

**SUBMISSION BY MR BENJAMIN PARKER TO THE PARLIAMENTARY JOINT COMMITTEE
ON LAW ENFORCEMENT:**

**THE INQUIRY INTO THE TRADE OF ELEPHANT IVORY AND RHINO HORN PRODUCTS IN
AUSTRALIA**

10 May 2018

Dear Sir/Madam,

I wish to thank the Senate for the opportunity to make a submission to the inquiry into the trade of elephant ivory and rhino horn products in Australia.

My name is Benjamin PARKER and I am 57 years of age. I am an Australian citizen and I reside in Sydney, NSW. My occupation is a Senior Investigator and consultant and I am currently self-employed.

Employment Background

1. Between 1982 and 1988, I was a uniformed Customs Officer conducting customs enforcement duties at the Sydney airport and the NSW waterfronts.
2. Between 1988 and 1996, I was a Customs Investigator in NSW targeting complex cases of smuggling and illegal importations and exportations, such as wildlife trafficking.
3. Between 1996 and 2000, I was a customs internal affairs investigator based in NSW conducting investigations into allegations of corruption made against Customs Officers.
4. Between 2000 and 2004, I was the manager for customs investigation standards, training and review, developing a range of national investigation training programmes and conducting customs investigation case reviews.
5. Between 2004 and 2013, I was a Principal Investigator with the Australian Government Department of the Environment conducting investigations into wildlife trafficking into and out of Australia.
6. Between 2014 and 2015, I was the fraud investigator for the US Consulate General in Sydney.
7. In 2015, I was a Senior Customs Investigator (later transitioning to the Australian Border Force [ABF]) in NSW specialising in organised crime and complex smuggling cases.
8. Since 2015, I have worked as a Senior Investigator and consultant in the private sector, providing my investigative services under contract to various government and private organisations.

Terms of Reference

- a. Between 1982 and 1996, I do not recall many detections by Customs Officers of ivory and rhino horn importations, or exportations, at NSW ports. I did not have any cases of this type allocated to me during that time and I do not recall colleagues investigating such cases. However, I do recall there were occasional seizures of these products by other Customs

Officers in other ports around Australia but I do not recall any significant post seizure investigations (the records of which may be obtained by the committee from the ABF).

It was not until I commenced duties with the Department of the Environment in 2004, that I became aware of the ever-increasing worldwide problem of illegal ivory and rhino horn trafficking and the growing involvement of people residing in Australia. The Department of the Environment has, for a long time, collated statistics of ivory and rhino horn seizures in Australia because these seizures are conducted under Federal environment law mainly by Customs Officers (and now ABF officers) on behalf of that department (the records of which may be obtained by the committee from the Department of the Environment and the ABF). These records should show the seizures of ivory and rhino horn importations into Australia have increased since 2000. I doubt there would be many export seizures (none that I recall).

I do recall a colleague, Mr Luke BOND, in the Department of the Environment investigating cases of ivory and rhino horn trafficking in Australia. I assisted Mr BOND with some of those investigations and as a result, it became quite obvious to me that ivory and rhino horn products were being traded in Australia by the following methods:

- i. Laundered as antique products through Australian auction houses and other venues;
- ii. Illegally imported via passenger baggage through Australian airports;
- iii. Transited through Australia via sea and air transport (taking advantage of Australia's transit rules) from Africa to South East Asian countries, particularly, Hong Kong, Vietnam and China; and
- iv. Exported from Australia with CITES permits and certificates issued by the Australian Department of the Environment.

I do recall Mr BOND's work in this field resulted in his secondment to the Australian Crime Commission (ACC) as the lead investigator on **Project Aerostar**. This investigation was initiated after Mr BOND conducted investigations in Sydney on a person connected with people convicted overseas for wildlife trafficking.

Mr BOND completed **Project Aerostar** and the ACC made several findings and recommendations to address ivory and rhino horn trafficking in Australia but I do not recall any Australian organisation following on with these recommendations (this report may be obtained by the committee from the Australian Criminal Intelligence Commission [ACIC]). Furthermore, **Project Aerostar** also instigated INTERPOL notifications and activities.

