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**COUNTERING EMERGING THREATS
AND CHALLENGES OF TRANSNATIONAL ORGANIZED
CRIME FROM THAILAND'S PERSPECTIVE
IN THE CONTEXT OF THE ASEAN COMMUNITY**

**A study jointly conducted by
the United Nations Interregional Crime and Justice Research Institute
and the Thailand Institute of Justice 2021**



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**UNICRI and the TIJ dedicate this report to the memory of
Cindy J. Smith, former Director of UNICRI
Distinguished scholar, inspiring teacher, beloved colleague**



Thailand Institute of Justice
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Foreword

The launching of the ASEAN Community in 2015 marked a historic milestone for ASEAN Member States to realize the motto of “One Vision, One Identity, One Community”. While such dynamism promises to bring more opportunities to its citizens, it is important that ASEAN be aware of various new challenges on the horizon, and as a result, seek to adapt itself to be able and ready to face them.

With the opening up of regional markets through ASEAN economic integration, transnational organized crime (TOC) is recognized as one of the spoilers that can destabilize the progress made in ASEAN's community-building effort, including in its political-security, economic and socio-cultural pillars. Now more than ever, this calls for a robust cross-pillar, cross-sectoral cooperation to address the problem.

Thailand has always attached importance to countering the threat of TOC in a holistic manner. At the international level, the country ratified the United Nations Convention against Transnational Organized Crime (UNTOC) or the Palermo Convention in 2000. It also recognizes that enhancing actions on the ground would require the sharing of knowledge and expertise, harmonizing practices, and evidence-based responses.

To further examine this issue, the Thailand Institute of Justice (TIJ) conducts this research to understand the baseline situation of the country in the regional context and examine the obstacles that prevent related organizations from effectively implementing the mechanisms recommended by the Conventions. In addition, the TIJ has been addressing this issue in various fora during recent years, including through the convening of the “ASEAN Conference on Crime Prevention and Criminal Justice” (ACCPCJ). Combating TOC, as well as the emerging threat of cybercrime, has been discussed as among the issues of high priority in the ACCPCJ dialogue.

This publication is a joint study between the United Nations Interregional Crime and Justice Research Institute (UNICRI) and the TIJ – both member institutes of the UN Crime Prevention and Criminal Justice Programme Network (PNI). The insights and findings, which entail policy implications at the national and international levels, will lead to the development of technical assistance schemes aiming to bridge the gap between knowledge and practice to strengthen our overall efforts to fight against TOC. It is my hope that the lessons-learned from this report will not only benefit Thailand, but also generate interest for further studies on this issue in other countries in the region. I wish to convey on behalf of the TIJ my deepest gratitude to the UNICRI for sharing expertise and collaborating with us in the making of this publication. We are pleased that our partnership formed through this initiative will enhance our synergies in promoting justice, peace and sustainable development in the years to come.

On a more personal note, I wish to honor the memory of our dear and beloved colleague, the late former Director of UNICRI, Dr. Cindy J. Smith. Her legacy in contributing to this work and as a true champion for crime prevention and criminal justice will live on.

Dr. Phiset Sa-ardyen
Executive Director
Thailand Institute of Justice

This report on Thailand represents a milestone in assessing the risks, strengths and gaps to prevent and counter transnational organized crime, in particular linked to the economic integration of the Association of Southeast Asian Nations (ASEAN) through the introduction in 2015 of the ASEAN Economic Community. Free trade, including the movement of people, goods, capital, labour and investments, have exponentially increased the socio-economic growth of the ASEAN community. New opportunities and development, however, are often exploited by organized criminal groups to infiltrate economies and take advantage of enhanced connectivity.

This report highlights the trends of transnational organized crime in Thailand, focusing on several areas spanning from trafficking in persons and smuggling of migrants to money laundering; trafficking of drugs, firearms, wildlife and timber, hazardous waste and chemicals; environmental crimes; the nexus between organized crime and violent extremism; and counterfeiting and forgery. It identifies the different typologies of offenders and the way they operate domestically or transnationally, with a focus on their modus operandi according to their different criminal enterprises. With a thorough analysis of issues and effective strategies, it presents a solid framework to lead the way towards the development of short- and long-term approaches that can be useful to Thailand and the broader ASEAN region. In particular, the report promotes a more cohesive system of regional cooperation to enhance preparation and coordination on security matters and legal reforms, thus harmonizing the laws across the ASEAN region and making international cooperation more efficient. Consistency in and harmonization of policies, laws and procedures and a shared understanding of common challenges are fundamental to tackle the growing threat of transnational organized crime.

An important concept underlined in the report is that economic integration should include public security measures within economic development programmes. This recommendation is crucial to prevent the increase of illegal activities that often run parallel to economic growth and market expansion. Crime risk assessment should be a key component of activity planning and the basis for criminal justice reform, law enforcement capacity-building and public awareness. Other crucial components are information sharing and criminal databases, strengthening investigative and language skills as well as adopting new technologies. Among the broad spectrum of priority actions identified in the report is also trust-building across ASEAN states, which represents an essential element for countries to cooperate in preventing and fighting organized crime.

Thailand is addressing transnational organized crime from a sustainable development perspective, focusing on implementation of Goal 16 to promote just, peaceful and inclusive societies of the United Nations 2030 Agenda for Sustainable Development. The 2030 Agenda envisages a global community capable of addressing common objectives by joining together to ensure peace and prosperity. From this perspective, regional integration is key, but opening borders to maximize economic opportunities also requires a common effort to detect and address any gaps that may allow the spread of crime and violence. I hope other countries will follow the example of Thailand in assessing the presence of transnational organized crime within its territory. We cannot win this battle against transnational organized crime without knowing how the enemy is victimizing people, eroding resources, and spreading fear and mistrust.

This report is dedicated to the memory of Dr. Cindy J. Smith, former Director of UNICRI, who strongly supported this study and contributed to its preparation.

Antonia Marie De Meo
Director of UNICRI

Disclaimer

The opinions, findings, and conclusions and recommendations expressed herein do not necessarily reflect the views of the United Nations Interregional Crime and Justice Research Institute (UNICRI), the Thailand Institute of Justice (TIJ) or any other the national, regional or international entity involved.

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This project began under the guidance of Dr. Cindy J. Smith, the former Director of UNICRI, who passed away in 2020 and was unable to see the finalization and outcome of the research that she greatly contributed to. Therefore, we honour her memory with this important work.

About the Organizations

About the Thailand Institute of Justice (TIJ)

The Thailand Institute of Justice (TIJ) is a public organization established by the Government of Thailand in 2011 with the aim of promoting excellence in research and capacity building in criminal justice. TIJ's primary objective is to support justice reform through the implementation of relevant international standards and norms, particularly those related to women and children, as well as through stakeholder engagement and innovation. TIJ gears its work towards cross-cutting issues on the UN agenda such as the rule of law, human rights, and sustainable development, and engages in enhancing domestic justice systems and the rule-based community within the ASEAN region.

About the United Nations Crime and Justice Research Institute (UNICRI)

The United Nations Interregional Crime and Justice Research Institute (UNICRI) is a United Nations entity established in 1965 by the Economic and Social Council of the United Nations to support countries worldwide in preventing crime and facilitating criminal justice. UNICRI supports governments and the international community in tackling criminal threats to social peace, development and political stability. UNICRI is mandated to assist intergovernmental, governmental and non-governmental organizations by carrying out action-oriented research that supports the formulation and implementation of improved policies in the field of crime prevention and criminal justice. Its programmes focus on different areas aiming to create and test new and holistic approaches in preventing crime and promoting justice and development.

TIJ and UNICRI are members of the United Nations Crime Prevention and Criminal Justice Programme Network of Institutes.

Justification

Thai Ministries and governmental agencies: Anti-Money Laundering Office, Thailand, Bangkok Metropolitan Administration Electronic Transactions Development Agency (Public Organization), Thailand Intellectual Property and International Trade Court, Thailand Royal Thai Police

- Foreign Affairs Division, INTERPOL National Centre Bureau
- Trafficking in Persons Suppression Unit
- Immigration Department
- Natural Resources and Environmental Crime Suppression Division

Social Energy Development Institute, Thailand Ministry of Culture Ministry of Finance

- Customs Department

Ministry of Foreign Affairs

Ministry of Interior

Ministry of Justice

- Department of Juvenile Observation and Protection
- Department of Special Investigation
- Office of the Narcotics Control Board
- Office of the Public Sector Anti-Corruption Commission
- Rights and Liberties Protection Department

Ministry of Labour

Ministry of Natural Resources and Environment

- Department of National Parks, Wildlife and Plant Conservation, Division of Wild Fauna and Flora Protection
- Pollution Control Department

Ministry of Social Development and Human Security

- Kredtrakarn Protection and Occupational Development Centre
- National Operation Centre on Prevention and Suppression of Trafficking in persons

Office of the Attorney General, Thailand

Office of the Judiciary, Thailand

Office of the National Counter Corruption Commission, Thailand

Office of the Prime Minister, Thailand

- National Intelligence Agency
- Office of the National Economic and Social Development Board
- Office of the National Security Council

International, academic and non-governmental stakeholders:

ASEAN Secretariat

Asia Foundation

Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime

Climate Watch Thailand

ECPAT International

Embassy of Australia, Australian Federal Police

Embassy of the Federal Republic of Germany

Embassy of Italy, Polizia di Stato

Embassy of Japan

Embassy of Malaysia

Embassy of the Republic of Indonesia

Embassy of the Swiss Confederation

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Embassy of the United States of America, Bureau of International Narcotics and Law Enforcement Affairs

European Union Mission to ASEAN

Future Innovative Thailand Institute

Greenpeace

International Organization for Migration (IOM)

Mahidol University, Bangkok

Office of the United Nations Resident Coordinator in Thailand

Permanent Mission of China to ASEAN

Permanent Mission of Thailand to ASEAN

Raks Thai Foundation

Royal Embassy of Cambodia

Thammasat University, Bangkok

United Nations Environment Programme (UNEP)

United Nations Office on Drugs and Crime (UNODC)

World Wide Fund for Nature (WWF)

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ORGANIZED CRIME



PURPOSE AND METHODOLOGY OF THE STUDY

Thailand is a member of the Association of Southeast Asian Nations (ASEAN), a regional intergovernmental organization which consists of ten countries in Southeast Asia. ASEAN has been established to promote cooperation, and facilitate economic, political, security, military, educational and sociocultural integration among its members and other countries in Asia. Thus, in 2015, as part of the ASEAN framework, the ASEAN Economic Community (AEC) was introduced with the aim of moving ASEAN towards free movement of goods, services, investment and skilled labour. To support this process, extensive infrastructural development plans and visa exemption agreements have been implemented.

Despite the clear advantages of this enhanced connectivity and mobility, it could increase the vulnerability of ASEAN and its member states, Thailand included, to transnational organized crime. The AEC may inadvertently create new opportunities for organized criminal groups, which in turn pose threats to the security of ASEAN member states. Consequently, many questions in the crime and justice context have emerged. Among them are:

- What are the most prevalent forms and trends of transnational organized crime (TOC) in Thailand?
- How are these crimes expected to evolve in the context of regional integration?
- How has Thailand prepared to address these emerging challenges?
- In particular, what role has bilateral, regional and international cooperation played in Thailand's strategy to prevent and respond to transnational organized crime, as well as to assist and protect victims?
- What coordinated or integrated efforts have been made by ASEAN member states to create a regional framework for justice and security?

It is important to note that the work of this study took place prior to the outbreak of COVID-19. This report hence presents the situation before the pandemic.

The study was based on desk research and on in-person interviews.

The desk research portion consisted of collection, analysis and synthesis of the relevant governmental documents and statistics, academic studies and media reports. The purpose of the desk research was not only to provide the general context for the study but also to assist in the design of the schedule for the semi-structured interviews.

The primary data for the study consisted of interviews with representatives of the key stakeholders involved in the prevention and control of transnational organized crime on Thailand.

These stakeholders represented a broad range of interest, including governmental agencies, academic institutions, nongovernmental organizations as well as international stakeholders, such as the ASEAN Secretariat, the United Nations Office on Drugs and Crime (UNODC), the International Organization for Migration (IOM), the United Nations Environment Programme (UNEP), and the embassies of countries that are actively engaged in Bangkok in international law enforcement and judicial cooperation.

A total of 87 individuals were interviewed from 48 stakeholders: 15 national governmental agencies, 19 field offices of national agencies (such as the police, customs and immigration), two universities, three NGOs, five embassies and four international and regional organizations. The interviewees were informed that their participation was voluntary, and that they would remain anonymous. The interviews were transcribed.

The interviews followed a semi-structured format, in that the representatives of the stakeholders were all asked the same basic questions, but also had tailored questions that were relevant to the roles of their agency/entity, regarding their understanding of the prevalent forms of and trends in transnational organized crime to be found in Thailand, the presence of domestic and foreign organized criminal groups and their possible connections with one another, the adequacy and efficacy of the response of the Thai authorities, and the adequacy and efficacy of bilateral and international cooperation, in particular within the framework of ASEAN.

This report has been written from the perspective of Thailand. However, many of the findings and conclusions may have parallels with other ASEAN member states, and more widely, with countries undergoing regional and economic integration.

Chapter 1

Introduction

1.1

What is Transnational Organized Crime?

Transnational organized crime (TOC) is a type of crime that is coordinated across national borders, and which involves groups or networks of individuals working in more than one country to plan and execute illegal activities in order to obtain financial profit or other material benefit.¹

In the post-Cold War era, the scale and scope of TOC has grown exponentially. The international community has responded in particular by the adoption of the United Nations Convention against Transnational Organized Crime (UNTOC) or 'Palermo Convention', which entered into force in 2003.²

UNTOC defines 'organized criminal group' as 'a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit' (UNTOC, Article 2).

An organized criminal group becomes transnational when its activities are committed in more than one state, in one state but with substantial preparation, planning, direction and control in another state, in one state but involving an organized criminal group that engages in criminal activities in more than one state, or in one state but with substantial effects in another state (UNTOC, Article 3).

Unlike localized crimes such as murder and robbery, TOC generally takes place in the shadows (as so-called 'hidden' crime), with citizens rarely reporting the criminal activities to the police. The distinctive characteristic of TOC is that in order to achieve their goals, these criminal groups tend to use systematic violence and corruption. TOC usually involves some pattern of trafficking or smuggling from states of origin, through transit states and on to destination states. This crossing of jurisdictional boundaries makes the offenders and their activities more difficult for the authorities to detect. Additionally, this complex situation makes international cooperation vital, because individual States lack the capacity and jurisdiction to address these problems on their own.

¹ David, S. W. (2018). *Understanding Transnational Organised Crime: An Academic Research Synthesis Report*. Retrieved from <https://www.paccsresearch.org.uk/wp-content/uploads/2018/01/TNOC-Research-Integration-Report-FINAL-Dec-17.pdf>

² *The United Nations Convention Against Transnational Organized Crime and The Protocols Thereto* (adopted 15 November 2000 UNGA Res 55/25).

1.2

Overview of the TOC situation in Thailand

Although the broad definition of TOC includes nearly all profit-motivated crimes with an international connection, in Thailand, TOC tends to involve small, flexibly structured groups which often act as a chain of brokers for other well-established criminal networks. Foreign groups typically act as masterminds and their Thai counterparts act as local facilitators in moving people and things in and out of the country.

Overall, Thailand has an extensive legal framework that is consistent with international standards for fighting TOC. Thailand is a party to UNTOC, and it also has several domestic laws concerning the combating of TOC. Thai stakeholders have demonstrated awareness about the methods used by transnational criminal organizations and have made inroads in working with other states to stop TOC. In addition, Thai law enforcement generally also has the capacity and skill-sets required to conduct longterm, clandestine and complex investigations.

However, several factors such as Thailand's flourishing economy, high financial returns for illegal activity, lax tourism policies, law enforcement gaps and limited public awareness, make Thailand attractive to TOC. Thus, as is the case also with other states, Thailand faces rapidly evolving criminal groups, which makes it more important for the country to efficiently scale its legislative, judicial, social and law enforcement response to TOC. In this regard, additional resources and public awareness campaigns are necessary to build Thailand's capacity to address TOC. Thus, Thai stakeholders have expressed a desire for closer cooperation with other countries, particularly with Thailand's ASEAN neighbours, which will bolster Thailand's ability to track and apprehend transnational offenders and bring them to justice.

The stakeholders interviewed for the purpose of this study identified drug and trafficking in persons, migrant smuggling, money laundering and counterfeiting as the most prevalent forms of TOC in Thailand. In their view, recently the amount of environmental crimes has also increased (this category includes also trafficking in protected wildlife and timber), and such crimes often involve large sums of money. Interviewees also noted that financial crimes are also increasing, while illicit trade in firearms and cultural property have apparently declined sharply over the last two decades.

Making progress in combating TOC in Thailand requires that policymakers have a broader understanding of the subject matter. Our assessment indicates that TOC is on the rise across the region (An extensive assessment of qualitative trends is presented in Chapter 2). Policymakers should be aware of nine emerging trends:

1. Trafficking in persons and the smuggling of migrants are characterized by more violence and by an expansion in activity.

2. Offenders are increasingly leveraging information and communication technologies in order to commit crimes, making offences harder to detect. Organized criminal groups are using websites and social media to facilitate crime.

3. Trafficking routes are proliferating and becoming more complex. For instance, some illegal items from Africa are being diverted to Europe before being delivered to Thailand in order to make the shipment appear less suspicious. Traffickers tend to avoid the main Thai airports and maritime borders.

4. Trafficking methods are diversifying. Traffickers use tactics such as converting items into ordinary products, using hidden packages or hidden compartments, creating special clothing, employing double bags and even concealing items within the human body. Individuals are increasingly being forced or lured into carrying some contraband, while other shipments are sent via ordinary mail and delivery services. Human traffickers are finding new ways to conceal their operations, for example, by moving their victims through the use of public transportation or group tours.

5. Organized criminal groups have seemingly loose hierarchies in Thailand, where offenders tend to use multiple 'hubs' and networks of individual brokers, making them harder to detect.

6. Different criminal groups are working together more frequently. Thai criminal justice agencies have identified new collaborations for example between drug dealers and wildlife traffickers, as well as situations where organized crime finances terrorism.

7. Offenders are increasingly finding safe, affordable and legal migration channels. The proliferation of regional trade agreements has made it easier for offenders and victims from other ASEAN member states to enter Thailand legally and then overstay their visas.

8. New varieties of drugs and protected wildlife from other regions have appeared, along with established products and routes, in the Thai illicit market, such as cocaine and crystal methamphetamine ('ice') from Western Africa and the Middle East.

9. Counterfeiting techniques have evolved rapidly, making counterfeit products harder to detect.

The Most Prevalent Organized Crimes As Identified by the Stakeholders³

| Highest incidence | Medium/high incidence | Lower incidence |
|--|---|---|
| <p>Drugs and trafficking in persons are the forms of TOC in Thailand with the highest incidence, followed by the smuggling of migrants, money laundering and counterfeiting.</p> | <p>Wildlife and timber trafficking have rapidly emerged as some of the most profitable forms of TOC in the country.</p> | <p>Trafficking in firearms, trafficking in stolen and second-hand vehicles, investment frauds, trafficking in hazardous waste and chemicals, and document forgery are less common. It is probable that trafficking in cultural property exists in Thailand, although very few cases have been reported.</p> |

³The stakeholders interviewed based their answers on a scale of high, medium and low incidence, using as a point of reference specific offences that have been previously mentioned in the interview as forms of organized crime in Thailand.

Organized Crime in Thailand

Trafficking Routes

Thailand's central location makes it attractive to investors, since it is located centrally to most ASEAN member states, bordering Myanmar to the west, Cambodia and Lao PDR to the east, and Malaysia, Indonesia, and Singapore to the south. This makes Thailand a regional transportation hub. Moreover, its flourishing economy offers growing job opportunities, highly developed infrastructure and services, and a favourable business environment.

