

TRAFFIC POST

the wildlife trade monitoring network

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TRAFFIC INDIA'S NEWSLETTER ON WILDLIFE TRADE IN INDIA



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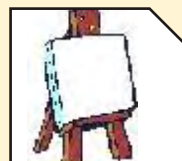
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Forest officials strengthen skills to fight wildlife crime in Andhra Pradesh



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TRAFFIC India and WWF-India in collaboration with Andhra Pradesh Forest Department conducted a training programme to enhance skills and knowledge of 45 senior officials of the Forest Department in wildlife law enforcement.

A two-day workshop, held over 17–18 April 2010 at Andhra Pradesh Forest Academy, Dulapally (Hyderabad), included sessions on effective implementation of India's Wildlife (Protection) Act, 1972, with elaboration on important case judgments pertaining to it; procedures and protocols for wildlife crime investigation; an overview of illegal international wildlife trade; wildlife forensics and protocols on collection of samples for analysis.

Experts on hand included Samir Sinha, Head-TRAFFIC India; Supreme Court Advocates ADN Rao, Ritwick Dutta & Saurabh Sharma; and Dr S P

Goyal, a wildlife forensic expert from the Wildlife Institute of India.

TRAFFIC India also provided resource materials on various aspects of wildlife trade and enforcement, including a forensic kit for field use.

“This capacity building programme will help in addressing various threats to different elements of the biodiversity of the state, ranging from Tigers and Leopards to important timber species like Red Sanders,” said Samir Sinha.

“New aspects of wildlife law enforcement introduced here will help to bolster the enforcement capacities of those officers present and enable them to gain a better understanding of the evolving nature of threats against the state's wildlife.

“The Andhra Pradesh Forest Department deserves commendation for taking the lead in organizing this event.”

Wildlife law enforcement officers in India receive training in specialized skills for fighting wildlife crime



Wildlife forensics is an important tool for managing wildlife crime and is an emerging science with a number of institutions and individuals working on it internationally. With this in mind, TRAFFIC India, in partnership with the National Tiger Conservation Authority (NTCA), Wildlife Institute of India (WII) and Gujarat Forensic Sciences University (GFSU), organized a training programme, the first of its kind in India, on the use of forensics by wildlife law enforcement officers in tackling wildlife crime.

Twenty officers of the rank of Assistant Conservator of Forest (ACF), Deputy Conservator of Forest (DCF) and Conservator of Forest (CF) attended the five-day workshop held from 22–26 February 2010 at the GFSU in Gandhinagar, Gujarat. They received hands-on training in the use of modern scientific tools and techniques that help strengthen wildlife cases and fight wildlife crime. They also shared knowledge and experience on implementation of tools and techniques in the field and their potential for supporting conservation in India.

The training module dealt with inputs on various aspects of crime management including ballistics, nano-technology, evidentiary value of scientific opinion in a court of law, interrogation techniques, documentation of wildlife cases, medico-legal examination use in wildlife investigation, cyber forensics and wildlife species identification using wildlife forensic techniques.

Samir Sinha, Head-TRAFFIC India commented: “This training will give participants a comprehensive understanding of the present scenario of wildlife crime and trade in India and its implications for conservation of species in the wild as well as a thorough background knowledge of the use of modern forensic tools and techniques in strengthening enforcement efforts.”

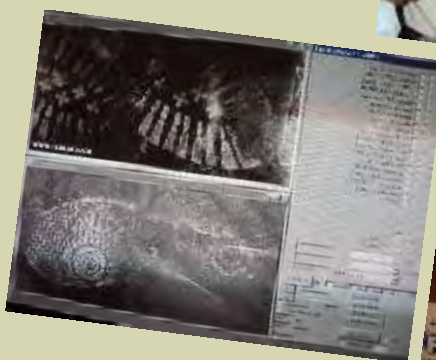
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“Wildlife crimes, including poaching and illegal trade in animals and plants and parts thereof, threaten a number of Indian wildlife species. Reports indicate that wildlife crime is on the increase in India, although the conviction rate for offences remains at less than 2%. It is hoped that increased use of forensics in wildlife crime cases will help to secure more convictions” he further added.

Dr J.M. Vyas, Director General, GFSU stated that the workshop provided participants with hands on training in the use of modern wildlife forensic scientific tools and techniques that will help in improving the conviction rate for wildlife cases.

