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*Flaws in Directorate Priority
Crime Investigations - DPCU
by J. Jooste*

CHAPTER 20

Hawks (Directorate Priority Crime Investigations - DPCI) – J. Jooste

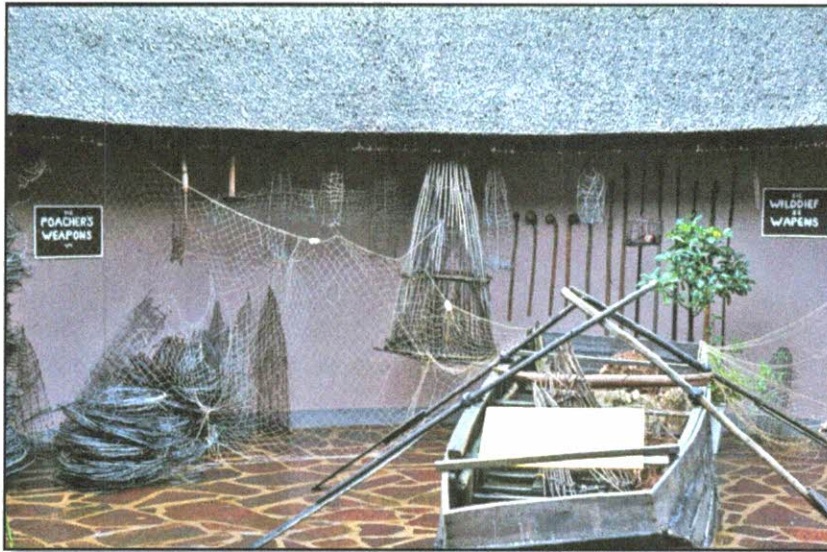
Prior to its foundation of the Endangered Species Protection Unit (ESPU) in 1989, most police investigative work regarding the illegal trade in rhinoceros horn was done by SANAB, the Narcotics Branch of the South African Police (SAP) and Diamond and Gold Units. Success rates were poor, however, as the poaching and smuggling of rhinoceros horn was not given priority status. It became clear that the SAP needed to address this problem directly by allocating manpower and resources to a specialist unit.

This special unit (ESPU) has as its main functions:

- the identification of routes by which endangered species or their products, such as ivory and rhinoceros horn, are smuggled in or out of the country;
- the infiltration of existing syndicates;
- the collection of evidence;
- the arrest and prosecution of the individuals and/or networks involved in these schemes; and
- the provision of assistance to law enforcement agencies throughout Africa in order to effect international co-operation in cross-border law enforcement.

When the unit was formed with the intention to stop the illegal trade in ivory and rhinoceros horn, it broadened its base of operations to include all endangered fauna and flora. In addition, the global nature of illegal trading requires an international law enforcement perspective and, as such, the ESPU does not work in isolation, nor does it confine its area of operations to South Africa alone. During 2003 the unit was dissolved and the members moved to Organised Crime Units or other SAP stations in their area. The functions of the ESPU were to be conducted by the Organised Crime Units, with only the ESPU Desk remaining at Head Office in a supportive capacity.

However the situation changes soon. Of 43 documented arrests of Asian nationals for rhinoceros crimes in South Africa, 24 were Vietnamese (56%) and 13 were Chinese (28%), with the remainder from Thailand and Malaysia. The performance of our law enforcement was as follows; The loss increased from 1 rhinoceros every 4 days in 2008 to 1 rhinoceros every 3 days in 2009 to 1 rhinoceros every day in 2010 and to 1.8 rhinoceros every day in 2012. These factors lead to the re-establishment of the Endangered Species Section under the Office of Serious Organised Crime, Directorate for Priority Crime Investigations, also known as the HAWKS. A specialized section that can investigate environmental crime was established late 2010 and consist of four members on National level.



The Endangered Species Investigators are involved with Investigation that relates to the hunting, importation, exploration, possession, buying of, selling of endangered species or any products of such species, the illegal dealing in culture-historical artefacts and abalone trafficking. The activities of the Endangered Species Section are subdivided

into four fields of investigation: Project Investigation, Strategic and tactical investigation, Specific Investigation and International, Trans-national and National Syndicate Investigation.