Nonetheless, the same factors that promote foreign investment and facilitate movement inside and outside the country also make Thailand a strategic location for organized criminal enterprises and for global trafficking routes. As the table below demonstrates, Thailand is most often a transit or destination country for TOC. The dark colour indicates which crimes the stakeholders have indicated as most often involving Thailand as a transit or destination country; the light colour designates less common incidence in the three respective categories. Lack of colour indicates that the stakeholders interviewed have not noted any incidents.

| CRIME | ORIGIN | TRANSIT | DESTINATION |
|--|------------|------------|-------------|
| Drug trafficking | Light Blue | Dark Blue | Dark Blue |
| Trafficking in persons | Light Blue | Dark Blue | Dark Blue |
| The smuggling of migrants | Light Blue | Dark Blue | Dark Blue |
| Money laundering | Light Blue | Light Blue | Dark Blue |
| Counterfeiting | Light Blue | Dark Blue | Light Blue |
| Wildlife and timber trafficking | Dark Blue | Dark Blue | Light Blue |
| Firearms trafficking | White | Dark Blue | Light Blue |
| Trafficking in stolen and used vehicles | Light Blue | White | Light Blue |
| Investment frauds via call centres | Light Blue | White | Light Blue |
| Trafficking in cultural property | Light Blue | Light Blue | White |
| Trafficking in hazardous waste and chemicals | Light Blue | Light Blue | Dark Blue |
| Document forgery | Dark Blue | White | White |

1.3

Organizational Structure of Criminal Groups Operating in Thailand

The stakeholders interviewed generally stated that Thai traffickers prefer a networking approach rather than the hierarchical structure traditionally found in more organized criminal groups. This means that TOC in Thailand carried out by Thai nationals is mostly conducted by small-scale, informal, loose and flexible networks of brokers and middlemen coordinating along a supply chain in which each group or individual takes care of one or a few specific steps. This type of organization is operating in a way that could be called the 'social network theory' of organized crime,⁴ which focuses on the relations between criminal actors. These actors often engage in reciprocal, preferential, mutually supportive actions. In this social network type of organized crime, the actors are engaging in transactions with each other through discrete exchanges rather than acting at the direction of a person or people above them in the organizational chain. This makes TOC networks in Thailand, which 'somehow find one another for a few sporadic transnational operations,'⁵ more elusive and flexible than the hierarchies observed in traditional modes of organized crime. Criminal transactions in Thailand may be conducted by networks that have endured over the long term, or by criminal groups which are simply cooperating on a case-by-case basis. For example, most ivory trafficking cases appear to be carried out by two or three well-organized networks of African and Asian traffickers who consistently use the same transfer route. Trafficking in persons and migrant smuggling operations, in turn, are generally managed by small, separate networks of local agents of different nationalities who connect with one another on a case-by-case basis.⁶

Hence, the degree of professionalism of traffickers varies greatly depending on the type of crime committed and the extent of smuggling operations. Child trafficking from the Mekong countries into Thailand was frequently described by interviewees as a local-level 'family-friends business' in which friends, neighbours and even family members recruit victims on behalf of local brokers, who then deliver victims to persons who exploit them in labour or in sex work. Nonetheless, the smuggling of migrants appears to be much more sophisticated, involving the procurement of fraudulent passports and visas, interregional transfers of victims, and a professional and well-organized chain of smugglers who can manage complex logistics. Environmental crimes, in turn, appear to implicate a very different set of actors, from local farmers and loggers using rudimentary trafficking methods, to white-collar offenders with extensive expertise in the waste management market.

⁴ Mackenzie, S., & Davis, T. (2014). *Temple Looting in Cambodia: Anatomy of a Statue Trafficking Network*. *British Journal of Criminology*, 54, 724. Retrieved from <http://traffickingculture.org/app/uploads/2014/12/2014-BJC-Temple-Looting-in-Cambodia-print.pdf>

⁵ *Ibid.*

⁶ Zhang, S., & Chin, K. L. (2003). *The Declining Significance of Triads Societies in Transnational Illegal Activities*. *British Journal of Criminology*, 43, 469-488.

1.4

Operational Links between Thai and Foreign Criminal Networks

According to the interviewees, most organized crime in Thailand is masterminded by foreign criminal groups who hire local Thai associates to facilitate their criminal transactions. In this case, Thai middlemen are responsible for organizing transportation, escorting victims, procuring contacts in local black markets, providing fake passports, acting as 'drug mules' and local dealers, and facilitating financial transactions. Generally, foreigners rarely have the capacity to operate in Thailand without the complicity of Thai nationals, primarily due to language barriers. However, there are some exceptions to this rule. For example, Russian organized criminal groups (referred to by several interviewees as 'Russian mafia') appear to have a consolidated presence in Thailand, which enables them to manage several criminal activities independently in Pattaya and Phuket.

Interestingly, the interviewees also observed another operational pattern which involves Thai and foreign groups managing the trafficking within their own countries and then meeting at the border to coordinate the transfers. Generally, groups that are engaged in trafficking in persons, wildlife and firearms tend to prefer this arrangement. This form of cooperation between local and transnational groups relies on personal contacts among individual brokers. For example, Myanmar nationals may recruit job seekers or collect drugs from local producers and transport them to the border with Thailand, where Thai traffickers then move the people or products through Thailand. Some transfers also originate in Thailand. For example, Thai nationals procure rosewood from local forests and then transport the timber to the Thai-Laos border, where Laotian or Chinese smugglers arrange for the transportation abroad.

On the basis of the interviews, it appears that Thailand might still have a large and robust illegal economy led by influential figures linked together in criminal networks.⁷ Nevertheless, there is no solid evidence that there is a transnational organized criminal group formed solely by Thai nationals. The experts explained that well-established Thai criminal groups primarily engage in domestic crimes and have a very different structure compared to foreign criminal syndicates (e.g. the Japanese Boryokudan) operating in or through Thailand. So far, there have only been a few detected cases in which Thai nationals were the masterminds in transnational trafficking. These cases include child trafficking in connection with sex tourism in some popular Thai holiday destinations, and trafficking of Thai women to Europe conducted by Thai criminal organizations with the logistical support of local offenders in the destination country (the known cases have involved especially Belgium and the Netherlands).

⁷ Phongpaichit, P. (1999). *Thailand's Illegal Economy and Public Policy*. Seminar paper presented at the Centre of Southeast Asian Studies, Kyoto, Japan.

Thai Organized Criminal Groups

Thai organized criminal groups can be divided into two types: traditional and modern. The traditional groups, which are now apparently extinct, included Angyee (Chinese triads) and so-called 'Bandit's dens' (peasant robbers). Modern Thai organized criminal groups are led by individuals who are called 'persons of influence' (poo meeitthipon).⁸

According to the stakeholders interviewed, 'persons of influence' rely on strong connections with politicians, government officials, law enforcement officers, businessmen and various actors with social standing.⁹ These 'persons of influence' usually collude with Thai offenders, and seek to influence various levels of government, the legal system and law enforcement. Interestingly, these Thai criminal groups have a more definite and hierarchical structure than most TOC groups, since Thai criminal groups are often highly coordinated at the village, subdistrict, district, provincial and national levels.

Thai offenders leverage this network of influential connections in order to exercise control over territory and the community. For example, according to a 2008 study, in areas dominated by organized criminal enterprises, a person cannot even set up a legal business without dealing with the local crime boss first. And after a new business is established, the crime boss will generally continue to extort that business. Moreover, 'persons of influence' also act as fronts for criminal enterprises, where the proceeds of crime are laundered through the legal business before being invested, for example in vote-buying.¹⁰

Although this kind of local group may seem more akin to the Italian mafia, there is a key difference between Thai groups and traditional criminal organizations. For example, when the boss passes away, the Thai criminal organization tends to dissolve rather than being taken over by the next person in the hierarchy. Consequently, Thailand does not have many large, long-standing criminal organizations. Instead, the country has mostly small and medium-sized organized criminal groups, usually consisting of three to ten people. These Thai networks coordinate their illegal business in parallel with foreign groups and act as local facilitators for foreign offenders.

⁸ Tanatthep, T. (2018). *Promoting the use of the special investigative techniques of Article 20 of the UNTOC to combat organised crimes in Thailand*. University of Aberdeen, 27-47.

⁹ Roujanavong, W. (2008). *Organized Crime in Thailand* (pp. 21). Bangkok: Rumthai Press.

¹⁰ *Ibid.*, 32.

1.5

Foreign Criminal Groups Operating in Thailand

Foreign criminal groups have been recorded operating in Thailand since the second half of the 19th century, starting with the arrival of Chinese Triads (Angyee). During the 1970s, major transnational criminal organizations flowed into Thailand, including groups from Europe, the Japanese Boryokudan, West African organized criminal groups, and Taiwanese and South Korean 'brotherhoods'. After the collapse of the Soviet Union in 1989, Russian organized criminal groups (referred to as 'Russian mafia' by interviewees) also established themselves in the Kingdom, along with the arrival of a large number of Russian tourists. Experts estimate that there are currently hundreds of foreign criminal organizations operating in Thailand.¹¹

This research had identified many foreign criminal groups operating in Thailand, including American, Australian, Balkan, Bangladeshi, Brazilian, Cambodian, Canadian, Chinese (including groups from Hong Kong and Macau; Chinese Taipei groups were also noted), Danish, Dutch, French, Indian, Indonesian, Iranian, Iraqi, Italian, Japanese, Laotian, Malaysian, Myanmar, Pakistani, Romanian, Russian, South Korean, Sri Lankan, Syrian, Turkish, Vietnamese, West and South African criminal networks. A previous study conducted by the Thailand Institute of Justice, based on available data had found that some Latin American gangs (notably Colombian, Mexican, Peruvian and Guatemalan) are also active in Thailand, although their implication in TOC activity has seemingly not been specifically defined.¹²

¹¹ Schmid, T. (2010). *The Darker Side of Tropical Bliss: Foreign Mafia in Thailand*. Thailand Law Forum. Retrieved from <http://www.thailawforum.com/foreign-mafia-thailand.html>

¹² Chitsawang, N. (2014). *The Foreign Criminal Gangs in Thailand*. Thailand Criminology and Corrections. Retrieved from <http://www.thaicriminology.com/topics--transitional.html>

The table below illustrates the types of crime that were commonly associated with specific foreign criminal groups.

| Organized criminal groups by nationality or affiliation | Crimes commonly associated with each foreign organized criminal group |
|--|---|
| American | Drug trafficking |
| Balkan | Fraud involving gemstones |
| Bandidos (originally an American motorcycle gang, with chapters for example in Australia) | Drug trafficking |
| Baby Goat gang (from Pakistan, Sri Lanka, India, Bangladesh) | Document forgery (counterfeiting), smuggling of migrants, trafficking in persons |
| Bangladeshi | Trafficking in persons, smuggling of migrants |
| Boryokudan (Japanese criminal groups) | Trafficking in persons, drug trafficking |
| Brazilian | Credit card fraud |
| Cambodian | Trafficking in persons, smuggling of migrants, drug trafficking, wildlife and timber trafficking, firearms trafficking |
| Chinese Triads | Trafficking in persons, smuggling of migrants, drug trafficking, wildlife trafficking, counterfeiting, firearms trafficking, investment frauds via call centres, frauds related to online gambling, money laundering, credit card fraud |
| Danish | Trafficking in persons |
| Dutch | Money laundering |
| Other European (various EU) | Economic crime, trafficking in persons, drug trafficking, money laundering, counterfeiting of currency, skim devices for credit cards, points of sale and ATMs |
| French | Counterfeiting of currency |
| Hells Angels Bikers (Thai chapter inclusive of Australian nationals) | Drug trafficking, money laundering, extortion, trafficking in persons |
| Hong Kong, China | Investment fraud ('boiler rooms') |
| Indian | Trafficking in persons, smuggling of migrants, document forgery and counterfeiting of currency |
| Indonesian | Trafficking in persons, smuggling of migrants, wildlife trafficking |

¹³ A number of the listed crimes are not referred to in detail in this report as they were seldom cited by the interviewed stakeholders.

| Organized criminal groups by nationality or affiliation | Crimes commonly associated with each foreign organized criminal group |
|---|---|
| Iranian | Smuggling of migrants, document forgery |
| Iraqi | Smuggling of migrants |
| Italian | Money laundering |
| Laotian | Trafficking in persons, smuggling of migrants, drug trafficking, wildlife and timber trafficking |
| Malaysian | Trafficking in persons, migrant smuggling, wildlife trafficking, investment fraud via social media, counterfeiting |
| Myanmar | Drug trafficking, trafficking in persons, firearms trafficking, smuggling of migrants, wildlife trafficking, counterfeiting, money laundering |
| Nigerian | Drug trafficking, economic crime, wildlife trafficking, online gambling |
| Pakistani | Trafficking in persons, document forgery, smuggling of used and stolen vehicles |
| 'Piglet gang' (from Hong Kong, Taiwan and more broadly China) | Smuggling of migrants, trafficking in persons, investment frauds via call centres, credit card skimming |
| Romanian | Skim devices for credit cards, points of sale and ATM |
| Russian | Trafficking in persons, drug trafficking, money laundering, credit cards forgery, extortion |
| South African | Drug trafficking, wildlife trafficking |
| South Korean | Investment fraud via call centres, online gambling, money laundering |
| Sri Lankan | Smuggling of migrants, firearms trafficking, migrant smuggling |
| Syrian | Smuggling of migrants |
| Chinese Taipei | Investment fraud via call centres |
| Thai | Trafficking in persons, smuggling of migrants, drug trafficking, wildlife and timber trafficking, trafficking in hazardous waste and chemicals, counterfeiting, money laundering, investment fraud via call centres, smuggling of used and stolen vehicles, online gambling |
| Turkish | Credit card skimming |
| Ukrainian | Trafficking in persons |
| Uzbek | Trafficking in persons |
| Vietnamese | Smuggling of migrants, wildlife trafficking |

The table above highlights the complexity of TOC in Thailand, as it shows the great variety in nationalities involved and the diversity in the crimes commonly associated with the different foreign organized criminal groups. It should also be noted that the size and influence of each group varies greatly. Many interviewees stressed that African, Chinese, Russian, and Central Asian organized criminal groups are particularly prevalent. However, a locally-based foreign criminal group is not necessarily synonymous with an international criminal syndicate. The journalist Thomas Schmid has observed that some of these foreign criminal groups are affiliated with equivalent organizations abroad or with large, organized criminal groups, while others formed their own independent criminal syndicate in Thailand.¹⁴

Most foreign criminal groups appear to be concentrated in Bangkok, Pattaya, Phuket, Chiang Mai and Ko Samui, in addition to border areas where there is a presence of offenders from neighbouring countries. This is because Thailand has a better infrastructure and a more expatriate-friendly environment than some of its regional neighbours, making it an attractive base for operations undertaken in other countries in the region.

Many criminal groups operating in Thailand have diversified their operations, either through the direct engagement of a single group in several kinds of criminal activities simultaneously, or through close coordination among different groups committing different crimes as part of the same network. For example, some interviewees had observed relations between drug and wildlife smugglers, firearms dealers, and human traffickers. Therefore, it is not a surprise that most criminal activities are often associated with money laundering operations.

¹⁴ *Ibid.*, 23.

1.6

Links Between Organized Crime and Terrorism

Definition of terrorism:

It should be noted that currently, there is no universal definition of terrorism.¹⁵ Nonetheless, the definition of terrorism in the UN approach could be defined as the following:

"... criminal acts, including against civilians, committed with intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in the general public or in a group of persons or particular persons, intimidate a population or compel a government or an international organization to do or to abstain from doing any act, which constitute offences within the scope of and as defined in the international conventions and protocols relating to terrorism, are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature, and calls upon all States to prevent such acts and, if not prevented, to ensure that such acts are punished by penalties consistent with their grave nature."¹⁶

Applicable domestic laws in Thailand:

Anti-terrorist Financing Act of 2013; Penal Code.

Although the present study does not investigate terrorism, the nexus between TOC and terrorism in which illicit trafficking appears to play a role – poses a serious threat. It is therefore worth looking specifically at this approach.

Thailand is also aware of this threat. Recent Security Council resolutions have called on all states to redouble efforts to prevent terrorists from benefiting from TOC. Moreover, the links between TOC and terrorism were mentioned by many interviewees. Two themes could be identified in the interviews: violent situations in Southern Thai provinces with connections to terrorist movements, and the presence of foreign terrorist groups in Thailand.

¹⁵ UNODC. (2019). *Defining terrorism*. Retrieved from <https://www.unodc.org/e4j/en/terrorism/module-4/key-issues/defining-terrorism.html>

¹⁶ UN Resolution 1566 (2004), para. 3.

Violent Situations in the Southern Provinces

The southernmost region of Thailand usually refers to the provinces of Pattani, Yala, Narathiwat, and some parts of Songkhla province. Historically, these parts together with regions of current Northern Malaysia once constituted the Muslim sultanate of Patani. In 1902 Pattani, Yala and Narathiwat provinces became part of Siam (Thailand).¹⁷ For this reason the culture and ethnic background in the southernmost provinces, differ somewhat from the rest of Thailand.¹⁸

The current violent situation in Southern Thailand can be traced back to 1948 when a hard-line militarist policy was imposed in the area as a product of the 1947 coup, and to the massacre of 400 Malay-Muslims at Ban Dusun Nyor, Narathiwat Province.¹⁹ Three violent resistance organizations were formed against the Thai military: the BNPP (Barisan Nasional Pembebasan Patani) in 1959, the BRN (Barisan Revolusi Nasional) in 1963, and the PULO (Patani United Liberation Organization) in 1968.²⁰

A number of violent groups²¹

It has been calculated that during the period 2004-2017, there were 19,279 incidents of violence in Southern Thailand, resulting in 6,544 deaths and 12,963 injuries.²²

According to the Thai military, there are approximately 3,000 violent perpetrators in the region who are trained in military combat.²³ These Thai-born violent perpetrators have appeared to have been substantially independent of international terrorist networks. Some interviewees noted that Thai perpetrators traditionally focused on domestic separatism and have not mixed their agenda with any global extremist ideology. Despite the general perception of southern violence as a purely local phenomenon, there is a growing belief among interviewed professionals that violent Thai perpetrators closely cooperate with Malaysian and Indonesian radical groups, which in turn are linked to ISIS and the former Al-Qaeda. Recent online activity suggests that the Islamic State's ideological message may have found sympathizers among some Thai perpetrators.²⁴

Interviewed officers had identified two main funding methods for the violent groups. The primary source of funding comes from donations from like-minded individuals and organizations collected through middlemen, plus online fundraising domestically and from other countries. The second source of funds are from the proceeds of TOC, as discussed in detail below.

¹⁷ Srisompob, J., Napisa, W., & Paul C. (2018). *Quagmire of Violence in Thailand's Southern Borderlands [Special issue]*. *Asian Affairs: An American Review*, 45(2), 43-55

¹⁸ John, F. (2008). *Southern Thailand: The dynamics of conflict*. Singapore. Institute of Southeast Asian Studies, 50, 7.

¹⁹ Srisompob, J., Napisa, W., & Paul C. (2018). *Quagmire of Violence in Thailand's Southern Borderlands [Special issue]*. *Asian Affairs: An American Review*, 45(2), 51.

²⁰ *Ibid.*, 46.

²¹ These groups include the Pattani Islamic Mujahedeen Movement/Gerakan Mujahidin Islam Patani (GMIP); the Barisan Revolution Nasional/National Revolutionary Front (BRN); the Patani United Liberation Organisation (PULO); the Jemaah Islamiah / Islamic Congregation (JI); and the Runda Kumpulan Kecil / Small Patrol Units (RKK).

²² Srisompob, J., Napisa, W., & Paul C. (2018). *Quagmire of Violence in Thailand's Southern Borderlands [Special issue]*. *Asian Affairs: An American Review*, 45(2), 47.