Experts at the training programme included Ms. S. G. Gokani, Registrar of the Gujarat High Court; Mr Ajay Tomar, Inspector General of Police, Anti-Terrorism Squad, Gujarat; Dr M. S. Dhayia, Director of the Institute of Forensic Sciences, GFSU; Dr S.L. Vaya, Director-Institute of Behavioral Science, GFSU; Mr H.P. Sanghvi, GFSU; Dr Y. K. Aggarwal, Director of R&D, GFSU; Mr S.J Trivedi, GFSU; Mr Sudhir Mishra, Advocate–Supreme Court of India; Dr S. P. Goyal of the Wildlife Institute of India; Mr Sanjay Pandey, CEO–iSec Services; Mr Samir Sinha, Head–TRAFFIC India and several other experts.



Credit for all the three photos above: TRAFFIC India

Trainee judges receive overview of environmental and wildlife law



Mr Samir Sinha, Head–TRAFFIC India, addressing the participants at the training in Delhi

TRAFFIC India conducted a one-day orientation programme on environmental and wildlife law for 83 trainee judicial officers at the request of the Delhi Judicial Academy (DJA) on 30 March 2010.

The purpose of the programme was to provide an overview of the current status of forest and wildlife policies and legislation and help raise awareness of wildlife conservation challenges in India. Issues related to forestry conservation, illegal wildlife trade, environmental law and biodiversity conservation were discussed during the programme.

The Hon. Acting Chief Justice of Delhi High Court Shri Madan Lokur graced the occasion along with Shri A K Mukherji, Former Director General of Forests and Special Secretary, Government of India; Mr Samir Sinha, Head–TRAFFIC India; Prof. (Dr) Ved Kumari, Chairperson DJA; Ms Anu Malhotra, DHJS (Delhi Higher Judicial Services) and Director-DJA; Shri Alok Agarwal, DHJS and Joint Director-DJA; Shri Mahendra Vyas, Advocate and Member of the Central Empowered Committee, Supreme Court of India, Shri A D N Rao, Advocate-Supreme Court of

India and Amicus Curie, Shri Ritwick Dutta, Advocate Supreme Court of India and other senior officials of the Delhi Judicial Academy.

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Hon. Chief Justice Shri Madan Lokur said, "The powers vested with the judicial officers allow them to play a pivotal role in changing the mindsets of society towards various issues and especially those that may not have immediate direct impact on the lives of people, like environment and wildlife. He therefore encouraged the officers to understand the environmental and wildlife laws and exercise decisions which help ensure ecological security for future generations."

Mr Samir Sinha, Head-TRAFFIC India emphasized on the need for judicial support to assist in curbing wildlife crime in India.

Tiger hoarding up in Bangalore



TRAFFIC India with support from WWF-India and Baali Outdoor Media and Communications displayed a PSA (Public Service Announcement) on Tiger trade at a prominent junction in Bangalore in February 2010. The TRAFFIC PSA was put up as a hoarding with the aim to reach out on issues related to Tiger poaching and trade. The hoarding makes an appeal to the general public to come forward in support of Tiger conservation. The PSA has been placed as a permanent background to the hoarding that will be visible as and when other advertisements are removed for replacement at the site.

TRAFFIC India is extremely grateful to Baali Outdoor Media and Communications for offering this space to the cause of Tiger conservation, to Mr G.S. Bhardwaj for providing us the Tiger image for the hoarding and also to WWF-India for their continuous support.

Tiger Chronicles, an e-newsletter on issues pertaining to Tiger poaching and trade launched



Wild Tigers need our help, more than ever before. To promote this idea TRAFFIC launched a monthly e-newsletter to offer some of the diverse and comprehensive information on Tigers in Tiger range countries, with links to seizures and consumer demand in global markets. The newsletter was launched in April 2010 and carries the latest Tiger related updates and news.

To subscribe to the newsletter, please forward your request to dchhabra@wwfindia.net or you can alternatively view newsletters at www.trafficindia.org



OUTPOST:
**South Asia forges consensus on
 wildlife enforcement network**



South Asia contains a range of habitats of global significance that support a unique array of animal and plant species such as Tigers and other Asian big cats, rhino, marine and freshwater turtles, pangolins and Red Sanders, but it is ironic that this very biodiversity richness makes the region a target for poachers and traffickers of wildlife.

