

*The SHERLOC Newsletter
is pleased to share with you our recent efforts to facilitate the dissemination of
information regarding the implementation of the UN Convention against Transnational
Organized Crime and its three Protocols.*



EGM ON DEVELOPING A GUIDE ON DRAFTING LEGISLATION TO COMBAT WILDLIFE CRIME

Once an emerging threat, wildlife and forest crime today has transformed into one of the largest transnational organized criminal activities alongside trafficking in drugs, firearms and persons. Much of the trade in illegal wildlife products, including timber and fish, is run by sophisticated organized criminal groups, and has proven to have wide national and international security implications. The risks involved is low compared to other kinds of trafficking, while it remains an extremely lucrative business, often including other crimes such as corruption, fraud, counterfeiting, money laundering and violence.

Features

**EGM ON DEVELOPING A
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**CASE COMMENTARY:
US V. BENGIS ET AL.**

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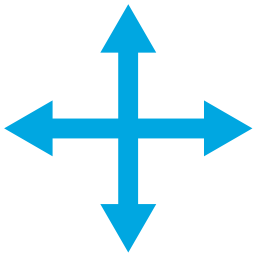
**MEET OUR
CONTRIBUTOR**

National legislation covering wildlife crime is often weak, with inadequate penalties and ambiguous language. Criminals continuously exploit legislative gaps and discrepancies, allowing them to evade prosecution or sufficient sentences. Many countries have committed to strengthening legislation to effectively combat wildlife crime. Relevant international obligations and commitments include those made under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Convention on the Conservation of Migratory Species of Wild Animals (CMS), the Organized Crime Convention, two resolutions of the United Nations Environment Assembly, two resolutions of the United Nations General Assembly, the London Declaration, the Kasane Statement, and the Hanoi Statement. Relevant regional commitments include those made by the African Union Summits culminating in the African Strategy on Combatting Illegal Exploitation and Illegal Trade in Wild Fauna and Flora in Africa, and the Association of South East Asian Nations Summit Declaration on Combatting Wildlife Trafficking, among others.



In a joint effort, DO's Global Programme for Combatting Wildlife Crime and DTA's Organized Crime Branch convened a three-day informal meeting of experts on developing a Guide to Draft Legislation to Combat Wildlife Crime. The meeting took place in Vienna from 7 to 9 February and brought together 25 experts to discuss the first draft of the Guide.

This Guide aims to facilitate and help systematize the provision of legislative assistance by UNODC and will enhance Member States' capacity to review, amend, update or draft relevant national legislation against wildlife crime in line with the Organized Crime Convention and the United Nations Convention against Corruption (UNCAC).



The Guide’s provisions focus on providing options and examples on (1) defining the terms, (2) creating the offences and (3) cooperation, coordination as well as prevention. In addition, cross-references will be made to existing international and regional instruments, UNODC model provisions and examples of national legislations against wildlife crime.

Over the course of three very productive days, the discussion evolved around the scope and outline, the relevant offences, the mandates and powers and topics concerning cooperation and mutual legal assistance. UNODC will continue the work on the Guide and to convene a second Expert Group Meeting. The Guide is scheduled to be finalized and launched at the UNTOC COP, taking place in Vienna on 15-19 October 2018.



WHAT IS NEW IN SHERLOC

the Strategies Database




The SHERLOC team is constantly working to improve the portal and information gathering related to the implementation of the Organized Crime Convention.

In order to complete the type of resources hosted by SHERLOC, mainly of a legal nature, the SHERLOC team has now developed the Strategies Database, which will be hosting relevant strategical documents, ranging from policies to plan of actions, implemented by States parties to give effect to the Organized Crime Convention.



SHERLOC SHARING ELECTRONIC RESOURCES AND LAWS ON CRIME

The SHERLOC portal is an initiative to facilitate the dissemination of information regarding the implementation of the UN Convention against Transnational Organized Crime and its three Protocols.

 <p>Case Law Database A comprehensive case law database that allows you to see how Member States are tackling organized crime cases in their courts.</p>	 <p>Database of Legislation An electronic repository of laws relevant to the requirements of the Organized Crime Convention and the Protocols thereto. Most of the legislation included in this database has been enacted specifically to counter the relevant crime type.</p>
 <p>CNA Directory Directory of competent national authorities that have been designated to receive, respond and process requests pertaining to mutual legal assistance, extradition and transfer of sentenced prisoners, smuggling of migrants, trafficking in firearms and trafficking in cultural property.</p>	 <p>Bibliographic Database An annotated bibliography providing synopses of key articles on organized crime, search-able by countries, research methods and keywords.</p>
 <p>Legislative guide The main purpose of the legislative guide contained in the present publication is to assist States seeking to ratify or implement the United Nations Convention against Transnational Organized Crime. (English only.)</p>	 <p>Treaties A database containing the ratification status of the Organised Crime Convention and the Protocols thereto and other relevant legal instruments.</p>
 <p>Strategies A database containing strategic instruments on the regional and domestic implementation of the Organised Crime Convention and the Protocols thereto.</p>	

CASE: US V BENGIS ET AL.

