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A FOREWORD

The INTERPOL General Secretariat and the CITES Secretariat are pleased to be able to present these Guidelines on Controlled Delivery of Wildlife to law enforcement officers engaged in this challenging and important area of crime.

The illegal trade in wildlife shares many similarities with other organized crime activities such as fraud, drug trafficking, money laundering, and corruption to name but a few. For law enforcement agencies to be effective in their fight against this growing crime type they must constantly improve their techniques and methods and be open to new ideas.

The use of Controlled Deliveries of otherwise illegal items and substances is not new, and in fact is a common law enforcement tool particularly in the area of drug investigations. Its use in the area of wildlife crime investigations, however, is relatively uncommon and this is why INTERPOL and CITES worked together to produce this publication.

It is hoped that these guidelines will provide an impetus for many wildlife law enforcement agencies to consider this type of investigative tool, and that the information contained in this booklet will assist them in their efforts.

Signed……………………………………..…………………………

IPSG CITES
1 INTRODUCTION

A controlled delivery is a tool used by law enforcement agencies to identify persons connected with criminal activities and to gather evidence against them.

It is a technique that has been employed extensively in relation, for example, to combating illicit trafficking in narcotics but it can be used equally effectively with regard to illegal trade in wildlife.

Although it is usually associated with controlled importations, transit and (to a lesser extent) exportation and is, thus, primarily used in relation to transnational crime, there will also be circumstances when it could be employed nationally, i.e. solely in-country.

For the purposes of this document, the primary focus will be upon transnational crimes, where wildlife of an illegal origin is being smuggled across international borders.

This document is intended to act as a briefing paper for wildlife enforcement agencies that may not have used the techniques of controlled deliveries previously. It will describe the principles involved in this enforcement tool and identify aspects that require special consideration because the contraband being smuggled is wildlife or its parts and derivatives. Particular responsibilities are required of agencies that engage in controlled delivery operations.

These differ, depending upon the stage at which an agency is involved, and it is vital that all those involved are aware of what will be expected of them. One break in what may be a complex law enforcement chain, which may stretch for thousands of miles, can spell disaster for a successful operation.
2 THE STRUCTURE

2.1 THE BASICS

A controlled delivery may be considered when a law enforcement agency either physically detects, or otherwise becomes aware of, wildlife of apparently illegal origin that has begun, or is about to begin, transportation from one country to another.

It should be noted that the country from which the shipment begins may not, in CITES terms, necessarily be the country of origin of the specimens of CITES listed species in question.

Example: Elephants tusks may have been obtained by poaching in the Democratic Republic of the Congo and been smuggled by road to Uganda. Once in Uganda they may have been placed in a cargo container and loaded on to an aircraft for international transportation.

If wildlife law enforcement authorities learn of the shipment at this stage, then Uganda is the point at which a controlled delivery would start but it will not be in the country of origin of the tusks.

This map illustrates a controlled delivery which took place in Africa and Asia.
1. The plane leaves Nairobi to Addis Ababa, and takes off again but this time to Bangkok.
2. The shipment flies to Hong Kong and is finally stopped in Singapore.
3. However the next destination was Vientiane, in Laos although that may not have been the final destination of the shipment.
Similarly, it is significant to note at an early stage that the country to which the shipment has been consigned may not be the final destination of the specimens. It is not uncommon, in relation to wildlife smuggling, for one or more countries to be used as transit or transhipment locations as specimens journey from one place in the world to another.

Example: Documentation relating to the shipment containing tusks transported from Uganda may indicate that Singapore is the country to which the container is being shipped but it may be that China is actually the final destination to which the criminals wish the tusks to be delivered.

Acknowledging this will play an important part in subsequent decision making, should a controlled delivery be instigated. As its name suggest, this technique is used when enforcers decide to allow a shipment, known or suspected to contain illegal-origin wildlife, to continue to be transported from one country to another but under strictly ‘controlled’ conditions.

