislation managing migratory and freshwater fisheries; including the Salmon and Freshwater Fisheries Act 1975 and byelaws made under the Water Resources Act 1991.

Recommendations 19 and 20: Role of Natural England

15. The Government made a number of improvements to the SSSI legislative regime in the NERC Act. It includes new mechanisms to help Natural England to better address damage to sites caused by third parties; a new offence of intentional or reckless destruction, damage or disturbance to the interest features of an SSSI without a reasonable excuse was specifically designed to assist Natural England in tackling unlawful off-road driving. Importantly, the former requirement of knowledge that the land affected was a SSSI was removed.
Connected with this, a new provision relating to the power for Natural England to erect signs and notices on and relating to SSSIs was matched by an offence covering their damage, removal or obstruction.

16. The NERC Act also provided enforcement powers for Natural England and Countryside Council for Wales wildlife inspectors appointed by the Secretary of State (in relation to England), or the National Assembly for Wales (in relation to Wales). These powers include entering and inspecting premises to ascertain whether certain offences have been committed; to check information or documents provided in support of an application for certain licences; or to check that a licence is held and that any conditions attached to it are being complied with. The Act also provides inspectors with powers to examine specimens, and to take samples in certain circumstances and for specified purposes. These powers are also extended to the Destructive Imported Animals Act 1932, the Conservation of Seals Act 1970, the Deer Act 1991, and the Protection of Badgers Act 1992.

Recommendations 21–24: Role of Local Authorities

17. PPG 9 “Nature Conservation” was replaced by Planning Policy Statement 9 “Biodiversity and Geological Conservation” in August 2005. A guide to good practice on planning for biodiversity and geological conservation was published in March 2006. As indicated in the earlier Government response, the PPS recognises the importance of networks of natural habitats and states that local authorities should aim to maintain them by avoiding or repairing the fragmentation and isolation of natural habitats through policies in plans. Such networks should be protected from development, and, where possible, strengthened by or integrated within it.

18. The Government Circular—“Biodiversity and Geological Conservation—Statutory Obligations and their impact within the planning system” (ODPM Circular 06/2005 and Defra Circular 01/2005) was published in August 2005. It provides administrative guidance on the application of the law relating to planning and nature conservation and complements the national planning policies set out in PPS9 and the accompanying good practice guide.

19. The most recent statistics on Development Control performance from October-December 2007 are:
   - 70% of major applications were determined in 13 weeks
   - 77% of minor applications were determined in eight weeks; and
   - 87% of other applications were determined in eight weeks.

20. Within the new local authority performance framework authorities will be required to maintain these standards. Also the new national indicator 157 will require authorities to reach Development Control targets which will take into account current performance.

21. Planning Delivery Grant has been replaced by Housing Planning Delivery Grant for 2007–08. HPDG is worth £510 million over the CSR period split between Planning £194 million and Housing £316 million. HPDG is an incentive grant aimed at speeding up the production of core strategies, five-year housing allocation sites, the working and increasing the housing completion rate. Unlike PDG it is not aimed so much at capacity building in local authorities although as the money is unringfenced, it still can be used for this purpose.

22. In terms of capacity building since 2004–05 PDG provide 513 postgraduate bursaries for planning students, to help alleviate the shortage of qualified planners in the UK at present.

23. The Development Control element of PDG was worth £60m in the final year and this is not present in HPDG. However, the amendment to the Town and Country Planning fees regime which, came into effect from 6 April 2008, is estimated to raise an additional £65 million per annum for local authorities which should cover the loss of PDG and help to maintain development control standards.

Recommendation 25: Control of Trade in Endangered Species (Enforcement) Regulations 1997

24. Defra updated the Regulations in 2005 to increase penalties for certain offences and are currently reviewing what further changes are required to reflect the most recent amendments to the Commission Regulations implementing CITES in EU Member States.

Recommendation 27: Police Wildlife Crime Officers

25. Decisions on how police forces’ resources are deployed, including the number and training of police wildlife crime officers, are a matter for Chief Constables, who are accountable to their local communities and their Police Authorities.

Recommendation 28: Memoranda of Understanding

26. A Memorandum of Understanding has been drawn up between Natural England, the Countryside Council for Wales, the Association of Chief Police Officers and the Crown Prosecution Service. A number of regional partnerships exist between the police and Natural England, which are currently being reviewed.
Recommendations 29, 34 and 41: The Home Office, Defra and the NWCU

27. The decision taken by Defra and the Home Office to each contribute £150,000 per year for the three years beginning in 2008–09 demonstrate their level of engagement with this crime. This level of funding should enable a higher degree of enforcement activity flowing from the coordinating work of the NWCU. Government officials will be working closely with the Association of Chief Police Officers (ACPO) and the NWCU to develop better measures of outcomes achieved by the NWCU and the police service as they make use of NWCU intelligence products—as the Home Office expects the police to consider properly a tactical response to NWCU intelligence products and enforce the law on wildlife as with any other crime.

Recommendation 30: Measurement of HMRC Outcomes

28. HMRC’s overall strategy is to deliver its enforcement role on the basis of risk and intelligence. In this regard HMRC actively monitors the level of seizures that are being made at the frontier to improve the overall effectiveness of customs checks.

29. HMRC has also, in collaboration with Defra and the NWCU, drawn up a Service Level Agreement (SLA) which sets out roles and responsibilities for each of the Parties in relation to controls on goods covered by CITES legislation. The purpose of the SLA is to ensure closer working and collaboration to deliver an overall enforcement framework that is both efficient and effective.

30. HMRC is the lead agency to deliver the objectives of the UK’s National CITES Priority Plan and is working closely with the NWCU to develop intelligence profiles needed to identify potential targets. In addition, HMRC has allocated a dedicated post to the CITES Team based at Heathrow Airport to ensure that information flow and targeting is coordinated effectively within HMRC. In the financial year 2006/07 there were 446 seizures of specimens of CITES species (including derivatives).

Recommendation 33: Secondments

31. There are currently seconded police officers working with the Environment Agency, Countryside Council for Wales, the Forestry Commission, Natural England and Animal Health on wildlife and habitats issues.

Recommendations 36–37: Communications

32. It is important to ensure that businesses and the travelling public are aware of the controls governing the import, export and trade in wildlife species of conservation concern.

33. Information on CITES requirements is available through the DirectGov and Animal Health websites. Defra are currently developing a coordinated communications strategy aimed at ensuring the travelling public is better informed about controls on the import, export and trade in wildlife species of conservation concern.

34. HMRC has been engaged in a number of publicity initiatives in relation to providing information to the travelling public. LCD screens in the new baggage hall at the new Terminal 5 at Heathrow Airport contain information about CITES controls. CITES controls are also included in the Importers and Exporters Guide and the UK Tariff that are kept up to date and managed by Business Link.

35. The PAW Roadshow travels to a number of country fairs and shows during the summer months reaching a potential audience of 1,000,000. The Roadshow has proved to be popular with members of the public. PAW has also produced a number of information leaflets about wildlife crimes.

Recommendation 39: Horticulture (Non-native Species)

36. Government has recently concluded a consultation on the first proposed use of the power taken in the NERC Act to prohibit the sale of specified invasive non-native species and the responses are being analysed. With the support of key stakeholders, the three GB administrations have also developed an Invasive Non-Natives Species Strategy Framework for Great Britain which was published on 28 May 2008. As part of implementing that strategy the three administrations intend to raise awareness of the risks, and where appropriate, this will include the use of codes of practice such as that for the horticultural sector.

Police Powers: Further Update

37. NERC strengthens police powers under the Wildlife and Countryside Act 1981. Police officers now have a power to enter any premises, other than a dwelling, without a warrant where they suspect with reasonable cause that an offence under Part 1 of the WCA has been or is being committed.


39. The Serious Crime Act 2007 provides for the Courts to issue serious crime prevention orders for certain environmental offences including COTES offences, and offences under section 14 of the WCA (introduction of new species etc).
40. A number of the Committee’s recommendations and conclusions are not specifically addressed in this report (1, 2, 11, 18, 32, 35, 38 and 40). Some require no comment, others were covered in the Government’s response of 17 March 2005. 

June 2008

Annex A

HOUSE OF COMMONS
ENVIRONMENTAL AUDIT COMMITTEE

TWELFTH REPORT OF SESSION 2003–04: ENVIRONMENTAL CRIME: WILDLIFE CRIME

Conclusions and Recommendations

1. The absence of an accepted definition of wildlife crime has, we believe, had a direct and negative impact on the public’s perception of wildlife crime. (Paragraph 6)

2. It is unacceptable that those entrusted with the enforcement of our current legislation do not have a clear and agreed definition of the crime they are to police. Without an agreed definition of wildlife crime, which is shared and acted upon by all of those who work in the wildlife arena, we believe it is impossible for any real headway to be made in the fight to reduce the incidence of such crime. We call upon DEFRA, through the Partnership for Action against Wildlife crime (PAW), to lead a cross-Government group to establish an agreed definition of wildlife crime, reporting back within the next twelve months. (Paragraph 8)

3. The Government must re-state its commitment to tackling wildlife crime. (Paragraph 9)

4. We see this refusal to accept wildlife crime as an issue deserving of committed police resources as especially short-sighted given the many links made between wildlife crime and serious and organised crime. (Paragraph 10)

5. Wildlife crime must be classified as recordable by the Home Office so that police forces across England and Wales know that sufficient priority needs to be given to tackling wildlife crime and so that they can allocate the necessary resources to this work. We accept that within this classification system there will probably need to be some form of grading of wildlife crimes to reflect the level of gravity of each crime. (Paragraph 11)

6. We believe that a centrally managed, national database which records all incidents of wildlife crime, as well as the details of all successful and unsuccessful prosecutions mounted, must be established as a matter of priority. The location of the database would seem to most naturally sit in the National Wildlife Crime Intelligence Unit (NWCIU) within NCIS. (Paragraph 13)

7. We understand that, at the present time, the NWCIU does not have sufficient staff or funding to allow them to take on responsibility for the creation and maintenance of a national database of wildlife crime. This must be reviewed by the Home Office and DEFRA as a matter of urgency. (Paragraph 14)

8. Given the advent of illegal internet trade, the links to serious and organised crime, and the threat posed by those who use this method to trade in endangered species, we believe that the level of resource allocated to this work by DEFRA is simply not sufficient and must be reviewed as a matter of urgency. At the same time resources within the NWCIU must also be reviewed and the monitoring of the illegal internet trade in endangered species must be central to the tasking for this unit. (Paragraph 18)

9. The damage that mechanically propelled vehicles (MPVs), including 4x4s, can cause is not insignificant and we would encourage DEFRA to move quickly to close any loopholes created by the CRoW Act, either by amending CRoW or by means of new legislation. (Paragraph 22)

10. The Environment Agency and DEFRA are working towards publication of a contingency plan to tackle any outbreak of disease within the fisheries environment, and we welcome their stated vigilance with regard to fish imports and movements. We would like to see a firm commitment to publication of the plan as quickly as possible, at the latest by the end of this year. (Paragraph 24)

11. Any central record of wildlife crimes will only be as good as the information fed into it. It is vital, therefore, that all those who contribute to that database do so using consistent and comparable data. (Paragraph 26)

12. We support the work of the Environment Agency and DEFRA seeking long overdue amendments to current legislation which will enable the Agency to police waterways far more effectively. We urge the Government to ensure that sufficient parliamentary time is made available for these amendments. (Paragraph 27)

13. We believe it is essential that DEFRA, again working through PAW, and in conjunction with key partners across government, should establish clear and agreed definitions for those phrases in current legislation whose lack of clarity hinders effective policing and enforcement action. (Paragraph 28)
14. The number and variety of the suggested amendments to both the Wildlife and Countryside Act 1981, and other pieces of current legislation and regulation, prohibits us from referring to all of them in this report but we expect DEFRA to use the evidence provided to this inquiry in their review. (Paragraph 29)

15. DEFRA should re-examine all those sections of Part 1 of the Wildlife and Countryside Act 1981 which currently require intent to be proven and consider whether the word “reckless” can be applied when the Act is amended. (Paragraph 30)

16. We would encourage DEFRA to include consideration of the issue of incidental killing or injury in the course of a lawful operation when it reviews Part 1 of the Wildlife and Countryside Act 1981. (Paragraph 31)

17. We look forward to seeing the draft UK Marine Bill currently being prepared by WWF-UK and would encourage DEFRA to work closely with WWF-UK on fine-tuning the draft and securing parliamentary time to take the Bill forward. (Paragraph 32)

18. This failure to recognise the true impact of a wildlife crime, and then apply a punishment commensurate with that impact, simply reinforces the notion that wildlife crime is “low risk and high reward” for offenders. (Paragraph 33)

19. We would support a review of the powers available to English Nature, and, at the very least, feel that it is vital that English Nature’s officers should be able to stop and check vehicles they find on SSSI land. (Paragraph 35)

20. The move to an integrated agency provides an excellent opportunity for an essential review of the role, responsibilities and powers that at the moment sit with English Nature. (Paragraph 35)

21. The rate of disappearance of ponds from our countryside is a matter for concern and we would urge DEFRA to work with the ODPM and local authorities to halt this decline and, if necessary, provide adequate protection through new legislation. (Paragraph 36)

22. We believe that Local Authorities have a duty to ensure that any work they undertake is carried out only after due care and consideration has been given both to the possible impact on local flora and fauna, and in full compliance with their own legal responsibilities. (Paragraph 36)

23. Whilst we can appreciate the value of setting targets for the consideration of planning applications, they should not be so unrealistic as to rule out the possibility of proper consideration of all the pertinent facts, including environmental impact. The targets set for local authorities are now almost ten years old. The ODPM, in conjunction with local planning authorities, should revisit these targets and ensure that they allow sufficient time for all necessary checks to be made. (Paragraph 37)

24. The lack of resources to enable local authorities to fulfil their own statutory duties and responsibilities, in terms of conservation, preservation, planning and in tackling wildlife crime reflects at best a woeful ignorance on the part of those in charge and, at worst, neglect or absolute disdain. Local authorities still have a considerable amount of work to do to educate and train their own workforce on their roles and responsibilities. (Paragraph 38)

25. We urge DEFRA to ensure that no further time is lost and that the necessary amendments are made to COTES to allow the police to deploy the additional powers provided by the Criminal Justice Act 2003. (Paragraph 39)

26. The absence of any clear, national view of the scale of wildlife crime has a direct impact on the ability of those charged with enforcing current legislation. If the scale and nature of the problem is not known it is unlikely that the correct level of resources can ever be allocated to deal with it. (Paragraph 41)

27. We believe that there must be at least one full-time Wildlife Crime Officer for each police force. These officers must be fully trained in intelligence gathering. (Paragraph 42)

28. We would encourage police forces and those with enforcement responsibilities to consider developing Memoranda of Understanding (MOUs) to enable them to work together for one off operations, identified through the use of intelligence, which will allow them to better target their limited resources. (Paragraph 43)

29. The apparent failure of the Police Service to take advantage of the NWCIU’s work must be addressed by the Home Office and DEFRA. It is a nonsense to have the NWCIU expending time and resources on developing intelligence packages for police forces who have no intention of devoting any real resources to the crime themselves. This only serves to emphasise the need for wildlife crime to be re-classified as recordable so that police forces feel compelled to address these crimes. (Paragraph 44)

30. Whilst we accept that intelligence is the way forward if there is to be any hope of matching resources to activity, we are concerned that the move to an intelligence-led approach is not being sufficiently well monitored to demonstrate the benefits of such a move. We would, therefore, like to see a much more robust method of measuring outcomes being devised by HM Customs. (Paragraph 46)

31. We are concerned that DEFRA do not have sufficient resources allocated to the proposed review of Part 1 of the Wildlife and Countryside Act 1981, which is due to commence with the publication of a consultation document later this year (2004). As a result, there is a risk that it will extend far beyond a timescale that would...
be reasonably acceptable to those who depend on this legislation. DEFRA must review the resources assigned to the review and also look beyond the review to securing sufficient Parliamentary time to take through the necessary amendments. (Paragraph 47)

32. Although the UK is not a source country for most of this illegal trade, we are one of the key transit and recipient countries, which makes the international focus of the work of HM Customs, NWCIU and organisations like TRAFFIC, WWF and IFAW of as much value to the UK as it is to the source country. (Paragraph 48)

33. We commend the work of both the North and South Wales Police Forces and the Countryside Council for Wales as an exceptionally good example of how joint working can benefit both parties and better tackle wildlife crime. More secondments of this nature should be considered. (Paragraph 51)

34. The role of the Home Office has been shown to be absolutely crucial in the fight against wildlife crime but their commitment has been sadly lacking. The Home Office must re-engage with wildlife crime. (Paragraph 53)

35. The very fact that PAW has a membership of around ninety we believe can be problematic and suggests to us that there is a need to review and perhaps rationalise the number of agencies, bodies and organisations involved in this area of work. (Paragraph 53)

36. We believe that dialogue with the general public has been rather hit and miss and, for the most part, the Government and, to a certain extent, those working in the wildlife community, have failed to achieve effective communication. (Paragraph 54)

37. We cannot accept the travel industry argument that to hand out leaflets warning their customers of the consequences of purchasing illegal products whilst on holiday will somehow reflect badly on the travel industry itself. This is clearly nonsense. The Department for Trade and Industry should engage the travel industry in discussing how best to get this, and possibly other important campaign leaflets, into the hands of the travelling public. (Paragraph 55)

38. We were encouraged by DEFRA’s willingness to consider using the popular media as a means of communicating with and educating the public and would urge them to encourage programme makers to include useful information about relevant current legislation and the possible impact of certain behaviour within the body of their programmes. (Paragraph 57)

39. We urge DEFRA to ensure that the Code of Practice for the horticultural sector is not simply an information leaflet to be ignored but that it has some requirement for compliance built into it which is then backed up by a proper monitoring process. (Paragraph 58)

40. We believe the “Get Hooked on Fishing” campaign has benefits to both the environment, the individuals concerned and the community at large. We would encourage other local authorities and police forces to emulate this campaign in their own areas and to use the same principles for other areas of wildlife crime. We commend the Durham Constabulary for their excellent work. (Paragraph 60)

41. We believe that the link between wildlife crime and other serious crimes, the clear and growing involvement of organised crime, and the increased reliance on the internet for illegal trade in protected species makes the argument for spending time and resources on this area of crime compelling. (Paragraph 61)

**Annex B**

**DEROGATIONS AND LICENCES**

**THE HABITATS AND BIRDS DIRECTIVES**

1. The EU Habitats and Wild Birds Directives allow for a limited number of activities that would normally be prohibited by way of derogations. Derogations may only be given where licensing authorities are satisfied that there are no satisfactory alternatives. Member States are obliged to report all derogations to the European Commission on an annual basis in the case of the Wild Birds Directive, and bi-annually in the case of the Habitats Directive.