From 1987 to 2001, A. M. Bengis, former Managing Director and Chairman of Hout Bay Fishing Industries Ltd., together with his son D. Bengis and co-conspirator J. Noll, engaged in a massive illegal poaching and fishing scheme. Among other things they engaged in excessively overharvesting and exporting rock lobster and Patagonian toothfish from South Africa to the United States. The defendants underreported harvested fish to South African authorities and bribed South African fisheries inspectors, submitted false export documents to South African authorities and employed South African citizens

both South African law and international convention, by being caught in amounts well in excess of the quota established by South African law or without required permits.

In 2003, all three defendants were charged with importing, among other things, illegally-harvested South African South Coast and West Coast rock lobster into the United States. In April 2004, David Bengis plead guilty to one misdemeanor count of conspiracy to violate the Lacey Act. In July 2004, Judge Kaplan sentenced each of the defendants to a term of imprisonment, specifically: Arnold Maurice Bengis – 46 months; Jeffrey Noll – 30



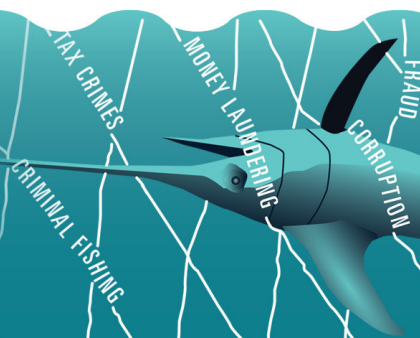
FISHERIES CRIME

Criminals engaging in fisheries crime may be involved in a range of **ILLEGAL ACTIVITIES** including: transshipment of marine resources; illegal fishing; corruption; money laundering; and document, tax and customs fraud, among others.

More at www.unodc.org/fisheriescrime



United Nations Office on Drugs and Crime



without valid U.S. working permits to work for low wages at their fish processing facility in Portland, Maine. In 2003, all three defendants were charged with importing, among other things, illegally-harvested South African South Coast and West Coast rock lobster into the United States. The Indictment alleged, among other things, that the lobster had been harvested in violation of

months; and David Bengis – 1 year.

As part of their sentences, Arnold Maurice Bengis and Noll forfeited \$5.9 million to the Government. David Bengis forfeited the proceeds of the sale of his fish-processing factory in Portland, a sum of \$1.5 million. Each of the defendants was also sentenced to a term of supervised release.



MEET OUR CONTRIBUTOR - LISA -

Elisabeth Seidl is our featured contributor in this issue.

Elisabeth started working for UNODC's Global Programme for Combating Wildlife and Forest Crime in March 2017 and has a special focus on legislative work, including the development of the guide on drafting legislation to combat wildlife crime.

She also conducts research on national legislation and case law pertaining to wildlife, forest and fisheries crime for the SHERLOC portal. In addition, she supports the delivery of a wide range of technical assistance activities for law enforcement, prosecutors and the judiciary towards strengthening capacity to prevent and combat wildlife and forest crime on a regional, national and local level.

Elisabeth graduated from Vienna University in International Development Studies and subsequently from Aarhus University in Human Security Studies.

She has previously worked for the United Nations Office at Vienna, INTERPOL and the Austrian Foreign Ministry.



Access the full case on SHERLOC

In 2007, Judge Kaplan rejected the Government's application for restitution and held, among other things, that South Africa did not have a property interest in the illegally harvested rock lobster and that South Africa was not a victim within the meaning of the applicable restitution statutes.

In January 2011, the U.S. Court of Appeals for the Second Circuit overturned Judge Kaplan's 2007 ruling and held instead that: (1) South Africa had a property interest in illegally harvested rock lobsters and, therefore, that the defendants had committed an "offense against property," thereby entitling South Africa to restitution; and (2) South Africa was a victim within the meaning of the applicable restitution statutes.

The Court of Appeals left the determination of the precise amount of restitution to the District Court on remand.

In August 2012, U.S. Magistrate Judge Andrew J. Peck recommended to Judge Kaplan that he order more than \$54.8 in restitution to South Africa. Today's order by Judge Kaplan adopts Judge Peck's report and recommendation in substantial part by ordering the defendants to pay restitution in the amount of \$29,495,800 for illegally harvested West Coast lobster that was imported into the United States. As part of separate criminal prosecution in South Africa, Hout Bay Fishing Industries Ltd. (HFBI) paid South Africa \$7,049,080 for its illegal conduct. Judge Kaplan credited that amount against the restitution of \$29,495,800, to arrive at a total amount to be paid by the defendants to South Africa of \$22,446,720. This is the largest known restitution order in a Lacey Act case in history.

INTERESTED ?

JOIN US !

SHERLOC is always looking for contributors who support us in collecting and summarizing legislation, case law, strategies and bibliographic data.

Contact us at
unodc-sherloc@un.org.



UPCOMING EVENTS

- Commission on Narcotic Drugs, Vienna, 12 to 16 March 2018;
- Working Group on Firearms, Vienna, from 2 to 3 May 2018;
- Commission on Crime Prevention and Criminal Justice (CCPCJ), Vienna, from 14 to 18 May 2018;
- Working Group of Government Experts on Technical Assistance, Vienna, from 28 to 29 May 2018;
- Working Group on International Cooperation, Vienna, from 30 to 31 May 2018;
- Working Group on Trafficking in Persons, Vienna, from 2 to 3 July 2018;
- Working Group on Smuggling of Migrants, Vienna, from 4 to 5 July 2018;
- Conference of the Parties to the United Nations Convention against Transnational Organized Crime, Vienna, from 15 to 19 October 2018.