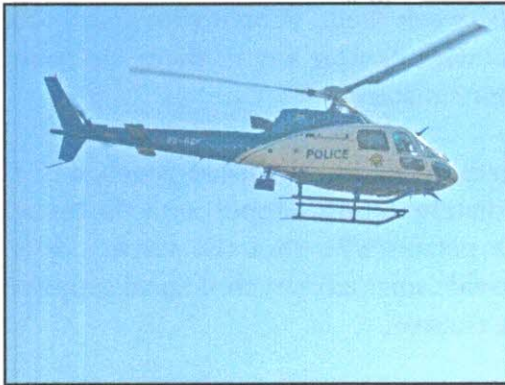
The Directorate for Priority Crime Investigations (DPCI/HAWKS), Endangered Species Section is based in Pretoria. Maj-Gen. Mapyane has been appointed by the DPCI (also known as the Hawks) as the national champion to process all rhinoceros poaching investigations. A task team with provincial coordinators and investigating officers have been trained in every province, to investigate these crime scenes. Rhinoceros poaching is a priority crime and the Endangered Species Section is an operational unit to investigate these crimes.

Rhinoceros poaching and horn smuggling is an organised crime and organised criminal syndicates are responsible for this slaughtering. As poaching and horn smuggling occurs across international borders, one can go one step further and describe it is a transnational organised crime. These syndicates are also involved in smuggling drugs, weapons and human trafficking.

Dedicated and trained police members are needed to do these investigations. It can happen that the first police member on the crime scene is a young, inexperienced constable, who appears unsure of him-/herself. Rhinoceros poaching is an emotional issue to the owners and the public. Therefore they want the best investigation possible to ensure that the poachers who had killed their rhinoceros can be caught. Private rhinoceros owners are of the opinion that special units or dedicated and trained police members that can deal with poaching must be stationed at police stations that are situated in vulnerable areas such as Phalaborwa, Hoedspruit, Gravelotte, Louis Trichardt, Musina and Hazyview.

The local police station is the first level of contact after a poaching incident has occurred. The police official who must respond to the crime scene must follow the exact procedure as s/he would do at any other crime scene (See Appendix 7). The only difference is the place where the crime has been committed as the police official also now has to take dangerous animals and nature elements into consideration. The scene must be cordoned off and the local Organised Crime Component/DPCI must be informed to take control of the investigations.

What is the possibility of placing a dedicated person or team at police stations which are located in areas where rhinoceroses occur? If private rhinoceros owners have a need of specially trained policemen they must contact DPCI to assist them with training of dedicated members in conjunction with the police station. There are Standard Operating Procedures (SOPs) in place and all rhinoceros poaching scenes must be handled according, to ensure that investigating officers have as much information and evidence as possible available to work with to ensure that perpetrators can face prosecution. The investigation of a rhinoceros poaching crime scene can only be done by the SAPS or an Environmental Management Inspector (EMI).



First person on the poaching scene must approach it in the same systematic way as any other crime scene, to prevent the destruction of evidence. Once evidence is destroyed, it can never be replaced and evidence is important for successful prosecution. When a rhinoceros is poached, the first person who arrives on the scene is usually a ranger and sometimes the rhinoceros owner or other staff members. The first person on the scene must take control of the crime scene until the SAPS arrive. The scene must be protected and no-one must be allowed on the scene as valuable evidence can be destroyed. No evidence (e.g. cartridges, knives and clothing) on the scene must be handled, touched, moved or removed until the investigating officer (not any police official) arrives on the scene. Any tampering with the evidence for whatever reason can be construed as the obstructing the course of justice and can lead to the criminal prosecution of the person found tampering.

The first person on the scene must never try to do his/her own investigation/inspection of the scene. He/she must also ensure not to step on any visible footprints. Footprints must be protected from damage by the elements by placing suitable containers such as boxes over them. The scene must be preserved in its original state so that the investigating officer has a clear picture. It is important that a maximum of two people approach the carcass and that the approach route is marked out, taking care to leave the scene on the same route.

As said earlier, no evidence must be touched or removed, but sometimes a poacher may have dropped an axe or firearm while running away. If one comes across such evidence and it might pose a danger and cannot be guarded to be collected later, the position must be marked and the firearm made safe and removed, but not with one's bare hands. But remember, the best practice is not to touch or remove anything - not even a firearm.

When a ranger, rhinoceros owner or any other person comes across a crime in progress, it is important to observe the area to look at the activities of the individuals, the number of perpetrators, their features and any extra information. This information will be important when an arrest is made. However, always keep in mind that these criminals are heavily armed and those who encounter poachers must never put their own lives at risk. They must never draw any attention to themselves or try to arrest them when they are unarmed or

when the poachers outnumber them. Rather retract from the scene and notify the SAPS so that they can make the arrest.