2. In the UK, the relevant licensing authorities are Natural England, the Countryside Council for Wales, Scottish Natural Heritage, Department of Environment Northern Ireland, and the Marine Management Organisation. They administer the assessment of applications and issuing of licences and gather monitoring information from post-works reports. They use this information to compile reports which are submitted to the Commission via the Habitats and Birds Directive Derogations System (HaBiDeS), a bespoke web-portal. Member States are obliged to include the following information in their reports:

   (a) the species which are subject to the derogations, as well as information relating to the population of that species within the relevant member state, and the expected impact on that population of the derogation;

   (b) the means, arrangements or methods authorised for capture or killing;
the purpose for which the derogation was issued (eg prevention of serious damage to crops and livestock);

(d) the conditions of risk and the circumstances of time and place under which such the derogation was granted;

(e) the authority empowered to declare that the required conditions obtain and to decide what means, arrangements or methods may be used, within what limits and by whom;

(f) the controls which will be carried out;

(g) details of any alternatives assessed and the reasons for rejecting them;

(h) information relating to supervisory measures relating to the derogation.

SALES AND LEGITIMATE USE LICENSING

3. The types of licence which are issued by Natural England and their purpose are set out below.

(a) Individual licences: individual (including personal and organisational) licences are issued for activities that carry a greater risk or which are one-off activities not readily catered for by a general licence. The assessment of risk takes account of any relevant issue (including, for example: risk to the conservation status of the species; risk to the animal’s welfare; risk of non-compliance, etc).

Individual (or class) licences are also used for activities that fall within the “judicious use” derogation purpose where the EC directives stipulate that licensed activities need to be strictly controlled and that only small numbers of specimens should be affected.

A summary of licensing statistics for sales and use are provided below (values are numbers of licences):

— Sales of birds: (i) Incorrectly Rung Birds = 0, (ii) Taxidermy = 286.
— Sales of other animals under the WCA 1981: 322.
— Sales of plants under the WCA 1981: 2 (both Bluebells).
— Sales of European Protected Species: 12.
— Licences for “legitimate use”: Egg collecting (black-headed gulls) = 25.

(b) Class licences: Class licences are used for medium risk activities. They use standard conditions and do not require a user to justify the issue of the licence—like general licences—but users are expected to register to use the licence and provide reports of use. There is one sales class licence;


(c) General licences: General licences are used for low and some medium risk activities and are aimed at reducing administrative burden in situations where an individual licence—if applied for—would be routinely issued.

NE believe that the bulk of sales and exploitation take place under these licences (although in the absence of a reporting requirement or notification of licence use the scale of this activity cannot be gauged). NE issue a number of general licences permitting the sale or exploitation/use of protected species. The principal general licences relating to sales and use are:

— To permit the incubation of eggs and rearing of chicks of Schedule 4 birds;
— To permit the competitive showing of certain captive bred live wild birds;
— To permit the sale and exhibition of captive bred Mealy Redpoll;
— To allow the keeping of certain birds in show cages for training purposes;
— To sell dead birds;
— To sell captive bred live wild birds;
— To sell certain species of amphibian;
— To sell certain dead animals;
— To sell black-headed gull eggs for human consumption (where legally taken under a Natural England licence).

Wildlife licensing is a devolved matter and undertaken by CCW and the Welsh Government in Wales.
ENVIRONMENT AGENCY
HOUSE OF COMMONS ENVIRONMENTAL AUDIT SELECT COMMITTEE
INQUIRY INTO WILDLIFE CRIME
ENVIRONMENT AGENCY EVIDENCE FOR DEFRA SUBMISSION

1.0 Scale of Wildlife Crime and Change since 2004

The Environment Agency has duties to protect and improve fisheries, to optimise the social and economic benefits that derive from the diversity of native stocks and the recreational and commercial fisheries they support.

Reducing illegal salmon catch is a priority under international salmon management agreements, of which the UK is a signatory. Eels are protected by specific EU legislation and listed under CITES. Shad are wholly protected under domestic conservation legislation. Some other species are of conservation concern.

In 2003–04 there were 1,123 reports from the public of illegal fishing incidents (many cannot be confirmed). This increased to 2,806 in 2009–10 but last year fell back slightly to 2,730. This figure includes illegal fishing for all migratory and freshwater fish.

Illegal coarse fishing damages fisheries. Before 2010 the Environment Agency had insufficient powers to enforce action against illegal coarse fishing effectively and worked within existing legislation and with others to raise awareness and disrupt offences.

We are improving our information systems which will improve our ability to record and analyse all environmental crime, including wildlife offences.

Anecdotal evidence suggests that the rise in reports of illegal fishing incidents since 2004 reflects both increased reporting and a rise in the number of incidents. Fish are removed for consumption and for illegal stocking (Carp has risen in value in recent years, a single carp could be worth over £2,000). We are working closely with angling groups who have raised awareness of fishing laws (including in other languages). We are also encouraging angling groups to report crimes through ourselves or Crimestoppers. We believe our work to disrupt and prosecute illegal fishing should lead to a reduction in reported offences.

The introduction in 2009 of new byelaws requiring tagging of all net-caught salmon and sea trout and a ban on sale of such fish caught by rod and line has limited opportunity for people to dispose of fish caught illegally. The Environment Agency believes this will lead to fewer offences of illegal salmon and sea trout fishing.

Table 2 shows the number of offenders prosecuted for fisheries offences between 2002–03 and 2010–11, and the total fines.

Since 2010, the Environment Agency has recorded the extent of illegal keeping and movements of priority species of non-native fish—see Table 3. We have worked with Defra to develop an action plan to address the priority invasive species, particularly sturgeon and wels catfish.

2.0 How Policing of Wildlife Crime is Coordinated

The Environment Agency actively engages with partners to tackle wildlife crime through specific operational work and by engagement with the National Wildlife Crime Unit (NWCU), UK Wildlife Crime Tactical and Coordination Group and Partnership Against Wildlife Crime (PAW). Two such examples are Operation Sterling and Operation Hunters Moon, involving the Environment Agency, NWCU, PAW and various national stakeholder groups to address wildlife crime.

APPENDIX

Table 1

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<thead>
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<th>Year</th>
<th>Total Notifications of illegal fishing activity</th>
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<td>2010–11</td>
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Table 2
SUCCESSFUL FISHERIES PROSECUTIONS—2002–3 TO 2010–11

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<tr>
<th>Year</th>
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<th>Total Fines (£)</th>
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<td>2002–03</td>
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<tr>
<td>2008–09</td>
<td>71</td>
<td>20,790</td>
</tr>
<tr>
<td>2009–10</td>
<td>83</td>
<td>15,620</td>
</tr>
<tr>
<td>2010–11</td>
<td>59</td>
<td>12,795</td>
</tr>
</tbody>
</table>

Table 3
NUMBERS OF FISHERIES HOLDING PRIORITY NON-NATIVE SPECIES WITHOUT A VALID LICENCE

<table>
<thead>
<tr>
<th>Species</th>
<th>End-2010</th>
<th>Jan 2012</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Expired licence</td>
<td>No licence sought</td>
</tr>
<tr>
<td>Wels catfish</td>
<td>66</td>
<td>1</td>
</tr>
<tr>
<td>Sturgeon</td>
<td>24</td>
<td>2</td>
</tr>
<tr>
<td>Total</td>
<td>90</td>
<td>3</td>
</tr>
</tbody>
</table>

Annex D

28 February 2012
Written evidence submitted by the Royal Society for the Protection of Birds

EXECUTIVE SUMMARY

— The Government has identified raptor persecution as one of six UK wildlife crime priorities. There is a strong body of scientific evidence linking raptor persecution with upland moors managed for driven grouse shooting.

— The RSPB welcomes the Law Commission’s project to reform the legal regime for wildlife management in England and Wales. We suggest a number of existing provisions and new offences that could be enacted to make species protection legislation fit-for-purpose.

— While the legislative framework can be improved, crimes against wild birds, particularly birds of prey, persist largely due to inadequate enforcement. The Government needs to change the behaviour of those responsible, through making better use of existing provisions, new legislative offences, stronger financial penalties and other sanctions.

— The legislative toolkit for dealing with illegal activity affecting protected sites is broadly effective. However, that there is limited evidence that this toolkit is being used to full effect. In order for Natural England to fulfil its role of delivering effective site protection it will need close support from Defra, especially when an enforcement-led approach proves unpopular with certain stakeholder groups.

— It is vital that the function of the National Wildlife Crime Unit (NWCU) is preserved, enhanced and adequately resourced. Responsibility for tackling wildlife crime of a serious and organised nature should lie with the new National Crime Agency, with the NWCU providing appropriate intelligence support. It is therefore vital that the NWCU has secure long term funding, providing stability and enabling long-term planning.

— Statutory efforts to record wildlife crime remain disjointed and inconsistent. The NWCU should be enabled to better manage and apply this data in an enforcement context.

— Prevention strategies need to be broader in scope, and adequately resourced.

INTRODUCTION

1. The RSPB is Europe’s largest wildlife conservation charity. With the support of more than one million members, we conserve and enhance the populations of wild birds, other wildlife and the habitats in which they live. We focus on priority species and set clear conservation objectives. These include owning and managing land as nature reserves and influencing land-use practices and government policies to benefit wildlife and the wider countryside.

2. The RSPB has an Investigations Section whose main function is to support the statutory authorities in the investigation of offences involving wild birds. This Section has extensive experience of working closely with Police Wildlife Crime Officers, the Crown Prosecution Service, Procurators Fiscal and HM Customs and Excise. Due to the high conservation impact of illegal incidents, bird of prey persecution is a particular concern for the RSPB.

The scale of wildlife crime and its impacts, and how this has changed since the 2004 Report

Crime affecting protected species in the UK

Raptor persecution

3. Over 210,000 individuals signed the RSPB’s bird of prey pledge, calling for an end to illegal killing of birds of prey.10 This graphically illustrates the degree of public support for more effectively tackling bird of prey persecution. In 2010, over 160 MPs from across the political parties backed this campaign by signing Early Day Motion 654 calling for the Government to make tackling this illegal killing a greater priority.11 Birds of prey are a sign of a healthy environment, and bring proven benefits to local economies. For example, white-tailed eagle tourism is worth over £5 million per year to the economy of the Isle of Mull.12

4. The RSPB has been recording wild bird crimes for about 40 years and maintains a unique database, which is used to compile an annual report, “Birdcrime”. Long term datasets show that levels of raptor persecution do not appear to be diminishing. However, these figures represent no more than a snapshot of crimes committed, limiting the conclusions that can be drawn.

5. A more complete and statistically robust picture of the impact that these crimes have emerges from the systematic study of bird populations themselves. In recent years, the severe impact that persecution has on national populations of some raptors has been demonstrated through multiple scientific studies.

6. Encouragingly, the Government has identified raptor persecution as one of six UK wildlife crime priorities,13 with a focus on golden eagle, white-tailed eagle, hen harrier, red kite, peregrine and goshawk. A

summary of the evidence for persecution, much of it linked with grouse moor management, impacting on the conservation status of these species is outlined at Appendix 1.

7. This evidence builds on previously published work linking raptor persecution with upland moors managed for driven grouse shooting. A map of confirmed raptor persecution incidents reported to the RSPB 1990–2009 shows that the practice is widespread across the UK but with “hotspots” in areas associated with grouse moor management in the north of England and large parts of Scotland. The RSPB believes that the persecution of raptors is a crime as determined by the Home Office.

Trade in wild birds

8. Most reported incidents relate to non-birds of prey, and the illegal trapping and sale of finches remains widespread. Most such cases are dealt with by the RSPCA.

9. The taking of wild birds of prey to supply the illegal falconry market has declined significantly over the last 20 years. The RSPB believes this is primarily due improved captive breeding techniques and better enforcement, particularly the use of DNA profiling to establish whether birds are genuinely captive breed. However, the RSPB is concerned that recent deregulation of registration controls, reducing the number of species required to be registered with the government, makes it easier for such offences to go undetected.

10. In August 2010, a Zimbabwean national was convicted of attempting to smuggle 14 peregrine eggs taken in Wales to Dubai, demonstrating that there is still an international demand for wild British peregrines as falconry birds.

Egg collecting

11. Encouragingly, levels of egg collecting offences appear to be in long-term decline. The RSPB believes this is primarily due to the introduction of custodial sentences in 2001. Some 16 custodial sentences have been awarded to egg collectors and the graph at Appendix 2 shows the reduction in cases being brought before the courts.

Crime affecting species in UK dependencies

Bird trapping in Cyprus

12. In autumn 2011, BirdLife Cyprus estimated that 1.9 million songbirds were trapped illegally to provide a delicacy sold in local restaurants: ambelopoulia. Of particular concern to the RSPB is the fact that a large proportion are trapped at Dhekelia—a UK Sovereign Base Area (SBA). More than ten times the level of illegal netting activity was recorded on the SBA compared with similar areas in the Cypriot Republic. We acknowledge that the UK Government has made considerable efforts to tackle this issue. Nevertheless, there needs to be greater enforcement activity on the SBAs and greater efforts made to change public attitudes towards eating ambelopoulia.

Crime affecting protected sites in the UK

13. We are unaware of any coordinated recording of offences relating to Sites of Special Scientific Interest (SSSIs) in England. Consequently, it is not possible to determine the precise scale and nature of illegal damage to protected wildlife sites. However, in Wales, offences relating to the condition of SSSIs are monitored by both Countryside Council for Wales (CCW) and the police. Indeed, habitat destruction has been adopted in Wales as a Wildlife Crime Priority. In Northern Ireland NIEA do collect some information on damage to ASSIs, although we suspect that this may not be comprehensive.
The extent to which UK legislation and regulations on wildlife crime are “fit for purpose” and the penalties for offences are adequate

Crime affecting protected species in the UK

14. The legislative framework generally provides strong and therefore welcome protection for species in the UK, though improvements are necessary in some areas. The RSPB therefore welcomes the Law Commission’s project to reform the legal regime for wildlife management in England and Wales. We have three key ambitions for this review—transposition (of the relevant EU Nature Directives), rationalisation and ultimately the development of a fit-for-purpose legislative framework. We will actively support any amendments proposed to wildlife legislation that enhance the conservation and protection of biodiversity.

15. While the legislative framework can be improved, crimes against wild birds, most notably the persecution of birds of prey, persist due largely to inadequate enforcement. The Government needs to change the behaviour of those responsible, through making better use of existing provisions, new legislative offences, stronger financial penalties and other sanctions.

Existing provisions

Pesticide controls

16. Illegal wildlife poisoning remains a major problem in the UK. In an effort to combat this, Defra introduced controls under the Natural Environment and Rural Communities Act 2006 to make it an offence to possess certain listed pesticides without legitimate reason. Six years later the schedule of proscribed pesticides has still not been populated. In contrast, the Scottish Government enacted similar legislation in 2004, resulting in ten convictions to date. Northern Ireland has recently introduced similar legislation but has yet to create the schedule.

17. In response to a joint letter from the RSPB and British Association for Shooting and Conservation (BASC), Defra Ministers recently stated that the Government was not intending to populate the schedule for England and Wales. Given that the case for such controls has been previously accepted, this unwillingness to introduce an important tool in combating illegal poisoning is of concern.

New offences

Vicarious liability

18. The evidence (paras 6–7, Appendix 1) shows a strong link between raptor persecution and land managed for game bird shooting, particularly in the uplands of England and parts of Scotland. This is serious and organised crime.

19. The maximum penalty for such offences is a £5000 fine and/or six months in prison. Analysis of 152 convictions since 1990 for raptor persecution related offences show that the vast majority (c.70%) are committed by gamekeepers. Most have been dealt with by small fines; only three custodial sentences, all suspended, have been issued. The current level of convictions and penalties carries little deterrent value. The RSPB believes a key reason for this is that the law does not target those ultimately responsible—the managers and landowners encouraging or requiring their employees to break the law.

20. An offence of “vicarious liability” has been introduced in Scotland through the Wildlife and Natural Environment Act 2011. This imposes criminal liability on persons where their employee or agent or contractor commits an offence, unless they can show they were unaware of the offence and had exercised due diligence. The RSPB believes it essential that those orchestrating and/or sponsoring raptor persecution be held accountable. We recommend that an offence of vicarious liability be introduced in the rest of the UK.

Harassment of certain species of wild bird

21. This offence was introduced in Scotland by the Nature Conservation (Scotland) Act 2004. It provides year round protection and prevents the regular, unwarranted disturbance of white-tailed eagles. Similar provisions should be introduced in the rest of the UK and extended to protect roosts of red kite, hen harrier and raven outside the breeding season.

Extending reckless provisions

22. “Reckless” provisions were introduced by the Countryside and Rights of Way Act 2000 in relation to disturbance of nesting Schedule 1 birds and certain wild animals. These originated from the failure of a number of wildlife cases where, although clear harm was done to protected species and the perpetrators appeared well aware of the risk of harm, it was not possible to prove beyond all reasonable doubt that they intended harm.

26 Richard Benyon, Parliamentary Under Secretory of State (Natural Environment and Fisheries), Environment, Food and Rural Affairs in lit
23. The Scottish Government went further and proposed that where a deliberate action to harm wildlife was currently an offence, reckless action with the same result should also be an offence. Consequently, “recklessly” was added to all such “intentional” offences by the Nature Conservation (Scotland) Act 2004. It follows that this should be the case in England and Wales.

Offences under the Control of Trade in Endangered Species (Enforcement) Regulations 1997 (COTES)

24. It is essential that COTES offences are included within s7(3) WCA as it applies to England and Wales, as implemented in Scotland by the Nature Conservation (Scotland) Act 2004. Otherwise, a person convicted under COTES of unlawful trade in a species which is included on Schedule 4 of the WCA is not prevented from keeping/possessing that species in the future. This position is inconsistent with that of a person convicted for a less serious offence under the WCA, who is currently prevented from holding the same species for three or more years. Correcting this will help prevent people continuing to trade illegally in vulnerable species.

Tampering with approved rings or possessing birds wearing tampered rings

25. Long term datasets indicate a persistent problem with the illegal trapping of wild finches which are then laundered in the avicultural market as being legitimately captive bred. Under the WCA, a system of using close rings attempts to prevent this. The principle is that a correctly sized close ring can be fitted just a few days after hatching and helps support the claim that the bird was captive bred. However, many examples exist of close rings being tampered with to allow them to be fitted to wild taken birds. The proposed offence would improve the ability of enforcement agencies to investigate and prosecute such practices.

