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Jim Rubin

Shata Stucky

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FIGHTING BLACK MARKETS AND OILY WATER: THE DEPARTMENT OF JUSTICE'S NATIONAL INITIATIVES TO COMBAT TRANSNATIONAL ENVIRONMENTAL CRIME

by Jim Rubin* and Shata Stucky†

INTRODUCTION

In recent years, there has been an increase in global attention paid to transnational environmental crimes. These crimes include the illegal international trade of environmentally sensitive materials, such as protected wildlife or ozone depleting substances ("ODS"), and other conduct that violates standards and obligations established by international environmental treaties, such as oil pollution from ocean going vessels. These crimes support lucrative black markets, estimated in 2000 to be in upwards of \$8 billion a year for wildlife and ODS alone, robbing countries of needed financial and biological resources and providing outlets for organized crime. They further threaten the world's biodiversity, atmosphere and oceans, and undermine the international agreements established to counter these threats.

In the United States, the Department of Justice's Environment and Natural Resources Division ("ENRD"), with the assistance of domestic and global partners, has developed a number of coordinated enforcement initiatives and programs that have effectively targeted resources to address these crimes. As a result, ENRD has successfully prosecuted a large number of transnational environmental crimes, leading to significant criminal convictions, jail sentences, and fines. This article will first briefly describe the work of ENRD and its role in federal enforcement and then provide more detail on ENRD's efforts to address transnational crime in three areas: smuggling of ODS; smuggling of protected species; and vessel source pollution.

THE ROLE OF ENRD IN ENFORCEMENT

ENRD is responsible for all environmental and natural resources related litigation filed on behalf of or against the United States in federal courts (e.g. laws related to air and water pollution; solid and hazardous wastes; environmental reviews; wildlife and ocean resources; land use, planning, and management; and forest, mineral, and energy resources). ENRD has responsibility for over 10,000 cases filed in all 94 federal judicial districts and employs over 400 attorneys at its headquarters in Washington, D.C. and in field offices across the country. These include affirmative enforcement matters (currently 30% of ENRD's cases) and non-discretionary matters such as defensive litigation and land acquisition. ENRD also works in tandem with locally based U.S. Attorneys in each of the 94 judicial districts. As will be described below, the relationship between ENRD and U.S. Attorneys is particularly close in handling cases involving transnational crime. ENRD is relatively unique among justice ministries around the world as a large unit focused exclusively on environmental and natural resource liti-

gation. Among other things, this allows ENRD to develop expertise in environmental litigation, to better coordinate major national enforcement initiatives and to maintain consistent positions in litigation. Within ENRD, there are over 30 attorneys who specialize in prosecuting environmental crime, including crimes of a transnational nature (ENRD attorneys also handle civil enforcement as well as defense of federal entities, appellate matters, land acquisition, and Native American issues). This article will focus specifically on this aspect of ENRD's work.

In the criminal context, ENRD represents a large number of federal agencies, including the Environmental Protection Agency ("EPA"), the Departments of Interior and Commerce, and the U.S. Coast Guard ("USCG"), who are responsible in the first instance for investigating violations of federal environmental laws. If those investigations lead to referrals to ENRD, the Division will then decide whether to prosecute a matter. ENRD does not have its own investigative arm but, as will be described below, is actively involved in initiatives and building cases from the very outset with investigators from other agencies. Wherever possible, if a particular case involves other countries or foreign conduct, ENRD will seek the cooperation of foreign enforcement officials either through formal mutual legal assistance treaties ("MLATs"), extradition treaties, or informal cooperation. To bolster this cooperation, ENRD has regularly reached out to other countries to share information, and, experience, and if requested, to build capacity for enforcement. Finally, ENRD works with international organizations such as Interpol, the North American Commission on Environmental Cooperation ("CEC"), the United Nations Environment Programme ("UNEP"), and the International Network of Environmental Compliance and Enforcement Officials ("INECE") to strengthen its own and other nations' enforcement capabilities and to maintain contacts for future cases and cooperation.