A member of the public such as the rhinoceros owner or a ranger can execute a civil arrest but that is very dangerous as these poachers are heavily armed. Should a ranger arrest a poacher at the crime scene, he must be restrained the suspect for his own protection and safe guard him on the crime scene. Two or more people must be left behind to guard the suspect. Should a poacher be arrested away from the crime scene, he must not be taken back to the scene. The suspect/s must be restrained and handed to a police official for official point out of the crime scene by a Police Officer. If more than one person is arrested, keep them away from each other and don't allow any communication between them. People who guard the arrested perpetrator(s) must not discuss the crime scene with or near any of them. As soon as the arrest has been made, the police must be called immediately.

Should a ranger or rhinoceros owner or other staff member shoot an alleged poacher in a dangerous situation, the police must be notified immediately. Don't tamper with the scene in any way as all evidence is important to defend the person who shot the suspect. It is important to seek legal advice immediately and also provide spiritual/psychological support to the person who had shot the poacher to alleviate the trauma.

South African courts often require police to connect the horns to a specific poaching incident. In the past the police had to physically fit a horn on a skull to see whether it was a match. But that was not always possible, because they sometimes didn't have the skull, or it was cut too cleanly. Currently the police can send rhinoceros horns to the Veterinary Genetics Laboratory at the University of Pretoria where a DNA match can be done.

Since August 2010, dedicated prosecutors have been appointed in every province to oversee the whole court process. In the past, those involved in poaching incidents, received fines, but the justice system has now started moving towards imprisonment. During a rhinoceros summit that was held in October 2010 in Pretoria, the NPA's Head of Organised Crime, Adv. Johan Kruger announced that dedicated prosecutors are handling wildlife crime. According to Adv. Kruger, the Prevention of Organised Crime Act 121 of 1998 is used in which the sentence for racketeering or gangsterism is a R1 billion fine or a life sentence. That is used for the syndicate leaders. The success of the special units had a lag phase since it was formed during 2010. However it took time to put logistical support and systems in place before it showed results as showed below. The results for 2011/12 can be seen in **Table 20.1 & Table 20.2** below. **Table 20.3** shows the arrests and the horns involved in poaching.

Table 20.1: Arrests by the different provinces at the different crime levels for 2012

| LEVEL DESCRIPTION | KNP | GP | MP | EC | LP | NW | FS | KZN | WC | NC | TOTALS |
|---------------------------------|-----------|-----------|-----------|----------|-----------|-----------|----------|-----------|----------|----------|------------|
| Poacher (Level 1) | 73 | 10 | 63 | 0 | 43 | 31 | 0 | 18 | 0 | 0 | 238 |
| Receiver / Courier (Level 2) | 0 | 1 | 1 | 0 | 0 | 0 | 6 | 2 | 0 | 0 | 11 |
| Courier / Buyer (Level 3) | 0 | 15 | 2 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 18 |
| Exporter (Level 4) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Buyer / Driver (Level 5) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL ARRESTS | 73 | 26 | 66 | 0 | 43 | 32 | 6 | 20 | 0 | 1 | 267 |

Table 20.2: Cases on the court role for the different provinces

| | DATE | CITIZENSHIP | RESTRICTED ACTIVITIES RHINO/ PRODUCTS | PROVINCE |
|-----------------|------------|-----------------------|--|------------------|
| GP South | | | | |
| | Nov. 2012 | 1 SA | Possession 3 Horns | Kemptonpark |
| | Feb. 2012 | 1 VIETNAM | Possession 7 Horns | OR Tambo |
| | Sept. 2012 | 1 D R CONGO | Possession 4 Horns | Bedfordview |
| | Jul. 2011 | 2 SA, 3 THAI | Possession 26 Horns | OR Tambo |
| | Aug. 2012 | 1 CHINA | Trade | Cleveland |
| | Feb. 2012 | 2 VIETNAM, 1 CHINA | Trade | Kemptonpark |
| | Apr. 2012 | 1 VIETNAM | Possession 7 | Kemptonpark |
| | Jun. 2012 | 1 VIETNAM | Possession 10 | Kemptonpark |
| | May. 2012 | 2 VIETNAM | Possession 10 | Cleveland |
| | May. 2012 | 1 SA | Possession 2 | Bedfordview |
| GP North | | | | |
| | Nov. 2011 | 1 SA | Hunting 14 | Pretoria - North |
| | Jan. 2012 | 2 VIETNAM | Possession 4 Horns | Pretoria - North |
| | Jan. 2012 | 1 ZIMBABWE | Possession 2 Horn | Pretoria - North |
| LIMPOPO | | | | |
| | Dec. 2011 | 4 SA | Attempt poach | Thabazimbi |
| | Jan. 2012 | 2 SA 1 MOZ | Attempt poach | Thabazimbi |
| | Mar. 2012 | 1 SA | Hunt 4, Killed 2 | Dwaalboom |
| | Jun. 2010 | 5 SA | Attempt poach | Lephalale |
| | Aug. 2011 | 5 SA | Attempt poach | Modimolle |
| | Aug. 2011 | 2 SA | Attempt poach | Bulgerivier |

