

June 9, 2014

The President’s Advisory Council on Wildlife Trafficking

The President’s Advisory Council on Wildlife Trafficking (Advisory Council), whose members were appointed pursuant to Section 5 of Executive Order 13648, respectfully submits the following recommendations to implement the National Strategy for Combatting Wildlife Trafficking (National Strategy), which was released by the White House on February 11, 2014.

The Advisory Council is forwarding these recommendations to the Presidential Task Force on Wildlife Trafficking (Task Force), established under Section 2 of E.O. 13648 and co-chaired by Secretaries Kerry and Jewell and Attorney General Holder.

The Advisory Council adopted these recommendations by consensus in a public meeting on June 9, 2014. The Council looks forward to working with the Task Force and the White House to implement these recommendations, in furtherance of the national policy to combat wildlife trafficking, as set forth by the President in Section 1 of E.O. 13648, and as described more fully in the National Strategy. The recommendations are organized below around the three strategic priorities set forth in the National Strategy: (1) Strengthen Enforcement; (2) Reduce Demand for Illegally Traded Wildlife; and (3) Expand International Cooperation and Commitment.

Respectfully submitted:

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STRENGTHEN ENFORCEMENT

Increase Enforcement of Existing U.S. Wildlife Trafficking Laws

- 1. The Task Force Should Take Steps to Increase the Number of Significant Wildlife Trafficking Prosecutions in the U.S. and Seek More Serious Punishment for Such Crimes**

The Advisory Council notes that the United States prosecutes relatively few wildlife traffickers and the penalties imposed for violators are the lowest of all of the 32 so-called “primary offense”

categories tracked by the Sentencing Commission.¹ The Advisory Council recommends that the Task Force co-chair agencies, led by the Department of Justice and the Department of the Interior, improve U.S. enforcement efforts by taking the following steps:

- Improve case initiation and referral practices.
 - Engage in outreach, education and training for prosecutors and judges regarding wildlife trafficking crimes.
 - Expand undercover investigations to target known wildlife trafficking “kingpins” and their organizations using intelligence sources to identify specific targets. Increase use of controlled deliveries and anticipatory search warrants in criminal investigations.
 - Significantly increase funding in the President’s budget for enforcement activities undertaken by the principal investigative agencies (USFWS, NOAA, and APHIS) and the Department of Justice.
- 2. The Department of Justice Should Review, and the U.S. Sentencing Commission Should Modify, the U.S. Sentencing Guidelines Applicable to Wildlife Trafficking Offenses**

The Advisory Council recommends that the Department of Justice, in coordination with the U.S. Sentencing Commission, review the provisions of the U.S. Sentencing Guidelines applicable to wildlife trafficking and evaluate potential revisions to the Guidelines to better reflect society's increased appreciation of the harms caused by wildlife trafficking and to increase appropriately both general and specific deterrence.

3. The Interior Department Should Continue to Take Administrative Steps to Tighten and Clarify the U.S. Restrictions on Commercial Trade in Ivory and Rhino Horn

The Advisory Council supports the Administration's efforts to use available administrative tools to close loopholes and tighten up the ban on commercial trade on ivory products in the U.S., consistent with existing law. The Advisory Council urges the Interior Department's Fish & Wildlife Service to work with the regulated community and provide non-burdensome permit approvals for non-commercial import and export of products that contain ivory (e.g., orchestra instruments that contain ivory; traveling exhibitions to and from accredited museums, etc.), and for clear and reasonable burden of proof standards that qualify ivory products as “antiques” that are exempt from the Endangered Species Act. The Council also urges FWS to identify and foster donation (e.g., to a museum), disposal and other options that are available to individuals who possess ivory or rhino horn products that cannot be traded commercially.

¹ Statistics for FY 2012, the latest available, show only slightly more than 100 misdemeanor or felony wildlife prosecutions that were sentenced, including smuggling offenses under traditional customs law found at 18 USC 545. This is well below previous peak years of over 200 dating back to the implementation of the mandatory sentencing guidelines during the late 1980's. The average sentence for Environmental/Wildlife Offenses was 2 months imprisonment and the median sentence was zero months which, as noted above, are the lowest numbers for all of the 32 so called "primary offense" categories tracked by the Sentencing Commission.

Revising U.S. Laws to Improve Wildlife Trafficking Enforcement

4. Wildlife Trafficking Violations Should Be Included As Predicates Under the Racketeering and Money Laundering Statutes and the Federal Wiretapping Statute

The Advisory Council recommends that the Task Force work with the Administration and Congress to modify federal criminal law so that wildlife trafficking violations would serve as predicate violations under (i) the Travel Act, 18 USC 1952, (ii) the federal Money Laundering statute, 18 USC 1956, (iii) the Racketeering Influenced and Corrupt Organization Act, 18 USC 1961-1968, and (iv) the federal wiretap statute, 18 USC 2516, as described more fully in the attached letter from the Advisory Council to Senators Feinstein and Graham.