Experts from South Asia universally agree that these threats to



© Samir Sinha

First meeting of the South Asia Experts Group on Illegal Wildlife Trade

biodiversity extend beyond political boundaries and need a coordinated regional response for combating illegal poaching and trafficking.

The historic First Meeting of the South Asia Experts Group on Illegal Wildlife Trade was concluded on 19 May 2010 with the objective of helping wildlife law enforcement agencies become better organized than the criminals themselves. As a major step towards a co-ordinated and collaborative mechanism, the Experts Group agreed that an action-oriented approach under the newly formed SAWEN (South Asia Wildlife Enforcement Network) should be pursued without delay.

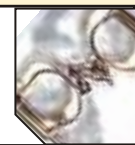
The experts from Afghanistan, Bangladesh, Bhutan, India, Nepal, Pakistan and Sri Lanka agreed the structure, functions and operational parameters for SAWEN, including ideas for developing multi-lateral activities based on strong interagency co-operation at the national level.

"Co-operation and co-ordination between the government agencies supported by their international counterparts is of utmost importance to effectively tackle illegal wildlife trade in the region," said Hon. Mr Deepak Bohara, Minister for Forest and Soil Conservation, Government of Nepal, in his closing address.

The Government of Nepal has offered to drive this process further in hosting the network and acting as an interim co-ordinator. Over the next six months, it will focus on co-ordinating key information and identifying further resources and expertise from member countries to develop joint operations, training programs, communication plans and fundraising to enable the network to begin interdicting major trafficking activities. The Government of Bhutan has offered to host the next meeting of SAWEN members.

The First Meeting of the South Asia Experts Group on Illegal Wildlife Trade was hosted by the Ministry of Forest and Soil Conservation, Govt. of Nepal, and supported by WWF Nepal and TRAFFIC International. Funding support for the meeting was generously provided by the US Government's Department of State.

TRAFFIC Alert



Drugs containing derivative of a protective plant species seized in Delhi

A consignment of Ayurvedic medicine from yoga guru Baba Ramdev's pharmacy was among medicines confiscated by authorities in February 2010 in Delhi because they contained derivatives of Kuth, a protected plant under the Wildlife (Protection) Act, 1972. In total, 23 consignments were seized at different airports and seaports in the country during international Operation TRAM (conducted against trade in illegal wildlife products, coordinated by Interpol).

Agencies involved during the operation included the Department of Customs, Department of Revenue Intelligence, CISF, Airport authorities, Drug Controller, Plant Quarantine, Forest Department and Wildlife Crime Control Bureau (WCCB), which was the Operation in Command of the exercise in India.

TRAFFIC India adds.....

Saussurea costus, locally known as Kuth, is a herb found in the Himalayan belt bordering Pakistan and India. It is commonly used in medicines in China and is considered to be one of their 50 fundamental herbs. It is also used in Ayurvedic medicine where it is valued mainly for its tonic, stimulant and antiseptic properties. It is said to be an aphrodisiac and is also believed to help prevent greying of hair. The root has an acrid, sweet and bitter taste with neutral potency. It is also used in Tibetan medicine. The plant is known to be used for curing rheumatism, liver dysfunction and pulmonary disorders.

In India, it is cultivated in the Himalayas as a medicinal plant and also for its use in perfumery and for preserving furs. The trade reported is for the roots, live plants, derivatives, extracts, oil and formulations (Schippmann, 2001).

Continued on page 6

OUTPOST:
**Porous China-Myanmar border
 allowing illegal wildlife trade**



Porous borders are allowing traders in Myanmar to offer door-to-door delivery service for illegal wildlife products and derivatives such as Tiger bone wine to buyers in China, according to TRAFFIC's latest snapshot on wildlife trade in China.

The State of Wildlife Trade in China 2008 report, released at the CITES meeting in Qatar in March 2010, is the third in an annual series on emerging trends in China's wildlife trade. The report found that over-exploitation of wildlife for trade has affected many species and is stimulating illegal trade across China's borders.

Tiger and leopard parts were found to be in demand in western China. However, market surveys in 18 cities found just two places where such items were encountered. One of them Bei Da Jie Market in Linxia city has a history of trading in Tiger products. A total of five surveys conducted in this market between late 2007 and 2008 found one Tiger, 15 leopard and seven snow leopard skins for sale.