Selling ducks, geese, swans, coot or moorhen killed using lead shot

26. We support the purpose of the Environmental Protection (Restriction on Use of Lead Shot) (England) Regulations 1999 and subsequent regulations in Wales. However, investigations by the RSPB and on behalf of Defra have highlighted that compliance is poor, and it remains legal to sell birds killed illegally using lead shot. This undermines the purpose and effective enforcement of the existing Regulations.

Penalties

27. The WCA continues to play a key role in maintaining the recovery of many species. For example, the deterrent value of custodial sentences introduced by the Countryside and Rights of Way Act 2000 has—we believe—reduced significantly the incidence of egg collecting and the taking of birds and eggs for falconry, which remain at a low level today (see Appendix 2).

28. However, the current maximum fine which can be awarded for offences to be tried in the Magistrates’ Court under the WCA is just £5,000 and/or up to six months in prison. This is inadequate as a deterrent and is out of line with penalties under other recent environmental legislation: eg fines of up to £50,000 and/or up to 12 months in prison in the Magistrates Court, and unlimited fines and/or up to five years in prison in the Crown Court under the Environmental Permitting (England and Wales) Regulations 2010.

Regulation of game shooting

29. The UK is almost unique in Europe and North America in having no form of, or potential for, the regulation of the practice of game shooting by individuals or service providers. Given a) the potential of this activity to cause adverse population-level impacts for species of conservation priority, and b) the serious and organised nature of crimes committed against birds of prey, consideration of stronger sanctions is merited. An option to withdraw the “right” of an individual to shoot game, or businesses to supply shooting services, for a fixed period following conviction for a wildlife or environmental offence, should be considered.

Cross-compliance

30. Significant sums of public money are provided to those managing the countryside through Single Farm Payments. To target effectively, and penalise, those involved in perpetrating wildlife crime, it is essential that the full range of associated offences are covered by cross-compliance rules. The Government should work with the European Commission to ensure that anyone contravening EU wildlife legislation faces having their Single Farm Payment withdrawn. A process needs to be introduced to ensure all such potential cases are brought to the attention of the Rural Payments Agency (RPA).

Crime affecting protected sites in the UK

31. The Countryside and Rights of Way Act 2000 gave English Nature (now Natural England) and the CCW considerably enhanced tools for the protection of these sites as well as greater penalties to deter crime. Consequently, we believe that the legislative toolkit for dealing with illegal activity affecting SSSIs is broadly effective. However, that there is limited evidence that this toolkit is being used to full effect.
Environmental Audit Committee: Evidence

32. In Northern Ireland, the Wildlife and Natural Environment Act, 2011 updated the legislative toolkit in respect of ASSIs, but the rate of investigation and enforcement is low, due in part to insufficient resourcing of NIEA. In 2011 there were 164 reports of damage on 57 ASSIs, but few investigations with only one prosecution and one restoration order.

33. In the absence of direct or adequate transposition of the requirements of Article 6(2) of the Habitats Directive on land and in inshore waters,32 the UK is largely reliant on the SSSI consenting framework and the deterrent of effective enforcement action to “avoid ... the deterioration of natural habitats and the habitats of species as well as disturbance of the species for which [Special Protection Areas and Special Areas of Conservation] have been designated”, as required by the Directive.

34. In November 2008, the National Audit Office (NAO)33 found that “Natural England has not made full use of its enforcement powers” and “has not yet exercised its powers to enforce positive management practices”. In February 2009, the NAO report was considered by a meeting of the Public Accounts Committee (PAC). Its findings and recommendations, published in June 200934 again highlighted the failure to use enforcement powers.

35. Natural England has developed and consulted on a draft enforcement policy (in 2008), a draft compliance and enforcement position and draft enforcement guidance (in 2011). In its submissions to these consultations, the RSPB expressed concern that that many of the fundamental precursors for effective enforcement are not currently fit for purpose. We highlighted the need to ensure that surveillance systems are sufficiently comprehensive and robust to identify infractions where they occur, the need for staff training, and the need for effective operational management to ensure that potential prosecutions are not compromised.

36. When consulted on Natural England’s draft enforcement guidance in 2011, we were disappointed that this did not address in full the recommendations we made in our comments on NE’s consultation on its draft enforcement policy in 2008, and which we consider remain pertinent.

37. We note that Natural England’s discretion to act has been restricted. Ministers have made clear their expectation that Natural England needs to prioritise its customer service role, and, by implication, do less enforcement. In order for Natural England to fulfil its role of delivering effective site protection, it will need close support from Defra, especially when an enforcement-led approach proves unpopular with certain stakeholder groups.

38. Statutory powers for investigating species offences are currently much more extensive than those for investigating habitat offences. There is no ability to obtain a search warrant to enter a dwelling to search for evidence, such as documentary or electronic records relating to work undertaken on SSSIs.

International trade in protected species

Possession controls for CITES species

39. The EU Wildlife Trade regulations EC 338/97 regulate the import and export of CITES-listed species into and out of the EU, and commercial trade within the EU. Provisions under Act 8(2) allow for the possession of certain species to be regulated. Under the WCA, possession of certain native species is unlawful. We believe that the Government should determine whether possession of critically endangered species originating outside the UK should be more strictly regulated. Defra consulted on this principle in 2005.

40. COTES implements enforcement of the EU Wildlife Trade regulations EC 338/97 in the UK. Since revision in 1997, COTES has been long overdue an update. A draft Statutory Instrument (SI) was drawn up by Defra in 2004–05 but for reasons that are unclear, this was never enacted. It is essential that the amendments proposed in the draft SI are implemented in full.

How policing of wildlife crime is coordinated in the UK (between bodies and geographically) and whether enforcement bodies have sufficient resources and powers, and how the proposed national crime agency might affect policing of this type of crime

NWCU and the NCA

41. The current ACPO lead on wildlife crime, Chief Constable Richard Crompton, states in his introduction to the National Wildlife Crime Unit’s (NWCU) 2010 annual report that wildlife crime includes “criminality of a serious and organised nature and ultimately, a huge international operation concerning the illegal trade in endangered species”. This type of criminality crosses police force, national and international boundaries, and can only be tackled effectively with appropriate national co-ordination and resources.

42. The NWCU is a key structure in current efforts to tackle wildlife crime. This small unit provides excellent value for money by co-ordinating intelligence gathering and supporting enforcement efforts across police forces. The RSPB believes it is vital that the function of the NWCU is preserved, enhanced and adequately

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34. http://www.publications.parliament.uk/pa/cm200809/cmselect/cmpubacc/244/244.pdf
resourced—not all wildlife crime is of a serious and organised nature and would therefore fall outside the NCA’s remit. Responsibility for tackling wildlife crime of a serious and organised nature (including raptor persecution) should lie with the NCA, with the NWCU providing appropriate intelligence support. It is therefore vital that the NWCU has secure long-term funding, providing stability and enabling long-term planning.

Police Wildlife Crime Officers (WCO)

43. The WCO network is a key component in the fight against wildlife crime and needs to be protected at an individual force level. The EAC 2004 report recommended that there must be at least one full time WCO in each police force (Recommendation 27). Unfortunately, since 2004 many forces have lost their full time WCOs and this has made pursuing wildlife crime investigations in some forces areas more difficult. The Government should challenge police forces to allocate permanent staff to tackle wildlife crime, especially in “hot-spot” areas.

Wildlife Crime Priorities

44. A welcome and positive development has been the development of UK wildlife crime priorities, using scientific evidence and prosecution data agreed by government and enforcement officers. However, there is little consistency around how these are taken forward. For example, the CITES priority appears to achieve positive co-ordinated work between police, NWCU, UKBA and AHVLA. In contrast, the raptor persecution priority has been split into three groups (Scotland, England & Wales, and Northern Ireland). Whilst there has been some progress in Scotland, there has been a disappointing lack of action to progress this priority in England and Wales. More Government support is needed in Northern Ireland where the level of resourcing remains low, with one Wildlife Liaison Officer (civilian staff) for the Police Service of Northern Ireland (PSNI).

How well government and responsible enforcement bodies are responding to newer threats and challenges, including use of the internet for wildlife trade

Internet offences

45. A number of recent cases\textsuperscript{35} have highlighted the importance of the internet in “facilitating” wildlife crime. Current legislation was designed before such technology rose to prominence, and the scale of online illegal trading warrants consideration of new offences.

EU wild bird import regulation

46. The EU banned commercial imports of wild birds in 2007 following concerns over the transmission of avian diseases, particularly avian flu. However, Regulation (EC) 318/2007 allows certain categories of birds to be imported for “conservation programmes approved by the competent authority of the member state of destination”.

47. In November 2010, a West Midlands bird dealer was convicted of import and sales offences after AHVLA supplied import permits for 22 birds of prey from South Africa for a bogus conservation breeding programme.\textsuperscript{36} This has raised concerns that importers are evading import restrictions when no genuine conservation programme exists. In view of the serious disease risks and potential impact on conservation we recommend that AHVLA reviews the issue of import permits and makes rigorous checks to ensure regulations are not being circumvented.

How fully wildlife crimes are recorded, and how rigorously available penalties are applied

Crime affecting protected species in the UK

48. The RSPB was pleased that the EAC 2004 report on wildlife crime made several recommendations (see 5, 6, 7, 11 & 26) on the importance of accurate recording.\textsuperscript{37} These included that wildlife crime must be recorded, there should be a sufficiently staffed and resourced centrally managed national database, and that it should be supplied with consistent and reliable data to provide a view of the scale and nature of the problem.

49. Statutory efforts to record wildlife crime remain disjointed and inconsistent. While crimes such as minor theft are recorded by the Home Office, serious wildlife crimes with major conservation impacts, such as poisoning eagles, are not. There is no reliable statutory system for retrieving wildlife related prosecutions to help provide sentencing advice for courts or to assess sentencing consistency. The RSPB can provide such data for bird offences but there is no mechanism for offences involving other taxa.

50. The RSPB believes that reliable data are essential to assess the scale of the problem and whether enforcement and other measures are being effective. In relation to wildlife poisoning, good long term data sets exist via the Wildlife Incident Investigation Scheme (WHIS), though this information could be better utilised. However, government data regarding other types of raptor persecution remain limited.


\textsuperscript{37} http://www.publications.parliament.uk/pa/cm200304/cmselect/cmenvaud/605/605.pdf
51. The police and the NWCU have made positive progress in improving recording of wildlife crime. However, much data published by NWCU is reliant on information collated by the police National Standards Incident Recording (NSIR) scheme. This crude recording method has significant limitations and the commitment by individual forces to provide such data appears highly variable.

52. On 26 January 2011, in answer to a Parliamentary Question on UK raptor persecution figures, the Government conceded that comprehensive information is not held centrally.38 Of particular concern, was that the data provided for raptor poisoning were significantly different than the official government source data. For example, the number of golden eagles, red kites and peregrines listed as poisoned were significantly under-recorded. This erroneous reporting was recently repeated in a report to the European Commission.39

53. The RSPB is aware that the NWCU is making significant efforts to deal with the huge flow of information regarding wildlife crime, but struggling to make best use of it. We believe that the NWCU should be enabled to better manage and apply this data in an enforcement context.

Penalties

54. The RSPB records annually around 40–50 prosecutions relating to birds (other than welfare). The deterrent value of custodial sentences has been outlined previously in this paper. An analysis of all cases since 2001 under a range of legislation shows that custodial sentences were awarded in 55 cases (see Appendix 3). All were in English courts apart from two in Wales and one in Scotland. The RSPB believes the courts have been careful and selective in the use of custodial sentences, reserving them for more serious cases or for individuals with previous convictions. However, of 42 prosecutions resulting in custodial sentences under the WCA, only three cases involved species of high conservation concern relating to the persecution of birds of prey (all suspended). Jail sentences have been repeatedly given for offences involving species of lower conservation concern, such as ten cases relating to the killing of swans, gulls and ducks. The RSPB believe that for raptor persecution offences, more meaningful sentences need to be considered in order to achieve the desired deterrent effect.

Crime affecting protected sites in the UK

55. The RSPB is unaware of any coordinated recording of offences relating to SSSIs in England. However, in Wales, the Wildlife Crime Enforcement Group provides quarterly updates to the Wales Biodiversity Partnership Steering Group on current activity and cases.40 CCW have provided annual reports on criminal offences relating to SSSIs. However, this has not been updated on their website since 2005.

56. It is essential that penalties are sufficient to remove the financial benefit from committing an offence against protected sites, which may be considerable in some cases. We believe that:

57. There needs to be greater flexibility within the Rural Payment Agency’s inspection framework to allow them to respond effectively to cases of wildlife crime and to maximise the deterrent value of the cross-compliance regime.

58. The use of civil sanctions (which the RSPB generally supports) in relation to damage to SSSIs should be limited to those cases where there are no restoration requirements as such cases will be difficult to resolve satisfactorily as a civil matter.

HOW EFFECTIVELY BEHAVIOUR-CHANGE AND ATTITUDE-CHANGE IS BEING PROMOTED

59. In England, the RSPB is concerned that there is a lack of appetite within Defra and Natural England for robust enforcement action and that a failure to put in place all the necessary precursors and mechanisms for effective enforcement may hamper Natural England’s ability to take enforcement action, even when criminal damage has clearly occurred.

60. Since the offences for damage to SSSIs were overhauled by the Countryside and Rights of Way Act 2000, just 17 prosecutions have been taken, 16 of which were successful.31,42 Ten of these were accompanied by a restoration order to make good the damage caused. However, we are unaware of any work to review compliance with, and the efficacy of, restoration orders in returning the SSSIs in question to favourable condition. Such information would be invaluable to assess the effectiveness of the legislation in tackling criminal damage to SSSIs.

61. In addition, we are not aware of any published work to assess the deterrent effect of penalties under wildlife legislation eg whether or not those prosecuted have been subject to further enforcement action.

38 http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm110126/text/110126w0001.htm
39 Bio Intelligence Service 2011. Stooktaking of the main problems and review of national enforcement mechanisms for tackling illegal killing, trapping and trade of birds in the EU. Final report prepared for European Commission (DG Environment)
42 Natural England prosecutions: http://www.naturaleza.org.uk/Images/NE-CROW-prosecutions_tcm6–27540.xls
including the need to take new criminal prosecutions for any subsequent offences. Such information is vital to inform decisions on the threshold to be applied in deciding whether or not civil or criminal sanctions should be used in a particular case.

Prevention

62. The need for enforcement activity by the statutory agencies and police can be moderated through more effective prevention strategies. Publicity is an important tool, which to date has been employed on a fairly ad hoc basis, and remains overly reliant on the efforts of NGOs. The Partnership for Action against Wildlife Crime (PAW) could play a more active role, though its ability to deliver is largely dependent on non-government resources being secured. We believe, however, that prevention strategies need to be broader in scope, and adequately resourced. The UK wildlife crime priorities mandate a focus on prevention, alongside intelligence and enforcement, activity. We are aware of proposals emerging from the raptor persecution priority group in Scotland to engage land owners and managers in persecution hotspots, and follow-up instances of suspected and/or proven persecution. Such an approach may have application elsewhere in the UK.

APPENDIX 1

EVIDENCE FOR PERSECUTION IMPACT ON UK GOVERNMENT WILDLIFE CRIME PRIORITY RAPTOR SPECIES

HEN HARRIER

The hen harrier is a species of high conservation concern,43 which is identified as a species of principal importance for the conservation of biodiversity in England via Section 41 of the Natural Environment and Rural Communities Act 2006. Hen harrier is listed under Scottish Natural Heritage’s (SNH) Species Action Framework44 as a priority species for action.

The UK/Isle of Man breeding population of hen harriers declined by 18% between 2004 and 2010, driven by declines in the large Scottish population, and following several decades of recovery.45 A Joint Nature Conservation Committee (JNCC)-published conservation framework report quantifies the potential UK hen harrier population at 2,514–2,653 pairs, compared to an estimated population of 806 pairs in 2004 (this analysis pre-dates the 2010 survey results, which report an estimated UK population of 662 pairs), and ascribes the difference in large part to persecution.46 In 2008, just five successful hen harrier nests were recorded on driven grouse moors in the UK; an area of habitat estimated to have the potential to support 500 pairs.47 In England, which has sufficient habitat to support at least 323 breeding pairs, the hen harrier is on the verge of extinction as a breeding species with only four pairs successfully raising young in 2011. If this trend continues, it is likely that the Government will fail in its commitment in the England Biodiversity Strategy to avoid any human induced extinctions of known threatened species by 2020.48

GOLDEN EAGLE

The results of the most recent national golden eagle survey in 2003 suggested a British population at about 440 occupied territories,49 with all but one or two pairs in Scotland.

A SNH conservation framework report50 concluded that some parts of Scotland no longer support viable populations of golden eagles, despite suitable habitat being available. Persecution was found to be the most severe constraint on golden eagle populations, and incidents of persecution were more common where grouse moor management predominated. The report also concluded that the rarity of golden eagles in England is probably a result of persecution limiting potential recruits from Scotland and to raptor persecution in upland areas of England.

RED KITE

With over 1,500 pairs in the UK, red kites are a conservation success story thanks to dedicated work to protect the species in Wales and successful re-introduction programmes in England, Scotland and Northern Ireland. However, recent scientific research shows that illegal poisoning remains a significant cause of mortality in one region.51 Between 1989 and 2009, 64 red kites were found poisoned in Scotland, though the true number will be far higher as most birds are never recovered.

45 Bird Study in press
46 http://jncc.defra.gov.uk/pdf/jncc441.pdf
Peregrine

The UK peregrine population has recovered well from its low point due to the effects of organochlorine pesticide poisoning in the 1960s. The most recent survey in 2002 put the population at over 1,400 pairs, a 10% increase since the previous survey in 1991. However, their recovery has been particularly slow in some parts of the English uplands managed predominantly for driven grouse shooting.

A recently published scientific study using data from nearly three decades of nest monitoring across northern England found that breeding success of peregrines on grouse moors was half that in other habitats. The study also found that confirmed and probable incidents of peregrine persecution between 1990 and 2006 across northern England occurred far more frequently on grouse moors than on other habitats. The higher levels of breeding failure meant that peregrine populations on grouse moors were not self-sustaining and regional extinction was only prevented by more productive birds nesting in sites away from grouse moors.

Goshawk

The goshawk was the first bird of prey to be driven to extinction in the UK, in 1883. Since its re-establishment in the 1950s the goshawk population has recovered well but illegal killing remains a problem. For example, in the north-east of the Peak District National Park, a previously stable population of up to 11 pairs in the 1990s had disappeared by 2006—persecution is the only credible explanation. In contrast, a population in the south of the National Park, located away from grouse moors, remained healthy.