NATIONAL INITIATIVES TO COMBAT TRANSNATIONAL CRIME

Like many other governmental agencies or components, ENRD faces real pressures to maximize the productivity of its resources, particularly in the enforcement arena, which as noted above only constitutes a portion of the Division's budget and

*Jim Rubin is Assistant Chief of the Policy, Legislation and Special Litigation Section of the U.S. Department of Justice's Environment and Natural Resources Division, where he coordinates international environmental matters. Jim.Rubin@usdoj.gov.

†Shata Stucky is a paralegal specialist in that section. The views expressed in this article do not necessarily represent official positions of the United States or the Department of Justice.

workload. ENRD has found that through targeting specific types of crimes, it can make the most effective use of its resources. To do so, ENRD has developed a number of environmental criminal initiatives and programs, both in the domestic and transnational areas. These efforts share the common elements of discerning national patterns of criminality, sharing data among domestic and foreign agencies, and ensuring regular communication and training among all relevant enforcement officials.

It should also be noted at the outset that ENRD's transnational crime initiatives and programs owe their success to a number of institutional elements present at the federal level in the United States. These include a broad range of meaningful and effective laws that protect air, water, natural resources, public health, and other interests. Additionally, there are resources for and there is a political commitment to compliance and enforcement. Finally, there is a fair, independent, and impartial judicial system with judges who are informed about environmental laws and the effects of environmental harm. Mandatory

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sentencing guidelines that cover environmental crimes further ensure fair, consistent, and meaningful sanctions for violators. Thus, the U.S. model cannot necessarily be replicated in countries where one or more of these elements is lacking; nonetheless, a focused discussion of these initiatives and programs can help identify the importance of the underlying institutions and suggest ways of building capacity to support them.

Below, we shall discuss three particular areas where ENRD and its partner agencies have developed initiatives and programs to combat transnational crime. The first two address the illegal trade in ODS and protected species of wildlife. The third concerns efforts to prevent despoiling of ocean resources by vessel pollution, primarily from oil. These efforts not only protect the health of U.S. citizens and their ability to enjoy natural resources in a sustainable manner, but they also protect the global environment through the promotion of multilateral environmental agreements ("MEAs.") ENRD's initiatives and programs have served as powerful tools for the United States' implementation of several important MEAs to which it is a party. These agreements lack international enforcement mechanisms and therefore their successful implementation depends on effective domestic implementation and enforcement. Finally, we will briefly detail the importance of developing and utilizing international enforcement networks and contacts to facilitate

enforcement against transnational crime, and in so doing, further promoting the MEAs that address these problems.

CHLOROFUOROCARBONS INITIATIVE AND TASK FORCE

ENRD's initiatives to combat crime, including transnational crime, are frequently bolstered by task forces, which consist of local, state and federal - and sometimes foreign - enforcement officials. Task forces promote cooperative and consistent efforts at all levels of government and provide opportunities to gather and exchange information with others interested in efficient and systematic enforcement. Additionally, pre-existing task forces allow for the quick mobilization of investigative, technical, and legal resources of diverse agencies to respond to serious criminal violations. Below, we will discuss the Chlorofluorocarbons Initiative, which has made particularly effective use of the task force concept.

Due to an international phase-out of production and consumption of ODS in industrial nations under the Montreal Protocol on Substances that Deplete the Ozone Layer ("Montreal Protocol"), a vast black market for these chemicals has developed, estimated in 2000 at between \$1-2 billion worldwide. These colorless, odorless gases, which include chlorofluorocarbons ("CFCs" such as "Freon," a common refrigerant), halons, and methyl bromide (a pesticide and agricultural fumigant), are commercially valuable but contribute to the destruction of the stratospheric ozone layer that protects the Earth from harmful ultraviolet radiation. Under the Montreal Protocol, they can only be manufactured in countries undergoing industrialization until a final phase out in 2010. The consumption of ODS in industrialized countries, like the United States, is tightly controlled and limited mainly to recycled product and some excepted uses. The price of recycled ODS can be quite high, so there is a large profit margin for black market chemicals, which move from countries still allowed to produce the chemical to and through industrialized countries, where such importation is generally illegal. Moreover, these gases can be transported in small canisters, are difficult to identify and interdict, and frequently are fraudulently labeled as "used" product, which can be lawfully sold in some countries like the United States subject to licensing and tax restrictions.

