



No.41

# Traffic in Flora and Fauna

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*Australia's native flora and fauna are unique and irreplaceable. Unfortunately, however, some endangered species are under threat through illegal wildlife exports. Illegal imports, too, are potential vehicles for the introduction of diseases into Australia. This Trends and Issues paper closely examines this significant law enforcement problem. Its recommendation for a uniform licensing system of activities involving wildlife should be carefully considered by all Australian governments.*

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Illegal exports of wildlife and wildlife products from Australia pose a threat to the protection of endangered species. Illegal imports are accompanied by the potential for the introduction of pests and diseases which could have a dramatic impact on agriculture, conservation of the environment, and specialist industries, such as aviculture.

The introduction of species of illegally imported fish or amphibians into Australian waterways through the pet trade could have a catastrophic impact on native species in these habitats. The avicultural industry fears outbreaks of Newcastle disease in valuable bird aviaries as a result of illegal imports of infected birds. In 1977, on the central coast of NSW, thousands of dollars worth of birds had to be destroyed which were suspected of having been in contact with imported parrots purchased after being smuggled in from Indonesia (Bottom 1984, p. 40). Illegally smuggled birds and eggs could also be a vector for the introduction of disease into the Australian poultry industry, currently estimated to be worth around \$900 million per annum (Ley 1992, p. 199).

Markets for illegal wildlife and wildlife products are found in a wide range of industries. Some products are consumed in the manufacture of traditional pharmaceutical's. Some are used as novelties and in the manufacture of ornaments. Pet shops, zoos and circuses around the world buy wild-caught live animals. Specialist collectors and aviculturists also tout for live wildlife.

In Australia, pressures for illegal wildlife trade are driven by high prices on offer in overseas markets. Even for relatively common species, the profits are attractive. Prices for birds range from \$1,500 for a sulphur-crested cockatoo to \$50,000 for a glossy black cockatoo.

Allegations have been made that light aircraft are often used to smuggle wildlife from northern Australia, from one of the estimated 3,000 unsupervised airstrips there. These alleged flights

**AUSTRALIAN INSTITUTE  
OF CRIMINOLOGY**

***trends***

***&***

***issues***

**in crime and criminal justice**

November 1992

ISSN 0817-8542

ISBN 0 642 18508 5



Australian Institute  
of Criminology  
GPO Box 2944  
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Australia

<http://www.aic.gov.au>

are usually destined for Indonesia, Singapore or Thailand, where forged documents are often used to circumvent customs requirements. The stocks, accompanied by fraudulent papers, may then be moved on to buyers in Europe and North America. The United States of America and European countries, particularly The Netherlands, Denmark and West Germany, appear to be the primary market for Australian reptiles. Japan is also a major consumer of wildlife and wildlife products, particularly reptiles and reptile products.

The Convention for International Trade in Endangered Species (CITES) is an agreement between signatories to achieve greater control over commercial trade in wildlife. Launched in 1973, over 111 countries, including Australia, Hong Kong, Japan, Singapore and Taiwan are now parties to CITES. Significant non-signatories include the Korean peninsula, which is a large consumer of wildlife and wildlife products. Under the CITES agreement, species listed under Appendix I are not to be utilised for primarily commercial purposes. Species listed in either Appendices II and III are subject to restrictions on import and export. CITES provisions require that in order to import wildlife into a signatory country, a permit/certificate from the country of export must be issued and presented on import.

Many countries, including Australia, have developed legislative controls over importation and exportation of wildlife in accordance with their obligations under CITES. *The Wildlife Protection (Regulation of Exports and Imports) Act 1982* (Cwlth) is the relevant statute in Australia. The body which is required to administer this Act is the Australian National Parks and Wildlife Service (ANPWS). Within the enforcement context, its role and functions are to:

- Coordinate intelligence gathering and investigative activities of the various enforcement agencies, including state/territory and overseas nature conservation agencies;

- Provide scientific expertise and evidence, particularly in relation to prosecutions;
- Maintain an intelligence data-base on wildlife trafficking;
- Produce manuals and guides on the administration and enforcement of the Act;
- Produce brochures and posters to educate the public about requirements under the Act;
- Conduct training seminars for Australian Customs Service (ACS) and other enforcement officers (Ley 1992, p. 174).