²³ Deep South Watch. (2017). *Deep South Incident Database*. Retrieved from <https://www.deepsouthwatch.org/node/11053>

²⁴ Srisompob, J., Napisa, W., & Paul C. (2018). *Quagmire of Violence in Thailand's Southern Borderlands [Special issue]*. *Asian Affairs: An American Review*, 45(2), 47-48.

Foreign Terrorists in Thailand

Members and operations of some international terrorist networks have been detected in Thailand. INTERPOL Thailand has recognized that a number of events in recent years suggested the presence of foreign terrorist groups operating in the Kingdom.²⁵ For example, in 2013, two Iranis who were members of a violent extremist group were convicted by a Thai court for their role in a bomb plot to assassinate Israeli diplomats in Bangkok,²⁶ and in April 2014 two alleged Hezbollah operatives were arrested in Bangkok for planning a terrorist operation directed against Israeli nationals.²⁷

Although Thailand is not a direct target for international terrorist groups, Thai stakeholders are very concerned about the possibility of terrorists using Thailand as an operational base. In the past, terrorists have used Thailand for various purposes: as a 'safe house' to hide from the authorities; as a logistics base to plan attacks on other targets; and as a source of fake identity and travel documents. According to the interviewed law enforcement officers, Thailand is appealing to terrorists because of its accessibility, its relatively sophisticated internal transportation, communications and accommodations infrastructure, and the availability of enabling services such as for the production of fraudulent documents.

Several interviewees agreed with the conclusion in INTERPOL's Thailand country report that Thailand, Malaysia and Singapore are used as transit countries by volunteer fighters from Malaysia, Indonesia and the Philippines who are on their way to the Middle East.²⁸ Since Thailand is a global transportation hub and has a welcoming tourism policy, which provides visa exemptions for many nationalities, this makes it easy to travel under the guise of tourism or legitimate trade.

Links Between Organized Crime and Terrorism

It should be noted that so far there is no indication that Thai nationals have joined international terrorist organizations. Nonetheless, there is a possibility that some activities of organized criminal groups in Thailand may unknowingly support terrorist activities.

According to the interviews, the possible link between organized crime and terrorism in Thailand relates to the growth in passport fraud that has been committed by organized criminal groups which support international terrorists. For example, some organized criminal groups that are linked with Hezbollah operatives were found operating in Thailand. In this case, terrorists are the key users of fake or stolen passports to assist their cross-border movements under false identities. Moreover, their operation also includes logistical arrangements such as opening bank accounts, making financial transactions, renting accommodations and buying SIM cards. It is claimed that offenders handling the document forgery operations may be facilitators employed directly by terrorist organizations to manage two types of operations. The first one is the production of fake passports and the second one is the trafficking and forgery of lost and stolen passports both locally and transnationally.

²⁵ Rajakumar, V. (2016). *Insurgency in Southern Thailand: What Does ISIL's Black Flag of Pattani Portend?*. Retrieved from <https://www.rsis.edu.sg/rsis-publication/icpvtr/co16078-insurgency-in-southern-thailand-what-does-isils-black-flag-of-pattani-portend/#.WDgDcLJ96Uk>

²⁶ INTERPOL. (2015). *Thailand Country Report 2015*. Bangkok, 2-4. Retrieved from http://www.INTERPOLbangkok.go.th/site/documents/events/Thailand_Country_Report%20_15th_SOMTC.pdf

²⁷ Hodal, K. (2013, August 22). *Iranians convicted over Bangkok bomb plot*. *The Guardian*. Retrieved from <https://www.theguardian.com/world/2013/aug/22/thai-court-convicts-iranians-bomb-plot>

²⁸ *Ibid.*, 2.

In 2010, the Thai Department of Special Investigation and the Spanish police jointly conducted 'Operation Alpha', which dismantled a passport fraud network involving hundreds of people in many countries. Offenders were responsible for stealing the passports of European tourists in Spain and sending them to a Pakistani gang based in Thailand, following which the stolen passports were finally delivered to terrorist groups such as Al-Qaeda, the Pakistan-based Lashkar-e-Taiba and the Tamil Tigers. For over ten years, a Bangkok-based Pakistani gang operated a small forgery factory and supplied fake documents through a transnational distribution to terrorists and offenders. This criminal network allegedly provided fake and forged passports to the perpetrators of the 2004 Madrid train bombings that killed 191 people and left 1,800 injured, as well as the November 2008 Mumbai attacks in which at least 164 people were killed and more than 300 were injured.²⁹

In 2012, the Thai authorities dismantled another major organized criminal group accused of producing some 3,000 counterfeited passports and visas, including for the use of the two Irani members of a violent extremist group who were convicted of the bomb attacks in Bangkok referred to above.³⁰ There is evidence connecting fake Thai passports also to the alleged perpetrators of the Erawan Shrine bombing that took place in Bangkok in August 2015, killing 20 people and injuring 120.³¹

Thus, on the basis of the interviews, three key findings can be drawn regarding the potential links between organized crime and terrorism in Thailand.

The first has to do with the relationship between organized crime and terrorism. Over 80% of the interviewed officers from law enforcement, criminal justice and security agencies acknowledged that organized criminal groups play an important role in funding and/or in facilitating terrorism.

The second has to do with the structure of the crime-terror nexus. Most interviewees argued that criminal and terrorist groups usually remain two separate entities specializing in different activities and cooperating at times for mutual benefit, rather than merging in a crime-terror enterprise. Partner organizations are usually from the same country or ethnic group. For example, as noted in some interviews, violent Thai perpetrators tend to cooperate with local traffickers, while foreign terrorists are linked with Irani document forgers based in Thailand.

The third has to do with specific links between organized crime and terrorism in Thailand. These can be grouped into two kinds of relationships: first, a financial relationship where terrorism benefits from the proceeds of crime; and second, an operational relationship where organized crime provides instruments and opportunities to facilitate terrorist activities.³²

²⁹ INTERPOL. (2015). *Thailand Country Report 2015*. Bangkok, 3. Retrieved from http://www.INTERPOLbangkok.go.th/site/documents/events/Thailand_Country_Report%20_15th_SOMTC.pdf

³⁰ Henley, J. (2014, March 10). *How Thailand's trade in fake passports fuels crime gangs around the world*. *The Guardian*. Retrieved from <https://www.theguardian.com/world/2014/mar/10/thailand-trade-fake-passports-crime-gangs-world>

³¹ *Ibid*

³² *Ongoing investigations indicate that the Erawan Shrine attack that took place in Bangkok in August 2015 was not perpetrated by a known terrorist group, but it was rather an isolated event. It has not been proved yet who the offenders were and the suspects were able to escape from Thailand.*

The Financial Relationship between Terrorism and Proceeds of Crime

According to interviewees, violent perpetrators based in southern Thailand are motivated by faith and ideology. They are believed to have a financial relationship with criminal networks, since there is evidence that local violent perpetrators fund their activities with the proceeds of drug trafficking, illegal oil exports, money laundering and the smuggling of goods. Other investigations have also identified a link between drug trafficking and local violent incidents, but so far, there is not enough evidence to actually prosecute these perpetrators. It should be noted that tracing the origin of funds and proving the nexus between offenders and violent perpetrators is usually difficult because TOC money is often laundered by offenders before it is delivered to violent groups.

Funding methods range from donations from like-minded offenders to the practice of hiring violent perpetrators to commit attacks to divert the resources of law enforcement officers away from criminal activities. For example, some violent perpetrators who were arrested following a car bombing in the city of Hat Yai in Southern Thailand confessed that they had been hired by criminal groups 'to create public disorder'.

Challenges in Understanding the Crime-Terror Nexus

Many facts continue to remain unknown about the extent and structure of the connections between terrorism and TOC. Most factors suggest that terrorists and offenders remain separate organizations, despite their usually sharing the same nationality and providing mutual support for mutual benefit.

However, the role of terrorists and their direct engagement in criminal activities are less clear. For this reason, it remains unclear whether they are structured and well-organized alliances, or have occasional and loose links.

Although 80% of the interviewees agreed that the crime-terror link exists, only half of them said that their views were supported by solid evidence. It is notable that some of the stakeholders interviewed were concerned that the Thai criminal justice system is not structured to deal with emerging terror threats. Our findings suggest that the justice institutions in Thailand may need to pay more attention to the process of collecting evidence and prosecuting cases where criminal and terrorist activity overlap. Consequently, it is strongly recommended that updated approaches be developed and used to properly and expediently identify and respond to the links between, if not the merging of, TOC and terrorism groups.

Thailand's Responses to the Crime-Terror Nexus

Thailand's responses to the crime-terror nexus range from legislative and policy reform to local engagement aimed at community empowerment. In order to comply with UN Security Council resolution 1373 (2001), which requires Member States to prevent and suppress the financing of terrorism as well as to ensure that any person who participates in terrorist activities is brought to justice, Thailand amended its Criminal Code in 2003 to criminalize offences relating to terrorism. The Anti-Money Laundering Act of 1999 was also amended to include terrorism offences under the Thai Criminal Code as predicate offences. Moreover, the Counter Terrorism Financing Act promulgated in 2013 provides a more comprehensive legal basis to cope with this phenomenon. In 2013 Thailand became a state party to the United Nations Convention against Transnational Organized Crime. In order to comply with its obligations under these instruments, Thailand enacted the Anti-Participation in Transnational Organized Crime Act in 2013. These laws constitute a solid legal framework to prevent and suppress TOC in Thailand. However, their effective implementation is still a challenge, as will be discussed later in this chapter.

In addition to legislative developments, the Thai authorities have adopted several measures aimed to significantly improve their capacity to detect fraudulent identity and travel documents. A new unit called the Transnational Crime Intelligence Operation Centre was established within the Department of Special Investigation to target organized criminal groups dealing with fake passports. Furthermore, immigration officers have received special training, including continuous training through a mobile e-learning application. Thailand's efforts are also reflected in the establishment of the Fraudulent Document Detection Centre by the Thai Immigration at Thailand's main international airports. The Centre provides airport authorities and airline staff with training on detecting fraudulent passports and facilitates international cooperation with foreign immigration authorities which are members of the Immigration Control Experts Team.

Thailand raised this issue at the 26th ASEAN Summit in 2015, in an effort to strengthen cooperation with foreign authorities in order to better monitor the cross-border movements of volunteer terrorist fighters. Consequently, Thailand has intensified its engagement in relevant ASEAN bodies and, together with China, took the lead on the development of the ASEAN Regional Forum Work Plan 2015-2017, which serves as a roadmap for regional cooperation on counterterrorism and transnational crime.³³

Nonetheless, it should be noted that there are some factors of concern which make Thailand vulnerable to criminal and terrorist activities; poverty, unemployment, social exclusion and other related issues. To tackle these problems, Thailand has visibly promoted the building of rule of law-driven, sustainable and resilient communities which aim to help break down the crime-terror nexus. The most prominent example of this are the sustained efforts made to combat the large-scaled cultivation of the opium poppy that emerged around the 1970s in the area of the notorious Golden Triangle, with Thailand situated in the middle. During that time, drug production and trafficking funded an insurgency in the neighbouring Shan State in Myanmar. To combat it, since 1988 the Mae Fah Laung Foundation under Royal Patronage has significantly invested in alternative development programmes, providing sustainable livelihood solutions to people and communities previously involved in drug-related crimes. The success of the effort was confirmed in 2002, when the United Nations Office on Drug and Crime declared Thailand to be 'poppy free'. This example has shown that a community-building programme can be an effective strategy for disrupting the crime-terror nexus.³⁴

³³ INTERPOL. (2015). *Thailand Country Report 2015*. Bangkok, 4-5. Retrieved from http://www.INTERPOLbangkok.go.th/site/documents/events/Thailand_Country_Report%20_15th_SOMTC.pdf

1.7

The Legal Framework Against TOC in Thailand

The United Nations Convention against Transnational Organized Crime (also known as the Palermo Convention or UNTOC) was signed in Palermo, Italy, in December 2000 and became effective on 29 September 2003. The Palermo Convention requires state parties to criminalize participation in an organized criminal group,³⁵ laundering of the proceeds of crime,³⁶ corruption³⁷ and obstruction of justice,³⁸ and to provide international assistance or cooperation in appropriate cases.

Thailand played an active role during the drafting process of the Palermo Convention, and Thailand was among the very first signatories to the Convention and two of its Protocols, namely the Protocol to Prevent, Suppress, and Punish Trafficking in Persons Especially Women and Children, and the Protocol against the Smuggling of Migrants by Land, Sea, and Air. Thailand ratified the Palermo Convention and the Trafficking in Persons Protocol on 17 October 2013. With these ratifications, Thailand committed to the adoption of the legislative and other measures necessary to fight against TOC.

The Anti-Participation in Transnational Organized Crime Act was enacted in September 2013. The law incorporates key provisions of UNTOC and defines the meaning of organized criminal group and transnational organized crime.³⁹ In order for conduct to be considered transnational organized crime, offenders must commit a serious crime for the purpose of obtaining financial gain, an asset, or other material benefit, with more than one state involved in the commission of the offence. The law further states that the Prime Minister, the Minister of Justice and the Attorney General shall be in charge of implementing the Act, vesting the Attorney General with authority to issue regulations in furtherance of the Act.⁴⁰ The Attorney General has issued several regulations concerning the implementation of the Act, such as defining the power and duty of investigators and officers⁴¹ in searches; setting forth a procedure regarding confiscation of property;⁴² establishing procedures for possession and use of guns;⁴³ and issuing guidelines regarding use of or destroying the information collected,⁴⁴ undercover operations,⁴⁵ controlled delivery,⁴⁶ and the procedure regarding the surveillance of suspects.⁴⁷

³⁵ *United Nations Convention against Transnational Organized Crime, Article 5.*

³⁶ *Ibid, Article 6.*

³⁷ *Ibid, Article 8.*

³⁸ *Ibid, Article 23.*

³⁹ *Anti-Participation in Transnational Organized Crime Act 2013, Article 3.*

⁴⁰ *Ibid, Article 4.*

⁴¹ *Regulation of the Attorney General on the Search and the Power and Duty of Investigator and Officer.*

⁴² *Regulation of the Attorney General on Keeping, Taking Care of Auction, Return of Property and Damages Appraisal.*

⁴³ *Regulation of the Attorney General on Having in Possession and Use of Guns and Armaments.*

⁴⁴ *Regulation of the Attorney General on Keeping, Using and Destroying Information.*

⁴⁵ *Regulation of the Attorney General on Undercover Operation.*

⁴⁶ *Regulation of the Attorney General on Controlled Delivery.*

⁴⁷ *Regulation of the Attorney General on Surveillance of a Suspect.*

Nonetheless, even though Thailand has a comprehensive Anti-Participation in Transnational Organized Crime Act, some of the stakeholders interviewed stated that some law enforcement officers sometimes still hesitate to use the new and unproven concepts. Such hesitation limits Thailand's prevention and effective suppression efforts.

Apart from the Anti-Participation in Transnational Organized Crime Act, Thailand has also enacted legislation covering every major type of TOC, as noted below.

Trafficking in Persons

Thailand enacted the Anti-Trafficking in Persons Act in 2008 with the latest amendment in 2019.⁴⁸ Under this law, it is an aggravating factor to be a member of an organized criminal group which acts in furtherance of trafficking in persons, subjecting offenders to a punishment that is one and a half times harsher than in other cases of trafficking in persons.⁴⁹

In 2016, the Government enacted the Trafficking in Persons Criminal Procedure Act of 2016, which changed the criminal procedure applicable to trafficking in persons cases from an adversarial system to an inquisitorial system. In considering whether to release an alleged human trafficker on bail, the court must consider whether the offence was committed within the framework of a criminal network or as part of organized crime.⁵⁰

The sale of sexual services is closely linked to trafficking in persons for the purpose of sexual exploitation. Some criminal organizations export workers to foreign countries, where they are forced into sex work. The Thai legal regime addressing these offences is based on three laws. First, the Prevention and Suppression of Prostitution Act of 1996 defines the meaning of prostitution and prohibits any person from soliciting sex in an open and shameless manner, causing nuisance to the public,⁵¹ or frequenting an establishment for prostitution.⁵² If such person is an owner of a prostitution business or establishment,⁵³ the person is subjected to a heavier penalty. A harsher penalty is imposed in child prostitution cases, in which the apparent 'consent' of the child is not a defence. Second, the Criminal Code makes it illegal for any person to subsist on the earnings of prostitution and penalizes any person associated with a prostitute, receiving money or benefit arranged by prostitution, or assisting any prostitute in a dispute with a customer.⁵⁴ Third, the Entertainment Place Act of 1966 regulates massage parlours, karaoke bars, go-go bars and similar establishments that are said to influence public morals. The Entertainment Place Act prohibits minors from patronizing such businesses and requires the proprietors to obtain a license from the government. Despite this law, it is not uncommon to find that business owners have set up a massage parlour, night club or karaoke bar as the front for a brothel.

⁴⁸ *The Royal Decree of the Amendment of the Anti-Trafficking in Persons Act 2019.*

⁴⁹ *The Anti-Trafficking in Persons Act of 2008, Article 10.*

⁵⁰ *The Human Trafficking Criminal Procedure Act of 2016, Article 8.*

⁵¹ *The Prevention and Suppression of Prostitution Act, Article 5.*

⁵² *Ibid, Article 6.*

⁵³ *Ibid, Article 11.*

⁵⁴ *Criminal Code Section 286.*

The Smuggling of Migrants

In order to cope with the problems that arise from persons irregularly entering or departing Thailand, the Thai government enacted the Immigration Act in 1979, which was most recently amended in 2018.⁵⁵ The Immigration Act regulates the procedures for entering and departing Thailand, checking conveyances, verifying temporary stays in Thailand, entering Thailand in order to take up residence, and the deportation of aliens. Those who are in conflict with this Act are subject to arrest, prosecution, and repatriation to their country of origin.

In recognition of the way fraudulent travel and identity documents are used in migrant smuggling, the Criminal Code prescribes offences such as forging a passport in whole or in part,⁵⁶ uttering or acquiring a forged passport,⁵⁷ importing or exporting any forged passport,⁵⁸ and misusing the passport of another person. In addition, migrant smuggling also creates an ongoing issue of working illegally in Thailand. The Alien Working Act of 2008, repealed by the Emergency Decree on Management of Alien Working, 2017, prohibits foreigners from working without a work permit,⁵⁹ from engaging in any occupation other than the one stated in the work permit,⁶⁰ and from employing a foreigner without a work permit.⁶¹ Sometimes corrupt law enforcement officers allege and charge an actual victim of trafficking in persons with offences mentioned in the Alien Working Act and the Immigration Act in order to conceal the crime of trafficking in persons and thus protect the real offender from prosecution.

Drug Trafficking

In addressing drug trafficking both domestically and internationally, Thailand enacted the Narcotics Act in 1976. It prohibits any person from possessing illegal drugs. When the number of drugs in possession exceeds the amount legally allowed for personal use, an offender can be charged with drug trafficking.⁶² The offender also forfeits all illegal drugs, equipment, tools, vehicles, or other tools which were used to commit any offence related to narcotics.⁶³

There are many laws addressing narcotics in Thailand. The main laws are the Narcotics Control Act of 1976, which officially established the Office of the Narcotics Control Board; the Narcotics Addict Rehabilitation Act of 2002; and the Measures for the Suppression of Offenders in an Offence Relating to Narcotics Act of 1991. The Narcotics Control Act was most recently amended in 2019, in which connection some of the penalties related to narcotics crime were reduced⁶⁴ and provisions were inserted to allow some illicit drugs such as marijuana to be used for medicinal and research purposes.⁶⁵

According to a 2019 report published by the National Economic and Social Development Board, the number of narcotics cases reported to the police has recently decreased, although narcotics offences still the most commonly reported crimes in Thailand.⁶⁶

⁵⁵ *The Royal Decree of the Amendment of the Immigration Act 2018.*

⁵⁶ *Criminal Code Section 269/8.*

⁵⁷ *Criminal Code Section 269/9.*

⁵⁸ *Criminal Code Section 269/10.*

⁵⁹ *The Alien Working Act of 2008, Article 51.*

⁶⁰ *Ibid, Article 52.*

⁶¹ *Ibid, Article 54.*

⁶² *The Narcotics Act of 1976, Articles 15 - 26, 65 - 76/1.*

⁶³ *Ibid, Article 102.*

⁶⁴ *The Narcotics Act of 2017 (No. 6).*

⁶⁵ *The Narcotics Act 2019 (No. 22).*

⁶⁶ *Social Situation and Outlook Quarter 1, 14.*

Firearms Trafficking

The main law governing firearms in Thailand is the Controlling Firearms, Ammunition, Explosives, Fireworks and Imitation of Firearms Act of 1947. The Act prohibits anyone, unless authorized, from making, buying, owning, or using firearms,⁶⁷ and it also prohibits anyone from carrying firearms in a town, village, or public place without a license.⁶⁸ It also criminalizes the making, buying, owning, using, ordering, importing, trading, or selling by any means of explosives⁶⁹ without prior authorization.