| | | | | |
|-------------------|------------|-----------------------|-----------------------------|-----------------|
| | Jul. 2010 | 4 SA | Attempt poach | Naboomspruit |
| | Jan. 2012 | 2 ZIM. 1 MOZ. 1 SA | Attempt poach | Vaalwater |
| | Apr. 2011 | 4 MOZ | Attempt poach | Vaalwater |
| | Feb. 2011 | 1 SA | Trade 2 horns | Louis Trichardt |
| | Sept. 2010 | 11 SA | Racketeering | Musina |
| | May. 2012 | 5 MOZ. | Trade horns | Motale |
| | Sept. 2010 | 1 SA | Attempt poach | Phalaborwa |
| | Oct. 2011 | 2 SA | Attempt poach | Hoedspruit |
| | May. 2012 | 1 SA | Trade horns | Lulekani |
| | Dec. 2011 | 5 SA | Attempt poach | Hoedspruit |
| | May. 2012 | 3 SA | Attempt poach | Hoedspruit |
| | Jun. 2012 | 1 SA | Attempt poach | Phalaborwa |
| MPUMALANGA | | | | |
| | Apr. 2011 | 1 SA | 2 Horns (3 rhinoceroses) | Skukuza |
| | Sept. 2010 | 2 SA | 2 Horns (2 rhinoceroses) | Skukuza |
| | Apr. 2011 | 3 MOZ | 1 rhinoceros | Skukuza |
| | Oct. 2011 | 2 SA | 1 Horn (1 rhinoceros) | Skukuza |
| | Mar. 2011 | 4 SA | Attempt poach | Skukuza |
| | Jan. 2011 | 3 SA | Attempt poach | Skukuza |
| | Jun. 2011 | 1 SA | 3 rhinoceroses | Skukuza |
| | Feb. 2012 | 4 SA | 4 Horn (2 rhinoceroses) | Skukuza |
| | Mar. 2012 | 2 SA 3 MOZ | Attempt poach | Skukuza |
| | Dec. 2011 | 1 SA | 2 rhinoceroses | Skukuza |
| | May. 2012 | 3 MOZ | 4 Horns (2 rhinoceroses) | Skukuza |
| | Dec. 2011 | 3 SA | 4 Horns (2 rhinoceroses) | Skukuza |
| | Aug. 2012 | 3 MOZ | Attempt poach | Skukuza |
| | Aug. 2012 | 5 SA | Attempt poach | Skukuza |
| | Sept. 2011 | 3 MOZ | Attempt poach | Skukuza |
| | Feb. 2011 | 2 SA | Attempt poach | Skukuza |
| | Aug. 2012 | 1 MOZ | Attempt poach | Skukuza |
| | Oct. 2011 | 4 MOZ | Attempt poach | Skukuza |
| | May. 2010 | 2 SA | Attempt poach | Skukuza |
| | Apr. 2012 | 3 MOZ | Attempt poach | Skukuza |
| | Apr. 2012 | 3 SA | Attempt poach | Skukuza |
| | Mar. 2012 | 3 SA | Attempt poach | Skukuza |