The ACS has principal responsibility for physical enforcement action under the Act. The Australian Federal Police (AFP) role is subordinate to the ACS, as a result of a Memorandum of Understanding with the ACS clarifying their relationship. Australian Quarantine and Inspection Service (AQIS) officers also operate at the customs barrier in major ports, and have special expertise in the identification of plants, animals and wildlife products. A high level of expertise is required to ensure correct identification of species at the barrier. However, they are not empowered to make arrests or seize wildlife or material which they believe is being imported or exported in breach of the Wildlife Protection Act.

In addition to Commonwealth legislation, each state and territory in Australia has a department to administer its own legislation, to license activities involving wildlife with penalties for conducting activities without official authorisation. Variations in legislation from state to state, differences in licensing systems and enforcement practices create problems for overall monitoring of illegal activity and enforcement.

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### **The Nature of the Marketplace**

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It is not easy to estimate the magnitude of illegal trafficking in wildlife in Australia, although figures

are often bandied about for annual turnover. Customs seizures of illegal items provide one means of placing a figure on the extent of the trade. Since the Wildlife Protection (Regulation of Exports and Imports) Act came into force in May 1984, the total value of smuggled wildlife seized is estimated to be worth around \$5 million (ANPWS records 1992). However, there is no way of determining whether this figure represents 1 per cent or 99 per cent of the level of illegal trade for this period. Some of these seizures arise out of ignorance of the requirements of the Act, rather than covert activity.

If laundering techniques are very successful both within Australia and overseas, the visibility of illegal trade is correspondingly diminished. Similarly, if some methods of illegal trafficking are highly successful in terms of evading detection, such as the use of light aircraft from isolated airstrips for argument's sake, the extent of their use would be invisible. The most countable incidents and methods are the least successful incidents and methods, and are thus unreliable as a measure of overall illegal activity.

Another means of assessing the extent of trade might be to examine the overseas marketplace for Australian wildlife and wildlife products. However, the increasing success of overseas breeders of Australian species of birds and reptiles makes it difficult to distinguish captive bred specimens from illegal imports, unless they are of a species which is notoriously difficult to breed in captivity, such as glossy black cockatoos.

The illegal wildlife industry has unique characteristics which provide a formidable challenge to regulators and law enforcement. The marketplace comprises a readily available resource base—birds and reptiles in the main. Ownership of and rights in the resource are not readily apparent when that resource is the birds of the air and the lizards of the field. Minimum capital outlay is required to utilise this resource such as a vehicle, some nets and some

means of holding stock. Entry into the industry is therefore fairly easy.

The stock can be marketed domestically or overseas, with overseas markets offering high prices for relatively common species, such as galahs. The domestic market is carried on with limited public scrutiny, since many aviaries are in back yards. This market is thinly spread, with a large number of small and large holdings of stock. Income generated may not be declared and tax will thus be evaded. Running parallel to the illegal industry is a broad and thinly spread legal aviculture industry, containing some participants who are involved in both legal and illegal activities. As an indication of the extent of the challenge to regulatory bodies to effectively monitor legal activities, in South Australia, around 9,000 permits are extant at any one time.

The individual commodities of both the legal and illegal industries are virtually indistinguishable on the shelf. The activities of the illegal industry do not impact directly upon other people, so, unlike other industries, scrutiny from consumers or unions is not likely to assist in the detection of irregularities.

The incentive to participate in the legal industry rather than the illegal industry therefore is likely to be largely determined by the risk of getting caught, the likelihood of subsequent prosecution and the magnitude of penalty attached to the offence.