Environmental Crimes

Thailand has prioritized environmental protection since 1992. The major laws governing illegal logging and deforestation include the Forest Act of 1941, which defines the meaning of 'lumber', 'logging' and 'forest product'. The Forest Act makes logging, tapping, chopping, burning, or causing damage to any reserved timber illegal.⁷⁰ In addition to the Forest Act, the National Reserved Forest Act of 1964 further prohibits people from holding or possessing land, undertaking construction or destruction, burning or logging a forest, collecting forest products, or committing any other action which may harm nationally protected forests.⁷¹

Thailand is a party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora. In line with this international instrument, Thailand enacted the Wild Animal Preservation and Protection Act of 1992, which prohibits people from hunting, propagating, possessing or trading in wild animals, their carcasses, and carcass products.⁷² However, the stakeholders interviewed for this study alleged that the law is not strictly enforced in Thailand, due in particular to corruption.

In January 2015, the Ivory Act B.E.2558 (2015) entered into force. The new Ivory Act includes ivory in the list of protected species under the wildlife law and prohibits the import, export, transition⁷³ and possession⁷⁴ of ivory, including non-native species.

Thailand has also addressed pollution crimes such as trafficking in hazardous waste by ratifying the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, and by translating this international commitment into domestic legislation. The Hazardous Substances Act of 1992 provides for the control of the import and export of toxic waste as scheduled under List A of the Basel Convention, while setting up criteria under which the transboundary movement of plastic scrap is permitted.

⁶⁷ Controlling Firearms, Ammunition, Explosives, Fireworks and Imitation of Firearms Act of 1947, section 7.

⁶⁸ *Ibid*, section 8 bis.

⁶⁹ *Ibid*, section 38.

⁷⁰ The Forest Act, Section 6.

⁷¹ The National Reserved Forest Act of 1964, Section 14.

⁷² The Wild Animal Reservation and Protection Act of 1992, Section 16.

⁷³ The Ivory Act B.E. 2558 (2015), Article 5.

⁷⁴ *Ibid*, Article 6.

Counterfeiting

With a combination of high profits, low risk of detection and low level of punishment, the trade in counterfeit goods is one of the most attractive activities for transnational organized criminal groups. The offences relating to counterfeit goods can be found in the Criminal Code of Thailand, the Copyright Act of 1994, the Patent Act of 1979, and the Trademark Act of 1991. According to the Office of the United States Trade Representative, Thailand remains on the Priority Watch List as a country with insufficient intellectual property rights protection and enforcement.⁷⁵ This suggests that the success in combating such crime remains to be seen.

Money Laundering

The Thai government enacted the Anti-Money Laundering Act in 1999, which criminalizes money laundering⁷⁶ and identifies 28 predicate offences⁷⁷ as of 2019. Although Thailand has had an Anti-Money Laundering Act since 1999, many observers have criticized Thailand for failing to meet anti-money laundering standards and failing to combat the financing of terrorism. In 2012, the Financial Action Task on Money Laundering (FATF) identified Thailand as a 'high risk and non-cooperative country' due in part to the country's inability to enact more anti-money laundering laws directed to the financing of terrorism. Thereafter, Thailand enacted the Counter Terrorism Financing Act in 2013, and Thailand was removed from the list of high-risk and non-cooperative countries.

Terrorism

In 2003, Thailand revised its Criminal Code to include anti-terrorism provisions in order to comply with United Nations Security Council Resolution 1373. Provisions on offences relating to terrorism are found in the Criminal Code, sections 135/1 to 135/4. As mentioned above, the Counter Terrorism Financing Act entered into force in 2013 to thwart the financing of terrorism.

⁷⁵ Office of the United States Trade Representative. (2016). *Special 301 Report*, 3. Retrieved from <https://ustr.gov/sites/default/files/USTR-2016-Special-301-Report.pdf>

⁷⁶ Anti-Money Laundering Act of 1999, Section 5.

⁷⁷ *Ibid*, Section 3.

1.8

Strengths and Gaps in the Current Domestic Legislation

The Thai legislative framework is robust and, in most areas, consistent with international standards, but stakeholders felt that the problem is the weak enforcement of laws, which hinders the country's ability to effectively combat TOC. Thailand's laws have been updated and are comprehensive, but some gaps still persist, particularly a lack of expertise in TOC among law enforcement and justice officers. Moreover, environmental crimes such as hazardous waste dumping require special training and complicated legal coordination among the relevant authorities. Furthermore, stakeholders also recommend the increasing of punishment for many crimes.

Strengths

Thailand's legal framework is comprehensive and addresses the most important crimes committed by transnational actors. One example is the Anti-Participation in Transnational Organized Crime Act of 2013 which endorses and incorporates key provisions of the UNTOC. Some laws have been updated and steps taken in order to respond to current trends. For instance, a specialized task force called the Transnational Crime Prevention and Suppression Centre was established within the Royal Thai Police. This unit is the focal point for interaction with other countries aimed at suppressing TOC. The Prevention and Suppression Centre allows law enforcement to streamline its procedures for cooperation⁷⁸ with other countries.

Many interviewees also expressed complete confidence in the country's ability to craft legislation that could effectively address TOC. Although some interviewees questioned in particular whether wildlife trafficking laws are comprehensive enough, there was general agreement that Thailand has made great progress, particularly with the Ivory Act of 2015, which imposes harsh punishments for ivory possession and trade. Thailand's domestic wildlife protection legislation meets CITES standards. Nevertheless, some interviewees noted that the penalties applicable to some serious crimes are quite severe.

Experts in the trafficking of hazardous waste said that Thai laws were among the strongest in the region, citing the Hazardous Substances Act of 1992, the Export and Import of Goods Act of 1979 and the Customs Act of 1926 as amended. However, some stakeholders were of the view that lax enforcement undermines the effectiveness of laws in this area.

Counterfeiting and money laundering crimes are covered by the Money Laundering Control Act of 1999. The statute imposes strict reporting requirements on financial institutions, requiring them to report all financial transactions exceeding the limit set forth in the government regulations. Currently, the rate is set at 2 million baht for cash transactions and 5 million baht for property transactions. Transactions meeting these thresholds will be investigated by the Office of Anti-Money Laundering.⁷⁹

⁷⁸ Ngamkham, W. (2015, January 4). *Thailand called a criminal haven: Police target international crime gangs*. Bangkok Post.

⁷⁹ Tanyapongpruch, S. (2002). *Transnational Organized Crime in Thailand*. UNAFEI Resource Material Series, 59, 601- 607. Retrieved from http://www.unafei.or.jp/english/pdf/RS_No59/No59_40PA_Tanyapongpruch.pdf

The prosecution of child trafficking is sometimes complicated by the fact that this crime encompasses various offences related to the commercial sexual exploitation of children (kidnapping, trafficking, forced prostitution, pornography, child sex tourism), making it difficult to identify what law should be applied in prosecuting offenders and what laws would best protect the victims. However, the Thai Anti-Trafficking in Persons Act of 2008 is aligned with the international standards set by the UNTOC protocol on trafficking in persons, according to which children receive special protection. Under the law, consent is not a defence, nor need prosecutors demonstrate that child victims were deceived.⁸⁰ According to Thai law, the younger the victims, the more severe the punishment.⁸¹

Weaknesses

Most interviewees were satisfied with Thai law, but a significant number of interviewees said the laws needed to be amended proactively to meet the constantly evolving methods of TOC. There is also a perception that stricter penalties would deter criminal activity.

The interviewees also expressed concern that some law enforcement officers may not understand the features of the Anti-Participation in Transnational Organized Crime Act. As a consequence, it is underutilized by most law enforcement agencies. This gap may explain why there has been only a handful of TOC cases brought under this law since 2013. This suggests that law enforcement officers need more training on identifying the criminal conduct covered by the Act, as well as the operational training in how to conduct covert operations.

The Act itself has a few deficiencies that should be addressed by the legislative process. The most glaring weakness is that the Act only addresses transnational organized crime and does not apply to domestic organized crime, giving perpetrators a major loophole.

Stakeholders also identified other legal loopholes which hinder investigations against offenders involved in TOC. For example, there are long delays in serving INTERPOL arrest warrants, since the warrants must go through Thai courts in order to be enforceable. This process results in delays in apprehending perpetrators. One expert advocated for bail reform in order to prevent arrestees from fleeing once they have been released on bail. The overlap of several offences that apply to some criminal activities makes it difficult for law enforcement to identify the most relevant applicable law.

Moreover, disagreements between agencies over who has competence in various cases, and mistrust between agencies and stakeholders may be a bigger problem than gaps in Thai law. Law enforcement agencies have disagreed over which agency has jurisdiction over organized crime. A senior expert argued that 'Mistrust of each other is commonplace. Institutional relationships are marked by a reluctance to allow the involvement of other agencies and a dislike of working with them as a team'.⁸² There are similar challenges at the international level.

It should be noted that in practice, since police do not have enough funds and lack capacity to undertake witness protection, this leaves victims and witnesses of TOC in a vulnerable position.

Notably, interviewees recognized that the inconsistency in legal regimes in other ASEAN member states made prosecuting international crime more challenging. Laws across the ASEAN region should be harmonized in order to make international cooperation more efficient.

⁸⁰ ECPAT. (2011). *Global Monitoring: Status of Action Against Commercial Sexual Exploitation of Children in Thailand* (2 nd. ed.). Bangkok, Thailand.

⁸¹ United Nations Committee on the Rights of the Child. *Consideration of the reports submitted by States parties under article 44 of the Convention: Thailand*. September 2011.

⁸² Roujanavong, W. (2008). *Organized Crime in Thailand* (pp. 24). Bangkok: Rumthai Press.

Legal Gaps for Each Type of TOC

Interviewees identified gaps in legislation for each type of TOC. For example, with respect to wildlife trafficking and environmental crimes, prosecution is complicated by the lack of strong laws in other nations in the region. What is illegal in one country may not be illegal in another, which suggests that the latter countries should adopt stronger wildlife protection laws. In addition, the Thai authorities lack expertise in some areas of environmental protection. For example, law enforcement officers do not have enough resources and training to build comprehensive cases against criminal masterminds. As a result, the few offenders apprehended are usually lower-level intermediaries who are often released on bail and subsequently succeed in evading prosecution. To combat this problem, the Office of the Attorney General had established the Department of Economic Crime Litigation, the mandate of which includes environmental crime.⁸³ More training and a court dedicated to environmental crimes would help Thailand respond to these crimes more effectively. Stakeholders also suggested amending wildlife laws in order to protect non-native species in addition to wildlife that is native to Thailand.

Regarding trafficking in hazardous waste and chemical substances, the law is adequate, but its enforcement is lax. Thai authorities are effective in confiscating hazardous substances, but very few waste traffickers are prosecuted, and even fewer are charged. Punishments are not severe; in many cases they amount to only a small fine of about 200,000 Thai Baht (approximately 5,700 USD). Small fines are simply not severe enough to be a strong deterrent against hazardous waste trafficking. Even with the payment of fines, it is still less costly to dump chemical waste than it is to dispose of it legally. In addition, a problem is weak law enforcement, which leads to the lack of criminal penalties for trafficking in hazardous wastes. In practice, no one has ever been sentenced to prison in Thailand for hazardous waste trafficking. However, tougher criminal penalties will be difficult to achieve because Thailand lacks experts in identification and tracking of hazardous substances. Pollution control authorities do not have the staff or funding to adequately monitor disposal sites or identify offenders. Moreover, different Ministries also apply different laws, resulting in an overlap of duties and complicating coordination of criminal prosecutions. For example, respondents report significantly different protocols between the Ministry of Environment and the Ministry of Industry in respect of how to properly dispose of hazardous waste and chemical substances.

Further, regarding money laundering, stakeholders indicated that the list of predicate offences under the Anti-Money Laundering Act is not sufficiently comprehensive, although document forgery and terrorism financing have recently been added to this list. Finally, the lack of legislation supporting evidence collection from telecom companies and systems carriers impedes the ability of investigators to examine possible money transfers.

⁸³ Department of Economic Crime Litigation. Story. Retrieved from <http://www.eco.go.go.th/index.php/story>



Organized Crime

Chapter 2

AN OVERVIEW OF TYPES OF TRANSNATIONAL ORGANIZED CRIME IN THAILAND

2.1

Trafficking in Persons and the Smuggling of Migrants

2.1.1 Trafficking in Persons

International definition of trafficking in persons:

“The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs” (Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime of 2000, Article 3, Paragraph A)

Applicable domestic laws in Thailand:

Anti-Trafficking in Persons Act of 2008; Penal Code; Criminal Procedure Code; Trafficking in Persons Criminal Procedure Act of 2016; Prevention and Suppression of Prostitution Act of 1996; Labour Protection Act of 1998

Trafficking in persons is the acquisition of people by improper means such as force, fraud or deception, with the aim of exploiting them. It is a serious crime and a grave violation of human rights.⁸⁴

Thailand is considered a key destination for trafficking in persons around the Mekong Region, where most of the victims are Thai, and from neighbouring countries such as Lao PDR, Myanmar, Cambodia and Viet Nam. Further, Thailand also acts as a source and transit country, especially for labour trafficking and sexual exploitation, where victims are trafficked to various destinations around the world.⁸⁵

To combat this situation, on 30 August 2014, Thailand’s Prime Minister declared a policy of ‘Zero Tolerance for Trafficking in Persons’, which spearheaded the nation’s efforts and capacity to combat trafficking in persons.⁸⁶ Additional anti-trafficking mechanisms supplement the domestic laws, such as the

⁸⁴ Michele, A. C. (2003). *Trafficking in Persons: An issue of human security*. *Journal of Human Development*, 4(2), 247-263.

⁸⁵ UN-ACT. (2019). *Thailand*. Retrieved from <http://un-act.org/thailand/>

⁸⁶ Ministry of Foreign Affairs of Thailand. (2015). *Thailand’s Progress Report on Anti-Human Trafficking Efforts*. Retrieved from <http://www.mfa.go.th/main/contents/files/media-center-20150430-161606-980768.pdf>

Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT) Task Force (2005), with UN-ACT as secretariat. Operation Centres on Human Trafficking were established to address trafficking at provincial, national and international levels. Other bodies include the Anti-Trafficking in Persons Committee, and the Coordinating and Monitoring of Anti-Trafficking in Persons Performance Committee. The Ministry of Social Development and Human Security oversees the implementation of Thailand's National Plans of Action against human trafficking, as well as acts as the focal point for its nationwide network of victim shelters. The Anti-Human Trafficking Division of the Royal Thai Police and Department of Special Investigations under the Ministry of Justice is also involved in this work.⁸⁷

In 2018, the Thailand Anti-Trafficking in Persons Task Force, a special task force under The Royal Thai Police, had investigated 29 cases, which resulted in the prosecution of 69 offenders.⁸⁸ The Department of Special Investigations, in turn, had investigated 12 cases.⁸⁹

Additionally, in 2018, the Attorney General Office had pursued 357 cases of trafficking in persons, which is less than in 2017 (418 cases) and 2016 (466 cases).⁹⁰ During the same year, 445 trafficking in persons cases were brought to the Courts of Justice across Thailand.⁹¹

It is noteworthy, however, that in practice, many cases of trafficking in Thailand go unreported because victims are afraid that their family will be harmed by traffickers, or that they will be charged with immigration crimes in the criminal justice system.

Lastly, in practice, trafficking in persons and migrant smuggling are closely interrelated in Thailand. Generally, smuggling of migrants involves the procurement for financial gain, asset, or other material benefit of illegal entry of a person into a State of which that person is not a national or resident. Many situations begin as the smuggling of migrant workers and asylum seekers and become cases of exploitation by the smugglers after the border has been crossed. Thus, the case of smuggling becomes a case of trafficking in persons. Hence, according to law enforcement officers, it can be difficult to distinguish trafficking from smuggling since when the victim is stopped at the border, it is hard to prove that the offenders intended to traffic the person to a new destination.

⁸⁷ UN-ACT, (n 70).

⁸⁸ U.S. State Department. (2019). *Trafficking in Persons Report 2019*. Washington DC, 454. Retrieved from <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>

⁸⁹ Department of Special Investigation. (2019). *DSI Quarterly Journal (October-December 2019)*. Bangkok, 41. Retrieved from <https://www.dsi.go.th/Files/25620515/DSI%20%E0%B9%80%E0%B8%A5%E0%B9%88%E0%B8%A11.pdf>

⁹⁰ Ministry of Social Development and Human Security of Thailand. (2018). *Thailand's Progress Report on Anti-Human Trafficking Efforts*. Bangkok, 20. Retrieved from <https://www.e-aht.com/startup/gotoinformationActivityDetail?informationID=249>

⁹¹ *Ibid.*, 21.

Types of Trafficking in Persons in Thailand

There are three main types of trafficking in persons in Thailand: trafficking for sexual exploitation, trafficking for forced labour, and trafficking for forced begging or selling.

Sexual Exploitation

Trafficking for sexual exploitation is the most common type of trafficking in persons detected in Thailand, encompassing 81.9% of all trafficking in persons cases initiated in 2018 (249 out of 304 cases).⁹²

The 2013 UNODC report estimates that approximately 5,600 people in Thailand might be victims of trafficking for sexual exploitation. Among this number approximately 3,750 victims are believed to be from countries that neighbour on Thailand.⁹³ Further, according to INTERPOL Thailand, most victims are Thai and Laotian females under the age of 18.⁹⁴ Although females are the most common targets of traffickers, research conducted by NGOs indicates that male victims under the age of eighteen also account for a significant number of victims.⁹⁵ The UNODC also estimates that around 10% of sex workers in Thailand are male.⁹⁶

In practice, Thailand is usually a country of origin for transnational trafficking for sexual exploitation, as young Thai women are being sent to be sexually exploited in Japan, the Republic of Korea, Bahrain and other Middle Eastern countries, Hong Kong, Brunei, Singapore, Malaysia, the United States, Australia, and European countries. Recently, the UNODC also documented the flow of Thai women coerced into sex work and domestic servitude in Papua New Guinea,⁹⁷ which underscores the emergence of Thailand as a source country for victims trafficked towards the Pacific islands.⁹⁸

⁹² Ministry of Social Development and Human Security of Thailand

⁹³ UNODC. (2013). *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment*, 23.

⁹⁴ INTERPOL. (2015). *Thailand Country Report 2015*. Bangkok, 18. Retrieved from http://www.INTERPOLbangkok.go.th/site/documents/events/Thailand_Country_Report%20_15th_SOMTC.pdf

⁹⁵ Geneva, B. (2011). *Women and children last: The prosecution of sex traffickers as sex offenders and the need for a sex trafficker registry*, 31(1) with further references; see also Singh, J. P., & Shilpa, A. H. (2007). *Sex Workers and Cultural Policy: Mapping the Issues and Actors in Thailand*. *Review of Policy Research*, 24(2), 155-160; Ashley, G. B., et al. (2010). *Understanding the Complexities of Human Trafficking and Child Sexual Exploitation: The Case of Southeast Asia*. *Women & Criminal Justice*, 20(1-2), 105-107.