In the United States, trade in ODS is governed by several different U.S. laws and regulations. Since 1996, the production and import of some of the most harmful ODS into the United States has been prohibited (prior to that date, companies had to possess "consumption allowances" to import ODS). 40 C.F.R. §§ 82.4(b-d). However, "used" ODS or ODS stockpiled before the 1996 ban may lawfully be sold subject to certain licensing and tax obligations. 26 C.F.R. § 52.4681-1(a)(3), 40 C.F.R. § 82.154(n). Hence, businesses may petition EPA to import recycled or "used" ODS, but cannot import newly manufactured chemicals. 40 C.F.R. §§ 82.13(g)(2-3).

Violations of these regulations and permit requirements are enforceable through both civil and criminal judicial proceedings under the Clean Air Act ("CAA"), 42 U.S.C. §§ 7413(b) and (c). Criminal penalties include fines and up to five years imprisonment or more for a subsequent conviction. U.S. enforcement

officials also use a number of other laws as well to prosecute violators, including more generic customs laws prohibiting false records (e.g. 18 U.S.C. §§ 542, 545), as well as tax laws which require excise taxes to be paid on imported ODS and reported to the Internal Revenue Service (26 U.S.C. §§ 4682, 7201, 7203). Violations of these laws can lead to felony prosecutions, imprisonment and large fines.

To enforce the relevant CAA provisions, ENRD and EPA have created a task force comprised of federal, state and sometimes foreign enforcement officials to maximize resources, coordinate enforcement, and target specific problem areas. The task force was created several years ago, after U.S. Customs officials in Miami alerted ENRD to their region's smuggling problem and the likelihood that it may be occurring nationwide. ENRD attorneys then assessed the problem by comparing Customs data on importation of Freon to data on permitted imports of Freon collected by EPA. The analysis indicated twelve geographic areas with the greatest number of suspicious imports. Working closely with the United States Attorneys, ENRD then brought investigators and prosecutors from those regions together in a National CFC Enforcement Meeting to discuss the relevant laws, regulations, and data and share experiences in investigations and prosecutions. This meeting resulted in successful prosecutions and seizures in six states and territories and ultimately led to the creation of the interagency CFC Task Force.

The Task Force is comprised of prosecutors, tax and customs officials, and criminal investigators from most major U.S. ports and representatives from Canada's law enforcement and environment agencies. Past participants have also come from Mexico and the European Union. The task force meets quarterly to coordinate cases and discuss new information and developments. These efforts strengthen enforcement by sharing leads, avoiding overlapping efforts, and using cooperating witnesses and evidence in several different cases. To date, such efforts have led to 82 cases being indicted, 119 defendants who have pled guilty or been convicted at trial, over 76 years of imprisonment (including home detention), and over \$70 million in fines and restitution, including forfeiture of a \$2 million mansion and various luxury goods purchased with the proceeds of illegal ODS transactions. An estimated 16,240,692 pounds of CFCs have been smuggled into the United States, and nearly two million pounds have been seized.

In addition to the work of the Task Force, ENRD and EPA have trained investigators and customs inspectors around the

nation, and, after completing a study of supply and demand of Freon, issued a nationwide alert informing Customs and IRS inspectors of the likelihood of increased smuggling activity. ENRD and EPA officials have also participated in training programs in Mexico through the CEC and around the globe under the sponsorship of UNEP. These training sessions have allowed ENRD prosecutors to increase the regulatory and enforcement capacities of countries that can be the source or conduit of illegal products entering the United States and to develop valuable contacts for help in specific cases. Additionally, these efforts have led to greater implementation of the Montreal Protocol.

ENRD'S WILDLIFE PROGRAM

For over 30 years, the Convention on International Trade in Endangered Species of Wild Fauna and Flora ("CITES") has regulated the international trade in endangered wildlife and attempted to stem the significant illegal trade in such species.