White-tailed Eagle

White-tailed eagles were driven to extinction in the UK by 1916 but have been re-introduced in three phases in Scotland where there is now an established breeding population of around 50 pairs. Despite this progress, illegal killing remains a problem with at least seven birds poisoned since the re-introduction project started in 1975. Although only a small number of birds, whilst the population remains small, any illegal killing is problematic for a bird that matures slowly and produces few young, and is a waste of government and charitable investments in the project.

APPENDIX 2

EGG COLLECTING CONVICTIONS RECORDED BY THE RSPB, 1994–2010

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52 http://www.bto.org/survey/complete/peregrine.htm
APPENDIX 3

CUSTODIAL SENTENCES FOR WILDLIFE OFFENCES RELATING TO BIRDS (NOT WELFARE RELATED). [BOP = BIRDS OF PREY]

28 February 2012

Written evidence submitted by Royal Society for the Prevention of Cruelty to Animals

The RSPCA is an animal welfare charity which aims to prevent cruelty and promote kindness to all animals whether kept as companion animals, farm animals, animals used in research and wild animals.

The RSPCA acts as both investigator and prosecutor in ensuring that certain wildlife crimes and their significant animal welfare implications are enforced effectively. The RSPCA regularly prosecute offences under the Wildlife and Countryside Act 1981, in particular the possession of wild birds, and various offences under the Protection of Badgers Act 1992. The RSPCA relies heavily on the police to assist with these investigations, and the police rely heavily on the RSPCA in many instances.

This submission identifies the key issues that we wish to bring to the Committee’s attention.

1. The RSPCA welcomes the Environmental Audit Committee’s enquiry into wildlife crime. We consider wildlife crime to be a very serious issue which also has a significant impact on the welfare of the animals involved. We hope that the results of the enquiry will allow the Committee to make robust recommendations to ensure that the Government and enforcement agencies prioritise wildlife crime accordingly.

2. The RSPCA supports the work of the National Wildlife Crime Unit (NWCU) and the Partnership for Action Against Wildlife Crime (PAW) in fighting wildlife crime in the UK. The RSPCA is a partner organisation within PAW and works closely with law enforcement agencies including the NWCU and the police, particularly in wildlife crime that involves people being cruel to animals, such as badger persecution and the illegal use of snares and poisons. Badger persecution is a priority for both the NWCU and PAW and we would like to see this continue.

3. The RSPCA supports the mandate of the National Crime Agency (NCA) to “crack down on the trafficking of...wildlife” as identified in the Home Office Structural Reform Plan. However, we urge and expect that the introduction of the NCA should complement the work of the NWCU and should not undermine it in any way. The NWCU should not be subsumed into the NCA. We would also like to see funding made available for the NWCU beyond 2013.

4. The RSPCA is concerned about the increased use of the internet for wildlife trade both within the UK and internationally. We would encourage stronger regulation and would support a ban on the internet trade in wild animals as it is open to abuse. Although entirely legal, one UK vendor offers wild animals (exotic pets) for sale on the internet with a promise that if the animal is “dead on arrival” it will be replaced.

5. Regarding the legal trade in CITES listed species it is clear that there is widescale fraud on the use of the “captive-bred” and “ranched” codes which allow the import of some wild-caught species to the EU and UK. We would like to see robust and rigorous research in this area and action taken by the UK CITES authorities whenever illegal use of these codes is suspected.
6. Wildlife crime is complex and requires specialist and dedicated police wildlife crime officers and wildlife prosecutors in the Crown Prosecution Service (CPS). It is therefore vital to ensure that there are sufficient resources made available to the police and the CPS to provide the support they need to take cases through to successful prosecutions. Unfortunately, many police forces in the UK have cut the post of wildlife crime officer. For example, Cheshire police civilised the post of police wildlife crime officer in 2008 and then cut the post altogether in 2010. Wildlife crime is now investigated by a small number of officers in neighbourhood policing units in addition to their other duties. These officers, despite being incredibly dedicated may lack the specialist knowledge required to successfully investigate and progress wildlife cases. The RSPCA is a well respected prosecutor in relation to animal welfare offences and has built up, through its Inspectorate and Special Operations Unit (SOU), considerable expertise in both investigating and prosecuting wildlife offences. This work is supported by scientific staff in the Society’s wildlife department. It is often the case that the public contacts the RSPCA with information pertaining to wildlife crime rather than contact the police. The police often pass information to RSPCA for investigation, as do other charities as they are aware of the Society’s expertise. Continued cooperation between the police and NGOs is essential if wildlife crime is to be effectively tackled. A multi-agency approach is clearly essential. However, as mentioned above, many police forces have lost their dedicated wildlife crime officers and in the current financial climate police resources are likely to be put under continued strain.

7. Between 2009 and 2011 the RSPCA achieved 166 convictions under the Wildlife and Countryside Act 1981 and 22 under the Protection of Badgers Act 1992. The RSPCA also undertakes a small number of cases under the Wild Mammals (Protection) Act 2006 but because of the requirement to prove intention to cause suffering it has limited application. This legislation would be improved by adding “recklessness” to the wording.

8. The Animal Welfare Act 2006 has proved to be an effective addition to animal legislation and enables wildlife offences to be captured where the animal “is under the control of man whether on a permanent or temporary basis”. This has been a significant step forward.

9. We welcome, in principle, the Law Commission’s project on wildlife legislation in England and Wales and the RSPCA is contributing to the advisory group set up by the Law Commission as part of its review. If the aim of the Law Commission’s review is to consolidate and simplify existing legislation in order to improve understanding and to make it easier for successful prosecutions to take place then we would support that. The Wildlife and Countryside Act 1981 is now over 30 years old and has been amended many times and is therefore often complex and difficult to interpret. If, however, the review makes it easier for those involved in wildlife management, wildlife exploitation or for those involved in development to sidestep wildlife and habitats, then we would oppose that. We do not support any weakening of protection for wildlife, nor would we support any weakening of penalties for those convicted of wildlife crime.

10. There remains a lack of unified data on wildlife crime. The EAC report in 2004 recommended “that a centrally managed, national database which records all incidents of wildlife crime, as well as the details of successful and unsuccessful prosecutions mounted, must be established as a matter of priority”. This has not happened. The RSPCA does submit intelligence to the NWCU but there remains a problem with defining wildlife crime.

11. Offences for possession of wild birds are currently clearly defined under Section 1 of the Wildlife and Countryside Act 1981. A defence to charges of being in possession of a wild bird is available to the keeper if they are able to demonstrate that the bird is legally in their possession, ie aviary bred with breeding records to demonstrate captive breeding, close rung if appropriate. If the bird has been purchased then the bird must be rung and appropriate documentation should accompany the bird/s to prove captive breeding. Any weakening of this requirement on the person in possession of a wild bird would be a retrograde step and seriously affect the ability of enforcers to investigate and progress prosecutions.

12. There currently exists an anomaly in relation to badgers and the entry onto land by police officers to investigate potential offences. The problem does not manifest itself in relation to the persecution of badgers using dogs as the Hunting Act 2004 provides a constable with powers to enter land (other than a dwelling place) to search and seize. However, in relation to damaging/destroying a badger sett these powers are not available. Under the Wildlife and Countryside Act 1981 provisions are made for constables to enter onto land in relation to other species of wildlife, such as wild birds but these do not apply to badgers. The Badgers Act 1992 does provide powers for constables to stop, search, seize and detain, but no powers are given to enter land. The Natural Environment and Rural Communities Act 2006 (NERC) Schedule 5 specifically amends the Wildlife and Countryside Act and confirms a constable’s powers to enter premises under the Wildlife and Countryside Act. NERC also extends powers under the Badger Act to allow the issue of search warrants. It does not provide a power to enter onto land as with the Wildlife and Countryside Act and here lays the anomaly. Where a constable

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suspects that damage or destruction of a badger sett has occurred, but the land owner is uncooperative, there exists no power for the constable to enter onto the land. In circumstances where urgent access to the land is required, for example, allegations of slurry or diesel being tipped into a sett, the only option for obtaining access to the sett would be by way of a search warrant, which could cause significant delay.

29 February 2012

Written evidence submitted by the Angling Trust

ANGLING AND THE ANGLING TRUST

The Angling Trust is the single representative body for all game, coarse and sea anglers in England. It is recognised as the governing body for the sport of Angling by Sport England. It represents more than 1,550 clubs with a combined membership of more than 400,000 anglers.

Angling is one of the most popular pastimes in the country, and has around three million participants and is worth at least £2.5 billion to England and Wales and more than £3 billion to the UK as a whole.

A report into the value of Recreational Sea Angling was commissioned from Drew Associates by DEFRA. Published in July 2004, it calculated that the direct spend by recreational sea anglers in England & Wales amounted to £538 million and the total worth of the sector could be some £1.3 billion.

The Environment Agency’s Economic evaluation of inland fisheries, published in December 2007, found that: “[Freshwater] Angler gross expenditure across the whole of England and Wales was £1.18 billion, with coarse angling responsible for £971 million of this. Household income of £980 million and 37,386 jobs were generated across England and Wales.”

The Angling Trust has two principal areas of interest in this subject: poaching and non-native species.

POACHING

Recent years have seen illegal fishing increase dramatically in a number of areas of the country and many thousands of fish being killed in fisheries by people with no permission to fish there. Many of these reports involve people from Eastern European countries but there are also problems with the theft of high value fish for commercial gain.

Time and again we have heard from anglers that their reports of fish thefts and poaching have been passed back and forth between the police and the Environment Agency, with each claiming it is the other’s responsibility.

Night lines with multiple hooks, nets and even poison have been used to capture fish for consumption and sale. Migrant workers, who come from cultures where coarse fish are regularly taken to eat, have taken many large fish both legally and illegally in recent years and have also been responsible for killing other wildlife such as swans. Large fish can be very valuable indeed; a single carp can be worth tens of thousands of pounds to a fishery owner and reach more than 30 years old.

The Angling Trust broadly welcomes the new bye-laws recently introduced by the Environment Agency to control the taking of coarse fish, but without proper enforcement these new regulations are worthless. EA bailiffs are rarely seen by anglers and there is a widespread culture of lawlessness on many riverbanks and lakesides. Many regions of the Environment Agency have seen their bailiffs become enforcement officers with a much wider remit (including fly-tipping and waste regulation) and therefore they have lost the specialist knowledge of their predecessors.

At sea, commercial fishermen catch huge quantities of fish illegally and are rarely prosecuted. Prosecutions lead to inadequate fines. A recent investigation in Scotland led to the prosecution of 17 skippers for their part in a mass deception which allowed them to land £47.5 million more mackerel and herring in Shetland than they were allowed under European Union quotas. None of them was imprisoned and they were collectively fined just £720,000 (an average of just £42,000 a head for men who have got very rich indeed from ongoing participation in a major illegal conspiracy that will have been very damaging to a public resource). We think that this sends the message that illegal fishing is a crime that pays and that will be punished with penalties that are tiny compared to the size of the crime.

Also, this was a rare prosecution and there are widespread anecdotal reports of black fish landings which are not policed. Many areas of the country have very little policing capability to tackle illegal fishing activity, which is damaging to the commercial fishing industry and to recreational sea anglers who find that there are fewer and fewer fish to be caught.
WHAT IS NEEDED

— The Environment Agency bailiffs should be refocused on fisheries enforcement and encouraged to build collaborative teams with volunteer bailiffs from angling clubs and fisheries. A pilot project along these lines is being implemented in partnership with the Angling Trust in the South East.

— A memorandum of understanding should be drawn up between the EA and the police to clarify their respective roles and a new modus operandi for managing reports of wildlife crime.

— More resources need to be devoted to policing our coastlines. It is expensive work, but the value of these fish to the ecosystem, to the commercial fishermen who do operate within the law and to the recreational angling industry is very high.

— Fines for freshwater poaching and illegal marine fishing should be greatly increased and prison sentences introduced for those engaged in organised criminal activity.

IMPACTS OF INVASIVE NON-NATIVE SPECIES

As an island, the UK has an advantage in being protected by a natural border from the spread of invasive non-native species. However, many foreign species of flora and fauna have already arrived in the country and very large sums of money are spent controlling their spread to avoid them damaging natural ecosystems. Others, if they were to arrive, would lead to even greater costs in mitigation and impacts. In the past two years, we have seen the arrival of Dikerogammarus villosus in at least two waters. This invertebrate, nicknamed “The Killer Shrimp”, could do great damage to native invertebrate populations and in turn to fish and bird life and would have a devastating impact on angling if allowed to spread.

Our country’s watercourses are plagued with non-native invasive plants and animals which damage fisheries, the ecology of the water, and in some cases cause physical harm to anglers and other water users. American signal crayfish eat fish eggs and small fish and make angling impossible in many waters, whilst mink take fish, water voles and birds. Floating pennywort chokes rivers and streams and can starve fish of oxygen. Himalayan balsam takes over whole stretches of riverbanks, leaving them exposed to erosion when it dies back in the autumn and the waterway damaged by siltation. Giant hogweed infests whole river systems and prevents anglers reaching the water—even momentary contact with the skin causes painful blisters.

These problems are not new, but there is a lack of co-ordinated action to address them. Invasive species affect not only the enjoyment of angling, but also the health of river ecosystems. Stopping an alien outbreak at the start is considerably cheaper than trying to remove the problem after a couple of seasons’ growth.

The data below are taken from: “The Economic Cost of Invasive Non-Native Species on Great Britain” CABI report CAB/001/09 published November 2010:

— The direct cost to the UK economy is estimated to be £1.7 billion, split between the English economy £1.3 billion, Scottish economy £251 million and the Welsh economy £133 million.

— For riparian and aquatic species direct costs of the following species were identified: Japanese knotweed £179 million, floating pennywort £25 million, mink £5 million, signal crayfish £3 million, giant hogweed £2 million and himalayan balsam £1 million.

— These costs do not take into account the impact on fisheries in a socio economic context; for example, the damage by signal crayfish on fish population structure decreases the fish population which has an impact on amenity and capital values of fisheries. Floating pennywort can blanket a water and starve the water of oxygen and also prevent angling taking place.

— The report does not take into account the volunteer time given by anglers in control and eradication measures. This cost is difficult to quantify but equates to many thousands of volunteer time. As invasives spread or new ones enter the country this number will increase in proportion.

There is more information on invasive species on the Angling Trust web site here: http://www.anglingtrust.net/page.asp?section=649

WHAT NEEDS TO HAPPEN

— Contingency plans need to be drawn up to manage outbreaks of highly invasive species.

— The import of most invasive species to the UK needs to be banned. Many garden centres are still legally selling invasive non-native species to customers who might plant them in their garden pond or aquarium from where they can be transferred to natural waters by a large number of pathways.

— A national biosecurity strategy needs to be developed which involves volunteers in the monitoring, reporting and management of invasive species.

— Further research is required into techniques for managing and eradicating invasive species as cost-effectively as possible.

— Education and public awareness campaigns are needed to avoid the spread and/or introduction of invasive non-native species.
Large fines and/or prison sentences need to be introduced for those responsible for the introduction of invasive non-native species illegally.

2 March 2012

Written evidence submitted by the Home Office

This evidence represents the views of the Home Office, including the UK Border Force.

Evidence

The Home Office recognises that wildlife crime threatens endangered plants and animals, and can pose a health risk to domestic livestock and to the public through the introduction of disease. We also recognise that wildlife crime can be committed by organised criminals, as referenced in “Local to Global: Reducing the Risk from Organised Crime”, the Government’s organised crime strategy, which was published in July 2011.

The Home Office has committed £136,000 funding to support the work of the National Wildlife Crime Unit in 2012–13. Decisions for funding beyond 2012–13 will be taken by ministers in light of priorities at the time.

The National Crime Agency (NCA) will lead a step change in the response to serious and organised criminality, supporting forces to deliver against a range of threats by providing a single national intelligence picture. The NCA's work will be underpinned by strong two-way relationships with law enforcement partners, including specialist units such as those working to tackle wildlife crime.

Detailed evidence on the role of the Border Force in relation to wildlife crime is attached at Annex A.

Evidence from the Border Force

Introduction

1. This evidence sets out the role of the Border Force in relation to wildlife crime in the UK. It focuses on Border Force’s customs activity working in partnership with the UK Border Agency and HM Revenue & Customs to enforce EU legislation that gives effect to the Convention on International Trade in Endangered Species (CITES). CITES is one of the five national wildlife crime priorities for UK law enforcement. There are other customs regulatory controls involving animals and wildlife (such as bans on seal skin imports) that we have not addressed in this evidence. This evidence has been agreed with HM Revenue & Customs (HMRC) with whom Border Force works closely on CITES controls.

Organisation

2. Border Force is an operational command within the Home Office headed by a Director General. Its main objectives are to protect the United Kingdom from criminal activity, terrorism threats, revenue fraud, customs and immigration crime, whilst facilitating legitimate travellers and trade. UK Border Agency criminal investigators include resources who follow up smuggling detections at the border. UKBA and Border Force work closely with other agencies and partners who operate at the border to protect the UK’s interests against cross-border crime. These activities form part of an end-to-end process to meet the Government’s objectives to secure the border, control migration, reduce costs and improve customer service.

3. Border Force are concurrently accountable with HMRC for customs controls that regulate licit movements of goods through the UK border and detect and disrupt illicit trade and revenue fraud in a wide range of imported and exported goods. To ensure that enforcement activity is as effective as possible, Border Force takes a targeted risk based approach to intervention that is intelligence led and in line with latest enforcement priorities agreed with Home Office Ministers and other key external partners.

Relevant Legislation, Powers and Sanctions

4. The requirements for customs import and export controls in relation to endangered species are set out in Council Regulation (EC) No. 338/97 on the protection of species of wild fauna and flora by regulating trade therein (as amended) and implementing Commission Regulations 865/2006 and 709/2010. These Regulations give affect to CITES and create prohibitions and restrictions on the international trade in the endangered species and their parts or derivatives that are identified in annexes to the Regulation.

5. These CITES controls apply at the external border of the EU. Border Force has no role in relation to movements of CITES-listed specimens in free circulation within the EU. Border Force may use powers in Regulation 5 of the Control of Trade in Endangered Species (Enforcement) Regulations 1997 (as amended), known as “COTES”, to seize goods within the UK in certain cases where there is sufficient evidence that the goods were smuggled across the external border in other EU Member States.
6. Customs enforcement powers are mainly derived from the Customs & Excise Management Act 1979 (CEMA), which sets out the customs offences and sanctions in relation to illegal imports or exports. The most relevant provisions are:

- **Section 49**—makes imported prohibited and restricted goods liable to forfeiture;
- **Section 68**—makes prohibited and restricted goods at export liable to forfeiture and creates offences in relation to their export;
- **Section 139**—power to seize goods liable to forfeiture;
- **Section 141**—powers to seize goods packed or found with goods liable to seizure;
- **Section 167**—offences in relation to false or reckless declarations or documents; and
- **Section 170**—offences in relation to the import of prohibited and restricted goods.