⁹⁶ United Nations Office on Drugs and Crime. (2013). *Transnational Organized Crime in East Asia and the Pacific. A Threat Assessment*. UNODC Regional Office for East Asia and the Pacific, Bangkok, 17.

⁹⁷ United Nations Office of Drugs and Crime. (2016). *Transnational Organized Crime in the Pacific: A Threat Assessment*. UNODC, Bangkok. Retrieved from http://www.unodc.org/documents/southeastasiaandpacific/Publications/2016/2016.09.16_TOCTA_Pacific_web.pdf

⁹⁸ *Ibid.*, 37.

Labour Trafficking

Labour trafficking involves the exploitation of victims in work. Often, victims are forced to work in horrific conditions (sometimes described as slave-like conditions).⁹⁹ The agriculture, fishing and construction industries in Thailand are the sectors that are identified as having the highest incidence of trafficking.¹⁰⁰ Nonetheless, it should be noted that it is hard to indicate a precise number of victims of labour trafficking since reported figures and estimates vary significantly and often do not distinguish between regular and irregular workers. As for the fishing industry, some NGOs had estimated that around 200,000 male workers from Myanmar and Cambodia have been victims of trafficking in this sector.¹⁰¹

In comparison to such estimates, the number of cases that come to the attention of the authorities is small. In 2018, it was reported that labour trafficking accounted for 35 (11.5%) out of the 304 human trafficking cases initiated in Thailand.¹⁰² During the same period, the Office of the Attorney General had received 57 cases of labour trafficking.¹⁰³

Apart from being a destination for trafficked labour, Thailand is also a country of origin and a hub for sending those trafficked labourers to other countries such as Malaysia,¹⁰⁴ South Korea,¹⁰⁵ Taiwan,¹⁰⁶ the United States and Israel.¹⁰⁷ In this regard, the victims are both Thai and other nationals. The Department of Special Investigation (DSI) also reported multiple cases of Thai nationals being trafficked to work in fishery industries in the territorial waters of Indonesia.¹⁰⁸

Forced Begging and Selling

This form of exploitation primarily involves children who are forced to beg or sell cheap commercial products in the streets and deliver the proceeds to their traffickers.¹⁰⁹

In 2018, eight cases of forced begging were initiated (out of the 304 cases of trafficking in persons)¹¹⁰ and the Office of the Attorney General had received reports of 14 cases¹¹¹ regarding forced begging.

⁹⁹ ILO. (2019). *What's forced labour, modern slavery and human trafficking*. Retrieved from <https://www.ilo.org/global/topics/forced-labour/definition/lang-en/index.htm>

¹⁰⁰ Srawoath, P. (2011). *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)*, 13; Philip, M. (2009). *Migration in the Asia-Pacific Region*, 32.

¹⁰¹ Naparat, K. (2014). *ASEAN and Human Trafficking: Case Studies of Cambodia, Thailand and Viet Nam in World Vision International*, 102; see also, Kate, B., & Kim, M. (2012). *Human Trafficking Rampant in Thailand' Deep-Sea Fishing Industry*.

¹⁰² Ministry of Social Development and Human Security of Thailand.

¹⁰³ *Ibid.*, 20.

¹⁰⁴ *Workpoint news*. (2019, July 14). *Arresting 57 illegal labourers*. *Workpoint*. Retrieved from <https://workpointnews.com/2019/07/14/illegal-labor/>

¹⁰⁵ Kom Chad Luk. (2019). *Department of Employment to watch illegal workers travelling oversea carefully*. Retrieved from <http://www.komkhaotuathai.com/content/5346?qu=>

¹⁰⁶ *Ibid.*

¹⁰⁷ *Labour Exploitation Accountability Hub*. (2019). *Thailand*. Retrieved from <https://accountabilityhub.org/country/thailand/>

¹⁰⁸ Department of Special Investigation of Thailand. (2016). *DSI's Administration of TOC in 2014 - present*. Official data provided in response to TIJ request, Bangkok.

¹⁰⁹ IOM. *Human Trafficking for Forced Begging*. Retrieved from https://www.iom.int/sites/default/files/our_work/DMM/MAD/07312017/ForcedBegging.pdf

¹¹⁰ Ministry of Social Development and Human Security of Thailand. (2018). *Thailand's Progress Report on Anti-Human Trafficking Efforts*. Bangkok, 17. Retrieved from <https://www.e-aht.com/startup/gotoInformationActivityDetail?informationID=249..>

¹¹¹ *Ibid.*, 20.

Focus on Child Trafficking

Children account for the highest proportion of victims of trafficking in persons (TIP) detected in Thailand. According to the official records of the Ministry of Social Development and Human Security, 46% of TIP victims in 2018,¹¹² 55% of TIP victims in 2017,¹¹³ and 53% of TIP victims in 2016¹¹⁴ were under 18 years old. These figures were lower if compared to the high in 2013, when children accounted for 74% of the total number of TIP victims detected.¹¹⁵ Most children are trafficked for the purpose of sexual exploitation. According to ECPAT's Global Monitoring, 40% of those involved in prostitution in Thailand are under the age of 18.¹¹⁶ Trafficked children are also subject to forced begging, with boys under the age of 15 years being the most affected by this kind of exploitation.¹¹⁷

Thailand is both a source and destination country for child trafficking for sexual exploitation. Thai victims mostly originate from northern Thailand and are subject to domestic trafficking. However, a Concluding Observation of the UN Committee on the Rights of the Child collected data indicating that Thai children are also trafficked to foreign countries.¹¹⁸

As a destination country, Thailand receives young victims from Cambodia, Laos and Myanmar, and to a smaller extent also from Vietnam. Girls aged between 14 and 17 years old are the most exploited, but also boys are victims.

According to a study recently conducted by ECPAT and UNICEF in Thailand, the children who are most vulnerable to sexual exploitation are those who are on the move, such as migrants, refugees, stateless children, young members of ethnic minorities such as the highlander communities in Northern Thailand, and children living/working in the streets. These children are more vulnerable because of their uncertain legal status, discriminatory cultural attitudes, exploitative working conditions and lack of community support.¹¹⁹

According to several interviewees, Pattaya, Chiang Mai and Phuket are key hubs for child sexual exploitation that ranges from forced prostitution to the production of child sexual abuse materials. There are some indicators that child sexual exploitation is moving away from major population centres such as Bangkok and towards more remote areas. For example, it has been observed that some Cambodian children are brought to the border with Thailand, where they are exploited for one night and then taken back home. This pattern makes it difficult for child protection agencies to provide adequate assistance.

Anecdotal information also indicates that Thailand may be a transit country for child victims from the Mekong region trafficked to Malaysia, and that some Thai girls are trafficked to China for forced child marriage.

Child trafficking does not always meet the technical definition of TOC, since one of the elements is often lacking. However, child trafficking for sex is still a crime under Thai law. Child traffickers in Thailand tend to be individuals, family-friends' networks, or small local trafficking networks comprised of a local broker, a second person conducting the trafficking and a receiving person at the destination. For instance, a typical

¹¹³ Retrieved from https://www.jica.go.jp/project/thailand/016/materials/ku57pq00001yw2db-att/thailands_country_report_2017.pdf

¹¹⁴ UNHCR. (2016). *Trafficking in Persons Report-Thailand*. Retrieved from <https://www.refworld.org/docid/577f959b23.html>

¹¹⁵ Ministry of Social Development and Human Security of Thailand. (2015). *Thailand's Progress Report on Anti-Human Trafficking Efforts*. Bangkok, 21. Retrieved from <http://www.nocht.m-society.go.th/album/download/d429f3da903eb0231e0c968ba7d7015e.pdf>

¹¹⁶ CPAT. (2011). *Global Monitoring: Status of Action Against Commercial Sexual Exploitation of Children in Thailand (2nd. ed.)*, 12. Bangkok, Thailand. Retrieved from http://resources.ecpat.net/EI/Pdf/A4A_II/A4A_V2_EAP_THAILAND.pdf

¹¹⁷ INTERPOL. (2015). *Thailand Country Report 2015*. Bangkok, 19. Retrieved from http://www.INTERPOLbangkok.go.th/site/documents/events/Thailand_Country_Report%20_15th_SOMTC.pdf

¹¹⁸ United Nations Committee on the Right of the Child. (2012). *Consideration of reports submitted by States parties under article 44 of the Convention. Concluding Observations: Thailand*, 16-17.

¹¹⁹ ECPAT and UNICEF. (2015). *Situational Analysis of the Commercial Sexual Exploitation of Children: Thailand*. Bangkok, 8.

operation of these 'individual, local-level networks' may consist of a man or woman from a town in Myanmar recruiting girls locally and sending them to the receiving exploiter based in Bangkok.

Child sex trafficking into Thailand is mainly driven by the local demand, but child sex tourism fostered by foreigners is still a very serious issue of concern.

2.1.2 The Smuggling of Migrants

International definition of smuggling of migrants:

"The procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident" (Protocol against the Smuggling of Migrants by Land, Sea and Air of 2000, supplementing the United Nations Convention against Transnational Organized Crime, Article 3(A))

Applicable domestic laws in Thailand:

Immigration Act of 1979; Royal Decree on management of Alien working of 2017; Penal Code; Criminal Procedure Code.

Although there are legal avenues for regular migration for workers, many still rely on illegal means, which has resulted in cases of undocumented migration. Undocumented migration usually results from economic factors such as poverty, a lack of jobs,¹²⁰ limited awareness of regular migration channels and difficulties in obtaining a legitimate passport when living in remote areas. Although it is estimated that there are approximately 3.8 million foreign workers from neighbouring countries in Thailand, the registered number of foreign workers is just above 1.8 million.¹²¹ The approximately three million foreign workers who are not registered account for a huge amount of money circulating in the migrant smuggling industry.

These foreign workers work primarily in fisheries, manufacturing factories, or as sex workers. The UNODC estimated that 80% of undocumented migrants from Cambodia, Myanmar and Lao PDR resort to smugglers when moving into Thailand.¹²² According to some respondents, the smuggling fee from a neighbouring country into Thailand is usually around 10,000 baht per person. Some respondents have reported much lower fees, such as 1,500 to 2,500 baht per person.

¹²⁰ United Nations Office on Drugs and Crime. (2015). *Migrant Smuggling in Asia. Current Trends and Related Challenges*. UNODC Regional Office for East Asia and the Pacific, Bangkok, 60.

¹²¹ *The Nation Thailand*. Thailand's refusal to recognise Rohingya as refugees leaves them in illegal limbo. Retrieved from <https://www.nationthailand.com/asean-plus/30340157>

¹²² (n 122), p. 58.

Smugglers adapt their strategies to the origin of the labourers. Fraudulent documents are more common if the immigrants are migrating through a major airport. The fraudulent passports commonly detected by law enforcement are either genuine passports with fraudulent biodata pages, or fake passports. In this regard, the Department of Security Investigation is aware that criminal groups will buy fraudulent documents to use for various types of TOC, including the smuggling of migrants.¹²³

Labourers who do not have fraudulent documents are more likely to move across land borders. Labourers from Cambodia tend to seek employment in Thailand's central regions, which is where organized criminal groups are involved in smuggling operations. Such labourers may pay the smugglers about 1,500 baht per person in order to get them to Bangkok, and about 2,500 baht to get them to Pattaya, Sri Racha and Samut Prakarn. Generally, since Thailand's system of border passes allows foreigners to be in the Kingdom for 90 days, migrants frequently make use of the border pass to cross into Thailand. However, the border pass rules are violated once the labourers move inland to find work and stay over 90 days.

Prosecuting the organized criminal groups for migrant smuggling has proven to be difficult since many labourers enter Thailand legally on their own free will without the services of the organized criminal groups involved in smuggling. Even when the labourers are caught moving inland with the aid of the organized criminal groups involved in smuggling, in practice the police often cannot find enough evidence to charge the smugglers with bringing in undocumented migrants.

¹²³ Department of Special Investigation of Thailand. (2016). *DSI's Administration of TOC in 2014 - present*. Official data provided in response to TIJ request, Bangkok.

As for Myanmar workers who are looking to migrate to Thailand, they usually form a group, which will then seek the support of the head of the village in order to persuade even more villagers to join them. Occasionally the village head will even become the migration group leader, since persons in the group trust him. He will then cooperate with the smugglers in arranging the trip. The leader of the group is not necessarily the perpetrator, but merely the liaison between the prospective labourers and the organized criminal groups involved in the smuggling. For example, in a province along the Thai-Myanmar border visited in the course of this field research, the smuggling of migrants is an apparent problem because migrants from Myanmar do not know how to migrate legally, and therefore turn to Thai agents. The agents will take the victims to the Thai side of the border without using the legitimate border crossing, and instead cross unpatrolled natural borders. Irregular border crossing is coupled with the use of fraudulent passports produced locally. The passports usually indicate an age older than 18, since anyone younger than 18 cannot legally work in Thailand. The cost of the fraudulent passport ranges from 8,000 to 15,000 Baht. (ca. USD 250 – 500).

Meanwhile, migrants from other places, for example from Eastern Europe, use different methods, in which they cross the border legally with a visa, but then stay past their visa period.

As for the migrant smuggling operated by organized criminal groups, each group uses different approaches in committing crimes. For example, some groups appear to be quite large, comprising of a chain of agents hired by the organization from among the local coordinators in the victims' recruiting area, to the smugglers who merely accompany the victims to the border. A smuggler usually accompanies the victims because they cannot speak English and the smuggler will accompany them until they reach the border, where the smuggler receives the fee and ends his job. Afterward, the migrants will proceed to cross the border on their own.

In 80% of the cases of migrant smuggling occurring through one of Thailand's main airports, authorities found one victim accompanied by one smuggler. The largest victim to smuggler ratio differential was five victims to one smuggler; this particular case involved a Russian smuggling five Syrians. In most cases the victims are not of the same nationality as the smuggler, and if they are being smuggled in a group, the victims tend not to know each other.

Smuggling Routes

Thailand is primarily a transit and destination country, although interviewees have occasionally reported incidents in which Thailand is an origin country. The routes and methods involved in the smuggling of migrants vary, since smugglers use a combination of local networks, organized criminal groups and individual brokers that the UNODC qualifies as 'high flexible meta-networks'.¹²⁴ The UNODC has also noted that migrant smuggling in Southeast Asia primarily involves young men, although a growing number of women are also seeking to migrate to Thailand in order to obtain work in the domestic service, entertainment and hospitality industries.¹²⁵

Thailand as a country of origin, transit and destination for smugglers

Thailand is not typically a **source country** for the smuggling of migrants, but in some instances Thai women have been smuggled to Korea, and Thai nationals have been smuggled to Japan, South Korea, Taiwan and Brunei. Undocumented migrants from Thailand tend to stay within the Asian labour markets as these countries are similar to their homes in terms of environment, society and culture.¹²⁶

Thailand usually acts as a **transit country** in the smuggling of migrants. People travelling to Australia or New Zealand from South Asia may go through Thailand as part of the route. A companion usually holds dual passports to make the transition smoother and less suspect. Migrants coming from Africa may go through Thailand en route to the United States and Europe. Rohingya migrants from Myanmar, as well as migrants from Bangladesh and Uyghur from China, may go through Thailand to other Muslim countries. A number of sources estimate that since 2012, roughly 100,000 Rohingya migrants have passed through Thailand.¹²⁷ In many cases, Cambodian Muslims are also trying to reach Malaysia, a majority Muslim country, in order to find work.

Thailand's economy has encouraged many migrants to see Thailand as a **destination country**. Specific groups migrating illegally to Thailand include Myanmar, Cambodians, Eastern Europeans, Laotians, and Indians. This is because economic development in Thailand is significantly more advanced than in most other ASEAN member states, and therefore many migrants from Laos, Cambodia and Myanmar come to find work in Thailand in order to live in a place with a higher quality of life than in their home country.¹²⁸ Migrants from Myanmar tend to enter through the border provinces of Tak and Mae Hong Son. Cambodian migrants, in turn, tend to enter through the border passes of Aranyaprathet. In both cases, these migrants usually enter Thailand across unpatrolled natural borders. Many migrants from Laos are ultimately trying to reach Bangkok, often using the northern province of Chiang Khong as the key entry point into Thailand. Those coming from South Asia will usually enter at an airport. For some migrants, Thailand becomes the destination country when they are not successful in their transfer to another intended destination.

¹²⁴ United Nations Office on Drugs and Crime. (2015). *Migrant Smuggling in Asia. Current Trends and Related Challenges*. UNODC Regional Office for East Asia and the Pacific, Bangkok, 85.

¹²⁵ *Ibid.*, 61, 87.

¹²⁶ Chantavanich, S., Middleton, C., & Ito, M. (Eds.). (2013). *On the Move: Critical Migration Themes in ASEAN*. International Organization for Migration and Asian Research Centre for Migration. Chulalongkorn University, Bangkok, 156. Retrieved from file:///C:/Users/TIJ008/Downloads/OntheMove%20(1).pdf

¹²⁷ Nation Thailand. *Thailand's refusal to recognise Rohingya as refugees leaves them in illegal limbo*. Retrieved from <https://www.nationthailand.com/asean-plus/30340157>

¹²⁸ *Ibid.*, 175..

2.1.3 Emerging Trends: Trafficking in Persons and Smuggling of Migrants

In order to effectively stop trafficking in persons and smugglers, there is a need to be aware of the ways criminal networks have evolved. There are six key trends that are changing the face of trafficking and smuggling in Thailand:

Visa exception structures for ASEAN nationals have made it easier for people to travel between ASEAN member states, but have at the same time expanded opportunities for traffickers and smugglers. Fewer restrictions at the borders means new opportunities for traffickers and smugglers to use legitimate documents in order to transport people for illegal purposes.

Fake passports, fraudulent biodata pages and counterfeited visas are common and very advanced. For people living in more remote areas, it is easier and often cheaper to turn to a local counterfeiter, who claims to be able to provide real identity documents, than it is to report to an administrative centre for the appropriate paperwork in order to legally migrate to Thailand. Traffickers also falsify biodata pages in order to conceal the real age of trafficked victims when they are younger than eighteen years of age, which allows them to cross the border without parental consent.

The means of **transportation** used during the trafficked process now includes **airplanes, vans** and **trains**. In the past, victims were trafficked mainly by land or sea across natural borders. Now, traffickers have added airplanes, trains and minivans to their modes of transport. Interviewees reported that victims are often trafficked in groups of 10 to 20 people in one van. Traffickers have continued to demonstrate great creativity in finding new ways to avoid detection. Interviewees spoke of an instance in which an airline officer transported victims from the international terminal to the domestic terminal in order to avoid passport and visa inspections.

Some interviewees observed an increase in violent crime associated with human traffickers. In some instances, the efforts of smugglers who tried to traffic victims across the Thai-Malaysian border were thwarted through the use of new law enforcement processes. When smugglers were faced with the prospect of losing the payment they expected from Malaysian recruiters upon delivery of the migrant workers, they rapidly turned the smuggling process into a trafficking situation by coercing victims to work until a request for ransom sent to the relatives of the migrants had been met. Some rescued victims reported that traffickers repeatedly used physical violence amounting to torture on their victims in order to threaten families to pay. In addition, forced surrogacy, which first surfaced in Viet Nam around 2010, has now expanded into Thailand. DSI investigation no. 54 in 2011 found that in Bangkok, 15 Vietnamese women were forced into surrogacy by Taiwanese agents who had previously lured these victims to work in Thailand.¹²⁹

Entering Thailand has been simplified, leading to more legal and irregular migration. Thailand offers visa exemptions to nationals of 57 countries and territories and gives a visa on arrival to nationals of a further 19 countries.

¹²⁹ Department of Special Investigation of Thailand. (2011). *DSI Annual Report 2011*. Bangkok, 130.

Prosecution of cases of trafficking in persons has increased as Thai efforts to combat trafficking have intensified. There has been an increase in the number of investigations, prosecutions, and convictions. The total budget allocated by the Thai government to combating trafficking in persons and protecting victims has increased since 2015. Although the data indicates a greater number of prosecutions, that data point alone does not confirm an actual worsening of trafficking in persons trends in Thailand.