“There is clearly ongoing demand for leopard and Tiger products, but the trade appears to be becoming less visible year-on-year,” said Professor Xu, Director of Traffic's Programme in China adding that it is unclear if it is because there is less trade in such products or it has become more covert and organized.

The report also examines the trade of other wildlife species in China such as freshwater turtles, timber, traditional medicinal plants etc. Other topics covered include analysis of wildlife trade information, the Corallium trade in East Asia, tackling cross-border illegal wildlife trade on the China-Nepal border, and stopping illegal wildlife trade online.

Copy of the report can be downloaded at <http://www.traffic.org/home/2010/3/16/porous-china-myanmar-border-allowing-illegal-wildlife-trade.html>

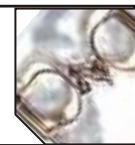
OUTPOST:
**INTERPOL targets illegal trade
 in wildlife medical products**



A month-long operation targeting the illegal trade in medicines containing protected wildlife products has resulted in a number of arrests worldwide and the seizure of thousands of illegal products worth more than EUR10 million.

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TRAFFIC Alert



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Saussurea costus is listed in Schedule VI of the Wildlife (Protection) Act, 1972 under which collection of the species from the wild is prohibited. However trade in the cultivated species and its derivatives obtained from licensed sources are allowed within India. *Saussurea costus* is also listed in Appendix I of CITES (the Convention on International Trade in Endangered Species of Wild Fauna and Flora) which prohibits international trade in the species and its derivatives. Despite the protection, reports indicate the roots are smuggled primarily to China and Japan.

Source:
<http://news.outlookindia.com/item.aspx?675952>

Sleuths find protected sea cucumber on five-star hotel's menu

The Indian government might be trying to protect endangered animals but a five-star hotel in Delhi was found selling sea cucumbers, a Schedule I species under the Wildlife (Protection) Act of India. The investigators were surprised to see that the animal had been listed in the menu and the hotel was regularly getting supplies for clients. The raid was conducted at a restaurant of Hotel Taj Mansingh, located in the heart of the capital.

The investigators posing as customers went to the restaurant and ordered a dish of sea cucumbers. The hotel staff served the dish within a short time. After the sea cucumbers were put on the table, a raid was conducted in the kitchen of the restaurant. The officials seized several kilos of sea cucumbers from the hotel kitchen. They also obtained the supplier's address from the hotel staff and raided its premises where they found further quantity of sea cucumbers.

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© Khalid Pasha

Kuth Saussurea costus. In India, Operation TRAM seized many consignments of Ayurvedic medicines containing derivatives of this protected plant species. For more details on this, please refer to TRAFFIC Alert on page 5.

INTERPOL co-ordinated Operation TRAM, which involved national wildlife enforcement authorities, police, customs and specialized units from 18 countries (**Australia, Canada, the Czech Republic, Ecuador, France, Georgia, India, Italy, New Zealand, Nigeria, Norway, Portugal, Serbia, Slovakia, South Africa, Turkey, the United Kingdom and Zimbabwe**) across all five continents. In Italy alone, officers from the Corpo Forestale dello Stato made more than 30 000 seizures.

The operation, which ran throughout February, involved investigations into individuals and companies as well as inspection of various locations such as seaports and wholesalers premises.

Many of the seized medicines contained or were marketing the use of illegal ingredients such as derived from Tiger, bear and rhinoceros.

“A primary goal of Operation TRAM was to combat the illegal trade in endangered

wildlife, which is a threat to our planet's biodiversity and demonstrates the commitment of INTERPOL and its member countries in fighting this type of crime,” said David Higgins, Manager of the INTERPOL Environmental Crime Programme.

“This operation has again proved that while environmental criminals may cross borders and display high levels of organization, so too will the international law enforcement community in its efforts to apprehend those criminals.”

In India, Operation TRAM was conducted between 1-28 February 2010 to combat the illegal trade in traditional medicine products containing wildlife products and or derivatives that are restricted or prohibited to be traded in accordance with Wildlife laws, Customs Act, Exim Policy and CITES and was coordinated by the Wildlife Crime Control Bureau (WCCB). Read more about WCCB's involvement at <http://wccb.gov.in/press%20release/tram.html> .

Globally, the operation was coordinated by the INTERPOL Environmental Crime Programme with strong support from the UK National Wildlife Crime Unit (NWCU) and was conducted in response to the increasing use of endangered and protected wildlife products in traditional medicines throughout the world.

