



สำนักงานอัยการสูงสุด  
OFFICE OF THE ATTORNEY GENERAL



**USAID**  
FROM THE AMERICAN PEOPLE

# RAPID REFERENCE GUIDE

## ON APPLICABLE OFFENSES TO TRAFFICKING OF CRITICALLY ENDANGERED SPECIES IN THAILAND





**RAPID REFERENCE GUIDE ON APPLICABLE  
OFFENSES TO TRAFFICKING OF CRITICALLY  
ENDANGERED SPECIES IN THAILAND**



## FOREWORD

The Office of the Attorney General is pleased to have a few words about this Rapid Reference Guide.

Due to its strategic location in Southeast Asia, Thailand has become a major transit hub for illegal wildlife products. With an estimated value of over 20 billion dollars a year, wildlife crime is the fourth most lucrative global crime in the world after drugs, trafficking in persons and illegal smuggling of weapons; and has therefore become a VERY serious crime. The Illegal wildlife trade not only threatens biodiversity, undermines global and regional security, the rule of law and efforts to end extreme poverty, but it is also pushing many species such as elephants, pangolins, rhinos and tigers, to the brink of extinction.

While Thailand is continually working to strengthen its legal and policy framework to more effectively address wildlife crime, the expectation is that the number of prosecutions and convictions of wildlife criminals will increase accordingly. However, as there are many legislative pieces involved in the prosecution of wildlife crime, the Office of the Attorney General believes that even though this Rapid Reference Guide does not cover all offenses related to this kind of crime, this important tool will help investigators and prosecutors to conduct criminal proceedings against the criminals in one way or another.

With support from the United States Government, the Office of the Attorney General is proud to have taken part with many Thai agencies in producing this Rapid Reference Guide which will serve its mandate to administer criminal justice, enforce the law, and pursue organizational excellence in the fight against this scourge. It represents a useful tool for use at both national and provincial levels.



Dr. Chatchom Akapin  
Director General  
International Affairs Department  
The Office of Attorney General

## INTRODUCTION

Wildlife crime is an issue of growing and substantial national and international concern. A growing awareness of the links between wildlife crime and organized criminal syndicates has contributed significantly to this concern, particularly given the diversified links within the organized criminal network to human migrant exploitation, money laundering, drugs and arms trafficking and, in some jurisdictions, suggested links to terrorism. Wildlife crime is now thought to be the fourth most lucrative transnational crime after trafficking in people, arms and drugs (Haken 2011).

Thailand is seen as one of the main destination countries for illegal wildlife products. The successful prosecution of those who are involved in the trafficking of ivory, rhino horn, pangolin scales and other critically endangered and endangered species, is essential to ensuring that the criminal justice system in Thailand can act as a sufficiently strong enough deterrent to those contemplating committing such crimes.

Accordingly, this guide has been created to assist investigators and prosecutors to identify what is required to build an evidential case against an accused; it sets out the ancillary powers available and presents alternative legislation as options for prosecution, such as the Anti-Money Laundering Act. It is limited strictly to CITES related offenses concerning wildlife trafficking and possession of critically endangered and endangered species and focuses upon the most commonly used provisions that might apply.

This guide will be subject to review and amendment as and when circumstances dictate.

This guide was developed by the Office of the Attorney General, the Royal Thai Police Department, Royal Thai Customs Department, the Anti Money Laundering Office and the Department of National Parks, Wildlife and Plant Conservation, with funding and coordination support provided by the USAID Wildlife Asia Activity.

## THE SERIOUSNESS OF WILDLIFE CRIME – WHY IS THIS IMPORTANT?

In order to aid understanding and sensitivity to the seriousness of wildlife crime in Thailand, the following factors are identified. These factors can also be presented to a judge upon sentencing.

- Wildlife crime is recognized as a transnational crime, crossing borders.
- Wildlife crime is organized crime that requires many participants and crosses international borders.
- Wildlife crime involves breaches of Thailand's customs laws, money laundering laws, penal code and other legislation.
- Wildlife crime poses a public health risk through the importation and transiting of illegal wildlife products and so threatens the health of the Thai people.
- Wildlife crime is a high value industry, ranked as the fourth most lucrative form of organized crime in the world.
- The same routes and methods that are used to traffic wildlife products are also used for trafficking narcotics, weapons and humans.
- The proceeds of wildlife crime are used for other illicit purposes e.g. narcotics and in some parts of the world, wildlife crime is linked to terrorism.
- There is a human cost to wildlife crime – in the last ten years, over 1,000 park rangers in Africa have been killed defending wildlife from poachers.
- Wildlife crime involves corruption at the highest levels of government.
- Wildlife crime in Thailand diverts valuable State resources away from other public services such as health and education.
- The negative publicity that wildlife crime brings to Thailand threatens our reputation and puts Thailand at risk of international sanctions on our exports.
- Thailand is a signatory to many international conventions – we have a legal obligation to the international community to play our part in this fight against wildlife crime.

## THE SERIOUSNESS OF WILDLIFE CRIME – WHY IS THIS IMPORTANT?

Thailand is seen as one of the main destination countries for illegal wildlife products. The successful prosecution of those who are involved in the trafficking of ivory, rhino horn, pangolin scales and other critically endangered and endangered species, is essential to ensuring that the criminal justice system in Thailand can act as a sufficiently strong enough deterrent to those contemplating committing such crimes.

Under section 20 of the Criminal Procedure Code, the Office of the Attorney General has the power to act as an inquiry officer in cases where the offense has been committed overseas.

In practice, prosecutors and investigators do work together on other types of cases. The purpose of this document is to encourage that practice for all cases involving critically endangered and CITES species, particularly where there is an international element to the case e.g. foreign nationals or the case concerns importation.

The benefits of early consultation between police and prosecutors are many. They include:

1. Direct communication between prosecutor and investigators can enhance the mutual understanding of the case as a whole;
2. Building a case together can enhance the prospects of a successful prosecution;
3. Early consultation can enable early identification of problems in the case;
4. Early consultation can enhance the ability to identify the types of evidence required to prove all of the elements of the offense;
5. Early consultation can enable early identification of possible charges, not just under the wildlife legislation but alternative laws such as the Anti Money Laundering Act;
6. Given the international nature of many CITES related cases, mutual legal assistance may be required. The earlier this is identified, the better;

7. Prosecutors can assist investigators in identifying the need for any ancillary applications or civil proceedings such as for asset restraint;
8. Where other agencies are involved e.g. Customs, prosecutors can ensure their continued involvement for the benefit of the investigation;
9. To identify possible avenues for investigation and in doing so, ensure resources are deployed in an efficient way;
10. The prosecutor and investigator to identify factual grounds for opposing bail and ensure the evidence is in the file.

In any case involving elephant, rhino, pangolin or other critically endangered/ CITES listed species or their carcasses, AND in any case where there is an international element for example concerning a foreign national or import or export of any such species, the following must occur:

#### **Where an arrest is made**

1. Investigators to contact the Office of the Attorney General within 48 hours of an arrest and before first appearance, unless this is not reasonably practicable. This is for consultation only – it is not expected that the investigation shall be complete within 48 hours.
2. In any event, investigators should contact the Office of the Attorney General within 72 hours after first appearance at court. Again, this is for consultation purposes only.

#### **Where there is no arrest**

1. In cases where a seizure is made at a port or border and no suspect is arrested, the investigator should contact the Office of the Attorney General within 48 hours of the seizure.

## **Before trial**

1. A prosecutor can determine at an early stage whether a pre-trial conference with the investigator is necessary depending on the complexity of the case, witness requirements or any other matter, at his or her discretion.

## **The aim of early consultation**

1. To set an action plan for further investigations.
2. To set dates for regular review of the case by the prosecutor together with the investigator.

## HOW THIS GUIDE SHOULD BE USED

There is a wide range of legislation that could be applied to the prosecution of wildlife crime in Thailand. These include multiple international instruments as well as many different types of domestic legislation. However, the main scenarios encountered by investigators in Thailand in relation to elephant, ivory, rhino horn, pangolin scales and other critically endangered species would most often fall under the following five laws:

1. The Wildlife Crime and Protection Act B.E. 2535 (as amended by B.E. 2557) (2014) – (WARPA);
2. The Ivory Trade Act B.E. 2558 (2015);
3. Customs Act B.E. 2560 (2017);
4. The Act of Anti- Participating in Transnational Organized Crime B.E. 2556 (TOCA);
5. The Anti Money Laundering Act B.E. 2542 (consolidated).

Where an animal is not a CITES species or a protected animal under domestic laws, investigators and prosecutors can also consider offenses under the Animal Epidemics Act B.E. 2499 (1956) as well as WARPA which covers other “wild animals”.

*For example;* in the case of a seizure of ivory at a port or border crossing, consider the following charges:

1. Importation under Customs Act (max 10 years);
2. Importation under WARPA;
3. Participation in a Transnational Organized Crime under TOCA;
4. Possible money laundering.

In the case of a seizure or arrest within the country, consider offenses under WARPA as well as possible TOCA offenses and money laundering. For offers to sell on the internet, money laundering offenses may be in play as well as ‘trade’ offenses under WARPA.