I am sure Mr BOND can elaborate on what happened during the course of the **Project Aerostar** investigations and its aftermath. However, I do not know whether Australian organisations used this learning to clamp down, or stop the trade of ivory and rhino horn products in Australia and to prosecute offenders.

Over the last years, I do recall Customs Officers making a large seizure of ivory in Western Australia (the records of which may be obtained by the committee from the Department of the Environment and the ABF). I do not recall a post seizure investigation but I do recall the modus operandi was similar to what was described in some of the **Project Aerostar** findings.

The investigations by Mr BOND demonstrated how freshly harvested ivory and rhino horn products were (and probably still are) traded in Australia by being mis-declared as pre-

CITES articles supported by forged certificates produced by exceptionally talented overseas forgers. Accordingly, forged CITES documents were, and have often, resulted in the Australian CITES management authority, being the Department of the Environment, to issue import permits for these products into Australia and, therefore, legitimising their sale in Australia, or subsequent export to other countries (the Department of the Environment can advise the committee about how CITES products are globally moved and how CITES products are processed through Australia). I do not know whether the Department of the Environment has ever conducted an audit of receipted overseas CITES documents to determine whether forged CITES documents have been processed as legitimate articles.

The global investigations of this trade show the demand for ivory and rhino horn products is mainly centred in South East Asia being Hong Kong, Vietnam and China. There is low demand for these products in Australia, however, Australia can be used to transit these products to the countries of demand to disguise the origin and, or, to present a low risk of detection by border officials at the countries of final destination (representatives of the ABF can explain to the committee the current ways and means of globally moving illegal goods and they can also present contemporaneous studies of such matters to assist the committee to understand the difficulties involved with stopping the illegal movement of ivory and rhino horn products once exported from the African continent).

- b. In my experience, the detection and seizure of ivory and rhino horn products is not regarded as high priority by the Australian border and environment organisations. I do not recall any of these organisations conducting specific operations, or investigations, to interdict these products, or to specifically prevent this particular trade. I do not recall any of these organisations devoting resources to such activities. If so, there would have been a notable increase in seizures and investigations of these products in Australia. Accordingly, I suspect the ABF does not dwell on how these products can be concealed and imported as other prohibited goods are higher priority. If there is a detection of ivory and, or, rhino horn products at the border, I suspect it would be by chance and in the course of ABF, or other officials, searching for something else.
- c. Mr BOND's work over the years, including **Project Aerostar**, can demonstrate how serious and organised crime groups can be involved in the trade of ivory and rhino horn products from both an international and Australian perspective. I do not recall any other Australian Government organisation studying such matters, or these specific activities. There are many contemporaneous studies of such matters conducted by overseas organisations, such as INTERPOL, that could be obtained by the committee.
- d. I do not recall any arrangements with existing Australian commercial traders to prevent these products being traded in Australia. In particular, I am not aware of efforts made by the Department of the Environment but I am sure this information could be provided to the committee by this Department.
- e. Federal law enforcement agencies such as the AFP and the ABF have not treated the trade of ivory and rhino horn products as a high priority because their resources are commonly directed towards what they view as higher rating threats. There is no evidence that existing State and Territory legislation and compliance frameworks are sufficiently effective, or coordinated enough, to quell the trade of these products. Furthermore, to enforce the federal legislation under the current *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act), a domestic law enforcement officer must be an Inspector under this act to

exercise its powers. In the past, I have not witnessed Customs (and now ABF) treating exports with great priority. I do not recall regular physical searches of export goods (the ABF could advise the committee on such matters). I have witnessed targeted searches of outgoing passengers in accordance with border investigations of illegal wildlife trafficking. Under those circumstances, suspected illegal exports were material in larger national and, or international, investigations and mainly involved reptiles or birds. In my experience, to encourage the AFP and ABF to actively conduct regular investigations of illegal ivory and rhino horn trafficking, it would be dependent primarily on the Department of the Environment to provide those organisations with regular, tangible intelligence to support the AFP and the ABF to expend resources on such matters in the detriment of pursuing other threats.