TRAFFIC Alert



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The Wildlife Crime Control Bureau (WCCB) has registered cases against six people, including five senior management members of Taj Mansingh and the owner of the company that was supplying sea cucumbers to the hotel.

TRAFFIC India adds.....

Domestic trade in sea cucumbers (Holothurians) is prohibited under Schedule I of the Wildlife (Protection) Act, 1972. Sea cucumbers are found in the Gulf of Mannar, India's only National Park for these species, and are smuggled from the Ramanathapuram-Tuticorin coast in Tamil Nadu to countries such as China, Japan and Malaysia where they are prized as aphrodisiacs and also for their medicinal value.

It is perturbing to learn that sea cucumbers were being so openly served in a reputed hotel.

Source

:http://www.dnaindia.com/india/report_sleuths-find-protected-sea-cucumber-on-five-star-hotel-s-menu_1357358
<http://www.ias.ac.in/curresci/feb252002/377.pdf>
<http://www.india-today.com/itoday/20040913/environment.html>
<http://news.webindia123.com/news/Articles/India/20090811/1316232.html>

Orchid smuggling from India to China continues to persist

Even as the resource/manpower-starved Forest Department of Manipur state is faced with the daunting task to preserve the rare flora and fauna found in the state, it has been revealed that large quantity of rare orchids and ginseng roots are being smuggled into China.

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CITES UPDATE:

Tiger range countries reach a consensus at CITES on ways to address illegal trade in the big cats



© Xu Ling/ TRAFFIC East Asia

Tiger skin for sale in Litang, China

Tiger range countries, including China, reached a strong consensus at the CITES Conference held in March 2010 in Qatar on the way forward to address pressing concerns of illegal trade threatening wild populations of Tiger and other Asian big cat species. The 13 range countries, with support from the CITES Parties, also agreed to continue with measures to address farming of captive populations, and stop breeding of Tigers for trade in parts and derivatives.

A significant market for Tiger products persists in China, but commitments from the Chinese government and traditional Chinese medicine associations point the way forward to making effective interventions to reduce consumer demand and stop the illegal trade.

In January this year, China's State Forestry Administration issued a Directive which reaffirmed its policy on Tiger conservation and regulation of trade in Tiger products, including control of present farming activities. The Directive reaffirms China's commitment to stopping illegal Tiger trade, which includes the maintenance of a domestic ban in place since 1993 to prohibit trade in Tiger bone.

Just prior to the CITES meeting in Qatar, the World Federation of Chinese Medicine Societies (WFCMS) announced, in Beijing, their stand on Tiger conservation. The WFCMS, which has 195 member organizations in 57 countries, urged its members not to use Tiger parts and those of other endangered wildlife species in traditional medicine.

Amendments to an EU document calling for strengthening of an existing CITES Resolution on trade in Asian Big Cats include improved reporting by the range countries on the conservation of, and trade in, Asian big cats; the establishment of regional enforcement networks; and the setting up of a database for Asian big cat trade. The revised Resolution also urges CITES Parties to contribute financial and technical assistance to enable the range countries to implement the Resolution.

In addition, CITES Parties have agreed to continue with work begun at CoP14 in 2007, under a series of CITES Decisions which will remain in force. Most significantly, this includes a focus on restricting any commercial-scale captive breeding populations to a level only supporting wild Tiger conservation, and preventing any farming of Tigers for trade in parts and derivatives. But it is important to note also that Decisions on supporting regional law enforcement networking, and promoting the connection between the revised Resolution and domestic Tiger trade control policies, have also been extended by consensus.

TRAFFIC Alert



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Speaking as a resource person during the one-day workshop on 'media sensitisation for wildlife conservation' at Keibul Lamjao National Park, Bishnupur district in March 2010, noted environmentalist RK Ranjan said that certain orchid varieties belonging to the *Dendrobium* family are being smuggled to China through the porous Indo-Myanmar border.

He mentioned that the smuggled orchid varieties are abundantly found in Chandel district, and these along with a rare ginseng variety, medicinal plants found in Ukhrul district are being sent to some other south Asian countries also.

TRAFFIC India adds.....