Investigators are encouraged to consider the involvement of the Anti-Money Laundering Office as well as the Department of Special Investigations for additional investigative techniques to be employed. Early engagement with the Attorney General's Office can help the investigator identify other possible charges for further investigations.

**OFFENSES AT PORTS AND BORDERS  
(IMPORT, EXPORT, TRANSIT,  
TRANSPORTATION, POSSESSION)**

1. Customs Act B.E. 2560 (2017) – ESPECIALLY FOR ITEMS FOUND IN TRANSIT
2. The Wildlife Crime and Protection Act B.E. 2535 (as amended by B.E. 2557) (2014) – (WARPA)
3. The Act of Anti-Participating in Transnational Organized Crime B.E. 2556 (TOCA)
4. The Anti Money Laundering Act B.E. 2542 (consolidated)



## CUSTOMS ACT OFFENSES

### Section 244 CUSTOMS ACT - Importation/ Exportation/ Transiting of 'prohibited' items

Max: 10 years imprisonment and/or 500,000 Baht or both

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offense</p> <p>Identify the species (and number if applicable)</p> <p>Confirm that the animal(s) is not among prohibited species under the Thai Wild Animal Preservation and Protection Act and other relevant laws or prove that the accused 'imported' or 'exported' item is not in transit with the prohibition</p>	<p>s104 authorized officer(s) holds power to search in case of transiting goods/items</p> <p>s105 authorized officer(s) can conduct forfeiture of goods even without a conviction in the case of transiting goods/items</p> <p>s157 authorized officer(s) has power to enter a place of business of an importer, transporter, exporter or other person to inspect, seize any documents or evidence, issue a summons to anyone to give evidence or provide documents or other articles</p> <p>s158 to inspect all items passing through customs and take samples for analysis</p> <p>s159 authorized officer(s) has power to enter a business and request documents/evidence for up to five years after the date of import/export/transit</p> <p>s160 authorized officer(s) can stop and inspect suspected vehicle and passenger in the vehicle in the case of transiting goods/items</p> <p>s161 authorized officer(s) has power to search and confiscate passenger's baggage suspected to carry prohibited items</p>

**Evidence:** *likely to include but not limited to:* Eyewitness evidence; a statement from the arresting officer; investigating officer interviews; photographs; and videos. Documentation in relation to the connected offense

**Notes:**

s245 enables prosecution of an instigator or conspirator or supporter making them liable to the same penalty. The court may confiscate the goods/items even without conviction. The intention and attempt to commit the crime have equal punishment as committing the crime

s245 authorized officer(s) shall treat culprit(s), their chief as well as supporter equal punishment

s166 prohibited and restricted items must be confiscated

<b>CHARGE</b>	Importing/ Exporting/ Bringing for transit or trans-shipment <b>[delete as appropriate]</b> a prohibited good, contrary to section 244 of the Customs Act B.E. 2560
<b>PARTICULARS</b>	<b>[Name of the accused(s)]</b> on or about the <b>[date]</b> at <b>[location]</b> imported/ exported/ bought in for transit or trans-shipment <b>[delete as appropriate]</b> a prohibited good namely <b>[identify the item]</b> without lawful authority

Section 246 CUSTOMS ACT – Concealing, disposing, taking away etc. of any items knowing the goods are related to an s244 offense

Max: 5 years imprisonment and/or 500,000 Baht

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offense</p> <p>Identify the species (and number if applicable)</p> <p>That the accused concealed, disposed of, took away, purchased, accepted a pledge or received in any way those goods</p> <p>He/she knew that they had entered into/were exporting from/were transiting through Thailand in breach of s244 above</p>	<p>s104 authorized officer(s) holds power to search in case of transiting goods/items</p> <p>s105 authorized officer(s) can conduct forfeiture of goods even without a conviction in the case of transiting goods/items</p> <p>s157 power to enter a place of business of an importer, transporter, exporter or other person to inspect, seize any documents or evidence, issue a summons to anyone to give evidence or provide documents or other articles</p> <p>s158 to inspect all items passing through customs and take samples for analysis</p> <p>s159 can have power to enter a business and request documents/evidence for up to five years after the date of import/ export/ transit</p> <p>s160 authorized officer(s) can stop and inspect suspected vehicle and passenger in the vehicle in the case of transiting goods/items.</p> <p>s161 authorized officer(s) has power to search and confiscate passenger's baggage suspected to carry prohibited items</p>

**Evidence:** *likely to include but not limited to:* Eyewitness evidence; a statement from the arresting officer; investigating officer interviews; photographs; and videos. Documentation in relation to the connected offense

**Notes:** s244 enables prosecution of an instigator or conspirator or supporter making them liable to the same penalty

<b>CHARGE</b>	Importing/ Exporting/ Bringing for transit or trans-shipment <b>[delete as appropriate]</b> a prohibited good, contrary to section 244 of the Customs Act B.E. 2560
<b>PARTICULARS</b>	<b>[Name of the accused(s)]</b> on or about the <b>[date]</b> at <b>[location]</b> imported/ exported/ bought in for transit or trans-shipment <b>[delete as appropriate]</b> a prohibited good namely <b>[identify the item]</b> without lawful authority

Section 247 CUSTOMS ACT – Allowing another to load or unload prohibited goods onto or from a vehicle in breach of customs formalities

Max: 10 years imprisonment and/or 500,000 Baht  
or both (according to Section 244)

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offense</p> <p>Identify the prohibited goods (i.e. species and number if applicable)</p> <p>That the items are 'prohibited goods' under the Act</p> <p>That the accused allowed others to load/unload the goods onto a vehicle</p> <p>He/she knew that the goods had not passed through customs formalities</p>	<p>s104 authorized officer(s) holds power to search in case of transiting goods/items</p> <p>s105 authorized officer(s) can conduct forfeiture of goods <u>even without a conviction</u> in the case of transiting goods/items</p> <p>s157 power to enter a place of business of an importer, transporter, exporter or other person to inspect, seize any documents or evidence, issue a summons to anyone to give evidence or provide documents or other articles</p> <p>s158 to inspect all items passing through customs and take samples for analysis</p> <p>s159 can have power to enter a business and request documents/evidence for up to five years after the date of import/export/transit</p> <p>s160 authorized officer(s) can stop and inspect suspected vehicle and passenger in the vehicle in the case of transiting goods/items</p> <p>s161 authorized officer(s) has power to search and confiscate passenger's baggage suspected to carry prohibited items</p>
<p><b>Evidence:</b> <i>likely to include but not limited to:</i> Eyewitness evidence; a statement from the arresting officer; investigating officer interviews; photographs; and videos. Confirmation statement that the items had not passed through customs. Circumstances of the loading/unloading e.g. under darkness in a concealed area, closeness to an airport or border crossing</p>	
<b>CHARGE</b>	<p>Loading/Unloading [delete as appropriate] a prohibited good in breach of customs formalities, contrary to section 247 of the Customs Act B.E. 2560</p>
<b>PARTICULARS</b>	<p><b>[Name of the accused(s)]</b> on or about the <b>[date]</b> at <b>[location]</b> knowingly loaded/unloaded <b>[delete as appropriate]</b> a prohibited good namely <b>[identify the item]</b> in breach of customs formalities</p>

## RELEVANT OFFENSES UNDER WILDLIFE CRIME AND PROTECTION ACT

### Key Definitions

1. s4 'Wild animal' defined as: any kind of terrestrial/aquatic animals that naturally exist. These include fowls, insects or arthropods, or things which originated from, or are found by nature and are able to sustain life in the forest or water.
2. s4 'Animal carcass' defined as the body or part(s) of a dead wild animal, or their meat, either broiled, roasted, smoked or dried or otherwise preserved. Includes the antler, skin, bone, tooth, tusk, horn, hair, scale or claw.
3. s4 'Products made from/of wild animal carcasses' defined as any product derived from wild animals which can be categorized by its attached document or package or mark or label or other indication that it belongs to such an animal.
4. s4 'Propagation' defined as to regenerate a wild animal which is brought for nursing and/or breeding. Includes its offspring by artificial breeding methods or transferring embryo.
5. s.4 'Import' defined as to bring/ order a wild animal into Thailand.
6. 'Export' defined as to take/ carry a wild animal out of Thailand.
7. s4 'Propagation' defined as to regenerate a wild animal which is brought for nursing and/ or breeding. Includes its offspring by artificial breeding methods or transferring embryo s4.
8. 'Trade' defined as to purchase, sell, exchange, dispose of, distribute, or transfer the ownership for the purpose of trading. Includes having or showing for sale.