2.2 WHY USE CONTROLLED DELIVERIES?

When law enforcement authorities physically detect, or become aware of, wildlife that is apparently to being smuggled from one country to another, it is not unreasonable for their first reaction to be to intercept and seize such a shipment. This response certainly interrupts violations of the Convention and ensures that the wildlife can not enter into trade. It is also a perfectly appropriate response, since it usually expected, on discovering or learning of a crime, that a law enforcement agency will step in to prevent or stop it.

However, in the case of cross-border smuggling, such action will also often make the job of identifying the intended recipients of the contraband very difficult, if not impossible, and will certainly make it extremely difficult to gather sufficient evidence to prosecute such persons.

It is also important to recognize that simply removing wildlife from the ‘supply chain’ without taking actions against those responsible, will probably result in those involved acquiring more specimens and beginning the smuggling process afresh. Since this will require more poaching and killing of species of conservation concern, it is surely in the best interest of CITES to avoid this if possible.

A further aspect to consider is that, because the enforcement agency which first discovers or learns of the smuggling is unlikely to be able to take actions against those responsible, since they will usually be in another country and outside that agency’s jurisdiction, it is logical for it to provide evidence to a counterpart agency in whose jurisdiction the offender(s) can be identified and prosecuted.
In the case of controlled deliveries, the evidence that is to be provided is the best evidence available, i.e. the shipment itself (or as will be discussed later, at least part of it).

It must be born in mind, however, that a controlled delivery operation is bound to be both time-consuming and labour intensive. Consequently, careful consideration must be given to whether the specimens involved justify such a response. The quantity, value and conservation status of the specimens all needs to be taken into account.

For example, if one found a single African grey parrot being shipped from one country to another, it is doubtful whether that would warrant a controlled delivery operation. Similarly, one elephant tusk probably does not justify the effort. However, it is not uncommon for smuggling incidents to involve several hundred tusks or pieces of raw ivory and these are clearly excellent examples of where controlled deliveries would be justified.

Sometimes it may be difficult to determine when to initiate an operation. One leopard skin might not prompt a controlled delivery but would one snow leopard skin?
2.3 TYPE OF SHIPMENT INVOLVED

Can live specimens be the subject of a controlled delivery?

The simple answer is, yes. However, there are several issues that must be taken account of in such circumstances. These include:

- Is there a risk of injury to law enforcement officials, cargo, and baggage handlers, airline staff or members of the public? Can that risk be minimized to a level where it is reasonable to proceed?

- Is there a risk of spreading disease, to humans or other animals?

- In the case of an illicit shipment of live animals, it is likely that the transport conditions will not meet IATA Regulations. If so, will allowing the shipment to continue cause unnecessary suffering or risk of injury to the specimens?

- Can the animal be re-packed in containers that comply with IATA Regulations? Will this risk compromising the operation and alert the criminals involved?

- Will quarantine regulations in the relevant countries allow such a movement?

- At the completion of the operation, will the receiving country be able to dispose of the animals in an appropriate manner, i.e. repatriation.

Photo: LAGA
3 BEFORE THE DELIVERY

3.1 LEGAL CONSIDERATIONS

As was mentioned previously, it is usually expected that law enforcement agencies will move, without delay, to interrupt a crime once they become aware of it. However in the case of controlled deliveries, in which such action will deliberately not be taken, the relevant agency might be viewed as failing in its duty or even condoning and facilitating a crime by allowing contraband to continue on its journey from one country to another.

Similarly, a law enforcement agency in the country to which the shipment will be delivered might equally be regarded as facilitating cross-border smuggling or failing to prevent an illicit shipment from entering its territory.

For these reasons, it is imperative before any controlled delivery is undertaken that all the agencies involved ensure that they have either:

(a) A legal basis that entitles them to use this technique; or
(b) The agreement of the prosecution authorities of their country that such a technique can be used

Is there a legal basis?

In many countries, point (a) above may not be addressed in legislation. Alternatively, if the subject of controlled deliveries is provided for in law, this may not relate to wildlife crime and may, instead be limited to specific types of crime, such as trafficking narcotics. Or its use may be restricted to certain forms of ‘serious crime’, perhaps to those identified as ‘indictable offences’ or those which attract sentences of imprisonment in excess of a certain minimum period.