Orchids have always been a subject of fascination due to their unique and eye catching flowers. There are over 1600 species of orchids in India, of which the major varieties are found in north-east India. Of late, widespread deforestation and over-collection of orchids in the wild for trade has put some species at risk. Live orchids and their plants have long been in trade, despite many species in the Orchidaceae family especially *Dendrobium* are found in the list of prohibited exports from India.

Source:

- <http://epao.net/GP.asp?src=13..150310.mar10>
- <http://www.telegraphindia.com/1071109/asp/others/print.html>
- http://finance.indiamart.com/exports_imports/exports_from_india/negative_list/prohibited_list.html

Twenty three kg of dolphin oil seized, poacher arrested

A team of forest officials and police recovered 23 kg of dolphin oil and arrested a poacher in separate raids in Patna district, Bihar in May 2010. The team raided two houses in Islanganj village and seized 20 kg dolphin oil kept in three containers. However, no arrest was made in this connection as the miscreants were not present at the time of the raid.

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CITES UPDATE: CITES backs better rhino protection measures



Countries with rhino populations agreed to focus on increasing law enforcement, training of guards, strengthening border controls, improving rhino population monitoring, creating campaigns to enhance awareness in consumer countries such as Viet Nam, and rooting out organized crime syndicates that are behind the increase in poaching and illegal trade.

The agreement was made at the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) meeting held in Doha, Qatar, in March 2010 and comes amid a global rhino poaching crisis.

Rhino poaching worldwide hit a 15-year high in 2009. The illegal trade is being driven by an Asian demand for horns, made worse by increasingly sophisticated poachers that are now using veterinary drugs, poison, cross bows and high calibre weapons to kill rhinos.

The decisions adopted were based on a TRAFFIC / International Union for the Conservation of Nature (IUCN) report, which was released ahead of the CITES meeting. For a copy of the report, please visit <http://www.cites.org/common/cop/15/doc/E15-45-01A.pdf>

This report pointed out a decline in law enforcement effectiveness and an increase in poaching intensity in Africa. Viet Nam was highlighted as a country of particular concern. Vietnamese nationals operating in South Africa have recently been identified in rhino crime investigations. It also raised concerns about the low and declining numbers as well as the uncertain status of some of the Sumatran and Javan Rhino populations in Malaysia, Indonesia and Viet Nam. For more information, please visit <http://www.traffic.org/home/2009/12/1/rhino-poaching-surges-in-asia-africa.html>

SIGNPOST:

Other significant news stories to read



Disclaimer: Links to external news items as given above are provided for information only and are not intended to represent TRAFFIC's policies, positions, opinions or views on the issues raised in the item.

In Arunachal Pradesh a Tiger skin is worth 5 kg of rice: Read more on <http://www.mid-day.com/news/2010/apr/210410-Tiger-skin-arunachal-pradesh-poachers.htm>

Rise in sale of exotic birds: Read more on <http://timesofindia.indiatimes.com/city/patna/Rise-in-sale-of-exotic-birds/articleshow/5900890.cms>

Whaling Plan draws anger from green groups: Read more on <http://news.bbc.co.uk/2/hi/americas/8678760.stm>

World governments fail to deliver on 2010 biodiversity target: Read more on <http://www.traffic.org/home/2010/4/30/world-governments-fail-to-deliver-on-2010-biodiversity-targe.html>

Ayurveda out of balance: 93 percent of medicinal plants threatened with extinction: Read more on <http://www.scientificamerican.com/blog/post.cfm?id=ayurveda-out-of-balance-93-percent-2010-04-05>

TRAFFIC Alert



Continued from page 8

In a separate raid, the team arrested Munna Sahni from Takiapar village for his alleged involvement in poaching incidents and sale of dolphin oil. Three kgs of dolphin oil was recovered from his possession. The drive was taken up a week after four Ganges River Dolphins were killed by suspected poachers. An autopsy revealed that the dolphins were trapped and then beaten to death as they bore several abrasive marks on their necks and heads.

TRAFFIC India adds.....

Of the seven species of dolphins worldwide, four are found only in freshwater: the Ganges River Dolphin *Platanista gangetica*, the Yangtze River Dolphin *Lipotes vexillifer*, the Indus River Dolphin *Platanista minor* and the Amazon dolphin *Ina geoffrensis*, of which the Ganges River Dolphin is the only freshwater dolphin found in India.