A shifting moral differential applies to the commodities in the market. A very low level of moral sanction may attach to dealings in some species, such as corellas, galahs and cockatoos, which are sometimes regarded as outright pests in agriculture. At the other extreme, for rare and endangered species, a much higher level of moral sanction applies. The moral issue is further clouded when the only difference between an illegal transaction and a legal transaction may be whether or not the transaction was properly recorded.

This moral slippage between a high and low level of concern makes

for difficulties in acknowledging the importance of the issue of flora and fauna trafficking in the wider community and in the courts. Perpetrators can rationalise their illegal activities to themselves and others as relatively harmless. Other trafficking offences in which the damage caused is more clearly visible meet with more strongly held and clear cut moral disapproval.

However, strong powers and penalties reflect a perception that wildlife offences are considered gravely by policy makers. In state and territory legislation, stringent powers are provided for enforcement officers including, in three states, powers to enter and search residential premises without a warrant upon suspicion of an offence. In one state a maximum fine of \$4,000 is provided for the use of threatening or abusive language against a wildlife officer in the exercise of powers or functions.

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### **Regulatory Principles**

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The central regulatory mechanism in the wildlife industry is the licensing system. All states and territories require a licence to take, kill, trade in, or possess wildlife. In most states, licences make provision for consignment of fauna, import or export of fauna across state boundaries, exhibiting fauna, hunting of game animals and so on. Wildlife is classified according to population vulnerability and licences take account of this classification. Penalties for breaches of licence conditions include fines, gaol sentences and forfeiture of permit/licence and wildlife. In some states provision for payment of compensation also applies. In some states it is an offence to enter into transactions with unauthorised persons.

The licensing systems require that records be kept for most activities. The scope and purpose of records required varies from state to state. Record keeping is accompanied in some states by a requirement that regular returns of dealings and

transactions are made by the licence holder. Breach of record-keeping requirements is usually an offence. In some states checks on the character and criminal record of applicants are conducted before issue of licence. Licence holders are usually required to carry their licences when exercising rights ensuing from the licence. Provision of false information, or forgery of documents in licence applications and other documents is usually an offence.

Enforcement officers have a wide range of powers, backed by penalties for non-compliance. They have powers to enter premises and land, although in some states a warrant is required before entry into residential premises. They usually have the power to arrest, stop and detain vehicles, to search for and seize wildlife and items of evidence. In some cases they have the power to require other persons at the scene of a suspected offence to provide any assistance required. To obstruct, resist, assault or abuse an enforcement officer is usually an offence, attracting a prison sentence in some cases.

In most states, all police officers are designated as wildlife enforcement officers. Provision for park rangers, and honorary officers to operate as wildlife enforcement officers usually exists, and in South Australia, any person requested to assist a warden has the powers of a warden.

As previously mentioned, the ANPWS administers a permit system for operations across the customs barrier. Offences are committed when items are exported or imported across the barrier without a permit or an authority. Conditions for the granting of a permit are specified in the Wildlife Protection (Regulation of Exports and Imports) Act, and include; export will not be detrimental to the survival of the animal or plant species; the specimens must not be obtained in contravention of any law of the Commonwealth, of a state or a territory; the recipient is equipped to provide adequate care for the plant or animal; the country of destination approves the export or import of the

relevant specimen. Provided that stringent requirements of the Act have been met, specimens may only be exported as interzoological gardens transfers; for the purpose of prescribed scientific research; if the animal is a household pet; or if the animal/plant was artificially propagated or captive-bred; if the animal/plant was derived from an approved management program.

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### Illegal Operations

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In spite of both federal and state controls over wildlife enterprises, there is evidence of a thriving wildlife trafficking industry. Overseas couriers enter the country, sometimes illegally carrying exotic species for trade, obtain fauna from the wild or from pre-arranged suppliers, and leave. The trend has been away from smuggling live birds to smuggling viable eggs, since they are more easily portable and have a higher survival rate. The eggs are transported in specially designed vests worn by couriers. Sometimes, overseas based syndicates are involved in the smuggling, conducting their activities routinely, according to the breeding cycles of their targets. Some even return to the same nesting sites year after year, remove the first clutch of eggs, wait for the parents to lay a replacement clutch, and then remove the second clutch.