It is highly unlikely that a country’s wildlife legislation will make specific provision for the use of such investigative techniques. Consequently, it will be important to review other laws relating to criminal justice procedure and evidence, organized crime, mutual legal assistance, racketeering, or money-laundering, for example.

Although it is probable that national legislation is unlikely to make provision for controlled deliveries in relation to wildlife crime, it may very well not prohibit its use in dealing with such crimes.
It is suggested that agencies do not focus solely on what offences may have been committed in relation to wildlife law, since the smuggling may also be a contravention of other legislation, such as Customs, quarantine, bio-security or conspiracy laws, which may attract considerably more significant penalties than CITES related legislation.

For example, many of the acts committed in relation to wildlife crime and illicit trade in wildlife would fit within the definition of ‘organized crime’ under the United Nation Convention against Transnational Organized Crime. It is important to be imaginative when considering this aspect.

**The procedure to follow when there isn’t a legal basis**

If national legislation does not specifically authorise this technique when responding to wildlife crime but does not specifically exclude it, then point (b) must be considered. Several countries have yet to consider the subject of controlled deliveries at all, regardless of crime-type, and thus it may lie with prosecution authorities pursuant to national legislation to determine whether controlled deliveries are an investigative tool that would be acceptable to the country’s judicial system. Since many countries have used the tool for dealing with crime such as narcotics smuggling, it is likely that some general principles or policy will have been adopted.

They may well be ‘case law’, i.e. legal judgments by Supreme Court or Courts of Appeal, which may help guide prosecutors. If the courts have accepted controlled deliveries as an appropriate investigative technique for other forms of crime, they may be reasonably expected to find it acceptable for wildlife matters.

**Are there any additional conditions?**

Having established that either points (a) or (b) apply, and that controlled deliveries can be used by your agency, the next stage is to determine whether there are additional conditions that require to be met. In many countries where controlled deliveries are either sanctioned by law or have been ruled by prosecution authorities or courts as permissible, certain requirements have often been established that must be complied with before a controlled delivery operation may be set in progress.

For example, it is not uncommon for a controlled delivery operation to have to be sanctioned or authorized by an officer of a certain rank, i.e. a Superintendent of Police or Commissioner of Customs. Alternatively, approval may firstly have to be sought from a prosecutor. In such cases,
there will also be certain reporting requirements before, during and at the completion of the operation. Failure to comply with such requirements may lead to any evidence gathered during the operation being ruled inadmissible.

Very importantly, failure to comply might also result in the officers involved in the controlled delivery operation not benefiting from the immunity or indemnity that is an essential component for their activities. After all, in simple terms, what the legislation or prosecution authorities are sanctioning is that law enforcers can ‘condone a crime’ (by allowing the contraband to continue).

It is vital that any officer involved in a controlled delivery operation be satisfied that what he or she is doing is properly approved and that he or she cannot subsequently be criticized or, even worse, prosecuted.

3.2 PRACTICAL CONSIDERATIONS

Having established that officers in the agency that wishes to initiate the controlled delivery are entitled or authorized to do so, the next step is to consider what actions are desired in the country where the shipment is next expected to arrive.

Such considerations go beyond purely logistical arrangements. These considerations must be addressed before any controlled delivery is initiated. It will also be important to take into account whether the shipment will have to transit through, or be transhipped in, another country or countries before it reaches the destination to which it is consigned.

Will those countries agree to facilitate the controlled delivery operation?

Is it pointless to start a controlled delivery operation unless one is completely satisfied that the necessary responses and appropriate level of cooperation and collaboration are in place.
4 THE DELIVERY

4.1 PRIMARY RULES AND INFORMATION

The procedure

To concentrate on the country to which the contraband is consigned, the following needs to be considered:

• Is the country a Party to the CITES Convention? If it is not, it is likely that it will not be able to prosecute the person responsible, even if a controlled delivery operation identifies them.