The illegal trade in wildlife - both animals and plants - has led to widespread loss of biodiversity and habitat and has allowed the import of exotic species and diseases. CITES seeks to protect endangered species from international trade by placing species in appendices, based on the severity of the threat of extinction. Certain controls on trade in these species are required depending on in which appendix they are placed. Those species most in danger of extinction from trade are listed in Appendix I and are largely banned from commercial trade. The lawful trade in other species (Appendix II and III) must be accompanied by permits or certificates from the exporting country. Yet, despite

widespread participation in CITES by the nations of the world, there is an ever-growing worldwide black market in such species to supply the markets for pets, zoos, circuses, laboratories, traditional medicine, luxury products, and bush meat. Illegal trade in mahogany and ramin woods has devastated tropical forests. In 2000, this black market was valued at \$6 billion a year worldwide. The most common forms of illegal trade involve wildlife smuggled into countries without any CITES permits or through falsified documents.

In the United States, a number of statutes authorize prosecution of wildlife smugglers. Among the statutes most frequently relied upon for these prosecutions is the Endangered Species Act ("ESA"), 16 U.S.C. §§ 1531 et seq. The ESA generally prohibits the import, export, or sale in interstate or foreign commerce in the course of a commercial activity of any listed endangered or threatened species without a valid permit. The ESA

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also makes it unlawful to import or export wildlife at any port of entry other than specifically designated ports, to fail to declare wildlife upon importation or exportation, or to engage in importing or exporting without a license. 50 C.F.R. Part 14. Criminal violations, which require only general intent, may result in penalties up to one year of imprisonment, fines, and forfeiture of the species involved and equipment used to aid in the commission of the offense. 16 U.S.C. § 1540; 18 U.S.C. § 3571.

In addition to the ESA, U.S. enforcement officials can prosecute wildlife smugglers under the Lacey Act and under more general Title 18 provisions. The Lacey Act, the oldest national wildlife protection law in the United States, is a particularly valuable tool to address transnational crime. It applies broadly to all wild animals, alive or dead, and to any part, product, egg, or offspring, as well as to protected plants indigenous to the United States. 16 U.S.C. § 3371(a). The Lacey Act creates both

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misdemeanor and felony offenses, which can result in up to five years imprisonment, substantial fines, and forfeiture of equipment and wildlife involved in the offense. Additionally, violations of the Lacey Act can be predicated on breaches of foreign laws or regulations. For example, a person who imports into the United States wildlife which has been taken, possessed, transported, or sold in violation of a wildlife-related foreign law or regulation (local, provincial, or national) can be prosecuted in the United States under the Lacey Act based upon a violation of that foreign country's laws.

It is this aspect of the Lacey Act that makes it so valuable and important, since it authorizes the United States to literally reach illegal conduct that occurs in other countries, even if the wildlife at issue is not listed on CITES and to impose penalties even stronger than the ESA. Of course, such use of the Lacey Act depends on the willingness and ability of foreign enforcement officials to provide evidence of their wildlife laws, testify in U.S. court, and otherwise cooperate with U.S. officials. Finally, a number of more general Title 18 provisions can be used to prosecute wildlife trafficking, such as the smuggling statute, 18 U.S.C. § 545, a felony offense, which penalizes the importation of any merchandise, including wildlife, contrary to federal law.

These laws give ENRD attorneys a broad array of tools to address wildlife smuggling, but ENRD must first rely on the investigative ground-work performed by several U.S. agencies, including the Department of Homeland Security's Customs and Border Protection Service ("CBP"), the Department of Interior's Fish and Wildlife Service ("FWS"), the Department of Commerce's National Marine Fisheries Service ("NOAA Fisheries"), the USCG, and the Department of Agriculture. Their respective jurisdictions are normally determined by the type of wildlife at issue or where the alleged violation occurred. State wildlife officers also investigate violations of state wildlife laws, which sometimes develop into federal cases. FWS port inspectors and CBP inspectors typically detect trafficking offenses. The FWS also employs about 230 special agents around the country who investigate violations of federal wildlife laws, issue citations for minor offenses, and prepare more serious cases for referral to ENRD.