Several interviewees stressed the importance of targeting small communities, because most victims of trafficking in persons come from rural areas and remote towns. This recommendation is supported by several studies on victim profiling in trafficking in persons. For example, UNICEF recommended prioritizing persons who are often overlooked, such as refugees, and displaced and stateless children, as they are especially vulnerable to exploitation and trafficking.¹³⁰

Public awareness campaigns are also crucial in the movement to stop trafficking in persons. Within the framework of the '5 Ps' (policy, prosecution, protection, prevention and partnership) antitrafficking in persons strategy, the Thai government has been promoting public awareness campaigns through radio, social media, television, billboards and various leaflets.¹³¹ In several border areas, the local police and immigration authorities have started their own awareness-raising initiatives, including distributing brochures, displaying information posters in police stations and engaging in a dialogue with members of the communities. These campaigns warn people about the risk of becoming a victim of trafficking in persons, highlight legal migration channels and procedures, and inform tourists of the severe criminal punishment for child sexual exploitation.

In general, additional resources according to need should be made available to policymakers and practitioners who are confronted with an increase in TOC. The Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime is currently working on a handbook series which will provide guidelines on how to organize public awareness campaigns and identify the right targets. The development of this tool involves countries' communication authorities and civil society organizations with expertise in communication campaigns. With respect to undocumented migration into Thailand, land borders are the biggest challenge for immigration authorities, since in some areas one can simply walk across the porous borders. Thus, border officers need to work together more closely to effectively enforce laws and regulations across the borders. To solve this problem, the Immigration Department, NGOs and the private sector have increased their efforts to promote regular migration. For instance, groups now travel to Myanmar villages to inform people about how they can migrate to Thailand legally. The literature also recommended that the Thai government make migrants aware of appropriate migration practices;¹³² however, others have argued that pre-departure orientation seminars may not give enough information, leaving migrants vulnerable.¹³³

¹³⁰ *International efforts to curb money-laundering and the financing of terrorism have been made since the 1980s. The 1988 United Nations Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances is the first international legal instrument which criminalises money-laundering. The UN Convention against Transnational Organized Crime of 2000 and the UN Convention against Corruption of 2003 widen the scope of the money-laundering offence by stating that it should apply not only to the proceeds of illicit drug trafficking but should also to the proceeds of all serious crimes. The International Convention for the Suppression of the Financing of Terrorism of 2002 also requires Member States to take measures to protect their financial systems from being misused by persons planning or engaged in terrorist activities.*

¹³¹ AMLO Thailand. (2018). Annual Report. Retrieved from <http://www.amlo.go.th/index.php/th/strategy/annual-report/detail/9763>

¹³² DSI. (2018). 2018 Annual Report. Retrieved from <https://www.dsi.go.th/Upload/d4c2505041f7bd19f3e29c67ec49c4ed.pdf>

¹³³ Phongpaichit, P. (1999). *Thailand's Illegal Economy and Public Policy*. Seminar paper presented at the Centre of Southeast Asian Studies, Kyoto, Japan, 5.

2.2

Money Laundering

International definition of money laundering:

(i) *The conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of his or her action;*

(ii) *The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime” (United Nations Convention against Corruption of 2003, Article 23, Paragraph 1.A)¹³⁴*

Applicable domestic laws in Thailand:

Anti-Money Laundering Act of 1999; Anti-Terrorist Financing Act of 2013.

There was no significant disagreement among interviewees concerning the criminal activity of money laundering. Money laundering in Thailand primarily involves the proceeds of drug trafficking and trafficking in persons. A few emerging trends were noted, along with unanimous agreement that Thailand is primarily a destination country for money laundering rather than a source or transit country. However, there was ambiguity about whether the amount of money laundering has increased over the last two years, or more cases have been reported due to increasingly advanced detection capacity. Finally, interviewees agreed that both Thai and foreign nationals are involved in this criminal activity.

According to the Anti-Money Laundering Office of Thailand, in 2018, the Office has investigated 644 cases of possible money laundering.¹³⁵ The DSI, in turn, had reported that they had received 42 cases of economic crime, which includes money laundering.¹³⁶

¹³⁴ Schmid, T. (2010). *The Darker Side of Tropical Bliss: Foreign Mafia in Thailand*. Thailand Law Forum, 1. Retrieved from <http://www.thailawforum.com/foreign-mafia-thailand.html>

¹³⁵ Anti-Money Laundering Office of Thailand. (2015). *Official data provided in response to TIJ request*, Bangkok.

¹³⁶ *Ibid.*

Methods of Money Laundering

Illicit assets are often laundered in Thailand through legitimate channels such as real estate and stocks,¹³⁷ due to the loose oversight of foreign funds being transferred into Thailand in order to attract foreign investment.¹³⁸ Noted trends identified by the Thai Anti-Money Laundering Office consist of ten different forms of money laundering taking place in Thailand:¹³⁹

1. Having a bank account in Thailand in which money is transferred from abroad, and occasionally into accounts of Thai nationals.
2. Using a bank account of a person who is the victim of fraud and has no connection with the offender.
3. Transferring money into an account in a neighbouring country and using that neighbouring country account as a transit point.
4. Utilizing an illegal banking system in which money is transferred from abroad into Thailand without the appropriate approval.
5. Having victims deposit small amounts of money into one account; an example of this would be the result of an illegal call centre operation.
6. Allowing transactions in order to avoid fraud inspection by transferring amounts lower than the designated inspection rate.
7. Investing in either real estate or a car and register it under the name of a Thai national; a common practice in this respect is to register the asset in the name of a Thai wife.
8. Creating a front organization, for example, a shop or restaurant, in order to hide any illegal activity; common locations for this are Pattaya, Phuket, Chiang Mai, and Samui Island.
9. Transferring money through Western Union.
10. Fraudulently creating and transferring money through casino accounts; this is done by influential figures such as politicians, as well as people that do not hold such a status in society.¹⁴⁰

¹³⁷ DSI. DSI and MJIB dismantled transnational criminal organization Call Center Gang. Retrieved from <https://dsi.go.th/en/Detail/DSI-and-MJIB-dismantled-transnational-criminal-organization-Call-Center-Gang>

¹³⁸ 'Narcotic drug' means any of the substances, natural or synthetic, in Schedules I and II of the Single Convention on Narcotic Drugs, 1961, and that Convention as amended by the 1972 Protocol Amending the Single Convention on Narcotic Drugs, 1961. Source: United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988, Article 1, Paragraph N.

¹³⁹ 'Psychotropic substance' means any substance, natural or synthetic, or any natural material in Schedules I, II, III and IV of the Convention on Psychotropic Substances, 1971. Source: United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988, Article 1, Paragraph R.

¹⁴⁰ '1961 Convention' means the Single Convention on Narcotic Drugs of 1961.

Offenders

Most interviewees agreed that money laundering in Thailand is linked to TOC and it is conducted by both Thai and foreign offenders, stating that many foreign criminal groups need the support of local Thai people to conduct their illicit operations in Thailand. For example, in 2017, DSI had dismantled the 'Call Centre Gang', which is a transnational criminal organization that has its base outside Thailand but was targeting Thai people with the help of their Thai accomplice.¹⁴¹ Moreover, in practice, when offenders are married to a Thai national, they tend to use their partner and a lawyer as local facilitators. Nevertheless, a handful of interviewed stakeholders said that money laundering in Thailand primarily involves foreign groups operating alone. None of the interviewees said that purely Thai criminal groups were involved in money laundering: there was apparently always a foreign affiliation.

A few groups could be identified as conducting money laundering in Thailand, including Thai, Chinese, Myanmar, Nigerian, Russian, Macanese, Korean and European criminal groups, specifically Dutch groups and the Italian Mafia. It was noted that criminal groups engaging in money laundering are usually also involved in other types of crime, in particular drug trafficking and trafficking in persons.

Money Laundering Routes

All of the interviewees agreed that Thailand is a **destination** country for money laundering. The proceeds of crime to be laundered come from both domestic and foreign sources. The proceeds of TOC are usually laundered by investing these assets in real estate, gold, and securities; buying cars and lands; setting up legitimate and non-legitimate businesses, such as companies operating in various fields, bars, night clubs and massage parlours; or depositing the money in the bank accounts of third parties. Proceeds of crime coming from abroad are laundered primarily through investments in real estate and licit companies. Common laundering locations include Phuket, Pattaya, Chonburi and Chiang Mai. Casinos along the Thai-Cambodian border are also well-known locations for money laundering. Thailand is seen as a desirable location to launder money, since the monitoring of financial flows is not seen to be too stringent due to the Kingdom's policy of seeking to attract foreign investment.

Emerging Trends: Money Laundering

Interviewees indicated that the perpetrators tend to invest in legal businesses as their front operations, which makes it difficult to separate laundered money from legal money.

Stakeholders also said that there has been an increase in Thailand in the laundering of money through gold and foreign currencies, such as bank notes from Japan and the United States.

¹⁴¹ '1961 Convention as amended' means the Single Convention on Narcotic Drugs of 1961, as amended by the 1972 Protocol Amending the Single Convention on Narcotic Drugs, 1961.

2.3

Drug Trafficking

International definition of illicit traffic in narcotic drugs and psychotropic substances:

“The production, manufacture, extraction; preparation, offering, offering for sale, distribution, sale, delivery on any terms whatsoever, brokerage, dispatch, dispatch in transit, transport, importation or exportation of any narcotic drug¹⁴² or any psychotropic substance¹⁴³ contrary to the provisions of the 1961 Convention,¹⁴⁴ the 1961 Convention as amended¹⁴⁵ or the 1971 Convention¹⁴⁶ (United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, Article 3, Paragraph 1.a.i)

Applicable domestic laws in Thailand:

Narcotics Act of 1976; Narcotics Control Act of 2017; Narcotics Addict Rehabilitation Act of 2002; Measures for the Suppression of Offenders in an Offence Relating to Narcotics Act of 1991; Psychotropic Substances Act of 1975; Emergency Decree on Controlling the Use of Volatile Substances of 1990; Procedure of Narcotic Case Act of 2007; Commodities Control Act 1952.

The Golden Triangle, where the borders of northern Thailand, Lao PDR and Myanmar meet, has long been a key illicit drug cultivation and production site. Although opium poppy cultivation has been eradicated in Thailand, the production of heroin and several synthetic drugs remain prevalent in Myanmar's Shan State and in Myanmar's northern regions, where, as noted by the interviewees, it was often used to fund local violence.

Drug trafficking is sometimes still a family business in Thailand. However, there was consensus among practitioners that drug trafficking occurring in Thailand is largely a transnational process, since a large and well-organized network is needed in order for smuggling operations to be successful. Both foreign and Thai groups are active in drug trafficking and they often collaborate with one another. For instance, Myanmar drug producers and Thai smugglers jointly manage trafficking operations along the Thai-Myanmar border, with each group handling illicit operations on its own side of the border. Influential foreign criminal networks also subcontract their smuggling operations to smaller Thai criminal groups or use Thai nationals, especially women, as 'drug mules'. Many prominent Thai individuals have been exposed as drug traffickers, including some government officials and other influential persons.¹⁴⁷

The most abused drug in Thailand is methamphetamine in tablet form (Yaba). In 2018, it was reported that the seizures of illicit drugs involved the following; 302 million methamphetamine tablets (Yaba), crystalline methamphetamine ('ICE') 18,526 kilograms, heroin 903 kilograms and ketamine 320 kilograms.¹⁴⁸

¹⁴² '1971 Convention' means the Convention on Psychotropic Substances of 1971.

¹⁴³ Phongpaichit, P. (1999). *Thailand's Illegal Economy and Public Policy*. Seminar paper presented at the Centre of Southeast Asian Studies. Kyoto, Japan. Retrieved from <https://www.parliament.go.th/ewtadmin/ewt/aipa2019/download/article/AIPACODD/Annex%20Q%20-%20Country%20Report%20of%20Thailand.pdf>

¹⁴⁴ AIPA. *Thailand Country Report*. Accessed at: <https://www.parliament.go.th/ewtadmin/ewt/aipa2019/download/article/AIPACODD/Annex%20Q%20-%20Country%20Report%20of%20Thailand.pdf>

¹⁴⁵ UNODC. *Transnational Organized Crime in East Asia and the Pacific*.

¹⁴⁶ UNODC. *Transnational Organized Crime in East Asia and the Pacific*.

¹⁴⁷ UNODC. *Transnational Organized Crime in East Asia and the Pacific; and UNODC, Patterns and Trends of Amphetamine-Type Stimulants*.

¹⁴⁸ INTERPOL. (2015). *Thailand Country Report 2015*. Bangkok, 7. Retrieved from http://www.INTERPOLbangkok.go.th/site/documents/events/Thailand_Country_Report%20_15th_SOMTC.pdf

Foreign Groups Active in the Thai Drug Trade

Many foreigner smugglers are from ethnic groups that populate the highlands of Southeast Asia. Some ethnic groups have been known to have been involved in smuggling for generations and are often organized by traffickers. Recently, ethnic Chinese tends to be the most prominent traffickers, and they have been joined by an increasing number of West Africans.¹⁴⁹

Russian organized criminal groups and the Hells Angels motorcycle gang (the Thai chapter of which has Australian members, as reported by the interviewees) have significant influence as drug traffickers in Pattaya, Pa Ngan Island and Samui Island, which are popular tourist destinations. While, the Japanese Boryokudan smuggle mainly methamphetamines and ecstasy from Thailand into Japan, and the Kings Roman group traffics drugs from Boa Kaew (Laos) to Chiang Sean (Thailand), and thereafter onwards to the central regions of Thailand.

Thailand as an Origin, Destination and Transit Country

Thailand is most often a transit or destination country for drug traffickers rather than a country of origin. In the past, Thailand served as a **transit** area for methamphetamines produced in Myanmar en route to the United States. Recently, Thailand has become an important transit point for drugs destined for countries in Southeast Asia, East Asia, and Oceania, while a small amount of the heroin that passes through is exported to North America.¹⁵⁰ From 2008, Thailand's role as a transit point for precursor chemicals has also increased, and it is now a major source of amphetamine-type stimulants (ATS) and heroin precursor chemicals used in Myanmar, although Thailand does not self-produce it.¹⁵¹ Additionally, drugs are often transported from the Golden Crescent (Iran, Pakistan and Afghanistan) through Thailand via air transport, using Thai nationals, often women, as 'drug mules'.¹⁵²

Many interviewees classified Thailand as a **destination country**, along with other countries in the region, including the Philippines, Indonesia, and Malaysia.¹⁵³ Most of the drugs smuggled into Thailand arrive via the northern border, especially through Chiang Rai and Chiang Mai.¹⁵⁴ Another major drug smuggling area is north-eastern Thailand, especially in Loei, Nong Khai, Bueng Kan, and Nakhon Phanom provinces.¹⁵⁵ Many of the drugs entering Thailand from Myanmar enter through Mae Sot, Tak province. Some highlanders from Myanmar¹⁵⁶ were at times mentioned in the interviews as having been key players in this trafficking route; individuals from the Wa, Karen and Hmong ethnic groups were cited. Known drugs coming from Myanmar include methamphetamine tablets (Yaba), methamphetamine hydrochloride ('ICE'), heroin and kratom. The majority of ecstasy that is smuggled into the country is from Malaysia.¹⁵⁷

¹⁴⁹ Office of the Narcotics Control Board of Thailand. (2016). *TOC and narcotics problem in Thailand*. Official data provided in response to TIJ request, Bangkok.

¹⁵⁰ AIPA, (n 145)

¹⁵¹ Ibid.

¹⁵² Sometimes referred to as 'hill tribes' by interviewees (translated from Thai).

¹⁵³ INTERPOL. (2015). *Thailand Country Report 2015*. Bangkok, 7. Retrieved from http://www.INTERPOLbangkok.go.th/site/documents/events/Thailand_Country_Report%20_15th_SOMTC.pdf

¹⁵⁴ Office of the Narcotics Control Board of Thailand. (2016). *TOC and narcotics problem in Thailand*. Official data provided in response to TIJ request, Bangkok.

¹⁵⁵ INTERPOL. *Thailand Country Report 2015*. INTERPOL Thailand, Bangkok, May 2015, p. 8. Accessed at: http://www.INTERPOLbangkok.go.th/site/documents/events/Thailand_Country_Report%20_15th_SOMTC.pdf

¹⁵⁶ INTERPOL. (2015). *Thailand Country Report 2015*. Bangkok, 8. Retrieved from http://www.INTERPOLbangkok.go.th/site/documents/events/Thailand_Country_Report%20_15th_SOMTC.pdf

¹⁵⁷ Appendix II shall include: (a) all species which although not necessarily now threatened with extinction may become so unless trade in specimens of such species is subject to strict regulation in order to avoid utilization incompatible with their survival; and (b) other species which must be subject to regulation in order that trade in specimens of certain species referred to in subparagraph (a) of this paragraph may be brought under effective control (CITES, Article 2, Paragraph 2).

Emerging Trends: Drug Trafficking

The trafficking of **methamphetamine** in tablet form (**Yaba**), **marijuana**, and **ecstasy** into Thailand as a destination is on the rise.

More drugs are now moving through transit points in **Laos, China** and the **Andaman Sea**.¹⁵⁸ The Office of the Narcotics Control Board reported that the number of drugs trafficked through Thailand is stable, with decreases along the Myanmar border offset by increases across the Thai border with Laos.

There is still a high demand for **methamphetamine hydrochloride ('ICE')** and **ecstasy** in Thailand, particularly in Bangkok and tourist areas.¹⁵⁹

Some criminal networks are interacting more cooperatively. For example, South African groups involved in the illicit ivory trade (passing through the Kingdom) have added drug trafficking to their portfolio.

There have been activities involving the exchange of drugs for firearms along the Thai-Myanmar border; and drug trafficking and trafficking in persons groups are either working together or engaging simultaneously in both criminal activities.

¹⁵⁸ Appendix III shall include all species which any Party identifies as being subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation, and as needing the cooperation of other parties in the control of trade (CITES, Article 2, Paragraph 3).

¹⁵⁹ UNODC. (2017). *Criminal Justice Response to Wildlife Crime in Thailand*, 11.

2.4

Wildlife and Timber Trafficking

International definition of trade in endangered species of wild flora and fauna:

“Trade” means export, re-export, import and introduction from the sea (Article 1, Paragraph C). The export and import of any specimen of a species included in Appendix I160 and Appendix II161 shall require the prior grant and presentation of an export permit (Article 3 and 4). The export of any specimen of a species included in Appendix III162 shall require the prior grant and presentation of an export permit. The import of any specimen of a species included in Appendix III shall require, the prior presentation of a certificate of origin (Article 5, Convention on International Trade in Endangered Species of Wild Fauna and Flora of 1973)

Applicable domestic laws in Thailand:

Forest Act of 1941; National Reserved Forest Act of 1964; Wild Animal Preservation and Protection Act of 1992 (As amended in 2014); National Park Act of 1961; Enhancement and Conservation of the National Environmental Quality Act of 1992; Forest Plantation Act of 1992; Ivory Act of 2015.

Wildlife and timber trafficking appear to be the two most common environmental crimes committed in Thailand. Environmental crimes also include pollution crimes, natural resources depletion and illegal mining.

Thailand has an abundance of wildlife and its central ASEAN location makes it an ideal place for major wildlife and timber trafficking routes. Thailand is usually a transit point along wildlife trafficking routes. However, it can also be a country of origin or final destination.

Several agencies are dedicated to combating wildlife and timber trafficking; the Forestry Department, the Department of National Parks, the Wildlife and Plant Conservation, the Natural Resources and Environmental Crime Suppression Division, the Royal Thai Police and the Department of Special Investigations.