• Which agency should take the lead with regard to the controlled delivery?
  ◗ This must be established at an early stage and needs careful thought.
  ◗ Whilst Customs officers may be the appropriate officials to initially respond when the shipment arrives, they may not have the necessary legal investigative powers to undertake the follow-up work if the shipment is cleared for import and delivered to an address elsewhere in the country.
  ◗ It may be desirable, for example, to allow the shipment to be delivered to a company premises or individual's home rather than taking action at the port of arrival.
  ◗ It might be necessary to apply to a Court for a search warrant for the premises.
  ◗ There may be many aspects related to subsequent investigations that will be outside the scope of border control agencies.
  ◗ It may be necessary to involve the police or a specialized law enforcement agency.
  ◗ What is very likely is the work involved will be beyond the capabilities, training, or experience of most CITES Management Authority officials. Whilst the CITES Management Authority of the country to which the shipment is consigned should be advised of the controlled delivery, and provide assistance, it is doubtful whether it should be the lead agency for the importing country.
  ◗ It is essential that the lead agency has the authority to undertake controlled delivery operations.
• It is important that the courts of the country in question will admit evidence obtained via controlled delivery operations and that its national legislations has adequate penalties with respect of what is being smuggled.

• It is important that quarantine regulations will not prevent a controlled delivery operation from being conducted. This may depend on the nature of the specimens being smuggled.

• The lead agency must provide an assurance that it will undertake all relevant surveillance work necessary to fulfil the aims of the operation and that it will, subsequently, undertake the necessary investigations to identify courier, traders, buyers, etc, not only in relation to the shipment in question but also with regard to any evidence that may emerge of previous smuggling and other wildlife related crimes. It should also provide an assurance that it will make every effort to prosecute those involved in the criminal courts (as opposed to imposition of administrative penalties).

• The lead agency should commit to keeping the agency that initiated the operations continually informed of progress.

• The lead agency should commit to sharing information and intelligence that it gathers during the operation with the country that initiated the controlled delivery and, where appropriate, with other relevant countries or relevant international law enforcement organizations, such as INTERPOL, the World Customs Organisation and the CITES Secretariat.

• The lead agency should also commit, as far as practical, to providing evidence to other relevant countries that will assist in the identification and prosecution of persons elsewhere that may have been involved in crimes connected to the smuggling incident.

• The lead agency should commit, where the country to which the shipment is consigned proves to not be the country of final destination that it will thereafter take command of the operation and will liaise with the next country of delivery to ensure that the points above are considered. It should also commit where these points cannot be confirmed, that it will, instead, seize the shipment to ensure that the specimens do not enter illicit trade.
Making contact

When an illegal shipment is discovered, one of the first difficulties may be in knowing who to contact in the next expected country of delivery. This may be particularly relevant with regard to identifying the most appropriate agency to assist in a controlled delivery operations.

The CITES website has contact details for all CITES Management Authorities (http://www.cites.org/common/directly/e_directly.html).

Where available, it also lists the contact details of national enforcement authorities. Both INTERPOL and the World Customs Organization have National Central Bureaus or National Contact Points that may have experience of facilitating controlled delivery operation.

More and more countries have law enforcement officials stationed in their embassies around the world. Such officials may be titled Customs, Drugs or Police Liaison Officers or Legal Attachés. These persons will usually be experienced officers, often with personal knowledge of controlled delivery operations.

Importantly, they will also usually be able to quickly identify the relevant agency in that country to take the lead and will be able to assist in coordinating such an operation.

However contact is made between the two or more agencies that will be involved in the conduct of the operation, it is vital that written confirmation is received that agencies in the ‘target’ country are ready to take control. It is not sufficient to simply send a written request to an agency in another country and initiate a controlled delivery, in the expectation of cooperation, unless a response has been received. A shipment must NEVER be sent on its way unless confirmation has been received. Ideally, the law enforcement officials in the relevant countries should also communicate verbally to discuss various aspects of the operation.