| | | | | |
|-------------------|-----------|--------------|-----------------------------------|----------------------|
| | Dec. 2009 | 7 SA | 13 rhinoceroses | Skukuza |
| | Nov. 2008 | 2 SA 3 SA | Trade 4 horns (3 rhinoceroses) | Nelspruit Skukuza |
| | Mar. 2012 | 7 MOZ. 1 SA | | Hazyview |
| | Dec. 2011 | 2 SA | | Middelburg |
| FREE STATE | | | | |
| | Mar. 2012 | 3 SA | 1 Horn | Bethlehem |
| | Mar. 2012 | 3 SA | Attempt poach | Hoopstad |
| | May. 2012 | 4 SA | Trade | Parkroad |
| | Jun.2012 | 3 SA | 4 Horns | Fouriesburg |
| NORTHWEST | | | | |
| | Oct. 2010 | 7 SA | 4 rhinoceroses | Klerksdorp |
| | Feb. 2012 | 5 SA | | Assen |
| | Jan. 2011 | 2 SA | Attempt poach | Mafikeng |
| | Apr. 2012 | 1 VIETNAM | Trade | Stella |
| | Jun. 2012 | 2 SA | Attempt poach | Lehurutshe |
| KZN | | | | |
| | Aug. 2009 | 4 SA | Hunting | Kwabonambi |
| | Nov. 2010 | 2 SA | 2 Horns (1 b rhinoceros) | Vryheid |
| | Mar. 2012 | 1 SA | 1 Horn | Jozini |
| | Mar. 2012 | 3 SA | 1 Horn | Durban |
| N CAPE | | | | |
| | Feb. 2012 | 1 SA | 2 Horns | Upington |
| E CAPE | | | | |
| | May. 2011 | 2 SA | 2 Horns | Kabega Park |
| W CAPE | | | | |
| | Aug. 2009 | 1 SA | 2 Horns | Parow |
| | Nov. 2010 | 2 VIETNAM | 15 Horns | Beaufortwes |

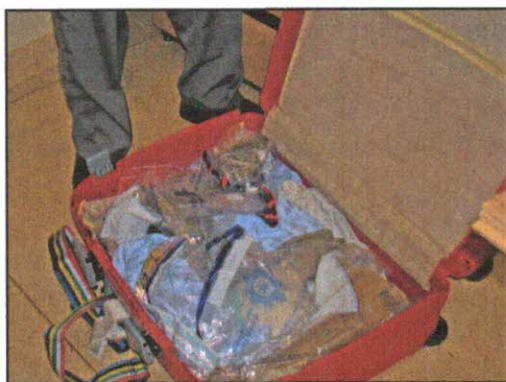


Table 20.3: Arrests and horns involved in poaching

| | ARRESTS | HORN RECOVERED | HORN LOST | TOTAL HORNS | RHINOS POACHED |
|-------|---------|----------------|-----------|-------------|----------------|
| 2002 | 11 | 22 | 5 | 27 | 23 |
| 2003 | 21 | 35 | 7 | 42 | 19 |
| 2004 | 5 | 6 | 0 | 6 | 8 |
| 2005 | 11 | 63 | 0 | 63 | 15 |
| 2006 | 15 | 19 | 10 | 29 | 23 |
| 2007 | 5 | 31 | 0 | 31 | 12 |
| 2008 | 17 | 28 | 125 | 153 | 76 |
| 2009 | * | * | * | * | 120 |
| 2010 | 165 | * | * | * | 333 |
| 2011 | 232 | 98 | 568 | 666 | 448 |
| TOTAL | | | | | |

*Data not available

Successful prosecutions

S v P Swart (CAS 235/05/2006)

The accused was charged in 2006, in terms of section 14 of the Free State Nature Conservation Ordinance 8 of 1969 for illegal trade in rhinoceros horns. The accused was convicted and sentenced to 3 years imprisonment or a fine of ZAR 50 000, and to a further 3 years imprisonment wholly suspended. ZAR 208 000 was paid to the owner of the horns.

S v Ngulele

The accused was charged in the Thoyandou Regional Court, Limpopo in 2007. The accused was charged with theft and hunting, as well as possession of 2 rhinoceros horns and trespassing. The accused was also charged with illegal possession of a rifle. The accused (a SANParks employee) was convicted on all charges, and sentenced to 10 years imprisonment for theft, 5 years for hunting, and 4 years for possession of the rhinoceros horns.

S v Sibusiso Luthuli, Gemfu Khosa, and Sibusiso Luthuli (CAS 194/02/2009)

The accused were charged in the Ulundi Regional Court in 2009. Only Luthuli was charged for illegal hunting of rhinoceros in terms of 57(1) of NEMBA, and the rest were charged in terms of Firearms Control Act 60 of 2000. All the accused were convicted and sentenced to direct imprisonment, Luthuli was sentenced to 5 years imprisonment.

S v M. Moolman and F. Chen (CAS 136/5/2009)

The two accused were charged in 2009 for illegal trade in rhinoceros horns. Moolman was charged in terms of 57(1) of NEMBA, and Chen was charged in terms of section 14(2) of Free State Conservation Ordinance 8 of 1969. Both were convicted, but sentenced differently, Moolman was sentenced to 2 years or ZAR 40 000, and added to this, to a further 3 years suspended sentence. Chen was sentenced to 1 year or ZAR 50 000 and to a further 2 years suspended for 5 years.