Offences may be committed by persons ignoring the requirement for permits, and attempting to export wildlife concealed in baggage, carried on their person, through Australia Post, or through the illegal use of aircraft or vessels which bypass customs requirements. Alternatively, offences may be committed through attempts to utilise the permit/licence system to launder wildlife and wildlife products.

Australia Post has come under scrutiny for the apparent ease with which some wildlife, particularly reptiles, can be exported from Australia through the mail. 'Substantial quantities of shells and

numbers of native snakes and lizards are likely to be being shipped from the country by mail' (Ley 1992, p. 176). These parcels are misdescribed as books, for example, and are labelled with false sender's names and addresses, destined for post office box numbers overseas.

It has been alleged that the same individuals are sometimes involved in both wildlife and drug trafficking. Evidence indicates that members of bikie gangs who are involved in the drug trade have also been involved in illegal trade in reptiles, both domestically and internationally (SA Department of Environment and Planning, unpub.)

Once out of Australia, the wildlife may be illegally imported into a neighbouring country, such as Indonesia or Papua New Guinea. The traffickers may attempt to obtain a CITES export permit from that country, claiming that the items were 'captive bred'. If successful, importation into the final destination country would go ahead. Alternatively, the wildlife could be laundered through a non-CITES country. The items could then be re-exported into a CITES signatory, since it is difficult for non-CITES countries to refuse applications to export to CITES signatories. Attempts are sometimes made to use bogus CITES documentation in inter-country transactions.

Within Australia, loopholes in licensing systems may facilitate the laundering of illegal wildlife into the legal market. Variations in import and export controls from state to state sometimes facilitate this. Some states require that the state of origin of a species provide authorisation to export before importation into the destination state. Other states have no such provisions.

There is ongoing concern with the so-called 'nineteen bird rule' in New South Wales. Currently, under section 108 of the *National Parks and Wildlife Act 1974* (NSW), an aviary registration certificate is not required to possess nineteen or fewer birds of any species. For holders of more than

nineteen birds, application for an aviary registration certificate must be made, accompanied by a declaration of: the number, species and sex of all birds held; the origin of all birds held—and the name and address of all persons from whom they were acquired; holdings must be kept in approved premises etc. Annual reports of any population changes and dealings must be made. It is an offence for the holder of an aviary registration certificate to be in possession of any birds illegally acquired within any state. None of these provisions apply to holders of nineteen or fewer birds, regardless of whether they are sparrows or glossy black cockatoos.

Effectively, this anomaly makes provision for an invisible underground trade in birds, of any species, of undeclared origin. Proving and monitoring illegal activity is made much more difficult because there is no record keeping requirement. Illegal bird dealers from other states have been known to exploit this opportunity to launder wild-caught birds through New South Wales aviaries. Similar problems potentially arise in the provision for possession of up to two reptiles without a permit. These examples indicate the importance of a comprehensive permit/licensing system which applies to possession of any quantity of fauna, so that illegal and legal activity can be more clearly distinguished.

Different systems for the classification of fauna operate in each state and territory. Each state has its own unique suite of flora and fauna, with correspondingly differing priorities and strategies for the protection of species. Species which are nonexistent in the wild in one state will not receive the same attention in that state as in another state in which they may be endangered. Classification of fauna may not take account of differences in the abundance of a species when wild populations are compared with captive populations. The princess parrot is quite common in captivity, though is now endangered in the wild. Permits

are required to keep certain species in some states, and not in others.