Required information to be supplied

The agency that is preparing to receive a shipment in a controlled delivery operation should be supplied with as much information as possible. This should include such details as:

- The crimes and offences that have been committed in the country where the shipment has been discovered;
• The significance of the specimens being shipped, i.e. their listing in the CITES Appendices, estimated value and their conservation status (how rare or endangered they are). It is important to remember that the agency in the receiving country may have little experience of wildlife crime and may not appreciate, for example, that a rhinoceros horn or snow leopard skin is a rare and valuable commodity.

• A statement identifying and describing the specimens and confirming that they are controlled by the CITES Convention.

  For example, ivory should be confirmed to be from elephants. It would be pointless to conduct a controlled delivery operation, only to eventually discover that the ivory was from mammoths and not regulated by CITES.

  However, in the case of a large number of tusks (perhaps visible by screening or X-ray), it is probably reasonable to presume these will be from elephants tusks since it is extremely unlikely that large numbers of mammoth tusks will be moved cross-border.

  However it will be appropriate to confirm that ‘worked ivory’ was from elephants, since many carved objects sold in Asia are made from mammoth ivory.

• Wherever possible, photographs or digital images of the specimens and containers.

• Full description of the containers, their size, weight, structure, colour, and shipping method, including details of any concealment.

• Copies of any documents (invoice, false CITES permit, cargo manifest, air waybill, etc.) related to the shipment.

• Details of the means of transport, shipping company or airline name, flight number, route and expected time of arrival.

• Name of the senior officer initiating the controlled delivery operation, rank or title, agency name, address, telephones and fax numbers, email address and a contact number that will be answered 24 hours a day in case urgent communication is needed.
X-ray photographs showing ivory tusks before opening containers prior to a controlled delivery.

Seized containers containing ivory tusks during a controlled delivery operation.
4.2 CONTROLLING TRANSPORTATION OF THE SHIPMENT

What is to be delivered?

One of the first questions to be answered at the beginning of a controlled delivery operation is ‘What is to be delivered?’

The answer is not as obvious as it may seem since one may not wish to deliverer the entire shipment.

There will always be a risk in a controlled delivery operation, as with anything else in life, mistakes will occur or circumstances will change. The means of transportation could suffer a mechanical failure or an accident. The shipment could unexpectedly be re-routed for a variety of reasons. Surveillance of the shipment could be interrupted.

Whatever the cause, one must acknowledge that the enforcement agencies might lose control over the shipment. That being the case, there is the danger that the specimens will reach the intended recipients at a time when enforcement officers are not ready to intervene or the specimens could come into the possession of other persons, unconnected with the smuggling. Either way, the agencies have lost control or the specimens may enter illicit trade. Risks of the spread of disease, etc. may also emerge.

For the reasons described above, it may be preferable to remove some, or the majority, of the specimens. It will usually be necessary to allow sufficient to remain to provide evidence of an offence, and then the shipment may move on. If it is decided to reduce the number or quantity of specimens, it is essential not to compromise the operation whilst doing so.

For example, it is important that officers are confident that any containers can be opened and re-sealed without alerting the smugglers that the shipment has been interfered with. Similarly, the container must retain its original shape and weight. In some previous wildlife controlled delivery operations, for example, bricks and stones have been used as substitutes for raw elephant ivory.

If it is not possible to achieve opening, substitution and closure without noticeable impact on the shipment, it may be better for it to continue in its original form.
The use of monitoring

Following a shipment’s detection and the decision to initiate a controlled delivery, it is vital that the shipment is monitored closely.

- It is not uncommon for Customs brokers, freight forwarders and shipping agents to receive last minute instructions from those organising the smuggling to change its destination.

- One must also guard against any interference by persons such as baggage-handlers or cargo loaders who may have been recruited to divert or remove the shipment just before or during loading and unloading.

- It is probably preferable not to inform airline or vessel staff, brokers, shipping agents, etc. that a controlled delivery is taking place in case they alert the smugglers.

- The shipment should be kept under supervision (albeit from a distance) until loading has been completed and the aircraft, vessel, train, lorry etc. has left.

- Notice of its leaving should be passed immediately to the agency that will take over control in the country of next destination, including any transit or transhipment countries in-between.