5. Federal Restitution Authorities Should Apply to Wildlife Trafficking Offenses

The Advisory Council recommends that the Task Force work with the Administration and Congress to address gaps in the federal restitution statutes as they apply to wildlife trafficking offenses, as described more fully in the attached letter from the Advisory Council to Senators Feinstein and Graham.

Enhancing International Wildlife Trafficking Enforcement Efforts

6. The Administration Should Confirm that the White House Strategy to Combat Transnational Organized Crime Applies to Wildlife Trafficking

The Advisory Council requests that the Task Force confirm, pursuant to Section 4(c) of Executive Order 13648, that the White House Strategy to Combat Transnational Organized Crime (TOC) applies to wildlife trafficking, and that the systems and strategies that have been developed and are being applied to other types of TOCs are being utilized to combat international wildlife trafficking syndicates.

7. The Department of Defense Should Clarify and Confirm Its Authority to Assist in Counteracting International Wildlife Trafficking Syndicates

The Advisory Council recommends that the Task Force work with the Secretary of Defense and enlist DOD's support to counteract the international wildlife trafficking syndicates that are destabilizing governments and providing funds to militias and terrorist groups. In particular, the Advisory Council requests that the Task Force and the Secretary of Defense: (1) provide clear guidance confirming DOD's authority to provide, where appropriate, training, equipment and intelligence capability to combat poaching activity and to assist in intercepting the transnational transport of illegal wildlife contraband and funds; and (2) supplement existing authority with additional legislative language, if needed.

8. The Department of State Should Direct U.S. Missions Abroad to Engage in Continuous, Coordinated Activity to Combat Wildlife Trafficking

The Advisory Council recommends that Task Force co-chair Secretary Kerry direct U.S. embassies and bureaus to create a “whole of mission” focus on the wildlife trafficking issue and include it in annual chief of mission meetings and convey the issue’s importance to all embassies. The Council recommends that embassy engagement in the wildlife trafficking issue be treated as a top State Department priority and involve all relevant U.S. departments and agencies represented in each mission. As part of this initiative, the Advisory Council recommends that the State Department mobilize its Public Diplomacy team to ensure that demand reduction, anti-poaching and anti-trafficking efforts are part of regular dialogues, exchanges and public events with other countries. U.S. embassies abroad should be encouraged to partner with other foreign missions, including Chinese missions, to maintain a focus on wildlife trafficking within the local diplomatic corps and its engagement with the host government. Finally, embassy personnel should meet regularly with NGOs and private philanthropists to help coordinate in-country anti-trafficking activities.

9. The Advisory Council recommends that the Task Force Take Additional Steps to Improve Foreign Enforcement Capacity, Cooperation, and Partnerships

In addition to the recommendations set forth above, the Advisory Council recommends that the Task Force take the following additional steps to improve foreign enforcement capacity, cooperation and partnerships:

- Enhance coordination among and between wildlife enforcement and intelligence communities. The U.S. intelligence community should track major international wildlife trafficking activities and coordinate its efforts with appropriate law enforcement agencies. Consider possible Presidential directive for effective implementation.
- A coordinated strategy should be developed and implemented across all relevant Federal agencies to support key countries and their requests for assistance. That support can either be directly to foreign governments or through relevant NGO partners that work closely on-the-ground with range State governments, particularly in protected areas.
- The Administration should help find sustainable support solutions and coordinate existing and prospective regional Wildlife Enforcement Networks (WENs) and the International Consortium on Combating Wildlife Crime (ICWC).
- Participate in multinational enforcement operations. Create an anti-poaching database and an information source for successful anti-poaching activities and/or community-based conservation efforts. (*See recommendation #18.*)

Enlisting the Private Sector to Assist in Wildlife Trafficking Enforcement/Awareness Efforts

10. The White House Should Lead a High-Level Effort to Enlist the Private Sector to Stop the Killing and Marketing of Illegal Wildlife Parts and Products

The Advisory Council proposes to work with the Task Force and the White House to encourage businesses that have potential connections with wildlife trafficking activities (albeit mostly inadvertently) to adopt voluntary codes of conduct to ensure that they are not assisting in poaching or trafficking, and to alert customers, suppliers and others in the value chain to do the same. Potential businesses that might be called on to participate in this initiative include retailers (including internet sales platforms, auction houses and traditional retailers), search engines, airline and shipping companies, and the tourism industry. To be successful, it will be necessary that the White House and the Task Force's co-chairs work closely with the Advisory Council and actively and visibly support the initiative.