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### **Detection of illegal Activities and Enforcement**

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The extent to which laundering of illegal product into the legal industry is possible will depend on the ease with which legal and illegal activities can be identified. In many cases, the actual commodities—the wildlife—are not readily identifiable as legal or illegal, unless some non-transferable, high security means of marking each item is available. Attempts to use microchip implants in animals for this purpose have been made. However, the chips could possibly be removed from one bird and injected into another, thus diminishing the security of this system. DNA profiling offers a more secure means of identifying and tracking individual animals, and establishing relationships between individual birds in a given aviary, say. In this way, attempts to launder wild-caught birds as captive-bred birds are more easily detected since DNA profiles within a closed population would be distinct from the profile of individual wild-caught birds. It should be noted that some birds are extremely difficult to breed in captivity, such as white-tailed black cockatoos, so claims of captive-bred status by aviculturists are always viewed with caution by enforcement officers. Certified captive-bred birds of these species fetch very high prices.

Currently, DNA profiling of legally held birds in aviaries has been undertaken in Western Australia in targeted areas for 4 species perceived to be most vulnerable as a result of illegal trade. It is proposed that each profiled bird also be identified by a microchip transponder, thus enabling speedy cross-checking of birds against progeny, to detect substitution of wild-caught birds as offspring of captive birds. So far, four Perth aviculturists have been prosecuted by the Western Australian Department of Conservation and Land Management using the technology, and another four cases are pending (*The West*

*Australian* 27 June 1992). Fines in the successful cases have ranged from \$1,000 to \$2,000. The domestic market value of the birds concerned ranged from \$3,000 to \$5,000 a pair. Prices available overseas would be much higher.

An interesting outcome has been that already a dramatic drop in the number of declared progeny has occurred, highlighting the extent of previous utilisation of the licensing system to launder wild-caught birds. This strategy has effectively increased the market value of 'clean' birds in the aviculture business. The financial reward on the domestic market for capturing wild birds or their eggs has diminished accordingly. The potential for a 'clean' export trade in certified captive-bred birds has arisen, however, heated debate about this issue is ongoing.

DNA profiling offers the potential, cost permitting, to develop a national database of all captive-bred birds, to identify and trace movements and progeny of animals in the legal industry, and cross-check the claims of licence/permits holders. The current cost of the procedure is less than \$100 per bird, and will be borne by the aviculturist.

Current usage of DNA profiling for enforcement purposes is limited to establishing relationships between parents and offspring. It also has the potential to be used to identify the sex of birds, some of whom are otherwise indistinguishable male from female until maturity. The use of DNA to identify species from embryos or tissue is theoretically feasible, but not a viable enforcement procedure at this time. The technology is based upon comparison of one pattern with established patterns or a given pattern. Success is therefore dependent upon the development of identifying probes or patterns for each species. The research to develop these species specific probes is expensive, and is currently not a priority outside the conservation/enforcement community. Development of the technology and expansion of the database will not expand without additional funding.

While it is probably impractical to insist on the use of DNA profiling for say, all populations of captive native birds, selective use will offer some protection to those species most at risk in the wildlife trade. Shifts in the marketplace towards species which are not subject to DNA monitoring should be anticipated. The overall impact of DNA profiling will only be as good as the resources available to provide coordinated and comprehensive coverage of all holdings and all movements of fauna for given species. Ideally, such a system would protect the interests of legally operating aviculturists.

With limited numbers of enforcement staff for the large number of aviculturists in Australia, detection of irregularities and illegal activities requires a well developed intelligence network to detect hotspots. The legal industry, ornithological groups and landowners are all possible sources of intelligence. In some states, the potential assistance of landowners is recognised in legislation. In Queensland, landowners are empowered to require any person found on their land to state their name and address, and to state their purpose for being on the land. Penalties apply for refusal or provision of false information.

Illegal operators themselves may form informal networks which can provide counter-intelligence of enforcement patterns, anticipate crack-downs on specific breaches, and provide storage buffers for one another.

Discussions are ongoing between the ANPWS and the Australian Bureau of Criminal Intelligence to develop a more effective wildlife trafficking intelligence database to enhance the sharing of information between federal and state enforcement agencies. Improved intelligence data quality and access will enable existing enforcement resources to be more effectively targeted, and assist in the development of a more coordinated approach between the states.