The Ganges River Dolphin is listed in Schedule I of the Wildlife (Protection) Act, 1972, under which hunting or trade in the species is totally banned. Its international trade is further prohibited under CITES (Convention on the International Trade in Endangered Species of Wild Fauna and Flora) where the species is listed in Appendix I.

The population of the Ganges River Dolphin has dwindled alarmingly to fewer than 2000 individuals during the last century, due to various factors such as direct killing, habitat fragmentation by dams and barrages, indiscriminate fishing and river pollution. Dolphins are hunted for their meat and by fishermen in the middle reaches of the Ganges for their oil, which is used as a fish attractant.

Source:

www.wwfindia.org
<http://www.iucnredlist.org/apps/redlist/details/41758/0>

IN FOCUS:

Critical look at the proposed Amendment to the Wildlife Protection Act, 1972



(The article was authored by Mr Samir Sinha, Head-TRAFFIC India and was published in gfiles, Vol 3, Issue 12/March 2010)

LEGISLATURE

wildlife (protection) act |

by SAMIR SINHA

"No society can make a perpetual Constitution or even a perpetual law"
- Thomas Jefferson

THE Wildlife (Protection) Act, as enacted in 1972, was independent India's first national legislation with the specific purpose of protecting its wildlife heritage. The WLPA included provisions for hunting of certain species and in certain areas, as *shikar* was still acknowledged as sport.

Since then, the conservation scenario in the country has undergone a dramatic change. As pressure on land – always a limited and finite resource – has increased, wild habitats have shrunk and fragmented. Many charismatic species have seen their wild populations touch precarious levels, despite growing concern about their conservation. The tiger is perhaps the best example of this.

In response to increasing awareness on conservation issues, the WLPA has also been amended a number of times – most recently in 2006. These amendments have ranged from bringing select plant species under the ambit of the Act (as opposed to only fauna in the original version) to establishment of the National Tiger Conservation Authority and the Wildlife Crime Control Bureau.

Awareness has also grown about the illegal trade in wildlife products and the relative ease in evading conviction. A feeling has been gaining ground that, in its present form, the WLPA does not serve as a deterrent to such criminals.

All this has prompted another amendment. In a first, the proposed amendment aims to lay down a definition of wildlife research. This has been the bone of contention between the wildlife and forest bureaucracy of the country and the scientific community as the latter feels that, in the absence of transparent and specific provisions, wildlife research has been subjected to unnecessary con-



Lord of the jungle or sitting duck?

Chameleon Law?

A critical look at the proposed changes to the WLPA, to be tabled in Parliament

trols. Much debate over the parameters for wildlife research is expected.

On the issue of settlement of rights in the establishment of Protected Areas, the amendment makes specific references to the provisions of the recently enacted Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act. The implementation of provisions of these two pieces of legislation has always been seen as contentious by many, and some also feel that certain provisions of the Recognition of Forest Rights Act contradict the WLPA. As such, bringing in a

reference to one Act in the implementation of the other is likely to be seen as establishing the primacy of one and diluting the WLPA.

At present, declaration of national parks and sanctuaries is generally a two-tier process. First, the government issues a notification of intention, following which rights, if any, are recognized and settled wherever considered necessary. Only after this is the final notification of establishment issued. Nearly 80 per cent of the Protected Areas in the country are yet to have the final notifications issued. This, despite Supreme Court directions very long ago.

In its present form, the WLPA also has provisions whereby certain legal provisions of protection are applicable immediately when the first notification is issued. This is a major provision which has extended added legal cover to most Protected Areas despite the fact that the final settlement proceedings may not be complete. The proposed

Charismatic species have seen their wild populations touch precarious levels, despite growing concern about conservation. The tiger is the best example.

Crime and Punishment

A major attempt has been made to redefine the nature of offences under this Act and punishments prescribed.

PROPOSED Category 1 offences include the hunting, trade or unlawful possession of some important species such as the tiger, lion, elephant, rhino, all leopards, musk deer, all turtles and tortoises, all bears, Tibetan antelope, all crocodiles, including ghariyals, all bustards, dolphins, and whale sharks. This appears debatable, as the WLPA already has species classified under various schedules. Further classification will only cause confusion in implementation.

Another proposal says that "any person committing a Category 1 offence is punishable with imprisonment of a minimum term of five years extendable up to seven years and shall be fined a minimum of rupees five lakhs which may be increased to rupees one crore only". In the case of a second or subsequent

offence under Category I, the penalty applicable shall be imprisonment of not less than seven years, or a fine of not less than Rs 5 lakh and up to Rs 75 lakh, or both. It appears that, while the imprisonment for subsequent offences has been raised, the maximum fine is lower than for the first offence!