S v Duc Manh Chu O.R. Tambo (CAS 127/06/2010)

The accused was charged in the Kempton Park Regional Court, for illegal possession of rhinoceros horns in contravention of section 57(1) of NEMBA in 2010. The accused was also charged with fraud because he lacked a permit, in contravention of section 47(8)(a) of the Customs and Excise Act 91 of 1964. The accused pleaded guilty and received 10 and 2 years imprisonment for the two charges respectively.

S v Phi Hung Nguyeng O.R. Tambo (CAS 128/06/2010)

The accused was charged in the Kempton Park Regional Court in 2010, for illegal possession of rhinoceros horns in terms of section 57(1) of NEMBA as well as for fraud in terms of section 47(8)(a) the Customs and Excise Act 91 of 1964. The accused pleaded guilty in terms of both charges. For the NEMBA charge he received a sentence of 10 years imprisonment and in terms of the Customs and Excise Act received a sentence of 2 years direct imprisonment.

S v Hung Tai Tran O.R. Tambo (CAS 91/07/2010)

The accused was charged in 2010, in the Kempton Park Regional Court for illegal possession of rhinoceros horns, elephant ivory bracelets, for which he was charged of contravention of section 57 of NEMBA. The accused were convicted and sentenced to 4 years imprisonment or a fine of R1 million, and 4 years suspended for 4 years for the possession of the two rhinoceros horns. The rhinoceros horn and ivory bracelets were forfeited to the state and the US\$ 29 000 was forfeited to the Klaserie Game Reserve.

S v Hoang

Xuan Hoang was arrested at O.R. Tambo International Airport on the 29th of March 2010, whilst in possession of seven rhinoceros horns (16 kilograms) representing four poached rhinoceros and worth approximately ZAR 900 000. Xuan Huang was charged with seven counts of illegal possession of rhinoceros horn in terms of NEMBA, as well as for fraud. On the 30th June 2010, Magistrate Prince Manyathi convicted and sentenced Mr. Xuan Hoang, a Vietnamese citizen, to ten years imprisonment (five years for the illegal possession of the horns and five years for fraud), with no option of a fine at the Kempton Park Magistrate's Court.

S v Trau Thu Hien and Huyen Phat Phuong Pretoria North (CAS 442/01/2011)

The accused were arrested for the illegal possession of four rhinoceros horns and one rhinoceros flat skin. Phuong pleaded guilty on both charges and Hien pleaded not guilty. The accused were granted bail Phuong ZAR 50 000 and Hien ZAR20 000. Phuong was sentenced to four years imprisonment or ZAR 100 000.

S v Barrie McNamie Parkview (CAS 500/01/2011)

The accused was arrested for the illegal possession of one rhinoceros horn. The accused was found guilty and sentenced to two years imprisonment. The SAPS received information that the accused was driving around with a rhinoceros horn in the boot of his car. They arrested him at a filling station.

S v Tiona Lim Kuok O.R. Tambo (CAS 261/10/2010)

The accused was charged with the illegal possession of two rhinoceros horns. The accused was found guilty and sentenced to five years imprisonment or a fine of ZAR 100 000.

S v Arabia Matshaba Phalaborwa (CAS 38/10/2010)

The accused was charged with the illegal hunting of a white rhinoceros in terms of s 57(1) of NEMBA, the illegal possession of a firearm and ammunition and for trespassing. The accused was found guilty on all charges and sentenced to twenty years imprisonment (five years for the illegal hunting, five years for the illegal possession of a firearm and ten years for the illegal possession of ammunition).

S v Renaldo Franchesco Masiki, Joao Sendelani Malangute and Elvis Mdaka Skukuza (CAS 35/10/2010)

The accused were found guilty on 25 October 2010 on charges of illegal hunting of rhinoceros in a National Park and possession of unlicensed fire arms and ammunition. They were sentenced on 14 March 2011 as follows: Accused numbers 1 and 3 were sentenced to effectively 9 years imprisonment without the option of a fine. Accused number 2 was sentenced to 5 years imprisonment without the option of a fine.

S v Bui Thi Van (Ortia CAS 35/12/2010)

The accused was arrested on 7 December 2010 at the Oliver Tambo International Airport while in possession of 1 rhinoceros horn with a weight of 4 kg. She explained that she purchased the rhinoceros horn in Mozambique for personal medicinal reasons as she was suffering from cancer. She pleaded guilty to the charge of the illegal possession of rhinoceros horn and was sentenced to a fine of ZAR 300 000 or 5 years imprisonment, which was suspended for 5 years, despite the state calling a witness in aggravation of sentence.