7. Anyone convicted on indictment of being knowingly concerned in the import or export of prohibited CITES listed endangered species, parts or derivatives is liable to a penalty of up to seven years imprisonment or an unlimited fine or both. Border Force considers the powers and penalties to be fit for purpose and sufficient to enable us to enforce the Regulations.

**Customs enforcement in relation to CITES**

8. Border Force applies CITES checks on goods in freight, postal, courier and passenger traffic entering the EU at the UK border to:
   - facilitate licit trade in CITES goods by conducting regulatory compliance checks and endorsing CITES permits at UK points of entry and exit; and
   - detect and take appropriate enforcement action over breaches in the CITES rules as they apply at the frontier taking account of the nature of such breaches and the extent to which the importer or exporter is culpable.

9. HMRC is the UK customs authority and operates CHIEF, the automated customs declaration handling system, which contains a profiling system that allows customs officials to identify any consignments that might be subject to CITES or any other regulatory controls. HMRC and Border Force work together to ensure that CITES controlled consignments are not released until compliance checks have been satisfactorily completed.

10. Border Force uses the same CHIEF profiling system to target suspected illegal CITES goods mis-described or concealed in freight traffic. These profiles can be set on any combination of information contained in customs declarations. Consignments selected for further checks are flagged up to HMRC’s customs clearance staff who withhold customs clearance and refer appropriate consignments to Border Force for further examination.

**Border Force Enforcement of CITES**

11. Border Force officers operating as designated customs officials will deal with any CITES detections whether targeted or detected in the course of other targeted activities. In addition, because of the reliance on species identification as the basis for control, Border Force maintains a specialist CITES Enforcement Team ("CET") based at Heathrow to provide 24/7 advice and practical assistance to front line officers across the UK on any aspect of CITES enforcement, including:
   - how to safely and correctly examine CITES controlled live animal and plant species and their derivatives;
   - developing national risk profiles to target suspected illegal CITES imports and exports;
   - gathering and evaluating information on emerging threats and sharing this information within Border Force and with other key enforcement partners;
   - designing and delivering provisions of CITES enforcement training;
   - working with the Joint Nature Conservation Committee (JNCC) and the Royal Botanical Gardens (RBG) on challenging species identification cases; and
   - dealing with the disposal (including the re-homing of live animals) of all CITES specimens seized by Border Force.

12. The CET link with an informal network of approximately 100 Border Force officers, deployed at different locations throughout the UK, who have received specialist CITES enforcement training and who ensure that CITES alerts are acted upon locally and support other Border Force officers operating customs controls at UK points of entry and exit.

**UK Wildlife Crime Enforcement**

13. Border Force contributes to the UK’s multi-agency approach to tackling wildlife crime at a strategic level by taking part in the wildlife crime UK Tasking & Coordinating Group, which is chaired by Defra and ACPO. The group comprises UK government departments, agencies and statutory law enforcement bodies with
a role in tackling wildlife crime. The Group sets the UK’s wildlife crime priorities and intelligence requirements based on the latest Strategic Threat Assessment from the National Wildlife Crime Unit.

14. The UK wildlife crime priorities for 2011 and 2012 are: badger persecution, bat persecution, CITES issues, freshwater pearl mussels, deer and fish poaching and hare coursing, and raptor persecution. Each priority is addressed by an action plan, driven by a CITES Priority Delivery Group (CPDG). This Group is chaired by the Border Force manager of the CET and includes representatives from NWCU, police and Animal Health and Veterinary Laboratories Agency (AHVLA).

15. The CITES plan covers activities at the frontier and in country. It currently focuses on the following areas which have been assessed as posing the greatest risks of illegal trade (including smuggling) and having the most detrimental conservation impacts:
   - the illicit trade in ivory;
   - reptiles (including tortoises);
   - raptors; and
   - all forms of traditional medicines (TM) including rhino horn.

16. The plan has evolved over time to capture new threats and to remove topics when they are no longer considered as major threats. This ongoing review process ensures that enforcement efforts continue to target current risks and are evidence based.

17. At an operational level the CET work with other parts of Border Force to respond to any tasking. They also work closely with the National Wildlife Crime Unit, Wildlife Crime Teams from the Metropolitan Police and other UK police forces, and many international law enforcement agencies. There is a regular flow of information between the Border Force and NWCU. The CET, for example, shares information on the Border Force’s CITES seizures, emerging trends and liaises on operational matters with NWCU Investigation Support Officers. Information provided by the Border Force is evaluated and analysed by the NWCU to produce intelligence packages, which can (and do) produce results in the form of seizures and prosecutions, both for police forces inland and for Border Force at the UK frontier.

18. The CET also supports UK law enforcement by providing specialist CITES training. They provide resources to deliver a CITES awareness session as part of the Police Wildlife Foundation course and a more in-depth five day CITES enforcement course attended by officers from Border Force, UKBA criminal investigation and police, which is run on demand roughly two or three times a year. Between January 2008 and December 2011 specialist CITES training was provided to 112 UK enforcement officers. In addition the CET has delivered awareness training to Defra and Animal Health and Veterinary Laboratories Agency.

19. Border Force is also a member of the Partnership against Wildlife Crime (“PAW”) chaired by Defra. Border Force participates in other Defra-led CITES governance groups, as well as providing briefing on the practical enforcement implications of proposed legislative changes to support Defra at European and International meetings and negotiations. The CET represents the UK at the European CITES Enforcement Working Group.

20. In addition, Border Force works with a number of non-governmental organisations. A recent example, involved a poster and leaflet sponsored by the World Wildlife Fund and Traffic featuring a Border Force wildlife detector dog.

International Cooperation

21. In partnership with police and AFIVLA wildlife inspectors, Border Force took part in two Interpol led operations (“Ramp” and “Tram”) in 2010 coordinated in the UK by the CPDG. Operation Ramp tested the compliance in the tortoise trade whilst Operation Ramp tested the risks in the trade in traditional medicines. In addition, Border Force participated in the World Customs Organisation’s (WCO) CITES Operation Gaplin in 2011.

22. The CET represents Border Force in the EUTWIX network, a mechanism for European enforcement officers to share best practice and assistance on CITES work, including species identification.

23. Border Force also regularly works with law enforcement agencies in other countries inside and out of the EU in sharing information and providing practical assistance in specific cases. For example, Border Force will deal with cases involving smuggled CITES goods found in transit traffic or in response to specific intelligence provided by overseas law enforcement agencies.

24. In the last three years Border Force has supported various overseas capacity building initiatives by providing expert resources for CITES training in Slovakia, Estonia, Romania, Croatia, Portugal, Georgia and Morocco. CET officers have also been involved in the preparation of training material on CITES and on the EU Wildlife Trade Regulations sponsored by the EU Commission (DG for Home Affairs).
25. In terms of smuggling risk HM Customs and Excise identified reptiles and traditional medicines as major areas of concern in their evidence to the EAC inquiry in 2004. In recent years the illegal trade in tortoises has emerged as the main risk. The illegal trade in traditional medicines has also evolved from derivatives of animal and plant species associated with traditional East Asian medicines to include new types of traditional medicines from the Indian sub continent, such as Ayurvedic medicines which can contain CITES listed plants.

26. The growth in the illicit trade in rhino horn is another significant development since 2004. This is also relevant to intelligence that the use of ground rhino horn in traditional medicines is driving recent thefts from auction houses and museums in the UK and in other EU Member States.

27. On internet trade, the CET evaluates websites particularly on online auction houses offering endangered species for sale. From that activity it has built up intelligence packages which have resulted in successful raids of premises by UK Border Agency Criminal and Financial Investigation (CFI) teams and UK police forces where CITES listed specimens and evidence of illegally imported/exported CITES listed specimens have been found.

UK Border Agency and Border Force Results

CITES Seizures

28. Seizures of CITES-listed goods by Border Force between 1 April 2008 and 31 March 2011 are set out in Appendix A. Seizures for previous years were published in the appropriate appendix of the HM Revenue and Customs Annual Report. Provisional results for the current year to date indicate that around 65% of custom’s CITES seizures were in the priority areas in the current CITES national plan managed by the Border Force.

29. The majority of customs seizures relate to technical breaches and do not involve obvious smuggling attempts. However, where there is prima facie evidence that a deliberate attempt has been made to evade current CITES prohibitions, Border Force staff will refer these cases for criminal investigation, according to established criteria.

Investigation and Prosecution

30. CFI teams in the UK Border Agency investigate a range of immigration and customs offences committed at the border, including CITES. Decisions to prosecute in individual cases are made by Crown Prosecution Service (CPS). Between 1 April 2009 and 31 March 2011 there were nine wildlife prosecutions, involving COTES and/or CEMA offences. In seven cases; the police were granted a Proceeding Order to include a CEMA (s) 170 offence to the indictment, The CPS prosecuted two CITES cases on behalf of the Border Force. The cases include the smuggling of rhino horns and Indian star tortoises.

Recent Enforcement Initiatives

31. Detector dogs are an established and effective border enforcement tool for both customs and immigration purposes. They are flexibly deployed in customs channels at ports and airports, baggage reclaim areas and can also work in international postal depots, freight sheds, car halls and lorry lanes. Border Force has piloted the use of a wildlife detector dog, trained to identify rhino horn, agarwood, tortoise, parrot, ivory and snakeskin. The dog is currently deployed on both CITES and products of animal origin (POAO) controls and forms part of our wider detector dog programme at UK ports and airports. However, the use of dogs to assist with detecting smuggled wildlife goods is relatively new. In 2011 Border Force attended an international workshop run by the Customs Administration of China, in collaboration with Traffic, to help China develop a wildlife detection dog programme.

APPENDIX A

CITES SEIZURES FROM 1 APRIL 2008–31 MARCH 2011

<table>
<thead>
<tr>
<th>2008–09</th>
<th>Number of seizures</th>
<th>Number of items seized</th>
<th>Weight of items seized (kg)</th>
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</thead>
<tbody>
<tr>
<td>Live animals and birds</td>
<td>37</td>
<td>1,212</td>
<td>n/a</td>
</tr>
<tr>
<td>Parts and derivatives of endangered species</td>
<td>109</td>
<td>1,536</td>
<td>54.3</td>
</tr>
<tr>
<td>Ivory</td>
<td>13</td>
<td>24</td>
<td>2.2</td>
</tr>
<tr>
<td>Plants</td>
<td>53</td>
<td>2,100</td>
<td>1,124.2</td>
</tr>
<tr>
<td>Other CITES listed species</td>
<td>49</td>
<td>600</td>
<td>78.9</td>
</tr>
<tr>
<td>Preparations of traditional medicines that include parts or derivatives of endangered species</td>
<td>63</td>
<td>4,435</td>
<td>309.3</td>
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</tbody>
</table>
### 2009–10

<table>
<thead>
<tr>
<th>Number of seizures</th>
<th>Number of items seized</th>
<th>Weight of items seized (kg)</th>
</tr>
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<tr>
<td>Live animals and birds</td>
<td>21</td>
<td>563</td>
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<tr>
<td>Parts and derivatives of animals or birds</td>
<td>99</td>
<td>509</td>
</tr>
<tr>
<td>Parts and derivatives of plants and live plants</td>
<td>38</td>
<td>36,393</td>
</tr>
<tr>
<td>Ivory</td>
<td>18</td>
<td>431</td>
</tr>
<tr>
<td>Timber or wood products</td>
<td>21</td>
<td>2,283</td>
</tr>
<tr>
<td>Coral, caviar, other CITES not listed (includes live coral)</td>
<td>52</td>
<td>845</td>
</tr>
<tr>
<td>Preparations of traditional medicines that include parts or derivatives of endangered species</td>
<td>119</td>
<td>812,117</td>
</tr>
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</table>

### 2010–11

<table>
<thead>
<tr>
<th>Number of seizures</th>
<th>Number of items seized</th>
<th>Weight of items seized (kg)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Live animals and birds</td>
<td>8</td>
<td>1,620</td>
</tr>
<tr>
<td>Caviar</td>
<td>16</td>
<td>n/a</td>
</tr>
<tr>
<td>Parts and derivatives of animals or birds</td>
<td>94</td>
<td>2,634</td>
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<tr>
<td>Parts and derivatives of plants and live plants</td>
<td>28</td>
<td>4,921</td>
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<td>Ivory</td>
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<td>Timber or wood products</td>
<td>32</td>
<td>835</td>
</tr>
<tr>
<td>Coral and other CITES listed species</td>
<td>20</td>
<td>160</td>
</tr>
<tr>
<td>Preparations of traditional medicines that include parts or derivatives of endangered species</td>
<td>173</td>
<td>32,239</td>
</tr>
</tbody>
</table>

8 March 2012

### Written evidence submitted by the Metropolitan Police Wildlife Crime Unit

**Introduction**

The Metropolitan Police Service (MPS) has the only full time wildlife crime unit in England and Wales with both enforcement and intelligence development resources. The unit was established in 2003 and staffed with the most experienced MPS personnel in terms of wildlife law enforcement who have been investigating wildlife crime since 1995. The Wildlife Crime Unit deals with the whole range of crimes that affects both indigenous and exotic wildlife. This is the background against which this submission is written.

1.0 **The scale of wildlife crime and its impacts, and how this has changed since our 2004 report**

The scale of wildlife crime

1.1 The scale of wildlife crime globally is difficult to quantify. A report to the US Congress in 2008 put the value of the illegal trade globally as $5 billion to $20 billion.\[^{56}\] Intelligence that is passed to us from international partners shows that wildlife crime, particularly the endangered species trade, is a growing and highly lucrative area of crime.

1.2 Wildlife crime is largely a victimless offence therefore it is likely to be under reported against other crime types.

1.3 Improvements to incident and intelligence data recording as a result of the creation of the National Wildlife Crime Unit (NWCU), and the roll out of the National Standard of Incident Reporting (NSIR), shows an increase year on year nationally.

1.4 Since the establishment of the NWCU the recording of intelligence relating to wildlife crime has allowed greater scope for identifying trends and risk to the UK. The NWCU collates intelligence from a number of statutory and non statutory agencies from the UK and abroad. From this intelligence an annual Strategic Threat Assessment for wildlife crime is produced.

The impact of wildlife crime

1.5 Police are increasingly uncovering evidence of organised criminal gangs (OCGs) in wildlife crime. For example the international trade in ivory, the poaching of rhino from the wild, the theft of rhino horn from private collections and museums, poaching of deer for venison and the importation and sale of caviar. Wildlife is seen only as a commodity, where demand exceeds supply and profits are great. It is an area of crime that represents high value and low risk for criminals in terms of detection and penalty.

1.6 The endangered species trade has far reaching consequences ranging from the extinction of species to the murder of people protecting those species. The UK plays a part in this illegal trade by creating a demand and it’s the demand that drives the trade.

1.7 Wildlife crime can have significant impacts in many areas. Unrestrained development of habitat destroys local biodiversity, and poaching impacts on people’s livelihood and human health. Other types of crime may be perceived as low level and not serious; however, they diminish people’s enjoyment of their environment and consequently adversely affect their quality of life.

2.0 The extent to which UK legislation and regulations on wildlife crime are “fit for purpose” and the penalties for offences are adequate

2.1 A step forward would be to amalgamate the various pieces of wildlife legislation into one. This would have the effect of simplifying legislation for enforcement agencies, allow sentencing options to be brought into line and give opportunity to address some anomalies in legislation, as shown in the following examples:

2.2 Under Control of Trade in Endangered Species (Enforcement) Regulations 1997 (as amended) (COTES)\(^{37}\) UKBA have the power to seize items they believe to have been imported unlawfully and require the owner to show evidence of lawful importation. Police will often come across similar situations in the course of their investigations, but do not have a similar power. They must rely on UKBA to agree to use their powers.

2.3 Under COTES\(^{38}\) an authorised member of the Animal Health and Veterinary Laboratory Agency Wildlife Inspectorate has the power to enter any premises to inspect a specimen, whereas police officers can only do so if they suspect offences have been committed and then must obtain a search warrant. However, under the Wildlife and Countryside Act 1981 police have the power to enter any land that is not a dwelling to obtain evidence of suspected offences without a search warrant.

2.4 Under COTES\(^{39}\) a vet has to be present where samples are taken; there is no exemption for plants, and it applies to both living and dead specimens.

2.5 The conditions relating to issuance of an Article 10 certificate should be strengthened. By requiring the notification of the change of ownership of a specimen, as well as the existing requirement of unique marking of the specimen, regardless of whether it is a commercial transaction or through gifting, illegal sales would be far more easily identified and investigated. This would be much like the motor vehicle registration requirements. This is not currently a general requirement of the EU Regulations, but we think it should be. Nevertheless, individual MAs may adopt stricter measures and it is my opinion through past experience that this would provide a more effective means to detect fraud within the licencing system.

2.6 It is essential for the practical enforcement of the Convention on the International Trade of Endangered Species that identified anomalies in COTES are addressed as a matter of urgency. For example, we have a labelling system to regulate the sale of caviar, but no legal sanction for non-compliance. This could easily be addressed by an amendment.

2.7 The power to arrest for any offence has been a useful change in legislation, however there are anomalies where arrest does not trigger Police and Criminal Evidence Act (PACE) powers of search; for instance, if an arrest is made for an offence involving a peregrine falcon under the Wildlife and Countryside Act 1981, PACE powers are not enabled as the offence is non-indictable; but if an arrest is made for an offence under the Control of Trade in Endangered Species (Enforcement) Regulations 1997 involving the same species PACE powers are enabled giving police the power to search.

2.8 The MPS WCU would like to see greater use of the post sentence Anti-Social Behaviour Order (ASBO)\(^{40}\) to constrain the activities of persistent offenders.

2.9 There has been some discussion regarding the devolvement of responsibility for dealing with “less serious” offences to other agencies to be dealt with by way of civil sanction. It is often the “less serious” offences that have the greatest impact on the quality of life of communities and individuals who enjoy the environment they live in.