The department of National Parks, Wildlife and Plant Conservation (DNP), under the Ministry of Natural Resources and Environment, is responsible for managing Thailand's protected areas and its native wildlife as well as combating wildlife trafficking.¹⁶³ The DNP also has its own wildlife inspectors, who can undertake investigations regarding wildlife crime and have a power of arrest that corresponds to that of the police. It is reported that between 2013 and 2016 the DNP undertook 2,331 wildlife crime cases involving 2,724 suspects,

¹⁶⁰ *Ibid.*, 12..

¹⁶¹ *Ibid.*

¹⁶² Freeland Foundation. (2013). *Thailand launches elite wildlife ranger team*. Freeland Press Release. Retrieved from <http://www.freeland.org/press-releases/elite-wildlife-ranger-team/>

¹⁶³ Freeland Foundation. (2015). *New anti-poaching rapid response unit leads the fight against Siamese rosewood trafficking*. Freeland Press Release. Retrieved from <http://www.freeland.org/press-releases/anti-poaching-rapid-response-unit/>

in which a total of 9,350 carcasses weighing 19,635 kilograms and 43,632 live animals were recovered.¹⁶⁴ The forestry department has its own rangers, who have powers of arrest and confiscation. They can prepare and investigate the case before transferring the case to the police, the Natural Resources and Environmental Crime Suppression Division.¹⁶⁵

In 2013, the DNP launched an elite environmental enforcement unit called the 'King Tigers', which undertook intensive specialized training in cooperation with the Freeland Foundation and the United States-sponsored ARREST Programme.¹⁶⁶ The same Department established a specialized anti-poaching rapid response unit called 'Hasadin' in June 2015, with support for advanced counter-poaching training provided by the Freeland Foundation.¹⁶⁷

With these initiatives, the Thai government demonstrated its commitment to resolving the challenges posed by wildlife and timber trafficking, including dealing with outbreaks of violence. The UNDOC report estimates that in Thailand from 2009 to 2016, around 50 park rangers were murdered, with roughly the same number being seriously injured as a result of confrontations with illegal loggers.¹⁶⁸

Investigations conducted in 2015 resulted in the seizure of 39.4 million USD in assets that were connected to wildlife and timber trafficking, in connection with an anti-money laundering operation, marking the first-ever multi-million-dollar seizure from wildlife and forest offenders in Asia. The international community gave the Asia Environmental Enforcement Award to the Thai Anti-Money Laundering authority in 2015 in recognition of the significant role it played in targeting organized criminal groups trading in protected wildlife and timber.¹⁶⁹

However, like their drug trafficking and trafficking in persons counterparts, wildlife and timber traffickers constantly evolve their operations, changing their routes and means of transport in response to law enforcement. One interviewee remarked that the frequency of searches and inspections varies depending on the level of government and public scrutiny. When the public and government are not engaged with the issue, it is easier for traffickers to move large containers through ports and airports without scrutiny. When there is public and government pressure on environmental crimes, smugglers are forced to shift their methods to smaller containers and less detectable routes.

Stakeholders agreed that the current Thai government has given sustained attention to combating environmental crimes and has demonstrated leadership within ASEAN. In 2015, the Royal Thai Police played a pivotal role in promoting the inclusion of wildlife and timber trafficking into the agenda of the ASEAN Ministerial Meeting on Transnational Crime (AMMTC) and the Senior Officials Meeting on Transnational Crime (SOMTC). This decision was endorsed by the 27th ASEAN Summit and reflected in the Kuala Lumpur Declaration on Combating Transnational Crime. In 2018, the Royal Thai Police and UNODC convened the first meeting of the Working Group on Illicit Trafficking in Wildlife and Timber.¹⁷⁰

¹⁶⁴ UNDOC. (2019). *Transnational Organized Crime in Southeast Asia: Evolution, Growth and Impact*.

¹⁶⁵ UN Environment Programme. *Crime fighters recognized for tackling illegal trade in wildlife, chemicals and waste*. Retrieved from <https://www.unenvironment.org/news-and-stories/press-release/crime-fighters-recognized-tackling-illegal-trade-wildlife-chemicals>

¹⁶⁶ UNDOC. (2018). *Regional Network to combat wildlife and timber trafficking becoming operational*. Retrieved from <https://www.unodc.org/southeastasiapacific/en/2018/10/wildlife-timber-trafficking/story.html>

¹⁶⁷ UNODC. (2017). *Rosewood Case Study*. Retrieved from <https://www.unodc.org/documents/wwcr/Rosewood.pdf>; TRAFFIC. (2017). *The Trade of Malagasy Rosewood and Ebony in China*, TRAFFIC Bulletin, 29(1).

¹⁶⁸ BBC. 'Gang of Eights' on ivory probation. Retrieved from <https://www.bbc.com/news/science-environment-21788664>

¹⁶⁹ Massive downturn in Bangkok Ivory market as Thailand introduces National Ivory Action Plan. Retrieved from <https://www.traffic.org/publications/reports/in-transition-bangkoks-ivory-market/>

¹⁷⁰ UNODC. (2017). *Criminal Justice Response to Wildlife Crime in Thailand*, 3.

Frequently Trafficked Timber and Wildlife Products

Siamese Rosewood

Rosewood is a highly protected and prized type of wood that is found only in four countries worldwide: Cambodia, Laos, Thailand and Vietnam. Thai law currently allows landowners to log rosewood only on their property, but the export of rosewood remains prohibited.

The illicit rosewood trade is very lucrative. The price of 1kg of rosewood is around 20,000 THB (570 USD) while en route to China. But once the rosewood is in China, the profits increase exponentially. Due to this high profitability, Cambodian and Laotian loggers will risk crossing the Thai border to extract rosewood illegally with the complicity of Thai offenders, and then transport it across the border. One law enforcement officer interviewed said that better law enforcement controls have interrupted and stopped shipments of rosewood; traffickers must now resort to many short steps using smaller vehicles to transport rosewood over the border. Some traffickers even carry rosewood on their backs, walking across the Thai border to Laos or Cambodia.

There are two main trafficking routes for the regional illicit trade of rosewood. The timber is trafficked from the eastern and northeast forests through Cambodia (via Sri Saket Province in Thailand) or through Laos to Vietnam, bound for southern China, where it is delivered to the Chinese furniture industry.

The local Thai furniture industry is now a major importer of illegally trafficked rosewood, importing rosewood from Laos and Cambodia. Burmese rosewood has also been trafficked from Myanmar into or through Thailand. The legality of this practice is debatable, since the applicable laws have many loopholes, including the lack of adequate conservation laws in neighbouring countries and the absence of a law prohibiting Thailand from importing rosewood from other countries. Consequently, once a timber product reaches the Thai border with appropriate documents, the trade is considered legal.

The inconsistency in timber-related domestic laws across countries in the Mekong region creates opportunities for illegal loggers. The export of rosewood is still legal in Cambodia, Laos and Vietnam. When rosewood is illegally extracted and exported from Thailand to these countries, traffickers can easily claim that logging took place locally and that the trade is legal.

The capacity of border authorities to detect the illicit flow of rosewood is hampered by several factors. First, rosewood is typically smuggled in sealed cargos across land borders, where most checkpoints do not have x-ray machines. Second, law enforcement officers often do not have expertise in identifying the species of wood, especially when it has already been converted into furniture. The current detection system focuses on the export of raw rosewood rather than on rosewood-based products as a result of the obligations under CITES.

Several stakeholders recognized that there is a critical loophole in the Convention, which prohibits the trade in protected timber but not the trade in furniture made with such timber. Thailand raised this issue during the 16th session of the Conference of the Parties to CITES, held in Bangkok in 2013, and proposed an amendment to the Convention in order to achieve a more stringent protection regime over rosewood and rosewood-made products.

Some interviewees noted that the volume of timber convoys is too big to remain unnoticed, and that the complicity of border authorities is therefore instrumental in avoiding detection.

Siamese rosewood accounts for the majority of timber trafficking involving Thailand. However, the illicit trade in other threatened wood species and wood-based products such as teak and agarwood should not be overlooked, as both are protected by CITES. From 1 January to 30 September 2017, the DNP recorded almost 800 cases involving illegal rosewood and seized about 350 cubic meters in total. In addition to that, around 2,000 cubic meters of other species were also seized.¹⁷¹

Ivory

Thailand has previously been consistently identified as one of the world's top eight countries for the illicit ivory trade, which is responsible for fuelling the killing of 30,000 African and Asian elephants every year. The so-called 'gang of eight' includes supplier countries (Kenya, Tanzania and Uganda) and transit and consumer countries (Thailand, Malaysia, Philippines, Viet Nam and China).¹⁷²

Following pressures from the CITES committee, Thailand enacted the Ivory Act, B.E.2558 (2015), effective from 22 January 2015, further amending the previous Wildlife Preservation and Protection Act of B.E.2535 (1992) as amended by Act No. 3 of B.E.2557 (2014). The new Ivory Act includes ivory as a protected species and prohibits the extraction, import, export and possession of ivory, including non-native species such as African ivory. Now that Thailand has adopted a stricter conservation policy, the market has moved to neighbouring countries.

The Ivory Act imposed the obligation to register any possession of ivory acquired prior to the enactment of the new law. The adoption of the dedicated law accompanied by a National Action Plan for ivory protection averted a possible recommendation for the suspension of CITES-related trade with Thailand.

The new law seems to have helped reduce the legal trade of ivory in Thailand. TRAFFIC's Research undertaken in 2016 showed that there has been a 96% reduction in ivory sales in the domestic market compared with 2012.¹⁷³

In 2017, the Thai Customs Department seized about 7 tonnes of ivory coming into Thailand or in transit to other countries in Asia.¹⁷⁴ The elephant ivory and rhino horns¹⁷⁵ seized in Thailand were found to have originated in Africa (primarily in Kenya, Mozambique and Congo) and were intended for onward shipment to China over well-established trafficking routes. Cargos from Mombasa may be shipped by air or sea directly to Thai ports or transit through ports in Hong Kong, India, Malaysia, Singapore or Sri Lanka before reaching Thailand.

¹⁷¹ United Nations Office of Drugs and Crime. (2016). *World Wildlife Crime Report: Trafficking in protected species*. Vienna, 71.

¹⁷² UNODC. (2019). *Transnational Organized Crime in Southeast Asia: Evolution, Growth and Impact*, 118.

¹⁷³ UNODC. (2017). *Criminal Justice Response to Wildlife Crime in Thailand*, 3.

¹⁷⁴ *Ibid.*, 6.

¹⁷⁵ United Nations Office on Drugs and Crime. (2013). *Transnational Organized Crime in East Asia and the Pacific. A Threat Assessment*. UNODC Regional Office for East Asia and the Pacific, Bangkok, 80.

Law enforcement identified an emerging trend of African ivory being sent first to Europe and then to Thailand, because cargos coming from European countries appear less suspicious. Recent seizures confirmed that the most common entry points in Thailand are the Laem Chabang seaport, Bangkok's Suvarnabhumi International Airport and Koh Samui International Airport,¹⁷⁶ where cargos usually transit through Thai customs and continue their journey into Laos and Vietnam, and on to China. In some cases, they are shipped to other destination countries, such as the United States.

Interviewees suspect Thailand remains an origin country for ivory trafficked into and manufactured in Laos. There is a significant quantity of ivory circulating in Laos, but Laos does not have a big elephant population, leading some to believe that the ivory is imported from Thailand. DNA analysis is not yet common in wildlife trafficking investigations in Southeast Asia, which makes it difficult to determine the origin of the ivory.

Pangolins

Trafficking in pangolins as food, exotic leather and medicine is a very profitable business, generating even higher profit margins than drug trafficking.

The pangolin trade is also characterized by a low risk of detection and lenient punishments. As a result, the illicit pangolin trade has emerged as one of the most prominent forms of wildlife trafficking in Southeast Asia, with Thailand as both a source and a transit country.

Thailand is a common transit point along trafficking routes that extend to Laos and Vietnam before they reach their final destination in China, Hong Kong or Taiwan. The most common smuggling method is 'misdeclaration', in which dealers falsify information on customs declaration sheets by listing pangolins as a form of wildlife which is not listed by CITES as a protected species. As a result, the trade remains undetected unless random X-ray checks discover the truth. In 2017, the Thai Customs Department seized nearly 6 tonnes of pangolin coming into Thailand or in transit to other countries in Asia.¹⁷⁷

Turtles and Tortoises

Thailand is a source, transit and destination country in the trafficking of live turtles and tortoises. Illegal trafficking of two critically endangered tortoise species from Madagascar reached epidemic proportions five years ago when radiated and ploughshare tortoises were illegally imported to Thailand. Due to the high profit potential, 50% of the worldwide population of this turtle species were in Thailand. This trend is less common now, but informal networks of Thai villagers and middlemen still capture turtles in Thailand and smuggle them primarily by air to China, Taiwan or Hong Kong, to be used as pets, food and traditional medicine. In 2017, the Thai Customs Department seized approximately 10,000 turtles and tortoises coming into Thailand or in transit to other countries in Asia.¹⁷⁸

¹⁷⁶ UNODC. (2019). *Transnational Organized Crime in Southeast Asia: Evolution, Growth and Impact*, 113.

¹⁷⁷ *Ibid.*, 118.

¹⁷⁸ Data elaborated from original source: CITES Management Authorities of Thailand. (2012) *Thailand Biennial Report on CITES Implementation*. Retrieved from https://cites.org/sites/default/files/reports/11-12Thailand_0.pdf

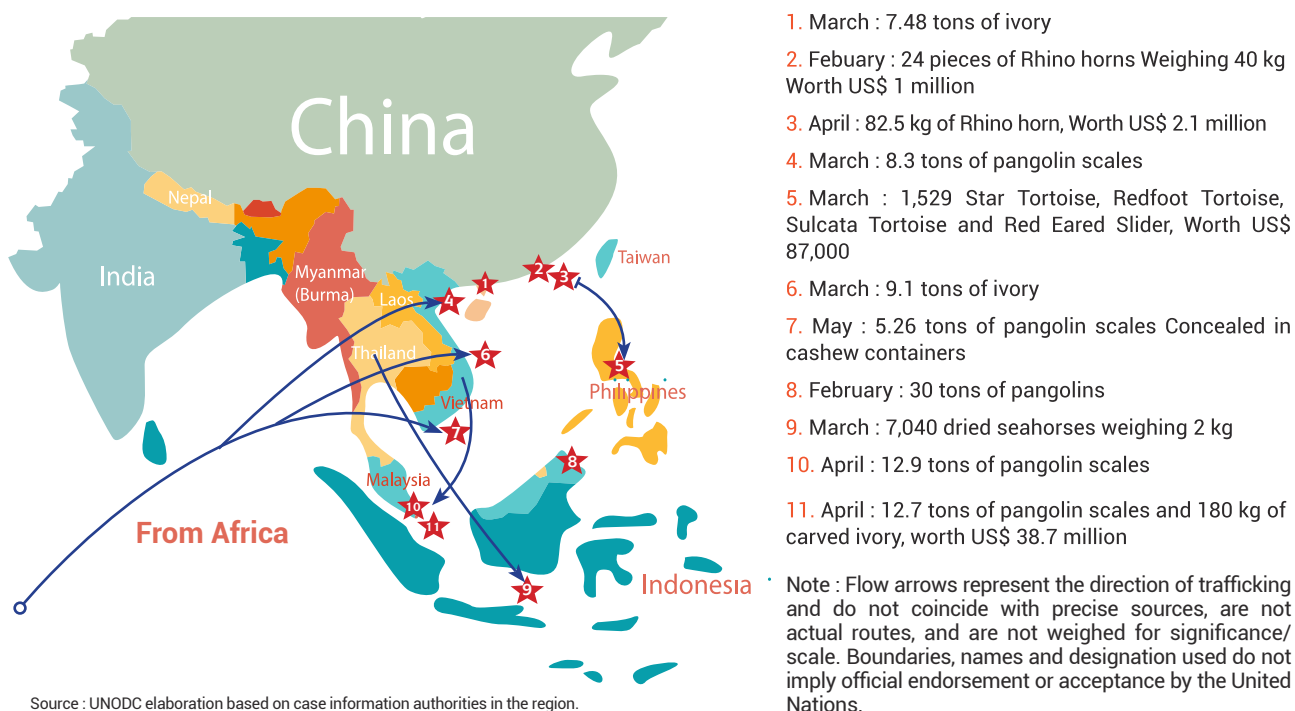
Other Protected Species

Smugglers have used ordinary mail to bring tiger skins originating from Africa into Thailand. Law enforcement detected some airmail shipments containing tiger skins directed from France in an attempt to look less suspicious. This smuggling method carries a low risk of detection since mail that goes through the Thai postal system is x-rayed randomly rather than systematically. The UNODC noted that Thailand, along with other Southeast Asian countries, has emerged as an increasingly significant player in the global tiger product trade over the last decade, with significant seizures registered in various cities across the Kingdom.¹⁷⁹ Tiger trafficking from Malaysia and Thailand to Vietnam represents a key intra-regional smuggling route.¹⁸⁰

Thailand is an origin country for armadillos trafficked into China and is a transit point for the illegal trade of snakes, lizards, antelopes and deer coming from Malaysia and Indonesia. Moreover, Thailand is also a primary consumer market for exotic pets as well as high value luxury items.¹⁸¹ Additionally, anecdotal evidence suggests that Thailand is a transit and destination country for both birds coming from Brazil and wild orchids trafficked from Myanmar through the Mae Sot border checkpoint, although these trafficking routes are not well documented.

According to data compiled by the Ministry of Environment's Wildlife Checkpoints across Thailand, as reported by CITES Management Authorities of Thailand¹⁸² in the Biennial Reports on CITES Implementation, there was a quantitative increase in the number of seizures from 2011 to 2013. Snakes, lizards, turtles and tortoise are the most highly traded wildlife species on the Thai black market, with many shipments diverted from Thailand's main airport to land border crossings and peripheral provinces. Public officials believe that the volume of wildlife trade has remained stable, but it is not clear if the seizures are just a reflection of more effective screenings rather than a growth in the black market for wildlife.

Map 1 : Major seizures of illicit wildlife product in Southeast Asia and China, 2019 (Jan-May)



¹⁷⁹ UNODC. *Transnational Organized Crime in Southeast Asia: Evolution, Growth and Impact*. 2019, p. 116

¹⁸⁰ United Nations Office on Drugs and Crime (UNODC). *Transnational Organized Crime in East Asia and the Pacific. A Threat Assessment*. UNODC Regional Office for East Asia and the Pacific, Bangkok, 2013, p. 83.

¹⁸¹ Bangkok Post. 'Accused wildlife smuggling kingpin caught' Accessed at: <https://www.bangkokpost.com/thailand/general/1399142/wildlife-smuggling-kingpin-caught>

¹⁸² U.S. Department of State. *First Reward Offer for Transnational Organized Crime Information*. Press statement, John Kerry, Secretary of State, Washington DC, 13 November 2013. Accessed at: <http://www.state.gov/secretary/remarks/2013/11/217558.htm>

TOC Patterns in Wildlife and Timber Trafficking

According to the relevant literature, the illegal wildlife trade includes a variety of persons, from unskilled villagers, professional hunters, and wholesalers, to international specialists in storage, transport, processing, packaging, exporting and retailing. The UNODC has suggested that the trafficking chain may begin with individual consumers making direct contact with suppliers, or it may involve networks on a global scale.¹⁸⁴ However, some stakeholders argued that the actions of smugglers - repeatedly using the same transfer routes, changing shipments at a specific transit point, regularly delivering cargos to the same destination and recipients, and the large amount of wildlife traded - suggest the presence of a criminal syndicate. The same factors may suggest the apparent involvement of some corrupt public officials; otherwise it would be very hard for cargos to pass without inspection.

There are other signs that major TOC groups are involved in wildlife and timber trade. For example in 2018, during an investigation conducted under the Anti-Money Laundering Act, Thai authorities seized assets worth millions of baht.¹⁸⁵ Large TOC groups involved in this trafficking tend to be comprised of both African and Asian offenders, with the former involved in the procurement of the goods, and the latter probably running the network. Notorious criminal groups, such as the Lord's Resistance Army directed by Joseph Kony, have been linked to this criminal activity.