A well-developed intelligence network must be accompanied by

specialist knowledge of wildlife. Local knowledge of populations of species is necessary to anticipate which regions are likely to be sites of illegal activity at which times, such as egg-laying times for at-risk species in a certain region. This knowledge is also important in detecting attempts to launder wild-caught birds into captive populations when on the spot inspections are carried out. Skills in the identification of species are required to visually reconcile aviary contents with records kept. Claims for breeding success for a given pair of birds need to be checked against recognised average breeding success rates in captivity for the species concerned. In some cases in which male and female birds are almost indistinguishable, claims of progeny may be undermined by the fact that the aviarist has wittingly or unwittingly either two cock-birds or two hens, and not the breeding pair they claim to have.

The trend in bird smuggling away from live birds, to eggs has posed new difficulties for enforcement officers in conducting prosecutions. Penalties and provisions vary according to the classification of species, as either endangered, threatened or protected. Identification of eggs presents even greater problems than identification of live birds. Couriers who are detected with eggs in their possession by Customs officers when leaving or entering the country may try to argue that they are merely carrying, say, pigeon eggs. Proving that the eggs are not what couriers claim them to be can be very difficult, requiring the skills of expert witnesses in court.

In an attempt to circumvent this problem, attempts have been made to incubate and rear some seizures of eggs, to strengthen the case for the prosecution. The cost of incubating and raising a recent seizure of eggs in Sydney amounted to \$25,000, prompting a vigorous argument about the cost effectiveness of such measures.

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## **Record Keeping**

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A high standard of record keeping by licence/permit holders, accompanied by requirements to furnish returns to the enforcement agency is vital to the detection of attempts to launder wildlife. Breaches of record keeping requirements must be taken seriously. A close working relationship between enforcement and licensing activities is essential to garner intelligence from records. Regular random and unannounced checks on records against actual holdings can prevent 'ghosting' of records, substitution of birds, and borrowing to and from other aviaries to inflate or deflate inspection numbers to provide a margin for illegal manoeuvring.

Owners of large and successful aviaries with many breeding pairs of valuable species may attempt to use their high breeding-rate potential to cover substitutions of wild-caught birds into their aviaries, by entering these illegal acquisitions into records as progeny.

One state may wish to verify the bona fides of an application for a permit to import a particular item from another state, and wish to clear the origin of the item as legitimately acquired or otherwise by the exporter. If the state of origin does not have the means to prove legal/illegal acquisition due to poor record monitoring, an opportunity to launder stock is created. Similarly, illegally acquired stock could be transported out of the 'clean' state with high enforcement standards into an adjacent 'non-clean' state. Application to import the stock back into the state of origin could then be made, thus laundering them in the 'clean' state, frustrating the efforts of diligent enforcement officers.

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## **Prosecutions and Penalties**

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The number of prosecutions and seizures of illegal specimens under the Wildlife Protection (Regulation of Exports and Imports) Act 1982 (Cwlth) has increased dramatically

since 1988. Twenty prosecutions were successfully undertaken in the last financial year (1991/92). Many of these involved organised smuggling activity. The conviction rate is very high—around 90% for the 3 years to 1991. Most offences were breaches of s. 21 or s. 22 which prohibit imports and exports without a permit (Ley 1992, p. 215). Cooperation by Australian law enforcement officers with overseas law enforcement agencies is likely to lead to 17 prosecutions in the United States over the next 18 months.

Most recent prosecutions under the federal Act have resulted in custodial sentences. The maximum fine handed down over this period for s. 21 and s. 22 offences was \$7,200 and the maximum gaol sentence was two and a half years. These sentences may be considered against the maximum allowable fine for offences under s. 21 and s. 22 of the Act of \$100,000 for individuals and/or 10 years imprisonment, or \$200,000 for corporations. In most cases, fines handed down for offences under both state and federal laws are only a proportion of the expected market value of the animals involved in the offence, and thus have limited value as a real deterrent. Generally, maximum penalties for offences against the federal Act are much higher than for offences against state legislation, with the exception of Queensland, which provides for fines of up to \$180,000 and/or two years gaol.