S v Graeme Bosch (Case Number BRC/10/11)

The accused pleaded guilty to the dealing in and transporting of 2 rhinoceros horns. He was the legal owner of a rhinoceros, who died after being struck by lightning. He wanted to sell the horns in order to recover the difference between what his insurance had paid out and what the rhinoceros was actually worth. However, by the time he actually sold the horn, the moratorium prohibition the selling of horns had come into operation. He was sentenced to ZAR 130 000 or 5 years imprisonment.

S v Venter & Nel (Case Number RC 445/10)

Both accused pleaded guilty on 6 December 2010 in the Cullinan regional court. They were convicted in terms of Section 57(1) of the Biodiversity Act for the following:

- Count 1 - Dehorning of 5 rhinoceroses;
- Count 2 - Possession of 8 rhinoceros horns;
- Count 3 - Unlawful selling of 8 rhinoceros horns;
- Count 4 - Unlawful selling of 3 rhinoceros horns.

In terms of the plea and sentence agreement, they were sentenced to 6 years imprisonment which was suspended for 5 years on certain conditions, inter alia that they will testify regarding the information supplied to the investigating officer. A confiscation order to the amount of ZAR 660 000 was also granted.

S v J Monyana, J Vineni, E Manyiki and A Baloyi Lephallale (CAS 112/06/2010)

The accused were charged in the Modimolle Regional Court with contravention of section 3

and section 90 of the Firearms Control Act 60 of 2000, namely illegal possession of firearm and ammunition. Only Mr. Monyana was charged with illegal hunting of rhinoceros, in terms of section 57(1) of NEMBA. The accused were all convicted and accused 1, Monyana, was sentenced to 6 years imprisonment for the charge of illegal hunting in terms of NEMBA and illegal possession of firearms. Accused 2 and 3 were sentenced to 3 years imprisonment. The firearms, ammunition and vehicle used were all forfeited to state.

S v Gumede

The accused was convicted in Kwa-Zulu-Natal on a charge of illegal hunting of a rhinoceros, and was sentenced to R50 000 or 2 years imprisonment of which R30 000 / 2 years was suspended for 5 years.

S v Xaba

The accused was convicted on charges of illegal hunting of a rhinoceros and illegal possession of a firearm in KwaZulu-Natal. He was sentenced to 10 years imprisonment, of which 3 years was suspended for 5 years.

S v K Khoza and S Luthuli (Ulundi Regional Court Case Number RC 225/2010)

The two accused were convicted in terms of Section 57(1) of the Biodiversity Act, in relation to the illegal hunting of a rhinoceros, possession of rhinoceros horn and contraventions of the Firearms Control Act. The accused were sentenced to an effective 20 years imprisonment. Both accused were arrested in the park by game rangers, after a shoot out. They were found in possession of the firearms and rhinoceros horn. The rangers managed to trace the carcass the following day. The state proved by means of DNA, that the rhinoceros horns found were linked to the carcass. The state also called evidence in aggravation of sentence, which contributed to the impressive sentence.

S v J Els Mussina (Case 132/09/2010)

Els (40) was sentenced to ten years of which two were suspended for five years for illegally dealing in 38 rhinoceros horns between 2009 and 2010. This he did when he bought seven rhinoceroses from Limpopo Valley Conservancy in Musina informing Environmental Affairs Department that he was taking them to Thabazimbi. Instead he dehorned five rhinoceroses without a permit in Musina and moved some without horns. Els bought 30 horns from Tommy Fourie who was a manager at Maremani Nature Reserve in Musina. All of them were transported to Thabazimbi without the required permit. Fourie committed suicide on 08 November 2010 after he was arrested with Els. All the horns involved were never recovered, since he claimed that they were all stolen from his farm.

Nevertheless Els was convicted for purchasing, possession and transportation of all 38 rhinoceroses to the value of ZAR 11.4 million over and above this, the court ordered him to also pay an amount of ZAR 1 million to the National Wildlife Crime Reaction Unit fund within 10 months from 30 April 2012. Els previously made an application for leave to appeal against his sentence. The court has refused his application and is currently serving his sentence at Sinthumule – Kutama Maximum Prison.