## Import/ Export Offenses/ Wild Animal/ Carcass/ Carcass Products

Section 23 of Thailand's Wild Animal Preservation and Protection Act (para 1)

Importing and exporting a wild animal, carcass and products of wild animals under prohibited lists (according to the notification of Ministry of Natural Resources and Environment on prohibited wild animal species, carcasses and products of wild animals B.E. 2560)

Section 23 (para 2) Importing and exporting a wild animal, carcass and products of wild animals acquired from propagation under s18(1), or lawfully acquired in accordance with the International Agreement on the Trade of Wild Animals, their carcasses and products made from Wild Animals

Maximum 3 years imprisonment and/ or Maximum 30,000 Baht fine (s48)

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offense</p> <p>Identify the species (and number if applicable)</p> <p>Confirm that the animal(s) is not among prohibited species under the Thai Wild Animal Preservation and Protection Act and other relevant laws or prove that the accused 'imported' or 'exported' item is not in transit with the prohibition</p>	<p>s104 authorized officer(s) holds power to search in case of transiting goods/items</p> <p>s105 authorized officer(s) can conduct forfeiture of goods <u>even without a conviction</u> in the case of transiting goods/items</p> <p>s157 authorized officer(s) has power a place of business of an importer, transporter, exporter or other person to inspect, seize any documents or evidence, issue a summons to anyone to give evidence or provide documents or other articles</p> <p>s158 to inspect all items passing through customs and take samples for analysis</p> <p>s159 authorized officer(s) has power to enter a business and request documents/evidence for up to five years after the date of import/export/transit</p> <p>s160 authorized officer(s) can stop and inspect suspected vehicle and passenger in the vehicle in the case of transiting goods/items</p>

**Evidence:** *likely to include but not limited to:* Eyewitness evidence; photographic or video evidence; statement of any border officials; statement from the arresting officer; and investigating officer interviews. Statement from licensing officer as to the absence of a permit. Accused's answers on arrest and interview should be carefully recorded

**Notes:**

s24 lawful exemption: Permit/ certificate from the Director General, of importing, exporting, or transporting, according to the International Agreement on the Trade of Wild Animals, Their Carcasses, and Products Made from Wild Animal Carcasses

s26 lawful exemption: Performed by an official AND

- for the purposes of surveying, education and scientific research, the protection of wild animals, propagation or conducting a public zoo operation AND
- with written permission must be obtained from the Director-General and comply with the rules as specified by the Minister with the approval of the committee

<b>CHARGE COUNT ONE</b>	Importation /exportation <b>[delete as appropriate]</b> of a wild animal, or its carcass or carcass products <b>[delete as appropriate]</b> contrary to section 23 paragraph 1 of the Wild Animal Preservation and Protection Act B.E. 2535 (1992) as read with s47 of the same
<b>PARTICULARS</b>	<b>[Name of the accused(s)]</b> on or about the <b>[date]</b> imported/exported <b>[delete as appropriate]</b> a wild animal, or its carcass or carcass products <b>[delete as appropriate]</b> from Thailand, namely <b>[identify species/ carcass product]</b> , without a permit
<b>CHARGE</b>	Importation/exportation <b>[delete as appropriate]</b> of a wild animal, or its carcass or carcass products <b>[delete as appropriate]</b> , acquired from propagation, from Thailand, contrary to section 23 paragraph 2 of the Wild Animal Preservation and Protection Act B.E. 2535 (1992) as read with s48 of the same
<b>PARTICULARS</b>	<b>[Name of the accused(s)]</b> on or about the <b>[date]</b> imported/exported <b>[delete as appropriate]</b> a wild animal, or its carcass or carcass products <b>[delete as appropriate]</b> , acquired from propagation, from Thailand, namely <b>[identify species/ carcass product]</b> , without a permit

## Transporting/ Checkpoint Offenses/ WildAnimal

Section 28 WARPATransporting a wild animal, or its carcass or carcass products, into the limits of a wild animal checkpoint without presenting a permit

Maximum 5,000 Baht fine (s52)

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offense</p> <p>Identify species (and number if applicable)</p> <p>whether they are reserved or protected species or carcasses and products from wildlife according to ministerial notifications</p> <p>Provide prove or evidence how an accused person carries the wild animal/ carcass/ carcass products through wildlife checkpoint without declaration of the items.</p> <p>Transporting defined as and includes moving, importing, exporting or passing through.</p> <p>Permit defined as written document permitting the transportation of wildlife through wildlife checkpoint.</p> <p>Absence of permit defined as written permission to import, export or transport</p>	<p>s58 Confiscation by the State of any (preserved or protected) wild animal/ carcass/ animal products acquired or possessed in violation of this Act</p> <p>s85 (according to code of criminal procedure), authorized officer has power to search and confiscate item obtained/possessed by accused person as evidences to the case</p> <p>s45 (Thailand's Wild Animal Preservation and Protection Act B.E. 2535) Police or Administrative officers must follow the code of criminal procedures when arresting accused person</p> <p>s27 the limits are set out by notice in the Government Gazette</p>
<p><b>Evidence:</b> <i>likely to include but not limited to:</i> Eyewitness evidence; photographic/ documentary or video evidence; a statement of the checkpoint officer; the arresting officer and the licensing officer as to the absence of any permit; exhibits officers; and investigating officer interviews</p>	
<b>CHARGE</b>	<p>Unauthorized transporting of a wild animal, or its carcass or carcass products, <b>[delete as appropriate]</b> into the limits of a wild animal checkpoint, contrary to section 28 of the Wild Animal Preservation and Protection Act B.E. 2535 (1992)</p>
<b>PARTICULARS</b>	<p><b>[Name of the accused(s)]</b> on or about the <b>[date]</b> transported a wild animal/ its carcass/ carcass product <b>[delete as appropriate]</b>, into the limits of a wild animal checkpoint, namely <b>[identify species/ carcass product]</b>, without presenting a permit</p>

## Concealing or Receiving a Wild Animal/ Carcass/ Carcass Products

<p>Section 55 WARPA Concealing, or receiving a wild animal, its carcass or carcass products, acquired through the commission of an offense under this Act</p> <p>Maximum 1-year imprisonment and/or Maximum 10,000 Baht fine (s55)</p>	
POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offense</p> <p>Identify species (and number if applicable)</p> <p>whether they are reserved or protected species or carcasses and products from wildlife according to ministerial notifications</p> <p>That the accused concealed, disposed of, took away, received or purchased a wild animal/ carcass/ carcass product, acquired through the commission of an offense under this Act</p>	<p>s58 Confiscation by the State of any preserved or protected wild animal, animal carcass or animal products acquired or possessed in violation of this Act</p> <p>s85 (according to code of criminal procedure), authorized officer has power to search and confiscate item obtained/possessed by accused person as evidences to the case</p> <p>s45 (Thailand's Wild Animal Preservation and Protection Act B.E. 2535) Police or Administrative officers must follow the code of criminal procedures when arresting accused person</p>
<p><b>Evidence:</b> <i>likely to include but not limited to:</i> Eyewitness evidence; a statement from the arresting officer; investigating officer interviews; photographs; and videos. Documentation in relation to the connected offense</p>	
<b>CHARGE</b>	<p>Concealing / receiving <b>[delete as appropriate]</b> a wild animal/ carcass/ carcass product <b>[delete as appropriate]</b>, acquired through the commission of an offense under the Act, contrary to section 55 of the Wild Animal Preservation and Protection Act B.E. 2535 (1992)</p>
<b>PARTICULARS</b>	<p><b>[Name of the accused(s)]</b> on or about the <b>[date]</b> at <b>[location]</b> concealed/ received <b>[delete as appropriate]</b> a wild animal/ carcass/ carcass product <b>[delete as appropriate]</b>, acquired through the commission of an offense under the Act namely <b>[identify species/ carcass product]</b></p>

## Possession

Section 19 Possessing a **preserved or protected** wild animal, or its carcass  
 Maximum 4 years imprisonment and/ or Maximum 40,000 Baht fine (s47)  
 Section 49 Possessing a **protected** wild animal, or its carcass,  
**acquired from unauthorized propagation**

Maximum 1-year imprisonment and/ or Maximum 10,000 Baht fine (s49)

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offense            Identify the species (and number if applicable) - and confirm it is either (s4):</p> <ul style="list-style-type: none"> <li>- a <b>preserved</b> wild animal as listed in the Schedule Annexed to the Act or,</li> <li>- a <b>protected</b> wild animal as specified in the Ministerial Regulations</li> </ul> <p>That the accused was found in possession of a preserved or protected wild animal or its carcass            Possession may be allowed if s19(2) or s26 or s66 or s67 applies (see below)</p> <p><b>If the possession is a result of an unauthorized propagation:</b> authorized officer must justify whether it relates to illegal propagation of protected wild animals, carcasses or wildlife products</p>	<p>s58 Confiscation by the State of any (preserved or protected) wild animal/ carcass/ animal products acquired or possessed in violation of this Act</p> <p>s85 (according to code of criminal procedure), authorized officer has power to search and confiscate item obtained/possessed by accused person as evidences to the case</p> <p>s45 (Thailand's Wild Animal Preservation and Protection Act B.E. 2535) Police or Administrative officers must follow the code of criminal procedures when arresting accused person</p> <p>s27 the limits are set out by notice in the Government Gazette</p>
<p><b>Evidence:</b> <i>likely to include but not limited to:</i> Eyewitness evidence; statement from the arresting officer; photographs/ videos; investigating officer interviews; and a statement from the licensing officer as to the absence of any permit. Expert witness evidence may be required to confirm the act of propagation if in dispute. Expert/forensic evidence may be required if the nature of the species is in dispute</p> <p><b>Notes:</b>            s19 lawful exemption: Possessing authorization to propagate a <b>protected</b> wild animal/ its carcass AND permission has been obtained from the Director General for possession i.e.</p>	

s19(1) permission has been obtained for propagation under s18(1), and the possessed animal has been obtained for the purpose of propagation under 18(1)