In the recent review of the Act, attention was drawn to current difficulties encountered by law enforcement officers in proving offences against s. 53, which makes it an offence to be in possession of illegally imported specimens. Once the items (particularly fish and birds) have passed beyond the customs barrier, and entered into Australia, it is almost impossible to prove beyond reasonable doubt that particular specimens were in fact illegally imported (Ley 1992, p. 198).

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**Corruption**

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The issue of licences which provide the holder with a lucrative opportunity to exploit export markets has the potential for corruption of the issuing authority. Allegations of corrupt conduct in New South Wales in the early 1980s in the issue of licences to process and export kangaroos skins and meat have recently been tabled in the federal Parliament. Where kill-quotas control the number of licences available for issue, ensuring that the licensing system is open to public scrutiny, that due process is followed and that some means of appeal operates, should lower the risk of corruption. It is interesting to note that New South Wales is currently the only state which, under s. 175 of the National Parks and Wildlife Act 1974, specifically provides for an offence of offering bribes to wildlife enforcement officers. In other states, such provisions may derive from public service acts. In Queensland, under s. 86 of the *Nature Conservation Act 1992*, it is an offence for conservation officers to hold a commercial interest in a licence or a permit. No other state has similar conflict of interest provisions.

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**The Future**

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*Registration of legal imports*

The problem of conducting successful prosecutions for illegal importation of wildlife once the item has passed through the customs barrier has already been raised. The development of a register of all imported wildlife and wildlife products as they pass through the customs barrier would enable items to be identified as legal or illegal. The problems of laundering illegal products using permit systems would need to be overcome, or this proposal would not provide a secure means of identifying illegal from legal products.

*DNA profiling*

DNA profiling offers the potential for the development of a secure means of distinguishing legal and illegal wildlife merchandise, so that smuggling and laundering attempts can be detected and proven in court. At-risk species may be targeted in high risk areas, to prevent the exploitation of vulnerable populations. Use of the technology would enhance the security of a register of imported exotic animals. It is currently feasible to develop a DNA probe which could assist in the identification of species, which would have application in the identification of eggs, fur, hides, and meat, so that laundering options can be more securely closed off. However, further refinement of the technology to enable widespread use requires additional funding to collect samples and develop data-bases.

*Uniform state licensing systems*

There appears to be support in principle by state wildlife enforcement agencies for the adoption of a uniform licensing system modelled upon the South Australian scheme. The advantages of this scheme include ease of compliance, effective use of the record system to trace and detect illegal activity through computerisation of all record returns, and routine fines for non-compliance with reporting requirements. All transactions must be accompanied by a statement of origin and destination of the item concerned, including interstate transactions.

The enforcement difficulties arising from the current arrangement in which each state has its own system have already been discussed. Differences between the states can be exploited by illegal traders to launder wildlife. Administratively, there is ongoing confusion about the status of particular species across state borders; about differing permit requirements; about discrepancies in requirements for interstate movement of wildlife. For the individual collector moving interstate, or trading in wildlife, the differences make compliance more confusing and cumbersome.

Current obstacles to the coordinated adoption of a uniform scheme are finding a source of funds to implement changes and reaching agreement on who would be responsible for the coordination of the changes. In the short term, each state could attempt to relate any proposed amendments to existing legislation to the South Australian system, moving incrementally towards a uniform licensing system.

*Environmentally sustainable development alternatives*

There are increasing pressures for relaxation of restrictions on the utilisation of wildlife and wildlife products as an income generating resource. Debate is ongoing about the need to develop principles for sustainable development of all environmental resources, including wildlife. In Australia, export of most wildlife or wildlife products without a permit is an offence. As a result of the *Wildlife Protection (Regulation of Exports and Imports) Amendment Act 1991* (Cwlth), permits to export wild-taken native plants and animals or products derived from them may be issued if the wildlife was taken in accordance with an approved management plan, or if the species concerned has been classified as a controlled specimen, designated as exempt from the requirements of a management program under the Act. Controlled specimens currently include some plants and invertebrates, such as trepang, tree ferns, grass trees and seaweed from specified private operations.