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\(^{37}\) Control of Trade in Endangered Species (Enforcement) Regulations 1997 Regulation 5

\(^{38}\) Control of Trade in Endangered Species (Enforcement) Regulations 1997 Regulation 9(4)

\(^{39}\) Control of Trade in Endangered Species (Enforcement) Regulations 1997 Regulation 9(3)

\(^{40}\) An ASBO may be issued in response to “conduct which caused or was likely to cause harm, harassment, alarm or distress, to one or more persons not of the same household as him or herself and where an ASBO is seen as necessary to protect relevant persons from further anti-social acts by the Defendant”
3.0 How policing of wildlife crime is coordinated in the UK (between bodies and geographically) and whether enforcement bodies have sufficient resources and powers, and how the proposed National Crime Agency might affect policing of this type crime

Co-ordination

3.1 Since the findings of the 2004 Environmental Audit Committee a national structure has evolved that has professionalised the way wildlife crime is approached. A national Strategic Tasking and Co-ordination Group set the wildlife crime priorities for the UK. The chair is a senior ACPO ranked officer, and its members are taken from other statutory agencies. The Group is informed by the NWCU and the Joint Nature Conservancy Council (JNCC).

3.2 A Tactical Tasking and Co-ordination Group is formed for each priority. A Plan Owner chairs the group and its members take lead roles for intelligence, prevention and enforcement. It is the role of these groups to formulate initiatives to detect offenders and reduce crime. This is achieved through intelligence development, enforcement and crime prevention initiatives.

3.3 The structure is only as effective as the resources it has access to and tasking and co-ordination of wildlife crime must compete for resources in the same way as any other type of crime. The reality is that wildlife crime may be considered less compelling than other crime during resource allocation.

3.4 Consequently, there are limitations to how this national structure can respond effectively to OCGs identified operating across force boundaries and internationally.

3.5 At a local level each force area will set its own priorities.

Resources and Powers

3.6 Nationally the response to and resourcing of wildlife crime enforcement is not uniform.

3.7 The MPS is the only force that has a full time Wildlife Crime Unit (WCU) dedicated to this area of crime with a remit to enforce laws protecting wildlife and implement initiatives to prevent wildlife crime. The MPS also has a Wildlife Crime Action Plan written into the MPA/MPS Policing London Business Plan 2010–13 as part of the Corporate Social Responsibility Strategy.

3.8 The MPS WCU has responsibility for dealing with crime at level two (pan London), and level three (serious organised crime at national and international level) as it impacts on London. Level one crime (that contained within borough borders) is the responsibility of the nominated officer on the affected borough, who can be assisted by the MPS WCU if required.

3.9 The MPS WCU provides a centre of excellence for MPS personnel not only offering advice on legislation and best practice, but also providing practical assistance with enforcement action, public awareness initiatives and intelligence development. It provides limited training for nominated borough officers and is also the MPS SPOC for wildlife crime issues.

3.10 Enforcement at borough level is largely carried out by borough officers who have shown an interest in this area of crime with the agreement of their line management. These officers form part of the Borough Wildlife Crime Officer (BWCO) network and fulfill this role in addition to their other duties.

3.11 The new 2012–13 MPS WCU Targets include developing a plan to establish a formalised network of Borough Wildlife Crime Officers (BWCO) with clear terms of reference and to deliver an awareness event to all Borough Wildlife Crime Officers.

3.12 In 2011 the World Society for the Protection of Animals (WSPA) provided £100,000 to increase the strength of the unit by one police officer and one member of police staff. This should not be seen as taking away the responsibility of funding from Government but as enhancing policing in the short to medium term, particularly at a time of financial constraint. We hope to negotiate further funding to allow this increase in staff to be maintained.

3.13 The WCU now has access to a nominated CPS Special Casework Lawyer and this is enormously helpful when dealing with complex cases. We are fortunate in having this access but I’m not sure that this is mirrored across the country.

The National Crime Agency (NCA)

3.14 At the time of the last report, nationally, wildlife crime intelligence was dealt with by National Criminal Intelligence Service (NCIS), where a team of dedicated officers recorded, processed and disseminated intelligence nationally and internationally. When the Serious and Organised Crime Agency (SOCA) was formed it was decided that this wildlife crime intelligence team would become a stand-alone national unit. SOCA retained a SPOC desk officer and it was from that background the National Wildlife Crime Unit was formed.

61 MPA/MPS Policing London Business Plan 2010
3.15 Significant strength could result from the National Crime Agency taking responsibility for wildlife crime. A concern would be that this type of crime might not become properly embedded as a core component of NCA business.

4.0 How well Government and responsible enforcement bodies are responding to newer threats and challenges, including use of the internet for wildlife trade

4.1 Criminals are changing and adapting their approach to wildlife crime as opportunity allows. There is no doubt they are taking advantage of developing technology. The internet is increasingly used to facilitate criminal activity. The MPS WCU has had some tactical success in this area. It is well placed to do so due to being located in the Met Intelligence Bureau, which also houses the MPS Telecommunications Intelligence Unit.

4.2 The ability to respond to some national or international threats is limited. The only specialist resources with the remit to respond to this in ACPO regions are two civilian investigators from the NWCU and the AHVLA Wildlife Inspectorate. The use of OCG Mapping may improve the response as it allows more credible assessment of the consequent risk and harm.

5.0 How fully wildlife crimes are recorded, and how rigorously available penalties are applied

Crime recording

5.1 The recording of wildlife crime has been unreliable. This, in part, is due to the lack of Home Office codes for these types of offences. Even where offences are reportable to the Home Office statistics are not easily obtainable, eg Control of Trade in Endangered Species (Enforcement) Regulations 1997 (COTES) offences although reportable are recorded against a general Home Office code 999/99 “Other crime or record only entry not catered for elsewhere”.

5.2 Separate Home Office recording codes for indictable and non-indictable wildlife crimes would significantly improve our knowledge of the scale of the issue.

Penalties

5.3 There are some anomalies with penalties applied to different legislation, for example, the Wildlife and Countryside Act 1981 and the Control of Trade in Endangered Species (Enforcement) (Amendment) Regulations 2005. Both pieces of legislation protect the peregrine falcon. However, the WCA seeks to protect it from unlawful killing or being taken from the wild and the maximum penalty for doing so is six months imprisonment and/or a £5,000 fine. COTES, on the other hand, protects it from unlawful trade, but the maximum penalty here is five years imprisonment and/or an unlimited fine.

6.0 How effectively behaviour-change and attitude-change is being promoted

6.1 The WCU and its partners have implemented initiatives to tackle behaviour and attitude change, most significantly, Operation Charm.

6.2 Operation Charm, first launched in 1995, is the Metropolitan Police initiative to combat the illegal trade in endangered species in London. It is the only ongoing police operation against the illegal trade in the UK and it employs a simple strategy to enforce the law and reduce demand for illegal endangered species products in London.

6.3 In 2006 Operation Charm was re-launched as a formal partnership between the MPS, the Greater London Authority, and the international wildlife NGOs, WWF, International Fund for Animal Welfare (IFAW), the David Shepherd Wildlife Foundation (DSWF) and WildAid.

6.4 Today the partnership consists of the MPS, WWF, IFAW, DSWF, WildAid and the World Society for the Protection of Animals.

6.5 Wildlife crime continues to be seen by many, both in the police and general public, as an issue that is the responsibility of charities to deal with, such as the RSPCA. Whilst charities do provide an invaluable service in terms of practical assistance to police investigations, provision of storage facilities for live animals, expert opinion on identification and animal welfare issues, this area of crime is a police responsibility.

6.6 Knowledge of the risk and harm associated with wildlife crime and wildlife crime OCG’s varies across the MPS. The MPS WCU has produced a range of knowledge building products for personnel, notably for our Safer Neighbourhood Teams and Control Room staff, which cover most of the issues that they are likely to encounter. These products are accessible via the MPS intranet.

6.7 In an effort to develop the skills and knowledge of the BWCO network the WCU holds an annual training day. The input is from practitioners from various fields of wildlife crime.

7.0 The UK’s role in influencing the EU and International agreement on illegal wildlife trade

7.1 An area of concern with regard to the endangered species trade is the ability for any European CITES Management Authority to issue certification for any specimen in the EU. This means that where a member
state implements stricter measures with regard to a listed species these can be circumvented by simply applying to a MA in a member state that hasn’t implemented these stricter measures.

7.2 The controls implemented by the EU regulations are only as strong as the exceptions permitted by these regulations and can greatly increase the difficulties in practical enforcement.

8.0 Specific questions to be addressed by the MPS

I have been asked to comment more specifically on the following three points. Clearly it would not be appropriate for me to comment on areas where there may be an active investigation.

8.1 Wildlife from an urban perspective

8.2 One might expect that wildlife crime is an issue for police in more rural areas and that endangered species crime is something that occurs in Asia and Africa and not something we would see in London. This, of course, is far from the truth. In London we see OCG’s engaged in poaching operations and the illegal trade in endangered species. We also deal with other crime type such as badger baiting, taking of wild birds, illegal use of poisons, and destruction of habitat.

8.3 The Greater London area has large populations of wildlife, including some of our most endangered indigenous species such as the peregrine falcon, great crested newts, water voles and others. London is also a major port into the UK. It is a commercial centre and has a large cosmopolitan population, therefore many products containing parts or derivatives from endangered species are on sale here in the capital. An additional factor to wildlife crime in London is that a small percentage of its large population commits crime elsewhere in the UK and abroad. The proceeds are then brought back to London.

8.4 The level priority given to wildlife crime by the MPS

8.5 As stated earlier the MPS has the only full time unit nationally that is dedicated to wildlife crime. This position is being enhanced substantially by a new partnership with the World Society for the Protection of Animals. This will allow the unit to be expanded with extra staff. It will also enable enhanced support to and co-ordination of the network of Borough Wildlife Crime Officers at a local level. The MPS are represented at both the National and Scottish Wildlife Crime Conferences and have carried out investigations with international partners. Operation Charm has allowed the MPS to forge partnerships with international wildlife NGO’s and other significant bodies including the GLA.

8.6 MPS view of the rhino horn trade and OCGs

8.7 There has been a dramatic increase in the levels of poaching of rhino in recent years. This has been driven by a sharp increase in the value of powdered horn associated with alleged medicinal properties. Another facet of the trade is the numerous recent reports of theft of rhino horn from museums and private collections across Europe, including the UK. These incidents are being investigated by police in the force area in which the individual crimes were committed. Where international OCG’s have been identified practical difficulties have been encountered in tasking enforcement assets against them. The response has thus stayed at a local level. Some target hardening within the UK has been undertaken by the MPS WCU with partners.

30 March 2012

Supplementary written evidence submitted by the Royal Society for the Protection of Birds

This supplementary memorandum answers some questions raised during the RSPB’s oral evidence to the Committee on 7 March 2012. It also responds to evidence, both written and oral, presented by other witnesses to the Committee to date.

Protected Sites

Protection of SSSIs

1. In response to Q2 from the Chair (Oral evidence, 7 March), we were initially concerned that the draft National Planning Policy Framework (NPPF) would undermine protection for SSSIs, because it would essentially have raised the bar of harm over which an application could be refused from “adverse effect” to “significant and demonstrable harm”. Furthermore, the draft NPPF gave economic objectives clear primacy over environmental objectives as the purpose of the planning system, meaning it would have been easier for a local authority to consider that the economic benefits of a proposed development would outweigh the environmental harm.

2. However, the published NPPF makes it clear that the presumption will not apply where “specific policies in this Framework indicate that development should be restricted”. There is a footnote that goes on to say “for example, those policies relating to sites protected under the Birds and Habitats Directives and or Sites of
Special Scientific Interest.” By virtue of the above, we believe that there is no greater threat to SSSIs resulting from the NPPF.

Natural England enforcement policy

3. In relation to protected sites, in paragraphs 59 to 61 of its original submission, the RSPB raised concerns that:
   — There was a lack of appetite within Defra and Natural England for robust enforcement action;
   — A lack of published analysis by Natural England of compliance with and efficacy of restoration orders; and
   — A lack of published analysis of the efficacy of prosecution as a deterrent.

4. These concerns have since been further exacerbated by a Natural England announcement in respect of a case they were progressing in respect of alleged illegal damage (including drainage) to Walshaw Moor.62 Walshaw Moor is an area of blanket bog, wet heath and dry heath in the South Pennines Site of Special Scientific Interest. (This area is also a Special Area of Conservation (SAC) under the EU Habitats Directive and a Special Protection Area (SPA) under the EU Birds Directive).

5. However, on 25 March 2012 Natural England announced that it had reached an agreement with Walshaw Moor Estate Limited (owners of Walshaw Moor) allowing both parties to end the legal actions they had been pursuing.63

6. From the information published by Natural England to date, it remains unclear how the issue of the alleged illegal damage (including drainage) of SSSI/SAC/SPA habitats is being addressed under the agreement reached with Walshaw Moor Estate Limited.

Comments on ACPO Written Evidence

7. Para 3.7: We note and support ACPO’s contention that an offence of vicarious liability, if introduced to England and Wales, would help address persecution of birds of prey.

8. Paras 3.8–3.10: We are wary of any proposals that might result in a default position of using civil sanctions instead of prosecution (though their use in dealing with first-time offenders—who might otherwise only receive a warning or a caution—could be explored). That said, we see merit in the considered use of, inter alia, fixed monetary penalties, enforcement undertakings, anti-social behaviour orders and serious crime prevention orders, where appropriate, in relation to wildlife offences. We are also wary of any proposals that might reduce the enforcement powers of the police in relation to wildlife crime. We note the imminent creation of the National Crime Agency, and its potential role in tackling serious and organised wildlife crime, such as raptor persecution and aspects of trade in wildlife and/or derivatives.

9. Paras 3.11–3.13, 6.7–6.12: We note and support ACPO’s comments regarding the (in)adequacy of penalties for serious wildlife offences. We advocate a review of currently available sanctions through the Law Commission’s review of wildlife legislation, including potential for the Proceeds of Crime Act 2002 to apply to wildlife offences. We note and support ACPO’s comments that serious offences, which in our view includes raptor persecution, should be tried at Crown Court and therefore be subject to more stringent penalties. Crown Court trials would carry the additional benefit of such offences being recorded for official reporting purposes by the Home Office. By way of example, penalties provided under the Environmental Permitting (England and Wales) Regulations 2010 can reach fines of up to £50,000 and/or up to 12 months in prison in the Magistrates Court, and unlimited fines and/or up to five years in prison in the Crown Court. This compares to a maximum £5,000 fine and/or six months in prison for wildlife offences.

10. Para 4.8: We note ACPO’s comments regarding the conduct of a thematic inspection into the policing of wildlife crime in Scotland, and believe a similar review should be carried out in England.

11. Para 4.9: We note and support ACPO’s comments regarding the need for responsibility for tackling serious and organised wildlife crime, which in our view should include raptor persecution, to be elevated to the National Crime Agency.

12. Paras 5.6–5.8: We note ACPO’s comments regarding current funding arrangements for the National Wildlife Crime Unit (NWCU), particularly impacts on operational capability and capacity, and contend that the relevant Government departments must introduce a secure, long-term funding solution for the Unit.

Comments on Defra Written Evidence

13. Para 1.9–1.10: We note and support Defra’s comments regarding the role of the UK Wildlife Law Enforcement Working Group (WLEWG); the advice it provides is pivotal to decisions on the UK wildlife crime priorities for enforcement activity, taken by senior Government and enforcement officials through the UK wildlife crime Tasking and Coordinating Group (UKTCG). The WLEWG has identified that golden eagle.

62 http://www.telegraph.co.uk/earth/countryside/9061388/Legal-battle-threatens-Englands-grouse-moors.html
goshawk, hen harrier, peregrine and white-tailed eagle are all species which are or are suspected to be subject to criminal activity, which may be adversely affecting their conservation status.

14. Para 3.23: We note Defra’s comments concerning the new National Crime Agency’s response to serious and organised criminality and its relationship with specialist units including those tackling wildlife crime. We support Defra in its work with the Home Office to ensure a complete understanding of the National Crime Agency’s needs and re-iterate our opinion at para 42 of our original submission that responsibility for tackling serious and organised wildlife crime, including raptor persecution, should lie with the NCA with support from the NWCU.

15. Paras 4.3–4.4: We note the comments relating to AVHLA’s regulation of CITES permits and its willingness to initiate inquiries if criminal activity is suspected. We re-iterate our concerns, as outlined at paras 46–47 of the RSPB’s original submission, about the case (also referenced by TRAFFIC at para 37 of its evidence) in which a dealer was allowed to import birds of prey for a bogus conservation breeding programme thereby evading strict EU health regulations. We contend that AHVLA needs to change its approach to ensure that only birds destined for genuine conservation programmes are permitted to enter the UK.

COMMENTS ON HOME OFFICE WRITTEN EVIDENCE

16. We note the comments made in the introduction which mirror Defra’s comments on the role of the NCA with regard to working with specialist units to tackle wildlife crime. We welcome the Home Office’s recognition that wildlife crime can be committed by organised criminals and contend that persecution of raptors fulfils the definition of serious and organised crime as evidenced at paras 3–7 of our original submission.

17. We also note Home Office comments regarding current funding arrangements for the National Wildlife Crime Unit, particularly impacts on operational capability and capacity, and contend that the relevant Government departments must introduce a secure, long-term funding solution for the Unit.

COMMENTS ON NATIONAL GAMEKEEPERS’ ORGANISATION ORAL EVIDENCE

18. During oral evidence, the representative of the National Gamekeepers’ Organisation (NGO) stated, in regard to recovering bird of prey populations (Q64), “Some of them are now so numerous, the buzzard in particular, that they are becoming a serious problem and Natural England are having to look at licensed control as a route to saving wildlife”. We believe that this statement is misleading and requires clarification for the reasons set out below.

19. Defra has recently convened a stakeholder group to discuss buzzard predation of pheasant poults in response to a letter from the NGO to the Minister. This does not equate to Defra (or Natural England) “having to look at licensed control”. The NGO’s letter was prompted by the refusal by Natural England of a number of applications for lethal control of buzzards to protect pheasant poults during 2011. No such licences have been granted since the Wildlife and Countryside Act (WCA) 1981 came into force.

20. The remit of the stakeholder group is being finalised, but the first meeting was focussed on buzzard predation of pheasant poults. It does not include other species of birds of prey and it is aimed at reducing losses of pheasant poults in release pens (legally classified as “livestock” under the WCA 1981) and not “to saving wildlife” as argued by the NGO’s representative in oral evidence. Natural England has recommended that predation of other species of wildlife by buzzards should be excluded from the group’s terms of reference, due to the lack of evidence for a negative impact. The RSPB supports this view.

21. The NGO’s statement therefore contains three significant inaccuracies:

— Natural England is not “having to look at licensed control (of buzzards)”, implying a proactive stance towards controlling buzzards on the part of Government. To date, all applications for licences made for the purpose of protecting livestock have, as far as we are we aware, been refused by Natural England.