- s18(1) lawful exemption: The propagation of a protected wild animal AND permission has been obtained from the Director General in accordance with ministerial regulations
- s18(2) lawful exemption: The propagation of a preserved or protected wild animal for the purpose of a public zoo operation under s29 AND permission has been obtained from the Director General

s19(2) Possession of a **preserved or protected** wild animal, or their carcasses, for the authorized purpose of a public zoo operation under s29 AND permission has been obtained from the Director General

s26 lawful exemption: Performed by an official AND

- for the purposes of surveying, education and scientific research, the protection of wild animals, propagation or conducting a public zoo operation AND
- with written permission from the Director-General

<b>CHARGE COUNT ONE</b>	Being in possession of a preserved or protected wild animal, or its carcass, contrary to section 19 of the Wild Animal Preservation and Protection Act B.E. 2535 (1992) as read with s47 of the same
<b>PARTICULARS</b>	<b>[Name of the accused(s)]</b> on or about the <b>[date]</b> at <b>[identify location]</b> was found in possession of a preserved animal/ a protected animal/ the carcass of a preserved/ protected animal <b>[delete as appropriate]</b> , namely <b>[identify the species/carcass product]</b> , without a permit
<b>CHARGE COUNT ONE</b>	Being in possession of a protected wild animal, or its carcass, acquired from propagation, (but without having obtained permission for possession from the Director General), contrary to section 49 of the Wild Animal Preservation and Protection Act B.E. 2535 (1992)
<b>PARTICULARS</b>	<b>[Name of the accused(s)]</b> on or about the <b>[date]</b> at <b>[identify location]</b> was found in possession of a protected animal / the carcass of a protected animal <b>[delete as appropriate]</b> , namely <b>[identify the species]</b> , without a permit

## RELEVANT OFFENSES UNDER THE ACT OF ANTI PARTICIPATING IN TRANSNATIONAL ORGANIZED CRIMES B.E. 2556 (2013)

### Key Definitions

- s3 “transnational organized criminal group” defined as any organized criminal group who carry out, direct, or prepare for offenses in the territories of more than one state. Or carry out offenses that have substantial consequences in another state. Or involvement with another group that carries out offenses in another state.
- s3 “organized criminal group” defined as a structure of 3 or more persons, existing for an extended period of time, and acting in concert with the aim of committing serious crime (in order to obtain, directly/ indirectly, a financial asset/ other material benefit).
- s3A serious crime is one that carries a maximum prison sentence of 4 years or higher.

Also consider the regulations issued by the AG and involvement of the Department of Special Investigations.

On importation/exportation/transit offenses, these provisions should be considered. Intelligence/information should be sought before charging and consider anti money laundering provisions (and investigation techniques)

Finally, consider offenses relating to obstructing. Different provisions apply under the organized crime legislation compared to the penal code offenses of obstruction.

## Member/ Affiliation/ Transnational Organized Crime

<p>Section 5(1) Being a member of or being affiliated with a transnational organized criminal group</p> <p>Individual: 4-15 years imprisonment and/or 80,000 - 300,000 Baht fine (s25)</p> <p>Company/ Other Entity: 200,000 - 1,000,000 Baht fine (s32)</p>	
POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offense</p> <p>That the accused is a member of/ affiliated with a transnational organized criminal group</p>	<p>s14(1) Entry &amp; search powers</p> <p>s14(3) Search persons/ vehicles</p> <p>s14(4) Seize/ attach assets</p> <p>s14(2) Summon any person to answer questions or produce inventory/ documents</p> <p>s17 Ex parte motion to court for documentation/ information</p> <p>s21 Track suspects electronically/ other means Consider other special investigative techniques such as wiretapping, surveillance etc.</p>
<p><b>Evidence:</b> <i>likely to include but not limited to:</i> Eyewitness evidence; telecoms/ banking communication; video surveillance; digital evidence e.g. emails/ SMS records; evidence of association with known suspects; possession of material relating to organized criminal activity; documentary evidence; potentially expert evidence regarding mobile phone/ computer downloads; and arresting/ investigating officer interviews</p>	
<b>CHARGE</b>	<p>Being a member of/ affiliated with <b>[delete as appropriate]</b> a transnational organized criminal group, contrary to section 5(1) of the Prevention and Suppression of Participation in Transnational Organized Crime Act B.E. 2556 (2013)</p>
<b>PARTICULARS</b>	<p><b>[Name of the accused(s)]</b> on or about the <b>[date]</b> at <b>[identify location]</b> was found to be a member of/ affiliated with <b>[delete as appropriate]</b> a transnational organized criminal group</p>

## Conspiring/ Transnational Organized Crime

Section 5(2) Conspiring with two or more persons to commit a serious crime involving a transnational organized criminal group

Individual: 4-15 years imprisonment and/or 80,000 - 300,000 Baht fine (s25)

Company/ Other Entity: 200,000 - 1,000,000 Baht fine (s32)

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offense</p> <p>That the accused is engaged in conspiring with two or more persons to commit a serious crime involving a transnational organized criminal group</p>	<p>s14(1) Entry &amp; search powers</p> <p>s14(3) Search persons/ vehicles</p> <p>s14(4) Seize/ attach assets</p> <p>s14(2) Summon any person to answer questions or produce inventory/ documents</p> <p>s17 Ex parte motion to court for documentation/ information e.g. mobile phone records</p> <p>s20 Controlled delivery</p> <p>s21 Track suspects electronically/ other means</p> <p>Consider other special investigative techniques such as wiretapping, surveillance etc.</p>
<p><b>Evidence:</b> <i>likely to include but not limited to:</i> Eyewitness evidence; telecom/ banking communication between the group may be evidence of the association between the 2 or more individuals concerned; videosurveillance; covert evidence; digital evidence e.g. emails/SMS records and documentary evidence; potentially expert evidence regarding mobile phone/ computer downloads; possession of material relating to organized criminal activity; and arresting/ investigating officer interviews</p>	
<b>CHARGE</b>	<p>Conspiring with two or more persons to commit a serious crime involving a transnational organized criminal group, contrary to section 5(2) of the Prevention and Suppression of Participation in Transnational Organized Crime Act B.E. 2556 (2013)</p>
<b>PARTICULARS</b>	<p><b>[Name of the accused(s)]</b> on or about the <b>[date]</b> at <b>[identify location]</b>, conspired with two or more persons to commit a serious crime involving a transnational organized criminal group</p>

## Participation/ Direct/ Indirect / Transnational Organized Crime

<p>Section 5(3) Participating in any act, directly or indirectly, in the activities or operations of a transnational organized crime</p> <p>Individual: 4-15 years imprisonment and/or 80,000 - 300,000 Baht fine (s25)</p> <p>Company/ Other Entity: 200,000 - 1,000,000 Baht fine (s32)</p>	
POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offense</p> <p>That the accused is engaged in participating any act, directly or indirectly, in the activities or operations of a transnational organized crime group</p> <p>Requires knowledge of the organization's aim, its criminal activities, or knowledge of its intent to commit serious crimes</p>	<p>s14(1) Entry &amp; search powers</p> <p>s14(3) Search persons/ vehicles</p> <p>s14(4) Seize/ attach assets</p> <p>s14(2) Summon any person to answer questions or produce inventory/ documents</p> <p>s17 Ex parte motion to court for documentation/ information e.g. mobile phone records</p> <p>s20 Controlled delivery</p> <p>s21 Track suspects electronically/ other means</p> <p>Consider other special investigative techniques such as wiretapping, surveillance etc.</p>
<p><b>Evidence:</b> <i>likely to include but not limited to:</i> Eyewitness evidence; telecom/ banking communication; video surveillance; digital evidence e.g. emails/ SMS records; evidence of association with known suspects; possession of material relating to organized criminal activity; documentary evidence; potentially expert evidence regarding mobile phone/ computer downloads; and arresting/ investigating officer interviews</p>	
<b>CHARGE</b>	Participating in any act, directly or indirectly, in the activities or operations of a transnational organized crime, contrary to section 5(3) of the Prevention and Suppression of Participation in Transnational Organized Crime Act B.E. 2556 (2013)
<b>PARTICULARS</b>	<b>[Name of the accused(s)]</b> on or about the <b>[date]</b> at <b>[identify location]</b> , participated in, directly or indirectly, the activities or operations of a transnational organized crime

## Directing/ Facilitating/ Transnational Organized Crime

Section 5(4) Managing, directing, assisting, abetting, facilitating or counselling  
in the commission of a serious crime by a transnational organized criminal group

Individual: 4-15 years imprisonment and/or 80,000 - 300,000 Baht fine (s25)