ENRD, in conjunction with the agencies listed above and the various U.S. Attorney's Offices, has developed a wildlife smuggling enforcement program to combat the black market. This program has several components. First, ENRD and its partners, most notably the U.S. FWS, identify and focus attention and investigative resources on a specific type of illicit trade and, where appropriate a specific region. Examples have included birds from South America, reptiles from Southeast Asia, and caviar from Eastern Europe and Asia. In some circumstances, officials have focused particular attention on "king pins," who control and profit from large international smuggling networks. Second, interagency coordination and training are considered essential, given the broad range of officials responsible for investigating and prosecuting cases of wildlife smuggling. ENRD attorneys regularly provide training to U.S. Attorneys and federal, state, and foreign officials on wildlife enforcement matters. Third, ENRD has developed a particular expertise in prosecuting wildlife trafficking, employing attorneys who specialize in these cases and are well positioned to help guide enforcement efforts nationwide or handle cases of particular significance. Finally, the international nature of wildlife trafficking necessarily requires the cooperation of foreign officials, whether to provide information or evidence of illegal activities, provide testimony as to the violation of foreign laws, or surrender persons for extradition. ENRD regularly reaches out to foreign enforcement officials through both formal and informal channels to develop contacts and secure enforcement cooperation in specific cases. ENRD has participated in a number of foreign training efforts through Interpol, UNEP, the CITES Secretariat, and at the invitation of specific countries.

ENRD's wildlife smuggling program has resulted in the successful prosecution and imprisonment of a number of large and small-scale smugglers, including the leaders of some of the world's largest smuggling operations. These efforts have also led to confiscation of live animals and the imposition of significant fines. ENRD efforts to interdict caviar smuggling provide a good example of how the program works in practice. Working with FWS and CBP officials and U.S. Attorneys, ENRD identi-

fied caviar smuggling as a significant and lucrative illicit activity in a number of ports and businesses. ENRD gathered its partners at a "caviar summit" to share information on this specific type of smuggling, identify the likely actors and regions, and determine what further steps would be necessary to address the problem. Such focused activity has paid dividends. For example, in early 2002, ENRD led a coordinated effort to prosecute the owner of a food import company for conspiring to smuggle protected sturgeon caviar, making false statements to federal officials, and selling counterfeit caviar to retail food companies with false labels. The defendant received a sentence of two years in prison, incurred substantial criminal fines (both against him and his company), and paid as restitution the customs duties he had earlier avoided.

VESSEL POLLUTION INITIATIVE

Unlike the activities described above, which involve instances of illegal trade, vessel pollution arises from the conduct of ship owners and operators and crew members who seek to avoid the considerable costs and effort of treating waste oil and other shipboard wastes by engaging in deliberate overboard discharges without the use of required pollution prevention equipment and then falsify required log books which are regularly inspected by USCG during port visits. However, vessel pollution is still a transnational crime because it involves ships of foreign flags that regularly transport cargo and goods to the United States and around the world (in addition to domestic vessels transiting coastal waters and inland waterways. Moreover, the pollution caused by illegal vessel discharges can affect the resources of many nations. Finally, as with ODS and wildlife, there is an international agreement that regulates the discharge of vessels, the Convention and Protocol on the Prevention of Pollution from Ships ("MARPOL"). Vessel pollution that violates MARPOL standards will necessarily violate the domestic laws of countries such as the United States that implement MARPOL.

MARPOL, also over 30 years old, is the primary international convention addressing vessel pollution. It is actually a combination of two treaties and includes annexes regulating discharges of oil, noxious liquids, and harmful goods in packaged form, sewage, garbage, and most recently air emissions (the latter annex and the annex on sewage not yet being in force). These annexes establish international standards, authorize inspections and require certain certifications and reporting. Annex 1 on oil pollution, among other things, requires continuous monitoring of oily water discharges, and requires countries to provide shore reception and treatment facilities at oil terminals and ports. It allows for ships to be inspected in the ports of other MARPOL parties to ensure that such ships meet MARPOL requirements.