The idea of sustainable use of wildlife and wildlife products has been debated in many international forums, including the March 1992 meeting of CITES. Recent amendments to the WPA brought about by the Amendment Act 1991 reflect a growing flexibility in the approach of governments, to provide for the export of wildlife and wildlife products if they derive from approved management programs or are designated controlled specimens. There is a general polarity on this

issue between bird trading organisations and bird preservation groups, with the former advocating relaxation of controls over export of birds. There are strong arguments on both sides of the debate, which are summarised below.

Arguments in favour of existing or stronger controls:

- It is not possible to transport and quarantine humanely large numbers of birds. Australian birds do not have immunity to some common overseas bird diseases, which could cause their death.
- Opening up a legal export trade in captive-bred birds would provide opportunities for laundering wild-caught birds, and concealing rare species in consignments of non-rare species of similar appearance. Opportunities for forging permits and other documentation also arise. This has been the experience overseas in countries which have legalised trade.
- The existing market preference for rarer species of birds will not be affected, and smugglers will turn their activities toward rarer species which offer a premium, such as major mitchells, gang-gangs, black cockatoos and birds of prey.
- There is a risk that pest populations of Australian birds will become established overseas. Australian birds may introduce disease into overseas poultry and aviary populations.
- The notion that some species are pests in Australian agriculture is over-stated, and can be combated through improved crop management practices. Birds are sometimes wrongly blamed for crop losses which should more correctly be attributed to poor farming practices.
- Estimates of export revenues do not take into account the fact that prices for captive bred birds will

drop as supply increases, from both increased imports and successful overseas breeding activities.

- If trade in captive-bred birds becomes highly lucrative, there will be an upsurge in the extent of illegal taking from the wild to satisfy demand.

Arguments in favour of allowing commercial export of Australian wildlife:

- It is impossible to police the current ban effectively. A controlled and monitored supply to the market is better than an uncontrolled unmonitored supply.
- Legal exports would combat smuggling, by increasing the supply and thus lowering the price of the commodity.
- Legal exports would lower the extent of cruelty which attaches to illegal trade.
- Legal exports would generate income and employment from species which are often regarded as pests to agriculture.
- Legal exports of pests species would prevent the current wastage of birds which occurs through legal and illegal killing of these species.

Of course, these arguments need to be further refined to take into account issues of whether captive bred birds or wild-caught birds are under consideration.

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## Conclusion

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Effective enforcement of wildlife trafficking provisions both domestically and internationally will necessarily be resource intensive, because of the nature of the illegal marketplace, where outlets are thinly spread, and merged in with a

legitimate industry. In common with all other types of regulatory machinery, effective enforcement is more resource hungry than poor enforcement, in the sense that the more prosecutions that are undertaken, the more resources are required to conduct successful prosecutions. The shift in focus of the Australian Customs Service towards greater emphasis on wildlife issues has resulted in a more than 7-fold increase in the number of seizures and surrenders over the period 1984-1991 (Ley 1992, p. 209), without a corresponding increase in the availability of resources to the agencies involved in detection and prosecution of offences.

The most cost effective regulatory approach may be to ensure a high level of compliance with licensing requirements through routine unannounced inspections of holdings and records, and through a graduated hierarchy of administrative sanctions for failure to comply with provision of returns, or failure to keep accurate records.

Simplification of the machinery of enforcement is a primary requirement, and it is widely held that the best way of attaining this goal is for all states to adopt a uniform effective licensing system. Uniformity of levels of compliance with legislative requirements from state to state is also required to prevent displacement of illegal activity from areas of high compliance to areas of low compliance. The security of the machinery of enforcement will be dependent upon access to a means of clearly distinguishing legal and illegal activities. DNA profiling appears to offer such a means, which can be strategically employed to protect those species most threatened by flora and fauna trafficking.



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