Company/ Other Entity: 200,000 - 1,000,000 Baht fine (s32)

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offense</p> <p>That the accused is engaged in Managing, directing, assisting, abetting, facilitating or counselling in the commission of a serious crime by a transnational organized criminal group</p> <p>Requires knowledge of the organization's aim, its criminal activities, or knowledge of its intent to commit serious crimes</p>	<p>s14(1) Entry &amp; search powers</p> <p>s14(3) Search persons/ vehicles</p> <p>s14(4) Seize/ attach assets</p> <p>s14(2) Summon any person to answer questions or produce inventory/ documents</p> <p>s17 <i>Ex parte</i> motion to court for documentation/ information e.g. mobile phone records</p> <p>s20 Controlled delivery</p> <p>s21 Track suspects electronically/ other means Consider other special investigative techniques such as wiretapping, surveillance etc.</p>
<p><b>Evidence:</b> <i>likely to include but not limited to:</i> Eyewitness evidence; telecom/ banking communication; video surveillance; digital evidence e.g. emails/ SMS records; evidence of association with known suspects; possession of material relating to organized criminal activity; documentary evidence; potentially expert evidence regarding mobile phone/ computer downloads; and arresting/ investigating officer interviews</p>	
<b>CHARGE</b>	<p>Managing, directing, assisting, abetting, facilitating or counselling in <b>[delete as appropriate]</b> the commission of a serious crime by a transnational organized criminal group, contrary to section 5(4) of the Prevention and Suppression of Participation in Transnational Organized Crime Act B.E. 2556 (2013)</p>
<b>PARTICULARS</b>	<p><b>[Name of the accused(s)]</b> on or about the <b>[date]</b> at <b>[identify location]</b>, managed/ directed/ assisted/ abetted/ facilitated/ counselled in <b>[delete as appropriate]</b> the commission of a serious crime by a transnational organized criminal group</p>

## Obstructing Legal Proceedings Against Transnational Organized Crime

Section 26 Obstructing legal proceedings conducted against participation in transnational organized crime	
Maximum 10 years imprisonment and/or Maximum 200,000 Baht fine (s26)	
POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offense</p> <p>That the accused is engaged in obstructing legal proceedings conducted against participation in transnational organized crime</p> <p>Legal proceedings include detection, investigation, prosecution</p> <p>Obstructing includes:</p> <ul style="list-style-type: none"> <li>(1) bribing victims/witnesses</li> <li>(2) threatening victims/witnesses</li> <li>(3) damaging/ destroying/ falsifying documents or evidence</li> <li>(4) bribing authorities/ prosecutors/ inquiry officials</li> <li>(5) threatening authorities/ prosecutors/ inquiry officials</li> </ul>	<p>s14(1) Entry &amp; search powers</p> <p>s14(3) Search persons/ vehicles</p> <p>s14(4) Seize/ attach assets</p> <p>s14(2) Summon any person to answer questions or produce inventory/ documents</p> <p>s17 Ex parte motion to court for documentation/ information e.g. mobile phone records</p> <p>s20 Controlled delivery</p> <p>s21 Track suspects electronically/ other means</p> <p>Consider other special investigative techniques such as wiretapping, surveillance etc.</p>
<p><b>Evidence:</b> <i>likely to include but not limited to:</i> Eyewitness evidence; video surveillance; digital evidence e.g. emails/ SMS records; evidence of association with known suspects; possession of material relating to organized criminal activity; documentary evidence including correspondence with the authorities/ prosecutors/ inquiry officials/ victims or witnesses where relevant; potentially expert evidence regarding mobile phone/ computer downloads; and arresting/ investigating officer interviews</p>	
<b>CHARGE</b>	<p>Obstructing legal proceedings conducted against participation in transnational organized crime, contrary to section 26 of the Prevention and Suppression of Participation in Transnational Organized Crime Act B.E. 2556 (2013)</p>
<b>PARTICULARS</b>	<p><b>[Name of the accused(s)]</b> on or about the <b>[date]</b> at <b>[identify location]</b> obstructed legal proceedings conducted against participation in transnational organized crime</p>

## Refusing/Resisting Entry for a Search/ Transnational Organized Crime

Section 27 Refusing/ resisting entry for search at a dwelling/ other venue  
(under s14(1) of this Act)

Maximum 1-year imprisonment and/or Maximum 20,000 Baht fine (s27)

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offense</p> <p>The accused is a possessor or an occupier of a dwelling or any other venue according to s14(1)</p> <p>That the accused refused or resisted entry for search at the premises, to inquiry officials or competent authorities, without reasonable excuse</p>	<p>s14(1) Entry &amp; search powers</p> <p>s14(3) Search persons/ vehicles</p> <p>s14(4) Seize/ attach assets</p> <p>s14(2) Summon any person to answer questions or produce inventory/ documents</p> <p>s17 <i>Ex parte</i> motion to court for documentation/ information e.g. mobile phone records</p> <p>Consider other special investigative techniques such as wiretapping, surveillance etc.</p>
<p><b>Evidence:</b> <i>likely to include but not limited to:</i> Eyewitness evidence; documentary evidence; arresting/ investigating officer interviews; and a statement from the person conducting the search. The statement of the person seeking to carry out the search should address the reasonable grounds on which they came to suspect the breach of the Act. As a matter of caution, it would be also be recommended that they inform the accused of the grounds of their suspicion and record that in their statement as well</p>	
<b>CHARGE</b>	<p>Refusing or resisting entry to authorities for search at a dwelling or other venue (under s14(1) of this Act), contrary to section 27 of the Prevention and Suppression of Participation in Transnational Organized Crime Act B.E. 2556 (2013)</p>
<b>PARTICULARS</b>	<p><b>[Name of the accused(s)]</b> on or about the <b>[date]</b> at <b>[identify location]</b> refused or resisted entry to authorities for search at a dwelling or other venue (under s14(1) of this Act)</p>

## Failing to Answer Questions/ Produce Information or Object Concerning Transnational Organized Crime

<p>Chapter 4 Section 28 Failing to answer questions or produce information or objects required by authorities (under s14(2) of this Act)</p> <p>Maximum 6 months imprisonment and/or Maximum 10,000 Baht fine (s28)</p>	
POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offense</p> <p>That the accused failed to answer questions or produce information or objects required by authorities</p>	<p>s14(1) Entry &amp; search powers</p> <p>s14(3) Search persons/ vehicles</p> <p>s14(4) Seize/ attach assets</p> <p>s14(2) Summon any person to answer questions or produce inventory/ documents</p> <p>s17 <i>Ex parte</i> motion to court for documentation/ information such as mobile phone records</p>
<p><b>Evidence:</b> <i>likely to include but not limited to:</i> Eyewitness evidence; video surveillance; documentary evidence; arresting/ investigating officer interviews; and a statement from the person who issued an inquiry letter or summons</p>	
<b>CHARGE</b>	<p>Failing to answer questions or produce information or objects required by authorities, contrary to section 28 of the Prevention and Suppression of Participation in Transnational Organized Crime Act B.E. 2556 (2013)</p>
<b>PARTICULARS</b>	<p><b>[Name of the accused(s)]</b> on or about the <b>[date]</b> at <b>[identify location]</b> failed to answer questions or produce information or objects required by authorities</p>

## Damaging/ Concealing/ Seized Documents/ Transnational Organized Crime

Section 31 Damaging or concealing any document seized by enquiry officials

Maximum 3 years imprisonment and/or Maximum 60,000 Baht fine (s31)

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offense</p> <p>That the accused was engaged in damaging or concealing a document seized by enquiry officials</p> <p>Includes moving, damaging, destroying, concealing, taking away, losing or rendering useless any document, note, or any asset</p>	<p>s14(1) Entry &amp; search powers</p> <p>s14(3) Search persons/ vehicles</p> <p>s14(4) Seize/ attach assets</p> <p>s14(2) Summon any person to answer questions or produce inventory/ documents</p> <p>s17 <i>Ex parte</i> motion to court for documentation/ information e.g. mobile phone records</p> <p>s20 Powers for controlled delivery</p> <p>Consider other special investigative techniques such as wiretapping, surveillance etc.</p>
<p><b>Evidence:</b> <i>likely to include but not limited to:</i> Eyewitness evidence; video surveillance; digital evidence e.g. emails/ SMS records; evidence of association with known suspects; documentary evidence; arresting/ investigating officer interviews</p>	
<b>CHARGE</b>	<p>Damaging/ concealing <b>[delete as appropriate]</b> a document seized by enquiry officials, contrary to section 28 of the Prevention and Suppression of Participation in Transnational Organized Crime Act B.E. 2556 (2013)</p>
<b>PARTICULARS</b>	<p><b>[Name of the accused(s)]</b> on or about the <b>[date]</b> at <b>[identify location]</b> damaged/ concealed <b>[delete as appropriate]</b> a document seized by enquiry officials</p>

## RELEVANT OFFENSES UNDER THE ANTI-MONEY LAUNDERING ACT B.E.2542 (*consolidated*)

### Key Definitions

- s3 Predicate offense includes “offenses relating to the unlawful use, holding or possessing of natural resources or a process relating to the illegal exploitation of natural resources with a nature of business conduct”.
- Aiding or supporting includes providing money or assets, means of transportation, shelter, or any other object or undertaking or act in order to assist the offender to escape or avoid punishment for such offense, or to gain a benefit from the commission of an offense.