The same level of supervision and monitoring is required of the ‘receiving’ agency, when the shipment arrives or whilst it is in transit or being transhipped. Agencies must always be prepared to react to any sudden changes of route, either by moving to intercept and seize the specimens or by making alternative arrangements for another agency to take over control.

Some agencies make use of electronic surveillance tools, such as tracking devices, and insert these into shipments as an aid to monitoring movements. If this type of equipment is readily available, it can be considered if it is permitted by legislation. However, this is only truly effective if it can be ensured that agencies along the route, and, particularly at the final destination, have compatible equipment to take over electronic surveillance.

Strict monitoring from loading to unloading will normally be sufficient, since the opportunities for anyone to interfere with the shipment during transportation ought to be limited. It is important to note that various forms of transportation can be monitored ‘remotely’ by criminals.
For example, it is possible to ‘track’ packages and cargo sent by courier services, such as DHL, via the company’s website. By entering the number allocated to the shipment, one can view information relating to its movement from depots to borders, etc. The company updates this information on a regular basis so that customers are aware of the progress of the shipment. It is known that smugglers use this facility to monitor progress and, if there is an interruption or unusual delay at some point, they may decide to abandon the shipment and fail to collect it or refuse to accept delivery. If it is possible for the shipment in question to be monitored in this way, enforcement officers should be careful to avoid delays that might alarm the smugglers and intended recipients.

4.3 MANAGING THE FINAL DESTINATION

It is almost inevitable that this will be the most complex and labour-intensive part of a controlled delivery operation. Once a lead agency is satisfied that its country is the final destination of the shipment, it must prepare itself for managing the delivery to the final recipient. There are a number of practical and legal issues to be considered at this point.

Firstly, it must be determined whether the recipient is likely to collect the shipment in person or if it will be delivered to a company’s premises or to an individual’s address.
Where an import clearance procedure is mandatory, perhaps accompanied by the payment of taxes or Customs’ duties, the operation may be simpler. In such circumstances, the agency’s officers may simply have to monitor the shipment until the recipient comes to a Customs office, cargo holding area or perhaps Customs broker’s premises. There are, however, potential problems associated with this scenario:

- If the shipment has been transferred, for example, to the premises of a Customs brokers or shipping agent, it may be necessary to disclose to the broker or agent that the authorities have an interest in the shipment.

- Whether this brings risks of the smugglers learning of such interest will depend on the reliability and honesty of the broker or agent. Each situation will require to be dealt with on a case-by-case basis.

Whether the recipient takes delivery from border control authorities or via an agent, this provides an opportunity for enforcement officials to ‘spring the trap’ and detain whoever collects the shipment. There is an advantage and a disadvantage to intervening at this stage:

- The advantage is that courts will often view whoever collects the shipment as doing so voluntarily and, in doing so; the person indicates guilty knowledge of what the shipment contains. Justification for this inference is strengthened further if the person pays any charges, taxes or duties that are liable at the time of collection.

- The disadvantage is that the person may simply be acting on behalf of the recipient and may have no knowledge of the contents or have any connection with the crime.

It is probably preferable, therefore, for the person who collects the shipment to be placed under surveillance and followed to the ultimate destination. Enforcement officials should then intervene and begin seizures, interviews and any relevant ancillary searches. This hopefully ensures that those most closely involved in the illicit trade are identified and taken into custody.

In cases where the final delivery location cannot be identified in advance, it may be necessary once the premises are identified for them to be secured in a ‘containment operation’ whilst a search warrant is urgently obtained.

If the shipment will not be collected from border control authorities or brokers and agents but is, instead, to be delivered to an address specified in the shipping documents, then a similar situation to that described immediately above will apply, i.e. surveillance until the point of delivery.
and then intervention, interviews, arrests, etc. An alternative to surveillance would be for a law enforcement officer to pose as a delivery agent or postman, for example a DHL or other courier service employee.

Where the address of final delivery is known in advance, it will usually be necessary to obtain a search warrant for the premises. Such a warrant is sometimes described as ‘anticipatory’. In normal circumstances, law enforcement officers apply for a warrant to search premises in the knowledge that items of evidential value are already present there.