In the United States, MARPOL is principally implemented through the Act to Prevent Pollution from Ships ("APPS"), 33 U.S.C. §§ 1901 et seq. APPS applies to all U.S. flag ships anywhere in the world and to all foreign flag vessels operating in U.S. navigable waters or while at a port or terminal under U.S. jurisdiction. Among other things, APPS requires the use of oil-water separators for certain vessels as well as the regular report-

ing of all overboard transfers of oily waste in logbooks that are routinely inspected by USCG. In addition to APPS, a number of other federal laws may regulate discharge of oil into water and oil spills. These include the Federal Clean Water Act ("Clean Water Act" or "CWA"), as amended by the Oil Pollution Act of 1990 ("OPA"), which prohibits discharges of oil into U.S. waters and requires reporting of spills to designated authorities. The CWA provides administrative and civil penalties for violations of its requirements, as well as criminal penalties for knowing or negligent discharge of oil and for failure to report a spill to authorities. 33 U.S.C. §§ 1319(c)(1) & (2) and 1321(b)(3) & (5). OPA also authorizes recovery of removal costs and civil damages, including to natural resources, arising from oil spills in U.S. waters or the exclusive economic zone. 33 U.S.C. § 2702. The Marine Protection, Research and Sanctuaries Act ("Ocean Dumping Act"), 33 U.S.C. § 1411, provides civil and criminal penalties for unpermitted dumping of materials into the ocean, including oil if that oil was brought on board to be dumped. 33 U.S.C. §§ 1402(c), 1411, 1415. Finally, a number of general crime provisions as well as maritime and natural resource laws could be implicated by vessel discharges. These include violations of: 18 U.S.C. § 1001 for false statements provided in oil record books; 46 U.S.C. § 2302 and 18 U.S.C. § 2 for operating a ship in a grossly negligent manner; the Ports and Waterways Safety Act for failure to notify USCG of hazardous condition of a vessel; and other specific maritime laws. Depending on where a spill occurred and what damage it might have caused, the E.S.A. Act, National Marine Sanctuaries Act and other wildlife laws might also be relevant.

Similar to wildlife and ODS smuggling investigations, vessel pollution investigations must be completed by law enforcement agencies before ENRD can begin its prosecution work. USCG and EPA are the primary agencies responsible for enforcement of APPS, CWA, OPA and related laws and refer cases, mainly criminal prosecutions, to ENRD for judicial enforcement. ENRD has developed a training program that has been crucial to educating the necessary officials as to how to build a case for successful U.S. prosecution.

ENRD's Vessel Pollution Initiative is a multi-pronged program aimed at deterring pollution from ships into the oceans, U.S. coastal waters and inland waterways. The Initiative includes pro-active operations, outreach to local prosecutors' offices, policy coordination and training of agency investigators and officials who are first responders to vessel spills. While there have been criminal prosecutions for major environmental damage resulting from catastrophic oil spills that have occurred from time-to-time, the Vessel Pollution Initiative has focused more on the detection and prosecution of deliberate violations of environmental laws by vessel operators that occur on a regular and routine basis. These have included successful prosecutions of the world's large cruise ship operators, oil tankers, and tug and barge operators on inland rivers. In the last five years, the Initiative has resulted in over \$80 million in criminal fines, over eleven years of imprisonment (including corporate executives), and agreements to institute fleet-wide pollution prevention pro-

grams for most major cruise lines and several commercial fleets. A number of recent prosecutions have uncovered systematic practices aboard fleets of commercial ships to unlawfully discharge oily wastes at sea and to then falsify records and lie to USCG inspectors in order to conceal the illegal practices. The criminal prosecutions, which have highlighted this problem, have also led USCG to intensify inspection procedures to better detect and deter these types of violations.