#### s3 of the Act

“Predicate offense” means (15) any crimes against natural and environmental resources including illegal possession and abusing of natural resources for own benefits or commercial purposes.

“Assets involved in an offense” means

(1) Cash or asset obtained during committing predicate offense and/or money laundering offense. This includes cash and asset obtained, possessed and used to support the above predicate offense and money laundering activities.

(2) Cash or asset obtained from sales and/or transfer of the asset in clause no. 1

(3) Interests and/or profits gained from activities in clause no. (1) or (2) no matter cash or asset is sold, transferred, registered to or possessed by third parties.

At an early stage, consider if there might have been a financial gain to the suspect and if so, whether the involvement of the Anti-Money Laundering Office is merited.

## Money Laundering Offenses

Section 5 (1) Transferring, receiving the transfer of, or changing the form of an asset involved in the commission of an offense

(2) Concealing or disguising the true nature, location, sale, transfer, or rights of ownership of an asset involved in the commission of an offense

(3) Possession or use of an asset involved in an offense

Individual: 1-10 years imprisonment and/ or 20,000- 200,000 Baht fine (s60)

Company/ Other Entity: 200,000 - 2,000,000 Baht fine (s61)

Certain officials may receive two to three times the punishment – see s10 for details

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offense</p> <p>That the associated offense is a “predicate offense” as listed in s3</p> <p>Identify the asset connected with predicated offense</p> <p>That the accused:</p> <p>5(1) Transferred/ accepted the transfer of or converts of an asset involved in the commission of an offense, AND</p> <p>this was done for the purpose of concealing or disguising the origin or source of that asset AND</p> <p>this occurred either before OR after the commission of the predicate offense AND</p> <p>this was done to assist another to avoid criminal liability or to be liable for a lesser penalty for the predicate offense</p>	<p>s35 &amp; s36 Contact AMLO to restrain transactions during an investigation</p> <p>s38 Contact AMLO for entry &amp; search powers as well as powers to summons financial institutions and other agencies (including State agencies) to furnish information and explanations. However, Police officers and DSI have power to enter and search and also summons under criminal procedure code</p> <p>This section is for AMLO investigators but remember that Police officers and the DSI have power to arrest and record statements under criminal procedure code</p> <p>Civil forfeiture proceedings are also an option but beyond the scope of this guide</p> <p>Please consult the Anti-Money Laundering Office</p>

POINTS TO PROVE		ANCILLARY POWERS
<p>5(2) Concealed/ disguised the true nature, location, sale, transfer, or rights of ownership of an asset connected with the commission of an offense</p> <p>5(3) possessed or used an asset knowing that it was connected with the commission of a predicate offense</p>		
<p><b>Evidence:</b> <i>likely to include but not limited to:</i> Eyewitness evidence; documentary evidence i.e. bank statements; electronic evidence; expert advice; witness statements; photographic or video evidence; and suspect statements/ interviews</p> <p><b>Notes:</b>  s8: Those who attempt to commit a money laundering offense receive the same penalty  s9: for conspiracy, different penalties apply depending on how advanced the conspiracy progressed</p>		
<b>CHARGE</b>	Transferring/ receiving the transfer/ changing the form of <b>[delete as appropriate]</b> of an asset involved in the commission of an offense, contrary to section 5(1) of the Anti-Money Laundering Act B.E. 2542	
<b>PARTICULARS</b>	<b>[Name of the accused(s)]</b> on or about the <b>[date]</b> at <b>[identify location]</b> transferred/ received the transfer of/ changed the form of <b>[delete as appropriate]</b> an asset namely <b>[insert nature of asset]</b> involved in the commission of an offense, namely <b>[identify the offense]</b>	
<b>CHARGE</b>	Concealing or disguising the true nature, location, sale, transfer, or rights of ownership <b>[delete as appropriate]</b> of an asset involved in the commission of an offense, contrary to section 5(2) of the Anti-Money Laundering Act B.E. 2542	
<b>PARTICULARS</b>	<b>[Name of the accused(s)]</b> on or about the <b>[date]</b> at <b>[identify location]</b> , concealed/ disguised the true nature, location, sale, transfer, or rights of ownership <b>[delete as appropriate]</b> of an asset namely <b>[insert nature of asset]</b> involved in the commission of an offense, namely <b>[identify the offense]</b>	
<b>CHARGE</b>	Possession or use of an asset involved in the commission of an offense, contrary to section 5(3) of the Anti-Money Laundering Act B.E. 2542	
<b>PARTICULARS</b>	<b>[Name of the accused(s)]</b> on or about the <b>[date]</b> at <b>[identify location]</b> , possessed/use <b>[delete as appropriate]</b> an asset namely <b>[insert nature of asset]</b> involved in the commission of an offense, namely <b>[identify the offense]</b>	

## Money Laundering Offenses

Section 7 (1) Aiding or abetting in the commission of an offense under this Act

(2) Procuring or supporting another in the commission of an offense under this Act

Individual: 1-10 years imprisonment and/ or 20,000- 200,000 Baht fine (s60)

Company/Other Entity: 200,000 - 2,000,000 Baht fine (s61)

Certain officials may receive two to three times the punishment – see s10 for details

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offense</p> <p>That the associated offense is a “predicate offense” as listed in s3</p> <p>Identify the asset/ property</p> <p>That the accused:</p> <p>7(1) Aided/ abetted in the commission of an offense under this Act (see s5) or</p> <p>7(2) Procured or supported another in commission of an offense under this Act (see s5)</p>	<p>s35 &amp; s36 Contact AMLO regarding power to restrain transactions during an investigation</p> <p>s38 Contact AMLO for entry &amp; search power as well as powers to summons financial institutions and other agencies (including State agencies) to furnish information and explanations. However, Police officers and DSI have power to entry and search and also summons under criminal procedure code</p> <p>S38/1 For AMLO investigators, the Secretary General, Deputy SG or competent officer appointed by the SG can arrest and record the suspect’s statement as a ‘preliminary statement’ but must pass the person to a police interrogator within 24 hours. However, remember that police officers and DSI have power to arrest and record statement under criminal procedure code</p> <p>Civil forfeiture proceedings are also an option but beyond the scope of this guide</p> <p>Please consult Anti-Money Laundering Office and Department of Special Investigations</p>

**Evidence:** *likely to include but not limited to:* Eyewitness evidence; documentary evidence i.e. bank statements; electronic evidence; transport/ shelter documentation; expert advice; witness statements; photographic or video evidence; suspect statements/ interviews

**Notes:**

s8: Those who attempt to commit a money laundering offense receive the same penalty

s9: 2 or more persons who conspire to commit money laundering shall receive half of the punishment

<b>CHARGE</b>	Aiding or abetting in the commission of an offense under this Act, contrary to section 7(1) of the Anti-Money Laundering Act B.E. 2542
<b>PARTICULARS</b>	<b>[Name of the accused(s)]</b> on or about the <b>[date]</b> at <b>[identify location]</b> aided or abetted in the commission of an offense under this Act, namely <b>[identify the offense]</b>
<b>CHARGE</b>	Procuring or supporting another in the commission of an offense under this Act, contrary to section 7(2) of the Anti-Money Laundering Act B.E. 2542
<b>PARTICULARS</b>	<b>[Name of the accused(s)]</b> on or about the <b>[date]</b> at <b>[identify location]</b> procured or supported another in the commission of an offense under this Act, namely <b>[identify the offense]</b>

## **OFFENSES WITHIN NATIONAL BORDERS (NOT INVOLVING IMPORT/ EXPORT/ TRANSIT)**

### **Consider:**

1. The Wildlife Crime and Protection Act B.E. 2535 (as amended by B.E. 2557) (2014) – (WARPA).
2. The Ivory Trade Act (2015) for DOMESTIC IVORY.

### **Also see the above provisions from:**

3. The Act of Anti-Participating in Transnational Organized Crime B.E. 2556 (TOCA).
4. The Anti Money Laundering Act B.E. 2542 (consolidated).