Where controlled deliveries are concerned, this is not the case but the officers have a reasonable expectation that the evidence will be there in the near future and it is on this justification that a warrant would be granted. The court may place a condition on the warrant that it cannot be executed until delivery takes place.

It will be important to allow delivery to occur before intervening. The acceptance of delivery by those involved, often involving the signature of receipts or delivery documents, helps demonstrate guilty knowledge of the contents. Witnessing the delivery of the shipment may also be a condition that has to be fulfilled before the search warrant is executed. It is, therefore, recommended that officers do not intervene too soon and it may be worth allowing sufficient time for those on the premises to at least begin to unpack the shipment.
When searches are conducted at the final point of delivery, it is important to not focus solely on the shipment but to also look for evidence of:

- other wildlife crime activities;
- previous shipments;
- manufacturing or processing equipment;
- documents that may help link the recipients with their counterparts in the countries where the wildlife was illegally harvested or along the smuggling route;
- computer hard drives, etc. Search warrants obtained for this stage of the operation should take account of the need to seek out additional evidence.

4.4 ANCILLARY ISSUES

Aside from managing the shipment itself, there are other law enforcement techniques or tools that may be of benefit during a controlled delivery operation and agencies should consider whether they have the legal authority and logistics to undertake these ancillary activities. These might include such issues as:

- engaging in covert investigations (posing as a smuggler, supplier, or purchaser);
- electronic surveillance techniques (telephone, email or other communication interception and recording, use of tracking devices);
- accessing Internet service provider records, telephone subscriber details and records and bank accounts; and
- accessing information on computer hard drives (requiring the involvement of relevant forensic experts who may need to retrieve password protected, encrypted, or deleted electronic records or data).
4.5 AFTER THE CONTROLLED DELIVERY

The ultimate goal of a controlled delivery is to identify the participants throughout the distribution network, from one end of the chain to the other. Consequently, an investigator should seek to obtain a statement or confession from the person or persons who are identified during the final delivery phase.

Such a statement or confession should detail the person’s complicity, role and contacts. It may be possible and appropriate to enlist that person’s cooperation with investigators, so that the investigation’s scope can be widened to identify and prosecute all those involved. It may therefore require consultation with prosecution authorities to determine whether the person identified during the final delivery stage could be used as witness, rather than being prosecuted.

Investigators should collect evidence of the distribution network from beginning to end, including the source, couriers, distributors, dealers, and customers who have purchased wildlife knowing it had to be illicitly traded. This is known as ‘climbing up the ladder’ to the source and ‘down the ladder’ from distributors to end users.

The controlled delivery merely exposes the tip of the iceberg. A follow-up investigation is essential. There are two important lines of enquiry to pursue:

• ‘Follow the wildlife’, i.e. track the route of the wildlife from where it was illegally obtained, along the smuggling route, to its final destination

• ‘Follow the cash’, i.e., track the payments made to dealers, couriers, smugglers, etc. to see where the money finally comes to rest (usually the bank account of the source or an important ‘middleman’ or ‘controller’).

This tracking may also disclose links to other criminal activities, such as smuggling of other contraband, money laundering or even terrorist or rebel activities.

Follow-up investigations are likely to require just as much inter-agency and international communication, collaboration and coordination as during the controlled delivery operation.
5 CONCLUSION & RECOMMENDATIONS

This briefing document is not intended to be exhaustive. It is presumed that the reader will already have knowledge or experience of conducting interviews, searches and a range of other investigative techniques needed to deal with criminals and prepare cases for prosecution.

Its focus is controlled deliveries and it seeks to highlight the issues that need to be considered and addressed by an agency that wishes to initiate, or participate in, such an operation.

Because of the ability of the smugglers to sometimes use the Internet, and other means, to monitor the progress of a shipment, the decision whether to initiate the controlled delivery will often have to be made quickly. Similarly because the shipment may be due to be loaded onto an aircraft or a vessel soon after the discovery of its illicit contents, there may often be little time in which to put the necessary arrangements in place.