11. The Administration Should Take Steps to Enhance Private-Public Coordination Regarding U.S.-Based Funding of Anti-Trafficking Activities

Executive Order 13648 anticipates a whole-of-government, coordinated funding of wildlife trafficking initiatives. Coordinated funding will be more effective funding. In addition, if more information is available regarding government-funded programs across the agencies, private funding needs and opportunities can be more readily identified, thereby advancing the public-private partnership model championed in the President's Executive Order. The Advisory Council also recognizes that both public and private funding decisions can benefit from the on-the-ground expertise available in U.S. embassies in affected countries. Accordingly, the Advisory Council requests that the Task Force:

- Work with the Office of Management and Budget to prepare a cross-agency budget for the agencies that are involved in the President's anti-wildlife trafficking initiative.
- Establish a website that brings together information from all of the agencies involved in anti-trafficking activities, including budget-related information and the identification of funding opportunities for interested NGOs and other parties.
- Facilitate country-level meetings among NGOs and private funders with relevant US embassy personnel and host country officials to discuss and coordinate anti-trafficking efforts. (*See also* recommendation #8, above.)

REDUCE DEMAND FOR ILLEGALLY TRADED WILDLIFE

Investing in Effective Demand Reduction Strategies²

12. The Administration Should Convene Experts in Behavior Change and Communications and Develop Effective Demand Reduction Strategies

The Advisory Council requests that the Task Force work with the White House and use the Administration's convening power—including that of our embassies abroad—to bring together organizations, private companies, academics and others with expertise on consumer behavior who can advise on best practices, methodologies and effective communications that have the greatest success in influencing consumer conduct and buying habits in a positive way. A series of roundtables could include behavior change experts, social marketers, advertising and PR firms, consumer research firms, civil society, academics, and the Ad Council, all of which would inform long-term, sustained awareness efforts in key markets to reduce consumption of illegal wildlife products. Such efforts should incorporate baseline information and research from relevant experts in the U.S. and abroad and include information on illegal wildlife consumption in the U.S. The Advisory Council recommends that the Task Force co-chairs take responsibility for facilitating this initiative, in coordination with a White House principal and the Advisory Council.

13. The Administration Should Engage and Coordinate With the Private Sector on a Major Demand Reduction Initiative

The Advisory Council proposes to work with the Task Force and encourage major, U.S.-based multi-national businesses, philanthropists, museums, universities, zoos, aquariums and other private sector institutions to support efforts to reduce demand for illegal wildlife products, which can reinforce successful demand reduction campaigns already underway and align with diplomatic efforts spearheaded by the State Department. Because efforts to change behavior and reduce demand for products in different countries requires special attention to cultural sensitivities, it is important that private sector support for demand-reduction efforts be coordinated with governmental and non-governmental efforts and that they be culturally appropriate and in the language of the target audience. The Council proposes that the White

² There is a great need to broadly strengthen efforts to raise awareness and increase understanding of the magnitude and impact of the illegal wildlife trade, both among the general public, so as to change the behaviors underpinning the consumption of illegal wildlife products, and among governments to ensure countries continue to prioritize and devote resources to combating the trade. Of the three strategic priorities outlined in the National Strategy – enforcement, demand reduction and international cooperation – demand reduction has received the least concerted attention and investment both here in the US and globally. In order to develop the most strategic and cost-effective approaches to tackling the issue, there is a need to fundamentally understand the drivers of the demand for illegal wildlife products, consumer demographics and behavior, and key audiences to target. Past responses to this challenge have often been superficial and have focused on general awareness raising, which has not sufficiently changed the behaviors driving consumption or effectively convinced governments to prioritize the illegal wildlife trade as an area of concern. Raising awareness about the trade and reducing demand for wildlife products can only succeed with new, evidence-based, targeted approaches.

House and the Task Force’s co-chairs actively and visibly support this initiative.

14. The Administration Should Provide Matching Resources for Private Initiatives to Reduce Demand in Consumer Countries

In addition to the “best practices” and recommendations that may emerge from the above-mentioned experts meetings, the Advisory Council proposes that the U.S. government provide significant matching resources for existing demand reduction efforts already taking place in key consumer markets, which aim to reduce demand immediately for illegal wildlife products and instill a conservation ethic in consumers for the long-term. It is important to ensure that such efforts are evidence-based and that programs are tested and mindful of target audiences. In most cases the United States can have more impact contributing technical and financial resources to existing campaigns, rather than designing and implementing new ones.