— There is no evidence to support the contention that “some (birds of prey) are now so numerous ... that they are becoming a serious problem (for wildlife)”.

— The stakeholder discussion group convened by Defra (not Natural England) is focussed on buzzard predation of pheasant poults, not “saving wildlife”.

22. Given these significant inaccuracies, we request that this statement be removed from the record and disregarded by the Committee in its deliberations.

23. Discussion during this session also concerned the lack of a lowland breeding population of hen harriers and the possible causes of this (Q60–63). The following information may be useful to the Committee when placing that discussion in context.

24. The hen harrier was once a widespread and fairly common bird in Britain and there are breeding records from many English counties from the early part of the 19th century. Numbers declined as a result of changes in habitat, for example the drainage and cultivation of marshes and heathland, and because of persecution by those seeking to protect poultry or gamebirds.
25. By the end of the 19th century the hen harrier had been lost from mainland Britain, with a small population surviving on the Western Isles and on Orkney. After the Second World War, the hen harrier recolonised the British mainland, due probably to a reduction in the number of active gamekeepers and a corresponding drop in the intensity of persecution.

26. Northern England was re-colonised in the mid-1960s and in the 1970s and 1980s up to 25 nesting attempts were made each year in Cumbria, Derbyshire, Durham, Lancashire, Northumberland and Yorkshire. It was hoped that this was the start of a more widespread recovery but this was not to be. The population did not increase further and since the mid-1990s there has been a significant decline in the bird’s fortunes and a marked contraction of breeding range.

27. In modern times, the hen harrier has shown a strong association with heather moorland as a breeding bird in England and nests are almost always sited so that the surrounding mature heather provides cover and protection. There is no evidence of hen harriers habitually using crops as nesting habitat in the UK as they do in some parts of Europe and this explains its absence as a breeding species from the farmed landscape of lowland England.

HEN HARRIER PERSECUTION

28. A small number of written and oral submissions have sought to cast doubt over the scale of illegal bird of prey killing and its impacts, especially in relation to the hen harrier. In response, the RSPB draws the Committee’s attention to the following evidence:

29. The Government has identified hen harrier persecution as one of six UK wildlife crime priorities, with a focus on golden eagle, white-tailed eagle, hen harrier, red kite, peregrine and goshawk. The Wildlife Law Enforcement Working Group has identified these as species that are or are suspected to be subject to criminal activity which may be adversely affecting their conservation status. (see RSPB’s original submission para 6 and para 13 above).

30. There is a significant quantity of published evidence, including peer-reviewed scientific papers, which clearly links raptor persecution, including of hen harriers, to upland moors managed for driven grouse shooting (see RSPB’s original submission para 7).

31. The Government’s UK-wide nature conservation advisory body, the Joint Nature Conservation Committee (JNCC), has published a conservation framework that identifies persecution as the principal constraint on the UK hen harrier population. Harrier persecution incidents in Scotland were found to be directly related to the distribution of grouse moors. A significant negative relationship exists between the density of hen harrier persecution incidents and the proportion of successful nests on grouse moors. JNCC concludes that Wales and Northern Ireland appear to be on track to achieve favourable conservation status for this species but that England is unlikely to achieve this unless illegal persecution is considerably reduced (see RSPB’s original submission Appendix 1).

32. Natural England, the government’s advisers on the natural environment, identifies persecution as the “prime cause of hen harrier disappearance”. It has concluded that a) very few harrier nesting attempts are successful on grouse moors, b) there is compelling evidence that persecution continues, both during and following the breeding season, and c) persecution continues to limit hen harrier recovery in England. Natural England’s view is that “... the critically low breeding numbers and patchy distribution of the hen harrier in England is a result of persecution—both in the breeding season, and at communal roosts in the winter—especially on areas managed for red grouse or with game rearing interests.”

COMMENT ON COUNTRYSIDE ALLIANCE WRITTEN EVIDENCE

33. At para 7 allegations were made concerning the “recent publication of out of date research into the breeding success of peregrine falcons on grouse moors”. The Committee may like to note that the publication concerned was published in a peer-reviewed scientific journal and used data collected over nearly three decades of nest monitoring by the Northern England Raptor Forum (NERF) between 1990 and 2006.

34. It was further commented that, “As a result of this, the National Wildlife Crime Unit circulated a clarification to all Police Wildlife Crime Officers in the UK, and to all Partnership for Action Against Wildlife Crime members, in which it was drawn to the attention of those studying the research paper that the data used was out of date, and that in using such information there was a clear danger that the research paper might be misunderstood as representing the current situation, which it did not”.

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66 Watson D W 1977 The Hen Harrier T & A D Poyser
67 http://jncc.defra.gov.uk/pdf/jncc441.pdf
35. For the avoidance of doubt, this does not represent the opinion of the NWCU. In an email to the RSPB dated 29 December 2011, the NWCU states, “We were [then] contacted by Scottish Land & Estates (SLE) with concerns over the NERF paper and were asked to circulate a ‘response’ paper (from the Countryside Alliance) along with a caveat (which was provided to us by SLE). We duly circulated the caveat to all our PWECO’s on 28 November as requested. The caveat was clearly marked as being from CA and was never stated to be the opinion of NWCU. I believe that the PAW secretariat (both in Scotland and E&W) circulated the same reports (and the later caveats) to all PAW partners”.

26 April 2012

Written evidence submitted by Natural England

SUMMARY

Since 2004 the legislation protecting Sites of Special Scientific Interest (SSSIs) has improved to the point that it is considered adequate and effective. Most offences can be heard in both the Magistrates and Crown Court where penalties are unlimited. The new civil sanctions were the final “piece of the jigsaw” allowing us to respond more proportionately to offending and in a way that achieves environmental outcomes.

Since 2004 the legislation protecting species has been improved; however, the number of amendments has made the situation more confusing. We welcome the work of the Law Commission and will actively contribute to it. From our perspective it is essential that civil sanctions and offences of breaching the licenses we issue are introduced for all protected species.

In 2004 much was said about the low penalties imposed by the Courts. Since then we have secured significant financial and custodial penalties for crimes associated with protected habitats and animal poisonings.

Partnership working at a national strategic level has markedly improved since 2004. In 2008 we signed an Memorandum of Understanding with the Association of Chief Police Officers and the Crown Prosecution Service and we are about to sign a similar protocol with the Environment Agency and Forestry Commission. We are active members of PAW and we share data with the National Wildlife Crime Unit. The priority now should be to improve partnership working at an operational local level and we have begun to establish local wildlife crime networks to achieve this.

1. INTRODUCTION

Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development. We were established to conserve our wildlife, landscapes and seas, to restore our natural assets and to work with people so that they can enjoy all the benefits the natural world offers. To do this we use advice, incentives, practical action and regulation.

We aim to provide a clear, simple and effective regulatory service. We will work increasingly closely with other regulators such as the Environment Agency and Forestry Commission to deliver consistent, risk based consenting and licensing. We use class and organisational licences as part of a modern approach to regulation that achieves benefits for biodiversity and prevents harm. We aim to be responsive to legislation and policy and improve our regulatory effectiveness year-on-year through better targeting and partnership with industry. Natural England is committed to reducing the costs to those we regulate as part of an ongoing programme.

Our regulatory role involves helping people to comply with laws that protect wildlife and the natural environment. We also take enforcement action when these laws are broken. When offences are committed our first step will normally be to offer advice on how to achieve compliance. If the breach was accidental and has had no or very little environmental impact we are unlikely to do anything else. However if the offender’s behaviour or the environmental impact is of concern we may impose a sanction. If sanctions are imposed we aim to use them in a way that achieves outcomes, including the restoration of harm, the prevention of further offences and the removal of any cost savings or financial gain.

Our general approach to compliance and enforcement is explained in our Compliance and Enforcement Position. Further details on how we take enforcement action are explained in our Enforcement Guidance.

Our specific enforcement responsibilities are:

— Sites of Special Scientific Interest.
— Breaches of species licences that we issue.
— Animal poisonings.
— Heather and Grass Burning.

71 S Eddy (NWCU) in litt.
— The Environmental Impact Assessment (Agriculture) Regulations.
— Complaints relating to injurious weeds.

As each responsibility has very different issues and challenges evidence is presented on each responsibility separately. As requested in the Committee’s original call for evidence this includes the adequacy of the legislation and the powers it provides; the scale and impacts of criminality; emerging threats and challenges; and whether the penalties imposed are adequate and promote behaviour change. As specifically requested by the Committee we have included information on protected habitats, species licensing and the new civil sanctions. The final section of the report then discusses how we work in partnership with other enforcement agencies. We have not commented on matters such as wildlife trade and the role of the internet as these are outside our expertise.

2. SITES OF SPECIAL SCIENTIFIC INTEREST

2.1 Background

Sites of Special Scientific Interest (SSSIs) are a representative sample of our most important areas for flora, fauna, geology and physiography.

2.2 Legislation

Legislative protection is adequate. Most offences are now triable in both the Magistrates and Crown Court. Penalties are restricted to £20,000 in the Magistrates Court and are unlimited in the Crown Court. As set out in the introduction our focus is on helping our customers to comply so it is often more important to stop offending and repair the damage than impose a penalty. Since 3 January 2012 we have had access to a range of civil sanctions that allow us to do this.

2.3 Monitoring and statistics

Offences are detected through ecological monitoring, inspections by the Rural Payments Agency and reports from the public. Approximately 100 offences are detected on SSSIs every year (Figure 2.1). The vast majority of incidents are minor and are sanctioned through warning letters.

An emerging trend is the fall in SSSI offences committed by their owners and occupiers and a rise in offences committed by "third parties" (Figure 2.2). Offences committed by public authorities remain low. Offences continue to be concentrated in the south of England (Figure 2.3) and on the coast (Figure 2.4). A wide variety of activities give rise to offences, but these are dominated by vehicle use and the direct loss of habitat through construction and dumping (Figure 2.5).

We have taken 10 SSSI prosecutions since we were vested in 2006 (Table 1). Some of the penalties imposed have been significant especially when considered in combination with cost recovery (eg Lune Forest and Farndale). Recently a landowner of the River Wensum SSSI was given the first suspended prison sentence for a SSSI offence. More importantly the courts have ordered restoration where appropriate.

Figure 2.1

CRIMINAL ACTIVITY ON SSSIS BY FINANCIAL YEAR AND SANCTION

<table>
<thead>
<tr>
<th>Year</th>
<th>Warning Letter</th>
<th>Caution</th>
<th>Prosecution</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007-08</td>
<td>84</td>
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<td>2</td>
</tr>
<tr>
<td>2008-09</td>
<td>93</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>2009-2010</td>
<td>113</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>2010-11</td>
<td>92</td>
<td>8</td>
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</tr>
<tr>
<td>2011-12</td>
<td>81</td>
<td>0</td>
<td>4</td>
</tr>
</tbody>
</table>
Figure 2.2
CRIMINAL ACTIVITY ON SSSIS BY FINANCIAL YEAR AND CULPRIT

Figure 2.3
SPATIAL VARIABILITY IN CRIMINAL ACTIVITY ON SSSIS. DATA FROM 1 APRIL 2008–31 MARCH 2011
Figure 2.4
CRIMINAL ACTIVITY ON SSSIS BY AFFECTED HABITAT. DATA FROM 1 APRIL 2008–31 MARCH 2011

- Coastal: 73
- Lowland grass: 43
- No damage: 30
- Lowland wood: 28
- Upland moor: 27
- Lowland heath: 26
- River: 24
- Lowland bog: 23
- Upland wood: 10
- Geology: 8
- Physiography: 5
- Open water: 1

Figure 2.5
CRIMINAL ACTIVITY ON SSSIS BY ACTIVITY. DATA FROM 1 APRIL 2008–31 MARCH 2011

- Vehicles: 74
- Construction: 62
- Dumping: 46
- Cutting: 29
- Plant destruction: 28
- Drainage: 25
- Tree Management: 20
- Grazing: 15
- Burning: 12
- Storage: 9
- Cultivation: 7
- Infill: 6
- Shooting: 4
- Fishing: 4
- Manure: 4
- Stockfeeding: 4
- Animal killing: 1
3. Species Licensing

3.1 Background

We are responsible for issuing licences that permit activities affecting protected species that would otherwise be unlawful. We are responsible for enforcing breaches of those licences, whereas the police and CPS are responsible for enforcing breaches of wildlife legislation committed by those without a licence. We issue about 10,000 licences each year. In addition to the general licences and individual licences, we are making increased use of a range of licensing options such as class and organisation licences to reduce burdens on the regulated community and engaging with stakeholders to find workable solutions.

3.2 Legislation

Legislative protection of species is inconsistent. Some species such as badgers, deer and seals have specific domestic legislation but the majority of species are covered by the Wildlife and Countryside Act 1981. Layered on this are various European Directives which are implemented in the UK by Acts and Regulations. Over 20 separate pieces of legislation protect wildlife, some of which date back to the 19th century (eg Game Acts). This creates inconsistency and is difficult for the regulated community to understand. From an enforcement
perspective a single species can be protected by more than one Act and as such different statutory defences can apply in different circumstances.

We welcome the Law Commission’s work, to which we are contributing, and we look forward to working with stakeholders in a much needed, simplified and clearer regulatory landscape. One inconsistency that could usefully be resolved is an offence of breaching a licence condition. This offence is in place of all other species legislation where we issue licence, except for the Wildlife and Countryside Act.

Most species offences are triable only in the Magistrates Court and penalties are generally restricted to £5,000. Civil sanctions are available for some species offences but not for all, most notably those affecting European Protected Species under the Conservation of Habitats and Species Regulations.

3.3 Monitoring and statistics

Licence breaches are detected through inspections and the compulsory supply of data by licence holders. The number of breaches of licences that we issue rose from 38 in 2009–10 to 44 in 2010–11 (Figure 3.1). There has been a small increase in the number of minor offences and slight fall in technical breaches. Warning letters continue to be the main sanction used by Natural England. Notably during 2010–11 one caution was issued for a breach of the conditions of a licence, as this was the first time Natural England has issued a caution for a licence breach. The three most frequently affected species were great crested newts, bats and cormorants (Figure 3.2). Offences were concentrated in the East and South-East of England (Figure 3.3).

Figure 3.1
CLASSIFICATION OF BREACHES OF SPECIES LICENCES BY SEVERITY. CLASSIFICATIONS OF TECHNICAL, MINOR, MEDIUM OR SIGNIFICANT ARE BASED MAINLY ON THE ENVIRONMENTAL IMPACT OF THE BREACH BUT ALSO ON A RANGE OF AGGRAVATING AND MITIGATING FACTORS

![Graph showing classification of breaches of species licences by severity.](image)
4. Animal Poisonings

4.1 Background

We undertake enquiries into the death of wildlife, companion animals or beneficial invertebrates where pesticides are thought to be involved. The Wildlife Incident Investigation Scheme belongs to Defra and is administered through the Health and Safety Executive’s Chemical Regulations Directorate.

The impact of “approved use” of substances is the priority of the scheme. The results show that when users fully follow the label instructions there are few acute impacts on wildlife.

When rat poisons are used to control rats but the requirements to protect baits from non target animals or target species (rats) are not searched and disposed of, then there are many recorded cases of “misuse” resulting in the death of red kites from exposure to secondary sources of pesticides. The worst wildlife crimes occur
when individuals choose to “abuse” pesticides and use them with the intention of killing wildlife. This is illegal, dangerous and cruel. Poison baits are left exposed, often laced with large quantities of toxic substances, with no control over which animals might eat the bait and die. Foxes, corvids and birds of prey are often the primary targets. Those responsible over the years have covered all sectors of our community including householders, farmers, gamekeepers and pest controllers.

4.2 Legislation

Legislation governing pesticides is fairly complex with the split between what are called Plant Protection Products and Biocides. Penalties can seem inconsistent with wildlife legislation in that they are restricted to fines and there is no custodial option even for those convicted in the crown court. Enforcement Notices are available and a useful sanction to quickly put right matters related to storage or use of pesticides. Parliament introduced the ability to prescribe pesticides under Section 43 of the Natural Environment and Rural Communities Act 2006 by listing them on an order. No such order has been made which makes England inconsistent with Scotland. Should a “vicarious liability” offence be introduced in England it would have relevance to poisoning incidents.

4.3 Monitoring and statistics

Cases are reported to the Wildlife Incident and Investigation Scheme through a dedicated helpline. After a steady rise in reports of animal deaths there was a slight fall in the number of reports in 2010–11 (Figure 4.1). The number of cases rejected (ie lack of grounds to believe pesticide may be involved) continues to rise whilst the number accepted has fallen since 2008–09. This may be a result of increasing assurance that we are strictly applying the acceptance criteria. Pesticides caused the deaths of 62 individual or groups of animals in 2010–11 (Figure 4.2). Deliberate abuse of pesticide continues to be the most common cause of death, whilst accidental mis-use continues to decline. Cases were unevenly spread throughout England with the highest number of incidents in the east of England (Figure 4.3). We issue Enforcement Notices to remedy immediate issues with storage and use of pesticides discovered as part of our enquiries. In 2010–11 four Enforcement Notices were issued.

In one of the most extreme cases in recent years, two council pest control officers were jailed in 2010 for four months and fined £7,000 each for poisoning wildlife at a London park. The men laced bread with a concentrate pesticide, legally used for insect control, before leaving it at Wanstead Flats Park killing 90 birds and a pet dog. The two men were sacked from their jobs.

Figure 4.1

REPORTS OF INJURY OR DEATH OF ANIMALS TO THE WILDLIFE INCIDENT INVESTIGATION SCHEME. CASES ARE ACCEPTED IF PESTICIDES ARE SUSPECTED TO BE INVOLVED
5. Heather and Grass Burning

5.1 Background and legislation

The Heather and Grass etc. Burning (England) Regulations 2007 govern the burning of heather, rough grass, bracken, gorse and vaccinium. They establish a burning season and impose other light touch restrictions (e.g., limits on the size of burns) that aim to ensure burning takes place safely and in ways which do not harm the environment. Penalties are limited to £1,000 and the new civil sanctions are unavailable.

The Regulations are supported by the Heather and Grass Burning Code and various Best Practice Guides which are co-branded by Natural England and a range of practitioner representatives including the National Farmers Union, Moorland Association and National Gamekeepers Organisation. These organisations make up the Burning Best Practice Group which aims to reach a consensus on the practice and impacts of burning moorland habitats.
5.2 Monitoring and statistics

Breaches are detected through ecological monitoring visits, inspections by the Rural Payments Agency and reports from the public. Breaches are low and to date have not been the subject of prosecution (Table 5.1).