A team has seized assets in the region of ZAR 11 million, from convicted game farmer, Els from Thabazimbi, Limpopo. The schedule of movable, immovable assets and properties and bank accounts seized are as follows:

Movable: Gold Toyota Fortuner, White Toyota Hilux, Silver BMW R1 200GS motorbike, 2 x Black Bombadier ATV DSX 2X 650 motorbikes White Rhino box body gas bottle carrier, Flack deck trailer, Household goods and assets a 135 Doornhoek farm number 318.

Immovable property: Doornhoek Farm number 318, Thabazimbi

Incorporeal property: 50% shares on Dalton Imports and Investment Close Corporation, 25% Shares On East Buffalo Breeders Close Corporation.

Bank accounts: Standard Bank account, Absa cheque account

S v A Baloyi, J Nkuna & I Baloyi (Phalaborwa Regional Court Case Number CAS 92/9/2010 and 76/7/2010)

Three rhinoceros poachers were sentenced to 25 years each by the Phalaborwa Regional Court. The three, all Mozambicans, were found guilty of illegally hunting rhinoceros in the Kruger National Park in July 2010. Aselmo Baloyi, Jawaki Nkuna and Ismael Baloyi were also found guilty of possessing an illegal firearm (an automatic rifle), possession of a firearm (a hunting rifle) and possession of ammunition. They were caught with two freshly chopped rhinoceros horns, an assault rifle, a hunting rifle and an axe.

S v Potgieter, Vermaak, Mbatha, Sithole P. & Sithole D. Magudu (CAS 10/3/2012)

Ewart Potgieter, 34, of Louwsberg, and Riaan Vermaak, 32, of Newcastle, pleaded guilty in the Vryheid Regional Court this week to charges of conspiracy to hunt rhinoceros and attempting to hunt rhinoceros and the possession of illegal firearms and ammunition. Potgieter was sentenced to 18 years' imprisonment – six years for conspiracy to hunt rhinoceros and attempting to hunt rhinoceros, 10 years for possession of illegal firearms and two years for possession of illegal ammunition. Vermaak received 10 years and six months – six years for conspiracy to hunt rhinoceros and attempting to hunt rhinoceros, four years for possession of illegal firearms and six months for possession of illegal ammunition. The pair, with their alleged accomplices, Philomon Mbatha (42), and brothers Dumisane Sithole (30), and Mduduzi Sithole (32) – game rangers at the Mkuze Falls Private Game Reserve – were arrested five months ago during a sting operation.

S v G Khoza and A Nkuna (Nelspruit Regional Court Skukuza CAS 2/6/2011)

The two accused were convicted of the illegal hunting of a two rhinoceroses (cow and her calf), possession of rhinoceros horn and contraventions of the Firearms Control Act. The accused were sentenced to an effective 29 years imprisonment, the highest fine to date for poaching on 31 August. Both accused were arrested in the park by game rangers, after a shoot out and Nkuna was wounded. They were found in possession of the firearms and rhinoceros horn.

2003 - 2008: Rhinoceros horn seizures and arrests in Vietnam

2003: At Lao Bao in Quang Tri province, a smuggler was caught with nine rhinoceros horns and 180 packets of heroin

2007: A smuggler was arrested after arriving from South Africa with two rhinoceros horns which he claims to have purchased for US\$ 10 000. Between 2005 and the time of his arrest, he had travelled seven times between Vietnam and South Africa.

2008: Five rhinoceros horns were confiscated from a Hanoi man arriving at the Ho Chi Minh City international airport from South Africa. He was transporting the horns in his luggage and claimed that four were obtained from two rhinoceroses he killed in a trophy hunt. He said he purchased the fifth horn for US\$ 2000. This individual was recently sentenced to three years in jail.

2008: Upon arriving at the Ho Chi Minh City international airport from Hong Kong, a man was arrested with two rhinoceros horns, which he claims to have purchased in South Africa.



Vietnamese Embassy, Brooks Street 87, Pretoria.

2006 - 2009: Seizures and arrests in South Africa involving Vietnamese nationals

2006: Two rhinoceros horns were confiscated from a Vietnamese national, who received diplomatic immunity.

2009: A Vietnamese man was arrested in Pretoria when he was found with the body parts of ten rhinoceroses and lions

2008: Vu Moc Anh, an official at the Vietnamese Embassy in Pretoria, was caught by undercover cameras accepting rhinoceros horn from a known trader.

2008 and 2009: Members of the Vietnamese Embassy in South Africa involved in illegal rhinoceros horn trade have been named as Moc Anh, the First Secretary; Pham Cong Dung and the Commercial Attache Khanh Toan (ARA).



Calf - a poaching victim