For category II offences, the maximum penalty is imprisonment for a minimum period of three years and a maximum of seven years. The person shall also be subject to a fine up to Rs 3 lakh only.

Category I and Category II offences are cognizable, non-bailable, and triable by a sessions judge. The proposed amendment also seeks to remove the existing provision of Section 51-A (which lays down certain conditions on grant of bail) on the rationale that it is no longer required. However, a non-bailable offence does not imply that an accused cannot get bail; it only implies that bail is not a matter of right for the accused and (s)he can still be released on bail under provisions of Section 437 of the Criminal Procedure Code, 1973.

amendment seeks to do away with this and treat all Protected Areas lacking a final notification as "proposed". This could have a major impact on a large number of Protected Areas.

THERE is also an added provision that, in case any vehicle or vessel has been seized under the provisions of this Act, a reasonable opportunity shall be given to the accused prior to arriving at the finding that the item is forfeited to the government. Such proceedings shall be conducted by an officer not below the rank of Assistant Conservator of Forests. Also, no court shall take cognizance of such an offence till such administrative proceedings are complete and the competent officer arrives at a *prima facie* decision against the accused. An appeal against this order shall lie with the Conservator of Forests and no further appeal shall lie, including to any trial court, against this decision. This is thus a quasi-judicial mechanism to ensure speedy processing of cases where vehicles and so on are seized in connection with wildlife offences.

The proposed amendment also makes, for the first time, a direct reference to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). At present,

CITES is administered mainly through the provisions of the EXIM Policy as laid down by the Directorate General of Foreign Trade. This inclusion of administration of CITES within the WLPA is a welcome step. However, it remains to be seen as to how the introduction of a new Chapter VI-B on regulation of trade in endangered species of wild fauna and flora will impact what is currently a thriving and totally unregulated business in exotic flora and fauna (especially birds and mammals), including many listed under CITES.

The major area where the proposed amendment seems to miss the bus is the rationalization of its various schedules. Currently, there are six schedules, including one that lists "vermin". These include over 800 species and families of wild animals and just six species of plants. This is a clear case of imbalance. In addition, there is a separate Chapter

The amendment seeks to treat all Protected Areas lacking a final notification as 'proposed'. This could impact a large number of Protected Areas.

V-A that prescribes specific provisions related to Schedule I and Part II of Schedule II of the WLPA. This is confusing. There must be clear distinctions between relevant provisions for schedules. Instead of clarifying this, there is further attempt to create new categories of offences for selected species, different from the original schedules! In addition, there is now a Schedule VII being added.

There is also a growing tendency among lawmakers to include what are primarily policy, management and administrative issues within the ambit of legislation. The WLPA is an example of this. In the recent past, provisions of the law have made references to issues like "evaluate and assess various aspects of sustainable ecology and disallow any ecologically unsustainable land use, ensure that the tiger reserves and areas linking one protected area or tiger reserve with another protected area or tiger reserve are not diverted for ecologically unsustainable uses, emphasize co-existence in forest areas outside the National Parks" and so on. Though well intentioned, when included in a legal statute, such provisions are virtually impossible to define and implement. **g**

(The writer, an Indian Forest Service officer, is head of TRAFFIC India. The opinions expressed are personal)

HEADLINES

18 tiger parks going Sariska way

Ajiram Sounds Red Alert Against Milder-Poacher Activities in Reserves
Tiger census figures by Nov, says Ramesh
Our tigers dying everyday, why not given us 50-60...



Ramesh rings Kaziranga tiger poaching alarm

...of Kaziranga National Park, Assam, India. The tiger population in the park has declined significantly since the 1970s...



For whom poaching is an art of survival

...of poaching in the region. The poachers are not just after the tiger but also the other animals in the park...



4 held with leopard skin in Sabarkantha

...of Sabarkantha district, Gujarat, India. The leopard skin was found in a house in the district...



Wild tusker deaths on the rise in Kerala

...of Kerala, India. The tusker population in the state has declined significantly since the 1970s...



Poacher tribes claim Veerappan turf

...of Veerappan, a notorious poacher in the region. The poacher tribes claim that the turf is theirs...



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