Table 5.1

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Warning letter</td>
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</tr>
<tr>
<td>Prosecution</td>
<td>0</td>
<td>0</td>
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<td>0</td>
</tr>
</tbody>
</table>

6. The Environmental Impact Assessment (Agriculture) Regulations

6.1 Background

These Regulations aim to protect uncultivated land and semi-natural areas from being damaged by projects that increase agricultural productivity. They also guard against possible negative environmental effects from the restructuring of rural land holdings. Certain types of work which might affect uncultivated land or semi-natural areas require a screening decision before they can commence. Where we judge that a project is likely to have a significant environmental effect, which includes impacts both on biodiversity and the historic environment, then the project must go through an EIA and receive our consent before it can proceed. The regulations set out an offence for starting a project without either of these decisions.

6.2 Legislation

Some of the more serious offences are triable in both Courts and penalties are unlimited when tried in the Crown Court. More importantly we have the power to serve a stop notice and a restoration notice. We may also issue a screening notice if 3 criteria are satisfied, which removes applicable thresholds and requires that a screening application to Natural England is made.

The Regulations have a reputation amongst some stakeholders for being challenging to implement and ineffective. We believe the main issues are:

- the area threshold of 2ha is too high to capture the many fragmented areas of important semi-natural habitat, particularly grasslands;
- one of the tests to be met before we can issue a screening notice requires us to reasonably believe that a project is to be carried out which is difficult to anticipate. The level of proof needed has never been tested. Only one screening notice has ever been issued and this was successfully over-turned on appeal to Defra;
- the key terms “uncultivated land” and “semi-natural area” are not defined in the regulations and are open to interpretation. We will reissue public guidance in this area in May 2012 and this should provide helpful clarification;
- lack of clarity on the definition as to what is meant by “cultivation”. The regulations refer only to physical or chemical means;
- lack of comprehensive information about the quality and location of semi-natural areas in England. This was identified in the MacDonald Task Force review and a recommendation made that Natural England improve this situation, which is under consideration;
- low public awareness of the regulations. This is being addressed through a communications strategy;
- difficulties in determining the semi-natural status of the land once an incident has occurred—eg when a field is ploughed and re-seeded—as a lot of information about breaches is received from third parties either during or some time after the incident (“tip-offs”).

6.3 Monitoring and statistics

Breaches are reported through a dedicated helpline. Table 6.1 summarises regulatory activity in this area.
Table 6.1
REGULATORY ACTIVITY UNDER THE EIA (AGRICULTURE) REGULATIONS

<table>
<thead>
<tr>
<th>Year</th>
<th>Contacts/queries</th>
<th>Investigations (&quot;tip offs&quot;)</th>
<th>Stop notices</th>
<th>Restoration Notices</th>
<th>Prosecutions</th>
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<tr>
<td>2006</td>
<td>1,795</td>
<td>21</td>
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<tr>
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<tr>
<td>2008</td>
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<tr>
<td>2011</td>
<td>899</td>
<td>48</td>
<td>2</td>
<td>1</td>
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</tr>
</tbody>
</table>

7. Complaints Relating to Injurious Weeds

7.1 Background and Legislation

Five weeds are classified under the Weeds Act 1959: common ragwort (Senecio jacobaea), spear thistle (Cirsium vulgare), creeping or field thistle (Cirsium arvense), broad-leaved dock (Rumex obtusifolius) and curled dock (Rumex Crispus). It is not an offence to have these weeds growing on your land and species such as ragwort have significant conservation benefits. However problems can arise if they are allowed to spread onto agricultural land, particularly grazing areas or land which is used to produce conserved forage.

Our role is generally only to resolve weeds complaints in “last resort” cases where an agreement cannot be reached without our intervention. It is expected that the complainant will have already contacted the landowner to try and resolve the problem before contacting us. Natural England gives priority to cases where weeds are threatening land used for keeping or grazing horses and other livestock, or farmland used to produce conserved forage or other agricultural activities. Complaints about weeds spreading to private gardens or allotments are not normally investigated.

7.2 Monitoring and Statistics

Queries and complaints can be made through a dedicated helpline. We have the power to serve a notice requiring a land occupier to take action to prevent such weeds from spreading. In a case where the land occupier fails to take the necessary action under a notice we can take the action required and recover the costs of doing so. This is our usual response as opposed to a prosecution (Table 7.1).

Table 7.1
ENFORCEMENT ACTION RELATING TO INJURIOUS WEEDS

<table>
<thead>
<tr>
<th>Year</th>
<th>Contacts/queries</th>
<th>Complaints</th>
<th>Inspections</th>
<th>Enforcement notices</th>
<th>Clearance actions</th>
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<td>2009</td>
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<td>40</td>
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<tr>
<td>2011</td>
<td>1,775</td>
<td>230</td>
<td>86</td>
<td>46</td>
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</table>

8. Partnership Working

We are involved in a number of partnership initiatives at a national strategic level and local operational level.

We sit on the steering group of the Partnership for Action Against Wildlife Crime (PAW) and its publicity, bat and raptor working groups. To help determine the UK’s wildlife crime priorities we provide evidence on the conservation impact of criminality to the Wildlife Crime Tasking and Co-ordination Group.

In 2008 we signed an Memorandum of Understanding with the Association of Chief Police Officers and Crown Prosecution Service on tackling wildlife crime in partnership. We are about to sign a similar protocol with the Environment Agency and Forestry Commission.

We share information with the National Wildlife Crime Unit and have made use of the investigative services it provides. One of the Unit’s strengths has been the relationships it has established with all statutory and voluntary agencies, not just the police. Our specific concern regarding the possible merger into the National Crime Agency is our ability to continue to use its services.
We have established Local Wildlife Crime Networks in Cumbria, Yorkshire and Humber, the East of England, and the South East. We hope to have covered all of England in the next few years. Currently these bring together Natural England, the police, the Crown Prosecution Service and the Environment Agency. We hope they will also include the Forestry Commission and Rural Payments Agency in the future.

1 May 2012

Supplementary written evidence submitted by Richard Benyon MP, Minister for Natural Environment and Fisheries, Department for Environment, Food and Rural Affairs

When I gave evidence to your Committee on 12 July I promised to provide further clarification and information regarding the decision not to pursue an Order under the Natural Environment and Rural Communities Act 2006 (NERC) to make possession of pesticides containing certain ingredients an offence.

Many of our UK birds of prey are doing well, and many populations are either increasing or are stable. However, there are areas where land use activities may be in conflict with the presence of birds of prey and we are aware of offences including poisoning and nest disturbance being committed. Government works with the statutory nature conservation organisations and a range of stakeholders to try and resolve these conflicts.

We have a good balance of legislative and enforcement measures in place to address wildlife crime in the UK where we have the National Wildlife Crime Unit, a specialist UK police-led Unit which gathers intelligence on national wildlife crime and provides investigative support to police and Customs officers in tackling wildlife crime. Raptor (birds of prey) persecution is a wildlife crime priority for the Unit with a particular focus on golden eagle, goshawk, hen harrier, red kite and white-tailed eagle. Raptor persecution includes shooting, nest disturbance or destruction, egg theft, chick theft and poisoning.

Section 43 of NERC states that “a person is guilty of an offence if he has in his possession a pesticide containing an ingredient that is prescribed for the purposes of this section by an order made by the Secretary of State.” However it goes on to say that “The Secretary of State may not make an order under subsection (1) unless she is satisfied that it is necessary or expedient to do so in the interests of protecting wild birds or wild animals from harm.” In this respect we have undertaken pre-consultation with key stakeholders which revealed that the majority of ingredients likely to be cited in wildlife poisoning have either not had approval for use in the UK or have had their approval revoked.

Of the 12 ingredients on which we originally consulted five have never been approved for use, four have had their approval revoked (Carbofuran is one of these) and two have not, as far as we are aware, been associated with wildlife deaths. This leaves one ingredient, Aluminium phosphide, which is currently approved for use. On expiry or revocation of approvals it becomes unlawful to advertise, sell, supply, store (a form of possession) or use the products for the uses concerned.

We are carefully considering the laws surrounding possession of pesticides that are harmful to wildlife but so far conclude that an Order may not be a proportionate course of action and that there could be alternative ways to handle the issue. These may include voluntary codes of practice such as those published by the Health & Safety Executive, http://www.pesticides.gov.uk/guidance/industries/pesticides/topics/using-pesticides/codes-of-practice/code-of-practice-for-using-plant-protection-products.htm

Or encouraging participation in amnesty initiatives such as that run for farmers through Project SOE (Security of the Operational Environment), http://www.projectsoe.org/ Under the first phase of that project nearly 1,000 stores were cleared of 40 metric tons of redundant and unapproved pesticides. It was deemed so successful that the scheme was continued and, to date, a further 33.3 metric tons of unwanted pesticides have already been, or are currently being, collected.

The intentional use of poisoned bait to kill any wild bird is already prohibited under section 5 of the Wildlife and Countryside Act 1981 and the abuse or misuse of pesticides is also an offence under the Food and Environment Protection Act 1985. In addition the Government monitors misuse or abuse through the Wildlife Incident Investigation Scheme (WIIS) and where there is sufficient evidence, enforcement action will be taken against those who misuse these chemicals. WIIS is supported by the Campaign against Accidental and Illegal Poisoning of Wildlife (CAIP). CAIP aims to prevent misuse of pesticides by advising farmers, gamekeepers and other land managers on legal ways of controlling pests, and advising the public on how to recognise and report illegal poisoning incidents.

In view of the findings of the pre-consultation, the legislation already in place, and the other initiatives detailed above, the decision was taken not to pursue an Order under Section 43 of NERC at this time.

I hope this information is helpful and answers the questions raised with me on 12 July.

30 July 2012
Further supplementary written evidence submitted by the Royal Society for the Protection of Birds

This second supplementary memorandum responds to some issues raised during the oral evidence given to the Committee on 12 July 2012 by Lord Henley and Richard Benyon. The RSPB would like to clarify its views on controls on the possession of certain pesticides and on invasive non-native species (INNS).

Possession of Pesticides

1. Questions were asked about the use of poison baits to kill wildlife, whether it was currently an offence to possess poisons such as carbofuran and whether there is a need to criminalise possession of certain pesticides by way of the Natural Environment and Rural Communities (NERC) Act 2006 (Q418, Q428 & Q429).

2. Pesticides must be approved for use by Ministers in response to applications from a manufacturer, importer or distributor. Approvals are granted by the Health and Safety Executive (HSE). A set of detailed statutory conditions are drawn up concerning supply, use and storage.

3. Currently, offences are created by improper storage and use of approved pesticides contrary to these statutory conditions, and the improper storage and use of pesticides which have had their ministerial approval removed. Carbofuran is an example of a pesticide which has had its ministerial approval for use removed.

4. Section 43 of the NERC Act 2006 creates an offence of possession of pesticides harmful to wildlife prescribed by the Secretary of State. However, an order listing the prescribed pesticides has still not been made in England, Wales and Northern Ireland.

5. In Scotland, a list of eight pesticides has been prescribed (Aldicarb, Alphachloralose, Aluminium phosphide, Bendiocarb, Carbofuran, Mevinphos, Sodium cyanide and Strychnine) under the Possession of Pesticides (Scotland) Order 2005. http://www.legislation.gov.uk/ssi/2005/66/contents/made

The advantages of the use of the NERC Act over the current regulatory regime

6. The RSPB believes that prohibiting possession of pesticides under the provisions of the NERC Act has several advantages over the current regulatory regime, namely:

6.1 Rapid banning of pesticides used in wildlife poisonings. Those who carry out poisoning have shown themselves very adaptable in terms of poisons used. Most of the products with a long-term history of abuse were originally approved products. The approval of several of these was later withdrawn (because of wider health concerns rather than abuse in wildlife cases). It is clear that stocks of these products have remained in circulation; as these stocks have diminished those involved have adapted to using other products. Section 43 NERC provides the mechanism for rapidly adding ingredients to the list once a legal pesticide starts to be used to poison wildlife. The ability of enforcement agencies to effectively deal with such misuse would be severely impaired without Section 43 NERC, as products may retain their approval for legitimate use for many years.

6.2 Outlawing commonly abused poisons that still have legitimate use. Several substances commonly used in wildlife poisonings continue to have legitimate use. Consequently, proper storage of these products, despite a person having absolutely no justifiable reason for having them, would be no offence. Section 43 NERC would cover this type of situation, regularly encountered by enforcement agencies.

6.3 Section 43 NERC would reduce administrative problems at court. Currently, cases involving substances with no approval (e.g Carbofuran) are dealt with under legislation which is triable either way and can be heard at Magistrates’ or Crown Court. This has already caused significant problems in some investigations where a mix of offences under the Wildlife and Countryside Act 1981 (WCA) and pesticide legislation are being investigated. WCA offences are summary only and must be dealt with at Magistrates’ Court. The court dealing with pesticide matters may be unaware of wider concerns involving wildlife matters. In some cases CPS are reluctant to proceed with significant wildlife offences following conviction on pesticide matters, or there are additional costs in having to have hearings in different courts in connection with the same investigation. If the summary offence under Section 43 NERC was enacted, this would allow cases to be held in their totality at Magistrates Court, eliminating this problem.

6.4 Section 43 NERC would allow courts to impose custodial sentences. The NERC Act, like the WCA, carries the possibility of a prison sentence. Though pesticide offences are currently triable either way, there is no provision for custodial sentences even at the Crown Court. As those who are typically convicted of these offences may be of limited financial income, a Court is often left with very limited sentencing options.

7. We therefore believe that the full enactment of Section 43 NERC controls would be a powerful tool in the fight against wildlife crime and illegal poisoning in particular. The equivalent offence in Scotland has shown its value with at least ten successful prosecutions involving at least four of the products on the current list, one of which involved the possession of 10.5 kg of Carbofuran, enough to poison the entire Scottish bird...
of prey population six times over.\textsuperscript{27} Wildlife crime enforcement agencies see this as an important weapon in the fight against wildlife crime in Scotland. Defra previously accepted the merits of introducing controls on the possession of pesticides by including Section 43 in the NERC Act 2006.

**Invasive Non-Native Species (Q448–451)**

8. The world’s oceans, mountains, deserts, and weather patterns act as natural barriers to species movement, preventing ecosystems from mixing. Life develops independently in different regions, and this generates a large proportion of global biodiversity. When people move plants and animals from areas where they occur naturally and release them into areas where they do not, these natural barriers are bypassed. Many of these new arrivals are harmless, causing no disruption to the environment or native wildlife in their new locations, but occasionally a species will establish and thrive in a way that can pose a threat to native biodiversity, and/or economic interests. These species are referred to as invasive non-native (or invasive alien) species (INNS/IAS).

9. INNS are one of the principal causes of species extinctions and one of the five main drivers of global biodiversity loss, alongside habitat change, climate change, overexploitation and pollution.\textsuperscript{75} The impact of INNS on wildlife is measurably intensifying\textsuperscript{76} as international activities and environmental pressures such as rising CO$_2$ concentrations, warmer temperatures, greater nitrogen deposition, altered disturbance regimes and increased habitat degradation, facilitate further invasions.\textsuperscript{77}

10. Despite this, and their estimated cost to the UK economy of £1.7 billion annually,\textsuperscript{78} it is widely acknowledged that the existing legislative framework relating to INNS in England and Wales is inadequate to deal with this escalating issue. The national strategy for tackling INNS,\textsuperscript{79} though advanced in comparison to other EU countries, is largely reliant on voluntary action. Research indicates that voluntary measures, though valuable, are not sufficient on their own. A comprehensive review of the legislative provisions as they apply to INNS in England and Wales—anticipated as part of the Law Commission’s Wildlife Management Project— is timely, and urgent.

11. Some serious omissions to existing statute need to be corrected. For example, the functional definition of “non-native” under the Wildlife and Countryside Act 1981 (as amended) (WCA) omits species that are native to one part of Great Britain that are released in or escape to areas of Great Britain where they are not native. The current statute fails to prevent future problem introductions, and fails to provide adequate regulatory tools to control, contain or eradicate species already established. It is also difficult to enforce. Despite increasing international movements of people and goods and an accelerating rate of non-native introductions, few successful prosecutions have been brought for the release/escape of a non-native species. The lack of formal definitions of terms such as “non-native” and “the wild” are partly responsible, as are difficulties in convincingly demonstrating such concepts as “release” or “allowing to escape” in courts.

12. We draw the Committee’s attention to the Wildlife and Natural Environment Act 2011, which places Scotland at the forefront of EU action to tackle INNS, thanks to the pioneering provisions it contains. We strongly support the precautionary approach adopted by the Scottish Government, which underpins a general no-release principle in relation to non-native species, irrespective of whether or not they are known to be invasive.

13. Given that the impacts on biological diversity of INNS are unpredictable, legislation aiming to prevent harmful introductions should be based on the precautionary approach, in accordance with the guiding principles of the Convention on Biological Diversity.\textsuperscript{80} The CBD principles recommend the adoption of a three-stage hierarchical approach, within which an effective balance between prevention, control and eradication must be found to ensure that action on INNS should take place at the earliest invasion stage possible. The emphasis on prevention must not preclude action on long-established INNS. It should be remembered that as environmental conditions change, for example through climate change, so long-established but previously non-invasive species might become invasive. Some INNS have shown very long time lags—decades—between initial establishment and the onset of invasive behaviour. Decisions on whether to take action should be risk-based and evidence led, to ensure that limited resources are targeted to the most urgent cases.

14. We believe that INNS legislation should take the approach of broad regulation of release of non-native species, coupled with listed exempt circumstances and activities. Such measures should be combined with a duty on (named) public bodies to investigate and instigate control measures on the most dangerous INNS.

15. In developing proposals relating to the INNS provisions, we have urged the Law Commission to keep track of the European Commissions’ progress in developing an EU strategy towards INNS, which is likely to

\textsuperscript{24} http://www.mnpb.org.uk/images/birdcrime2010_tcm9–293799.pdf

\textsuperscript{78} http://www.cbd.int/decision/cop/?id=7197

\textsuperscript{27} http://www.millenniumassessment.org/documents/document.354.aspx.pdf

\textsuperscript{79} http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2915713/

\textsuperscript{80} http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2915713/
include a legislative framework. Of the five main drivers of biodiversity loss listed at the start of this section, only INNS lack a dedicated European instrument to tackle them. Birdlife International’s aspirations for a Directive on INNS in Europe are summarised at http://www.birdlife.org/community/wp-content/uploads/2011/02/Low-res-pdf-of-finished-leaflet.pdf.

13 August 2012