Consequently it is preferable that relevant agencies and their staff already have in place policies relating to controlled delivery operations and that they are ready to act at short notice. For instance, it is a simple matter to research the issues described in the ‘Legal considerations’ section of this document and be aware of what officers are entitled to do and whether authorization must firstly be obtained.

Where two or more countries are aware from past experience, or intelligence exists to indicate, that each is affected by regular smuggling that could be combated using controlled deliveries, it makes sense for the relevant agencies to discuss this, agree on common policies, and be ready to quickly put an operation into effect.

Additionally, it is recommended by the CITES Secretariat that the lead agency for wildlife law enforcement in every country should consider the subject of controlled deliveries. Having done so, and if it is willing and prepared to use this investigate tool, it should advise the Secretariat of this and its preparedness could be recorded on the CITES Website. This would help facilitate quick communication and collaboration when a potential controlled delivery scenario is identified.
As just one example of what can be achieved, the CITES Secretariat is aware of a controlled delivery operation, involving the smuggling of ivory, which was conducted between Customs authorities in the United Kingdom of Great Britain and Northern Ireland and China. This resulted in two persons being successfully identified in China who were subsequently sentenced to six years imprisonment.

The CITES Secretariat and Interpol hope that this document will encourage more countries to use controlled delivery operations, resulting in more wildlife criminals being jailed.
APPENDIX 1 — GLOSSARY

CITES - Convention on International Trade in Endangered Species of Wild Fauna and Flora - An international agreement concluded between States, the aim of which is to ensure that international trade in specimens of wild animals and plants does not threaten their survival.

CITES Appendix - Appendix I, II, III list the species regulated by the convention, depending on their status of conservation concern.

CITES Permit - An official document issued by a Management Authority of a Party to authorize the export of a specimen of a species included in Appendix I, II or III.

CITES Secretariat - The body established by Article XII of the Convention, responsible for providing advice to the Parties on the practical implementation of the Convention, organizing the meetings, providing reference material and technical assistance, acting as a central registry of information, assisting with communication and monitoring the implementation of the Convention to ensure that its provisions are respected.

DHL - (originally standing for Dalsey, Hillblom and Lynn) is a Deutsche post company of Germany that provides international shipping of documents and freight as well as contract logistics. It is one of many international freight forwarding companies.

IATA - International Air Transport Association

INTERPOL - (More correctly ICPO-INTERPOL) International Criminal Police Organization

MANAGEMENT AUTHORITY - A national management body designated in accordance with Article IX of the Convention. It is the only body competent to grant import and export permits and re-export certificates on behalf of that Party.

NATIONAL CENTRAL BUREAU (NCB) - Each INTERPOL member country maintains a National Central Bureau staffed by national law enforcement officers. The NCB is the designated contact point within the country to ensure liaison with the various departments in the country, with other NCB’s, and with the INTERPOL General Secretariat.

THE CONVENTION – A term also used when referring to CITES. It was first agreed at a meeting of representatives of 80 countries in Washington DC., United States of America, on 3 March 1973, and is sometimes referred to as the Washington Convention. CITES entered into force on 1 July 1975. It is legally binding on the Parties—in other words they required to implement its provisions, but it does not take the place of national laws, which are the responsibility of each member party.
APPENDIX 2 — LEGISLATIVE REFERENCES

The following examples of legislation that deals with controlled deliveries and cross border investigations may be of interest, together with a United States Supreme Court decision relating to anticipatory search warrants and controlled deliveries and a United States District Court decision on wildlife crime investigation.

Crime Act 1914 part 1 AB – Australia

Controlled Drugs and Substance Act 1996 – Canada

Mutual Legal Assistance in Criminal matters 1992 – Thailand

Regulation of Investigatory Powers Act 2000 – United Kingdom

Criminal Justice (International cooperation) Act 1990 – United Kingdom

U.S. v. Grubbs, 2006, No. 04-1414, 126 S.Ct. 1494

Law enforcement agencies are encouraged to provide any information they may have relating to controlled delivery operations, so that this document can be updated and others can learn from their experience.

Information should be submitted to:

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