15. The Administration Should Provide Matching Resources for Private Initiatives that Seek to Change Behavior and Make Poaching-Related Activities Socially Unacceptable in Range States

Similarly, the U.S. government should support and provide resources for demand reduction and behavior change efforts in range states around wildlife poaching and trafficking. Poaching and trafficking are being carried out with the collusion of individuals in range states, and it is essential that the attitudes and behaviors of range state citizens, industry and governments reflect a commitment to combat these criminal acts. Research should be similar to that conducted by GlobeScan/NatGeo and should include education and behavior change components which will engender a broader conservation ethic in the populace. The Advisory Council proposes to collaborate with the Task Force to identify priority range countries and activities to address this.

EXPAND INTERNATIONAL COOPERATION AND COMMITMENT

Utilizing International Diplomatic Tools to Combat Wildlife Trafficking

16. The U.S. CITES Delegation Should Aggressively Advance the President’s Agenda to Combat Illegal Wildlife Trafficking

The Advisory Council recommends that the Task Force work closely with the U.S. delegation to the upcoming CITES Standing Committee (SC) meeting, and other CITES-related activities, and ensure that: (1) the United States is represented at an appropriately high level; and (2) the U.S. delegation aggressively advances the President’s agenda to combat illegal wildlife trafficking. In particular, the Advisory Council recommends that the United States’ CITES delegation work with other member states to hold countries accountable for the implementation of their CITES obligations—both recognizing positively when countries have made significant progress, and taking action when they have not. The U.S. also should consider imposing trade sanctions under U.S. law (e.g., the Pelly Amendment) when trading partners are persistently violating CITES or other anti-trafficking requirements.

17. The Administration Should Continue to Exercise Leadership in Combating Wildlife Trafficking By Using All Available International Tools and Forums to Emphasize the Serious Economic, Social and Environmental Costs of the Wildlife Trafficking Crisis

The Advisory Council commends the Task Force, the White House and others in the Administration for taking steps to put the wildlife trafficking issue on the agenda at key bilateral and multilateral meetings, including trade negotiations, security-related meetings, and the like. The Council requests that the Task Force continue to work with all relevant agencies to ensure that to ensure that wildlife trafficking is be a point of discussion wherever and whenever government and industry leaders convene in an international setting, whether they are discussing trade relations or economic security, etc. This will continue to raise awareness at the highest levels of government (Track I) and industry (Track II) and consistently demonstrate to our partners that wildlife trafficking is, and will remain, a primary concern for the U.S. government and industry. Also, recognizing the multiple initiatives underway internationally, the U.S. should identify mechanisms to best advance the most promising multilateral initiatives (such as the London Conference Declaration) by coordinating efforts, adding value and avoiding duplication.

18. The Task Force Should Partner with the Private Sector and the International Community and Potentially Support Establishment of an African Wildlife Trafficking Information Center

There are a number of sources of information pertinent to the African wildlife trafficking crisis including, in particular, information made available by the CITES Secretariat, TRAFFIC, the CITES/MIKE program, WCS, and others. Nonetheless, there are important information gaps regarding African wildlife populations, and there is a strong interest in ensuring that information-gathering efforts across Africa – including on-going efforts to improve census information on populations levels of key species -- proceed in a timely and transparent manner, in accordance with scientifically sound protocols, and with results posted as soon as possible on a credible, third party site. Also, while some individual NGOs have been providing a valuable service in disseminating current information as it becomes available regarding notable attacks on wildlife, prosecutions and convictions, legal and policy reforms etc., the region would benefit from a single, comprehensive and searchable database of important information on African Wildlife Trafficking developments.

Accordingly, the Advisory Council recommends that the Task Force work with the Advisory Council, African governments and interested private parties to explore the potential establishment of an African Wildlife Trafficking Information Center (AWIC) that would provide a central information hub regarding the status of wildlife populations and wildlife trafficking-related information and developments. The AWIC could potentially be hosted by a prominent African university, perhaps in collaboration with another internationally respected institution, and overseen by a panel of respected African leaders and third party experts.

19. The Department of State Should Advocate the Inclusion of Wildlife Trafficking as a UN Sustainable Development Goal

The Advisory Council recommends that the Secretary of State seek to include community-based wildlife conservation and related anti-poaching activities as a target in one of the Sustainable Development Goals (SDGs) that are scheduled for adoption by the United Nations in 2015, as part of the post-2012 Sustainable Development Agenda. The SDGs will guide the work of governments, intergovernmental organizations, and donors on sustainable development for at least the next 15 years. For many developing nations, establishing viable community-based wildlife conservation initiatives and related anti-poaching activities will be vitally important components of their sustainable development strategies and should be recognized as such.