## Relevant Offenses Under Wildlife Crime and Protection Act

**See also Possession, Transport and Concealing Offenses (above)**

<p>Section 20 Trading in a preserved or protected wild animal, or its carcass or carcass products</p> <p>Maximum 4 years imprisonment and/or Maximum 40,000 Baht fine (s47)</p> <p>Section 50 Trading in a protected wild animal, or its carcass, acquired from propagation</p> <p>Maximum 2 years imprisonment and/or Maximum 20,000 Baht fine (s50)</p> <p>Section 25 Transporting (for trading) a protected wild animal or its carcass without permission, or failing to present an associated permit to the authorized officials at the checkpoint</p> <p>Maximum 5,000 Baht fine (s52)</p>	
POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offense</p> <p>s20 Offense: Identify the species (and number if applicable) - and confirm it is either (s4):</p> <ul style="list-style-type: none"> <li>- a preserved wild animal as listed in the Schedule Annexed to the Act or,</li> <li>- a protected wild animal as specified in the ministerial regulations</li> </ul> <p>If preserved or protected and NOT acquired from propagation, establish absence of authorization from the DG</p> <p>s50 Offense: It is a protected wild animal species AND the animal or carcass or 'carcass product' was acquired from propagation, charge under s50.</p> <p>s25 Offense: It is a protected wild animal or carcass AND It was being 'transported' AND that transport was for the purposes of trading AND absence of permission from the DG</p>	<p>s58 Confiscation by the State of any (preserved or protected) wild animal/ carcass/ animal products acquired or possessed in violation of this Act</p> <p>s43 Cancellation, or suspension (up to 90 days) of permit (where relevant - see s20 exemption below) - If accused failed to comply with the permit conditions/ an associated order. Animal/ carcass belongs to the State if not disposed of within 30 days</p>

**Evidence:** *likely to include but not limited to:* Eyewitness evidence; photographic/ documentary or video evidence of purchase, sell, exchange, distribution or transfer of ownership; statement of any customers of the accused; a statement of the arresting officer and the licensing officer as to the absence of any permit; exhibits officers; and investigating officer interviews. Expert evidence may be required to identify the species concerned

**Notes:**

s20 lawful exemption (for s20 & s50): A **protected** wild animal/wild animal carcass/ carcass product acquired through propagation AND permission has been obtained from the Director General in accordance with ministerial regulations

<b>CHARGE</b>	Trading in a preserved/ protected wild animal/ its carcass/ carcass products <b>[delete as appropriate]</b> , contrary to section 20 of the Wild Animal Preservation and Protection Act B.E. 2535 (1992) as read with s47 of the same
<b>PARTICULARS</b>	<b>[Name of the accused(s)]</b> on or about the <b>[date]</b> at <b>[identify location]</b> was found trading a preserved / protected wild animal/ its carcass/ carcass products <b>[delete as appropriate]</b> , namely <b>[identify the species/carcass product]</b> , without a permit
<b>CHARGE</b>	Trading in a protected wild animal / its carcass <b>[delete as appropriate]</b> acquired from propagation, contrary to section 50 of the Wild Animal Preservation and Protection Act B.E. 2535 (1992) as read with s50 of the same
<b>PARTICULARS</b>	<b>[Name of the accused(s)]</b> on or about the <b>[date]</b> at <b>[identify location]</b> was found trading in a protected wild animal / its carcass <b>[delete as appropriate]</b> , namely <b>[identify the species]</b> , without a permit
<b>CHARGE</b>	Transporting, for trading purposes, a protected wild animal/ its carcass <b>[delete as appropriate]</b> without permission, contrary to section 25 of the Wild Animal Preservation and Protection Act B.E. 2535 (1992) as read with section 52 of the same
<b>PARTICULARS</b>	<b>[Name of the accused(s)]</b> on or about the <b>[date]</b> at <b>[identify location]</b> was found trading a protected wild animal / its carcass/ failed to present a valid permit to the authorized officials at the checkpoint <b>[delete as appropriate]</b> , namely <b>[identify the species]</b>

**OFFENSES UNDER THE IVORY TRADE  
ACT B.E. 2558 (2015)  
ONLY APPLIESTO DOMESTIC IVORY**

Key Definitions

1. s3 'Elephant ivory' defined as the ivory tusks of elephants/ products made of ivory tusks.
2. s3 'Trade' defined as purchasing/ selling/ exchanging/ distributing/ disposing/ giving away indiscriminately/ transferring ownership. Provided such act is done in the usual manner and for commercial purposes. Includes possession and exhibition for commercial purposes.
3. s3 'Import' defined as bringing / ordering into Thailand from abroad.
4. s3 'Export' defined as sending/ taking to another territory outside Thailand. Includes sending/ taking elephant ivory once exported/ imported into Thailand to another territory.
5. s3 'Transport' defined as bringing into/ transporting from Thailand.

## Commercial Trading of Elephant Ivory

### Section 4 Unauthorized commercial trading of elephant ivory

Maximum 3 years imprisonment and/or Maximum 600,000 Baht fine (s13)

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offense</p> <p>Identify elephant ivory (and quantity)</p> <p>That the accused was engaged in commercial trading of elephant ivory</p> <p>Absence of lawful excuse (<i>see below</i>)</p> <p>Where a permit was granted, identify how the conditions were breached</p>	<p>s6 Suspension or revocation of any license/ permit, if conditions/ procedure has been breached</p> <p>s6 (para 5)/ s4 (para 2): Ivory becomes the property of the State within 30 days from the date of an order issued Director General of DNP.</p> <p>s9(1) Entry (to a place where the commercial trade of ivory is permitted) for inspection/ examination of relevant documentation, or to obtain evidence/ information, and to observe any violation of this Act/ breach of license conditions</p> <p>s9(2) Search/ seizure in any place or vehicle in accordance with the Criminal Procedure Code (e.g. see s69 &amp; s91). Requires reasonable grounds to suspect an offense has been committed under the Act. Seizure includes elephant ivory, any document, evidence or object related to the commission of the offense</p> <p>s9(3) Summon any person to give a statement or to submit any document/ object for consideration related to the commission of the offense</p>
<p><b>Evidence:</b> <i>likely to include but not limited to:</i> Eyewitness evidence; photographic or video evidence of purchase/ sell/ exchange/ distribution/ disposing of or transfer of ownership; statement of any customers of the accused; statement from the arresting officer and licensing officer as to the absence of any permit; exhibits officers; Investigating officer interviews. Forensic/DNA evidence may be required to identify the nature of the traded substance/species if disputed</p> <p><b>Note:</b> s4 lawful exemption: A permit has been obtained from the Director General prior to the trading, in accordance with the Ministerial Regulations, and any conditions have been followed</p>	

<b>CHARGE</b>	Unauthorized commercial trading of elephant ivory, contrary to section 4 of the Ivory Trade Act B.E. 2558 (2015) as read with section 13 of the same
<b>PARTICULARS</b>	<b>[Name of the accused(s)]</b> on or about the <b>[date]</b> , at <b>[location]</b> was engaged in trading elephant ivory, namely <b>[identify quantity]</b> , without a permit issued under this Act

## Import/ Export/ Transport Offenses/ Elephant Ivory

Section 5 Importing, exporting or transporting elephant ivory	
Maximum 3 years imprisonment and/or Maximum 600,000 Baht fine (s13)	
POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offense</p> <p>Identify elephant ivory (and quantity)</p> <p>That the accused was engaged in importing/ exporting/ transporting ivory</p> <p>Absence of lawful excuse (see below)</p> <p>Where a permit was granted, identify how the conditions were breached</p>	<p>s9(1) Entry (to a place where the commercial trade of ivory is permitted) for inspection/ examination of relevant documentation, or to obtain evidence/ information, and to observe any violation of this Act/ breach of license conditions</p> <p>s9(2) Search/ seizure in any place or vehicle in accordance with the Criminal Procedure Code (e.g. sees69&amp;s91). Requires reasonable grounds to suspect an offense has been committed under the Act. Seizure includes elephant ivory, any document, evidence or object related to the commission of the offense</p> <p>s9(3) Summon (in writing) any person to give a statement or to submit any document/ object for consideration related to the commission of the offense</p>
<p><b>Evidence:</b> <i>likely to include but not limited to:</i> Eyewitness evidence; photographic or video evidence; statement of any border officials; statement from the licensing officer as to the absence of a permit; statement from the arresting officer. Accused's answers on arrest and interview should be carefully recorded. Expert/forensic evidence may be required if the nature of the substance/ species is in dispute</p> <p><b>Note:</b> s5 lawful exemption: A permit has been obtained from the Director General prior to the importing/ exporting or transporting, in accordance with the Ministerial Regulations, and any conditions have been adhered to</p>	
<b>CHARGE</b>	Import/ export/ transport <b>[delete as appropriate]</b> of elephant ivory from Thailand, contrary to section 5 of the Ivory Trade Act B.E. 2558 (2015)
<b>PARTICULARS</b>	<b>[Name of the accused(s)]</b> on or about the <b>[date]</b> imported/ exported/ transported <b>[delete as appropriate]</b> elephant ivory, namely <b>[identify quantity]</b> from Thailand, without a permit issued under this Act

## Possession of Ivory for Non-Commercial Purposes

Section 6 Possessing elephant ivory for non-commercial purposes, and failing to notify the Director General, and/ or failing to prove that the elephant ivory in his/ her possession was taken from a domestic elephant

Maximum 300,000 Baht fine (s14)