- f. In my experience, current monitoring and regulation of provenance documentation attached to ivory and rhino horn products is not effective. The CITES certification system is very vulnerable to forgery and fraud. If there is an Australian regulator examining such documentation, it is doubtful that such an entity would have any expertise in this field. There is also the problem of the same CITES identifiers being re-used for a multitude of CITES products. I do not recall any system in place that can confidently match a CITES product with a CITES permit or certificate. It can be stated that the Australian CITES authentication system may, in the end, still rely on the wits of officers physically viewing these materials and their knowledge and experience relating to such matters.
- g. In my experience, it is very difficult to prove or authenticate certificates of origin or overseas trade permits and certificates. It is also very difficult to detect possible forgeries of such documents unless there is specific information received from overseas agencies. There is no international electronic system used to collate and track permitted goods. Therefore, to attain the standards of a possible criminal prosecution using such evidence is dubious. There are modern, scientific methods available to improve this system. For example, carbon dating and micro-chipping are just a few possibilities, and available in Australia.
- h. There is much potential to enhance and improve existing Australian legislation to deal with this problem. Law enforcement officers employed by the Department of the Environment could be allowed to use proceeds of crime powers, anti-money laundering legislation, telecommunication interception and listening device legislation, as well as other laws that many other Commonwealth investigators can access. The EPBC Act could be amended to prohibit the promotion, marketing and trade of CITES products in Australia which could cover the internet and other forms of media. Much of the trade of ivory and rhino horn products are facilitated by electronic advertising and marketing media (internet, social media and the dark net are some examples). The EPBC Act could also be amended and used to target any Australian person overseas involved in the trade of ivory and rhino horn products. The EPBC Act currently contains provisions to deal with Australian persons who are found to have interfered with whales and dolphins overseas anywhere in the world (this information may be obtained by the committee from the Department of the Environment). Law and administration preventing the trade of ivory and rhino horn products domestically could be strengthened by coordinating domestic statutes and making it a COAG matter?
- i. The Department of the Environment is the appropriate agency to support and coordinate efforts to close domestic markets to the trade of ivory and rhino horn products.
- j. The Department of the Environment should be using specialised investigative and law enforcement resources to proactively engage with regional and international counterparts to

address the illegal trade of ivory and rhino horn products. Those resources are readily found within the Department (the Environment Investigation Section), the AFP and the ABF. The Department of the Environment represents the Australian Government's involvement in international environment forums such as CITES. However, I have known this Department in the past to have used representatives at these forums who have lacked the essential law enforcement qualifications. Seldom have I seen in the past this Department actively participating in international law enforcement activities of this nature without having to rely on the agencies that can do the job such as the AFP and the ABF. Furthermore, the Department of the Environment can greatly improve its intelligence gathering and analysis capability to provide high quality, contemporary and tangible intelligence to Australian and overseas law enforcement organisations.

- k. I do not recall any Australian organisation actively and proactively pursuing the illegal trade of ivory and rhino horn products in Australia, except for the efforts of some individual officers in the Department of the Environment and the ACC. Therefore, I am unable to comment on the nature and effectiveness of measures, models and legislation adopted by domestic jurisdictions to address this trade (which I suspect from an anecdotal perspective is non-existent). However, Australian authorities can learn a great deal from several overseas organisations that are succeeding to deal effectively with this trade and other illegal wildlife trade.
- l. The same problem exists with the trade of all other wildlife products in Australia. There are many Australians in possession of illegally traded wildlife specimens and products and they are not being properly investigated. Consequently, such trade directly contributes and promotes the continued degradation of international wildlife populations. Furthermore (pun warning), there is more than one way to skin a cat and in respect to dealing with domestic illegal wildlife traffickers, their wealth and benefits received from this trade can be taken from them by using available Australian Government law. Illegal wildlife trafficking and trade is inspired by those who desire to possess particular wildlife specimens. The demand for wildlife specimens, fund traffickers and trade. Once a collector is in possession of what is desired and what is prohibited, then that collector is always vulnerable to prosecution, monetary penalties and possible imprisonment. Australia needs to greatly improve and coordinate its wildlife and environment laws to keep up with the rest of the world's efforts. Currently, there does not seem to be a will to do this and consequently Australia continues to be vulnerable to illegal traffic and trade. Wildlife collectors in Australia do not fear being caught by the Department of Environment.