As with the other initiatives, the Vessel Pollution Initiative arose from a growing recognition of illegal conduct that was not being addressed and a focus on specific regions where such conduct was believed to be occurring. It has required the pro-active cooperation and coordination of a number of federal, state, and local (and foreign) agencies and the regular exchange of information among them. ENRD has conducted numerous training events with USCG and local officials, as well as with U.S. Attorneys, in order to develop a broader expertise in detecting and prosecuting these crimes. Finally, ENRD is increasingly looking to share information and experiences with other nations. In ENRD's experience, detection and prosecution of vessel pollution cases, even for spills and discharges occurring outside U.S. territorial waters, are not difficult and can be based on the use of standard, readily available technologies. ENRD believes the success of its Initiative can easily be replicated by other countries with the political will and resources to address this problem. To that end, ENRD has begun making presentations at relevant international fora such as the International Maritime Organization, and providing training to other maritime countries. ENRD hopes that such efforts will lead to more cooperation and enforcement in the United States as well as around the world.

THE IMPORTANCE OF INTERNATIONAL NETWORKS AND COORDINATION

In each of the initiatives and programs described above, formal and informal international enforcement cooperation and information exchange are critical. Smuggling of wildlife and ODS necessarily involve the United States and its trading partners, for the goods must come into the United States from somewhere else, frequently through a third country. Therefore, ENRD cannot prosecute such smuggling without some information and cooperation from exporting or trans-shipping countries. As stated above, use of the Lacey Act, a particularly effective wildlife smuggling statute, may be premised entirely on the laws of another country, making formal legal assistance (e.g., securing testimony and evidence through MLATs) absolutely essential. Vessel pollution cases, too, frequently require coordination and cooperation with foreign governments under which those vessels are flagged or which have information about discharges. In all these cases, defendants are frequently from other countries, which might require extradition or cooperation in interdiction.

Given the international nature of these crimes and their prosecution, it is essential that ENRD and its enforcement partners maintain close and continued contact. This is not often the case because some countries allow only formalized contact through established diplomatic channels or MLATs, some do not

wish to cooperate or are limited by their laws, and some just do not know whom to call. This is where international networks and informal exchanges can be critical. Participation in international networks such as INECE, international meetings of Interpol and other organizations, and training activities, U.S. and foreign officials can meet and get to know each other, gauge their respective capabilities, interests and authorities, discuss common problems and intelligence, share best practices, and seek ways to enhance enforcement efforts all over the world. Enhanced global enforcement is a particularly important goal for implementation of international environmental agreements such as the Montreal Protocol, CITES, and MARPOL. Such efforts must be continuous in order to reflect changing national and international circumstances, the nature of the crimes, and simply the constant change in personnel. Virtual networks can be particularly critical by allowing real time updates and rapid dissemination of information. Ultimately, the hoped for results of all this exchange are the development of trust, knowledge, increased enforcement capacity, and a will to enforce. In the end, this type of contact benefits all parties involved and the global environment.

CONCLUSION

Every country, whether industrialized or developing, undoubtedly faces serious resource constraints that provide impediments to effective and consistent prosecution of environmental crimes. Transnational crimes such as smuggling and vessel pollution, however, are too significant to ignore; they exact tremendous costs in terms of lost financial, recreational and biological resources, increased global resource pollution, and the undermining of domestic law and international agreements. The United States is no different in having too few investigators and prosecutors to interdict every smuggled item or defeat every discharge of oil. ENRD and its partner agencies have addressed this shortage by developing a number of coordinated initiatives and programs. These efforts maximize resources to address transnational crime in as effective a way as possible to punish violators, deter others from committing crimes, and mitigate environmental harm wherever possible. Of course, the success of these initiatives and programs depends on the existence in the United States of strong authorities to implement the relevant international treaties and, more importantly, the political will to work together to prosecute and sentence those who violate the law. Those factors are not necessarily found all over the world. Nevertheless, the initiatives and programs discussed above can be instructive to other countries facing the same transnational crimes and resource issues, even if they cannot be (or should not be) exactly replicated. At the same time, U.S. enforcement authorities must necessarily depend on the cooperation of other countries for assistance in prosecuting transnational violations. ENRD stands ready to work with other countries to bring specific enforcement cases, share information, build domestic enforcement capacity, and foster greater cooperation. 