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offense</p> <p>Identify elephant ivory (and quantity)</p> <p>That the accused was in possession of elephant ivory not for commercial purposes</p> <p>That the accused failed to inform the Director</p> <p>General of his/her possession and/or has failed to prove that the ivory is domestic ivory</p> <p>Absence of documentation</p> <p>s8 Absence of lawful exemption i.e. Possessing elephant ivory having characteristics or sizes prescribed by the Minister</p>	<p>s6 (5): Should the accused fail to prove that the possessed ivory is from a domestic elephant, the Ivory becomes the property of the State. It should be handed over within 30 days from the date of the order</p> <p>s9(1) Entry (to a place where the commercial trade of ivory is permitted) for inspection/ examination of relevant documentation, or to obtain evidence/ information, and to observe any violation of this Act/ breach of license conditions</p> <p>s9(2) Search/ seizure in any place or vehicle in accordance with the Criminal Procedure Code (e.g. sees69&amp;s91). Requires reasonable grounds to suspect an offense has been committed under the Act. Seizure includes elephant ivory, any document, evidence or object related to the commission of the offense</p> <p>s9(3) Summon (in writing) any person to give a statement or to submit any document/ object for consideration related to the commission of the offense</p>
<p><b>Evidence:</b> <i>likely to include but not limited to:</i> Eyewitness evidence; photographic or video evidence; and a statement from the arresting officer; investigating officer interviews. Expert/ forensic evidence may be required if the nature of the substance/ species is in dispute. Documentary evidence e.g. a statement from an official as to the absence of permission of DG regarding possession of elephant ivory/ elephant ivory acquisition in accordance with the Ministerial Regulations. Must show the elephant ivory is domestic ivory</p>	
<b>CHARGE</b>	<p>Possessing elephant ivory for non-commercial purposes/ failing to notify the Director General/ and/ or failing to prove that the elephant ivory in his/ her possession was taken from a domestic elephant <b>[delete as appropriate]</b>, contrary to section 6 of the Ivory Trade Act B.E. 2558 (2015) as read with section 14 of the same</p>
<b>PARTICULARS</b>	<p><b>[Name of the accused(s)]</b> on or about the <b>[date]</b> at <b>[location]</b> was found in possession of elephant ivory for non-commercial purposes, namely <b>[identify quantity]</b>, and had failed to report possession to the Director General, and/ or failed to prove that the elephant ivory in his/her possession was taken from a domestic elephant <b>[delete as appropriate]</b></p>

## Transfer of Possession/ Change of Location/ Altering Elephant Ivory

Section 7 Failing to notify the Director General prior to:  
  
the transfer of possession of elephant ivory;  
  
OR change of location for keeping elephant ivory OR;  
  
transforming/ altering the elephant ivory in his/her possession  
  
Maximum 300,000 Baht fine (s14)

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offense</p> <p>Identify elephant ivory (and quantity)</p> <p>That the accused was engaged in transferring/ changing the location of/ transforming or altering ivory in his/her possession</p> <p>That the accused failed to notify the Director General of his/her above actions</p> <p>Absence of lawful exemption (<i>see below</i>)</p>	<p>s9(1) Entry (to a place where the commercial trade of ivory is permitted) for inspection/ examination of relevant documentation, or to obtain evidence/ information, and to observe any violation of this Act/ breach of license conditions</p> <p>s9(2) Search/ seizure in any place or vehicle in accordance with the Criminal Procedure Code (e.g. sees69 &amp; s91). Requires reasonable grounds to suspect an offense has been committed under the Act. Seizure includes elephant ivory, any document, evidence or object related to the commission of the offense</p> <p>s9(3) Summon (in writing) any person to give a statement or to submit any document/ object for consideration related to the commission of the offense</p>

**Evidence:** *likely to include but not limited to:* Eyewitness evidence; a statement from the arresting officer; photographic or video evidence of transfer of ownership/ change of location/ altering the elephant ivory; and investigating officer interviews. Expert/ forensic evidence may be required if the nature of the substance/ species is in dispute. Documentary evidence as to any communication between the accused and officials e.g. a statement from an official as to the absence of documentation from the Director General permitting the transfer of possession (to include the name of the transferee in document of possession), the changing of location for keeping elephant ivory, or the transformation or alteration of elephant ivory, in accordance with the Ministerial Regulations

**Notes:**

s7 lawful exemption: The Director General has been notified prior to the date of the possession transfer/ changing the location for keeping the elephant ivory/ transformation or alteration of the elephant ivory, in accordance with the Ministerial Regulations

s8 lawful exemption: Possessing elephant ivory having characteristics or sizes prescribed by the Minister

<b>CHARGE</b>	Failing to notify the Director General prior to the transfer of possession of elephant ivory/ the change of location for keeping elephant ivory/ transforming or altering elephant ivory in his/her possession [delete as appropriate], contrary to section 7 of the Ivory Trade Act B.E. 2558 (2015) as read with section 14 of the same
<b>PARTICULARS</b>	<b>[Name of the accused(s)]</b> on or about the <b>[date]</b> at <b>[location]</b> was found transferring possession of elephant ivory/ changing the location for keeping elephant ivory/ transforming or altering elephant ivory <b>[delete as appropriate]</b> , namely <b>[identify quantity]</b> and had failed to notify the Director General prior to this activity

## Failing to Facilitate the Performance of an Official's Duties Under the Act

Section 10 Failing to facilitate/ obstructing the performance of  
an official's duties under this Act

Maximum 50,000 Baht fine (s15)

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offense</p> <p>That an official was attempting to carry out a duty under the Act</p> <p>That the accused failed to facilitate the performance of the official's duties under the Act</p>	<p>s9(1) Entry (to a place where the commercial trade of ivory is permitted) for inspection/ examination of relevant documentation, or to obtain evidence/ information, and to observe any violation of this Act/ breach of license conditions</p> <p>s9(2) Search/ seizure in any place or vehicle in accordance with the Criminal Procedure Code (e.g. see s69 &amp; s91). Requires reasonable grounds to suspect an offense has been committed under the Act. Seizure includes elephant ivory, any document, evidence or object related to the commission of the offense</p> <p>s9(3) Summon (in writing) any person to give a statement or to submit any document/ object for consideration related to the commission of the offense</p>
<p><b>Evidence:</b> <i>likely to include but not limited to:</i> Eyewitness evidence; photographic or video evidence; statement of the arresting officer; and statement from the relevant official/s, investigating officer interviews</p>	
<b>CHARGE</b>	<p>Failing to facilitate (obstructing) the performance of an official's duties under this Act, contrary to section 10 of the Ivory Trade Act B.E. 2558 (2015) as read with section 15 of the same</p>
<b>PARTICULARS</b>	<p><b>[Name of the accused(s)]</b> on or about the <b>[date]</b> at <b>[location]</b> failed to facilitate the performance of an official's duties under this Act</p>

## Failing to Lodge an Application for Continued Commercial Trade of Elephant Ivory

Section 18 Failing to lodge an application for permission to engage in commercial trade of elephant ivory, and failing to provide lists of acquisition/ transformation and commercial trade following enforcement of this Act	
Maximum 3 years imprisonment and/or Maximum 600,000 Baht fine (s13)	
POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offense</p> <p>Identify elephant ivory (and quantity)</p> <p>That the accused was engaged in commercial trading of elephant ivory when this Act came into force</p> <p>That the accused failed to lodge an application for permission to engage in commercial trading of elephant ivory/ failed to provide the specified lists of acquisition/ transformation/ trade (within 90 days of this Act coming into force)</p>	<p>s9(1) Entry (to a place where the commercial trade of ivory is permitted) for inspection/ examination of relevant documentation, or to obtain evidence/ information, and to observe any violation of this Act/ breach of license conditions</p> <p>s9(2) Search/ seizure in any place or vehicle in accordance with the Criminal Procedure Code (e.g. see s69 &amp; s91). Requires reasonable grounds to suspect an offense has been committed under the Act. Seizure includes elephant ivory, any document, evidence or object related to the commission of the offense</p> <p>s9(3) Summon (in writing) any person to give a statement or to submit any document/ object for consideration related to the commission of the offense</p>
<p><b>Evidence:</b> <i>likely to include but not limited to:</i> Eyewitness evidence; exhibits officer, arresting officer, investigating officer interviews; photographs; and videos. Expert/forensic evidence may be required if the nature of the substance/ species is in dispute. Documentary evidence as to any communication between the accused and officials e.g. a statement from an official as to the absence of documentation permitting commercial trading of elephant ivory (and application dated within 90 days following the effective date of this Act). Absence of application paperwork containing lists that detail the acquisition, transformation and commercial trade of elephant ivory in accordance with the rules published in the Government Gazette</p>	
<b>CHARGE</b>	<p>Unauthorized commercial trade of elephant ivory, in failing to lodge an application for permission, and/ failing to provide lists of acquisition, transformation and commercial trade <b>[delete as appropriate]</b> within 90 days following enforcement of this Act, contrary to section 18 of the Ivory Trade Act B.E. 2558 (2015) as read with s13 of the same</p>
<b>PARTICULARS</b>	<p><b>[Name of the accused(s)]</b> on or about the <b>[date]</b>, at <b>[location]</b> was found engaged in trading elephant ivory, namely <b>[identify quantity]</b>, and/ failed to apply for permission and/ provide lists of acquisition, transformation and commercial trade <b>[delete as appropriate]</b> within 90 days following enforcement of this Act</p>