The influence gained by these criminal groups is so significant that in 2013 the United States offered a reward of one million USD for information leading to the dismantling of one such group, the Xaysavang Network, a wildlife trafficking syndicate based in Laos with affiliates in South Africa, Mozambique, Thailand, Malaysia, Vietnam and China.¹⁸⁶

Evidence currently available suggests that there are no big groups and no big 'boss' conducting other forms of wildlife and timber trafficking involving Thailand. As we have observed in respect of other illicit trafficking, the criminal systems are characterized by small, loose groups which are mainly composed of foreign nationals who involve Thai people when necessary to navigate Thai culture and law enforcement.

For example, turtles are smuggled by Thai nationals hired by Chinese middlemen. Rosewood trafficking is led by a variety of actors, including sometimes small random groups of illegal loggers connected through loose networks. While the masterminds are believed to be Chinese nationals, the traffickers are mainly Cambodians and Laotians cooperating with Thai organized criminal groups who facilitate illegal logging and transportation.

Although links between wildlife and timber trafficking and other forms of TOC are still poorly documented, there is some evidence of connections between organizations. The Thai authorities have discovered links between drug traffickers and environmental criminal groups. UNODC research suggests that such convergence is occasional and largely opportunistic, since the wildlife trade requires very specialized skills that are not immediately transferrable to other crime areas.¹⁸⁷ Nevertheless, it is apparent that wildlife and timber trafficking often occur hand in hand with other offences such as passport fraud, corruption, money laundering and even murder.¹⁸⁸

¹⁸³ United Nations Office on Drugs and Crime (UNODC). *Transnational Organized Crime in East Asia and the Pacific. A Threat Assessment*. UNODC Regional Office for East Asia and the Pacific, Bangkok, 2013, p. 83.

¹⁸⁴ INTERPOL. *Environmental crime*. Retrieved from <http://www.INTERPOL.int/Crime-areas/Environmental-crime/Environmental-crime>

¹⁸⁵ WWF. *Thai Prime Minister must seize spotlight to end ivory trade*. Retrieved from http://www.wwf.or.th/en/wildlifetrade/campaignth/press_release/

¹⁸⁶ WWF. *WWF launches 'travel ivory free Thailand'*. Retrieved from <http://www.wwf.or.th/en/?uNewsID=336012>

¹⁸⁷ United Nations Office of Drugs and Crime. (2016). *World Wildlife Crime Report: Trafficking in protected species*. UNODC, Vienna, 19.

¹⁸⁸ 'Hazardous wastes' are intended as those wastes listed in Annex I of the Basel Convention and wastes that are not covered by the Convention but are defined as, or are considered to be, hazardous wastes by the domestic legislation (Article 1 of the Basel Convention).

Thai Awareness Campaigns Regarding Wildlife Trafficking

Civil society organizations and the Ministry of Environment are actively promoting public awareness of wildlife trafficking. Since 2012, the Worldwide Fund for Nature (WWF) and TRAFFIC have been conducting a global awareness campaign on illegal wildlife trafficking, addressing the exploitation of rhino horns, elephant ivory and tiger parts. In Thailand, this campaign has focused on the illicit ivory trade through policy advocacy, public communication and campaigning, resulting in a petition for legislative amendments that was joined by 1.5 million subscribers.¹⁸⁹ WWF also used art to exhibit ideas more creatively and attractively. The '1600 Pandas for WWF' campaign installed 1600 panda statues at the entrance of a popular shopping mall in Bangkok to direct people's attention to animal welfare. The 'journey of 999 groups' campaign used elegant sculptures to connect the beauty of Thai elephants with concern for their welfare.

Still, interviewees agreed that the current Thai government could do more to draw attention to environmental crimes. In 2014, CITES and relevant NGOs pushed Thailand towards a forceful response to the ivory trade, which led Thailand to adopt the new Ivory Act in 2015. As an indication of the potential impact of the Act on public awareness, it requires that all airports and several border checkpoints display a 'stop ivory trading' sign in public areas.

The goal of the campaign is to discourage the purchase of ivory souvenirs and the export of ivory products. The campaign is therefore conducted in both English and Chinese and includes the dissemination of literature, the display of billboards in transit halls, and advertisements in Thai Airways in-flight magazines.

In 2018, WWF-Thailand, with the collaboration of the Tourism Authority of Thailand (TAT), the Department of National Parks, Wildlife and Plant Conservation (DNP), NokScoot Airline, and, the Bangkok Art & Culture Center launched the 'Travel ivory free' campaign to promote the stop of ivory trading in Thailand.¹⁹⁰

¹⁸⁹ United Nations Environment Programme. (2007). *E-Waste: Inventory Assessment Manual*. UNEP, Osaka/Shiga, 1, 81.

¹⁹⁰ UNEP alert bulletin (2005, January 5), 1.

Emerging Trends: Wildlife and Timber Trafficking

Interviewees identified five emerging trends in wildlife and timber smuggling:

First, seemingly every means of **transportation** is used to traffic wildlife and timber: plane and ship cargos, cars crossing land borders and even ordinary mail.

Second, while wildlife and timber were once trafficked in large quantities via cargos, recent seizures have forced traffickers to **reduce the volume** of each shipment in order to avoid detection.

Third, there is a growing tendency among individual smugglers to **carry items by themselves**, from passengers boarding flights with wildlife items in their suitcase to villagers transporting timber on their backs. As a result, airport authorities have changed detection strategies, increasingly targeting individual passengers and making tighter x-ray controls based on a list of 'suspicious flights'.

Fourth, the wildlife trade seems to be increasingly conducted by '**reconversion**', which is changing the shape of the product from the raw material to a wildlife-based product, such as suitcases or bangles made of ivory, which are much harder to detect.

Finally, there has been a sharp increase in the use of the **internet** to facilitate trafficking, including the expansion of e-commerce through social media and specialized websites. This makes it harder for law enforcement officers to track and suppress the traffic, since internet service providers are not legally required to release information.

In addition to these emerging trends, practitioners and policymakers should continue to be aware of the long-established use of fraudulent paperwork to smuggle wildlife and rosewood. For instance, the UNODC reported over 100 cases over the past years in which Siamese rosewood was seized in Thailand due to misdeclaration of species.¹⁹¹

¹⁹¹ United Nations Office on Drugs and Crime. (2013). *Transnational Organized Crime in East Asia and the Pacific. A Threat Assessment*. UNODC Regional Office for East Asia and the Pacific, Bangkok, 105.

2.5

Trafficking in Hazardous Waste and Chemicals

International definition of illicit traffic of hazardous wastes:

“Any transboundary movement of hazardous wastes¹⁹² or other wastes: (a) without notification pursuant to the provisions of this Convention to all States concerned; or (b) without the consent pursuant to the provisions of this Convention of a State concerned; or (c) with consent obtained from States concerned through falsification, misrepresentation or fraud; or (d) that does not conform in a material way with the documents; or (e) that results in deliberate disposal (e.g. dumping) of hazardous wastes or other wastes in contravention of this Convention and of general principles of international law” (Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal of 1989, Article 9, Paragraph 1)

International definition of controlled substances that deplete the ozone layer:

“A substance in Annex A, Annex B, Annex C or Annex E to this Protocol, whether existing alone or in a mixture. It includes the isomers of any such substance, except as specified in the relevant Annex, but excludes any controlled substance or mixture which is in a manufactured product other than a container used for the transportation or storage of that substance” (Montreal Protocol on Substances that Deplete the Ozone Layer of 1987, Article 1)

Applicable domestic laws in Thailand:

Enhancement and Conservation of National Environmental Quality Act of 1992; Factory Act of 1992; Hazardous Substances Act of 1992; Public Health Act 1992; Custom Act of 1926 as amended.

As the world becomes increasingly connected through trade, new forms of TOC continue to emerge. The smuggling and dumping of hazardous wastes, including ozone-depleting substances (ODS), and electrical and electronic ‘e-waste’ are quickly becoming a major problem, particularly in Thailand and other ASEAN member states. Official records of TOC cases involving hazardous waste are rare in Thailand and usually involve the smuggling of toxic chemical waste and second-hand industrial machinery. However, Operation Sky-Hole Patching, which is regularly conducted by the World Customs Organization (WCO) with the support of the United Nations Environment Programme (UNEP) in Thailand, has concluded that there is a substantial illegal market for chemicals. Interviewees identified three main toxic waste trafficking flows in the country:

¹⁹² United Nations Environment Programme and Environmental Investigation Agency. (2011). *Risk Assessment of Illegal Trade in HCFCs*. UNEP and EIA, 9.

Electronic waste: originates or transits through Thailand and is exported to China and India.

Chemicals, including ozone depleting substances and pesticides: originate in China and India and are imported into Thailand as the destination country.

Industrial equipment: second-hand heavy machinery is illegally smuggled from Japan and Europe and dumped in Thailand.

The illegal disposal and dumping of toxic waste pose a significant threat to the health and safety of people in Thailand and their environment. The country's growing industrialization has outpaced the Ministry of Environment's plans to properly treat and dispose of waste. A stakeholder estimated that Thailand currently has the capacity to legally dispose of just 20% of the waste produced in the country. Legal disposal of waste is expensive, leading many industries to falsify their reporting data regarding the quantity of toxic waste they generate and dispose through illicit channels.

The domestic demand for cheap dumping channels has provided organized crime with an opportunity to create a lucrative market for illegal waste disposal, both domestically and transnationally. The relevant authorities have been unable to stop this phenomenon due to a severe shortage of staff. For example, in one department there are only ten people responsible for monitoring over 7,000 factories. In addition, trafficking routes are difficult to trace because containers are moved very quickly to secluded areas where toxic waste is illegally dumped. Public officials have a limited awareness of hazardous waste crimes and lack the capacity to identify illegal substances.

How Hazardous Substances Are Trafficked

The Klong Toey and Laem Chabang seaports, located near Bangkok and Chonburi respectively, are key entry points for toxic waste into Thailand. Enforcement against illegal trade is complicated by the legitimate trade in used electronic goods such as computers. The ASEAN states do not have uniformity in their definitions of e-waste and hazardous waste. Additionally, the Basel Convention contains exceptions for the transboundary movement of certain products and industries. If a company wants to ship a used computer, for instance, the computer will not be listed as waste as long as it is in working condition. The legal trade in used items provides cover for smugglers of e-waste. Traffickers frequently conceal hazardous e-waste by mixing working and non-working electronics inside the same container. Traffickers also frequently mislabel the containers to avoid import duties.

E-waste

Thailand is a source and transit country for trafficking in e-waste, which includes plastic cases and accessories of electronic devices, such as wires, motherboards and electronic boards. Thai authorities seized a significant amount of electronic waste mostly imported by sea from European Union countries (notably the United Kingdom and Germany), the United States and Japan. Thailand was not intended as the final destination for these shipments. Instead, the e-waste would have been dismantled in Thailand and then re-exported, along with e-waste of domestic origin, to China, India, Vietnam, Indonesia or back to origin countries, particularly Japan. There are also indicators that e-waste from Hong Kong is shipped to Laos through Thailand. Research conducted by the UNEP indicated that e-waste is exported to Cambodia from Thailand and other countries.¹⁹³

Thailand lacks a large recycling infrastructure, which causes traffickers to use Thailand as a transit point rather than as a final destination. E-waste goes mainly to countries in need of raw materials for their developing electronic device manufacturing industries. The UNODC has estimated that 80% of e-waste produced globally¹⁹⁴ is shipped to Asia, with 90% of that amount destined for China, while Thailand and other Southeast Asian countries are secondary dumping grounds.¹⁹⁵

¹⁹³ UNEP Regional Office for Asia-Pacific, communication, June 2011.

¹⁹⁴ AP News. Thailand bans the use of paraquat and other toxic farm chemicals. Retrieved from <https://apnews.com/27ba8bb2b1474626b3083a4082679305>

¹⁹⁵ INTERPOL. (2009). *Electronic Waste and Organised Crime - Assessing the Links*. INTERPOL. Lyon, 30..

Industrial Chemicals and Manufacturing Waste

Thailand was once a dumping ground for industrial chemical and manufacturing waste from OECD countries, in violation of the Basel Convention. With the growth of Thailand's petrol and chemical industries, the country is now both a producer and recipient of hazardous waste.

Ozone-depleting substances (ODS) account for the majority of the chemical waste which flows into Thailand from other countries. This waste typically arrives at the Klong Toey and Laem Chabang seaports, not far from Bangkok. An interviewee also reported that large quantities of air conditioners are also smuggled from China into Thailand across the Laos-Thai border.

The interviewees' perceptions are consistent with the literature describing Thailand as a key dumping ground for ODS in the Asian region. The Chinese Ministry of Environmental Protection recognized that Thailand is one of the main export markets for Chinese hydrochlorofluorocarbons in air-conditioning systems because of large-scale property development in urban centres.¹⁹⁶ The United Nations Environment Programme confirmed that Laos is often used as a transit route to smuggle ODS from India and China into Thailand, sometimes transiting first through Vietnam. For example, in June 2011, it was reported that Thai customs had intercepted 574 cylinders (13.6 kg each) of CFC12 smuggled across the border from Lao PDR.¹⁹⁷

Thailand is also a destination country for banned chemical pesticides. An expert noted that eradicating prohibited chemical pesticides from Thai markets is challenging because most buyers are not aware of which pesticides are hazardous and banned, and public officials lack the expertise necessary to identify prohibited chemicals. However, as a recent attempt to solve the problem, in 2019, the Thai government had eventually banned the use of paraquat and other toxic farm chemicals.¹⁹⁸

Second-Hand Heavy Machinery

The smuggling and illegal dumping of second-hand heavy machinery into Thailand has been a problem for decades, but authorities are unable to determine if the equipment is reused in local industries or just dumped. Secondhand heavy machinery is usually imported from Japan and Europe in ships' cargoes and is unloaded at the Klong Toey and Rayong seaports. It either transits through Thailand or remains in the country, particularly in Rayong province. Smugglers commonly pretend that they are opening a factory in Thailand which requires secondhand machinery. Thai authorities verified that this is just a pretext to dispose of waste illegally.

Although local authorities are aware of the dumping of heavy machinery, there is no Thai law that directly prohibits these activities. Since this machinery is declared as industrial equipment, technically it is imported into Thailand legally. Port authorities do not have a mandate to deny its import into the country. Furthermore, there is no clear indication of which government agency is responsible for dealing with these cases.

¹⁹⁶ *Ibid.*, 32.

¹⁹⁷ United Nations Environment Programme OzonAction. (2001). *Illegal Trade in Ozone Depleting Substances - Is there a hole in the Montreal Protocol?*. UNEP, 14.

¹⁹⁸ United Nations Office of Drugs and Crime. (2013). *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment*. UNODC, Bangkok, 123.

Waste Traffickers

White collar offenders manage trafficking in hazardous waste and chemicals. Businessmen with expertise in waste disposal markets and international trade are skilled at avoiding detection. Several stakeholders noted that Thai entrepreneurs and influential business groups collaborate with foreign traffickers in the dumping of illegal waste.

Due to the huge quantities of waste transported to Thailand, experts state that these operations are well-organized and conducted by professionally structured criminal organizations. Movement of waste generally involves at least two countries and multiple individuals cooperating along the trafficking chain. Although many stakeholders agree that there is a transnational aspect to this crime, they reminded the research team that there is currently little concrete evidence to support this assertion.

Challenges in gathering evidence may be better understood in light of previous research conducted by INTERPOL, which concluded that pollution crimes are primarily conducted by a variety of legitimate recycling firms, waste traders and brokers who come together for a relatively short period of time to engage in an illegal transaction and then disperse. While acknowledging that organized criminal groups are actively involved in pollution crimes, INTERPOL stressed that these groups are more loosely structured than traditional hierarchical, centralized syndicates.¹⁹⁹ INTERPOL envisioned waste moving through temporary networks of individuals with specific skills operating in semi-independent units in order to exploit a criminal opportunity, sometimes with a global reach.²⁰⁰ A study published by the UNEP further supported the argument that pollution crimes in Asia are primarily managed by white collar offenders, including legitimate businessmen and middlemen who deal in a range of illicit commodities.²⁰¹

Although foreigners are certainly involved in the supply chain due to the international scale of the traffic, experts said that most exports and imports in Thailand are conducted by Thais, due to their knowledge of the local language. The waste management business is more specialized than the general market for goods and services: it requires specific expertise and a good knowledge of the local market, of local middlemen and of the trafficked products. It is difficult to operate in this field in Thailand without speaking the Thai language.

Emerging Trends : Trafficking in Hazardous Waste and Chemicals

Public awareness of hazardous waste crimes has slightly increased. However, this has yet to result in preventive behaviours.

¹⁹⁹ Schmid, T. (2010). *The Darker Side of Tropical Bliss: Foreign Mafia in Thailand*. *Thailand Law Forum*, 2. Retrieved from <http://www.thailawforum.com/foreign-mafia-thailand.html>

²⁰⁰ Department of Special Investigation of Thailand. (2013). *DSI Annual Report 2013*. DSI, Bangkok.

²⁰¹ MGR Online. *Thai webpage selling fake banknote*. Retrieved from <https://mgronline.com/onlinesection/detail/9620000104326>

2.6

Counterfeiting

International definition of counterfeit trademark goods:

“Any goods, including packaging, bearing without authorization a trademark which is identical to the trademark validly registered in respect of such goods, or which cannot be distinguished in its essential aspects from such a trademark, and which thereby infringes the rights of the owner of the trademark in question under the law of the country in which the procedures set forth in Chapter II are invoked” (Anti-Counterfeiting Trade Agreement of 2011, Article 5, Paragraph D)

International definition of pirated copyright goods:

“Any goods which are copies made without the consent of the right holder or person duly authorized by the right holder in the country of production and which are made directly or indirectly from an article where the making of that copy would have constituted an infringement of a copyright or a related right under the law of the country in which the procedures set forth in Chapter II are invoked” (Anti-Counterfeiting Trade Agreement of 2011, Article 5, Paragraph K)

Applicable domestic laws in Thailand:

Copyright Act of 1994; Patent Act of 1979; Trademark Act of 1991; Customs Act 1926.

Interviewees reported that counterfeiting is one of the most prominent forms of TOC in Thailand. Counterfeited products include brandname fashion items such as clothes, bags, shoes, sunglasses, jewellery, watches and cosmetics; media goods including CDs and DVDs; consumables such as food and liqueurs; and drugs such as medicines and supplements for muscle growth.

One stakeholder estimated that roughly 30% of the counterfeited products available in Thailand are manufactured in Thailand and that 70% are imported from foreign countries, with China as a major source. Myanmar is also emerging as a convenient production site due to the lack of intellectual property-related laws in the country. According to the existing literature, significant manufacturing countries include China, Malaysia, Thailand, Indonesia, Japan, the Philippines, Korea, Singapore, Vietnam,²⁰² and the Russian Federation.²⁰³

²⁰² United Nations Interregional Crime and Justice Research Institute. (2011). *Counterfeiting. A Global Spread, a Global Threat*. Turin, 61. Retrieved from http://www.unicri.it/topics/counterfeiting/organized_crime/reports/CTF_2011_Unedited_Edition_Final.pdf

²⁰³ Schmid, T. (2010). *The Darker Side of Tropical Bliss: Foreign Mafia in Thailand*. *Thailand Law Forum*, 2. Retrieved from <http://www.thailawforum.com/foreign-mafia-thailand.html>

In addition to goods, money is also counterfeited; for example, in 2013 the Department of Special Investigation seized 10 million baht worth of counterfeited banknotes.²⁰⁴ Moreover, recently it was reported that there is a webpage claiming to sell highquality Thai counterfeit banknotes.²⁰⁵ Also this indicates a new trend regarding counterfeiting products.

According to the interviewees, counterfeiters are a mix of Thai and foreigners. Thai offenders are present at all steps of the counterfeited goods supply chain. They were the main actors in production both in Thailand and in other countries. For example, Thai offenders will cross the border to Myanmar in order to produce fake items and then smuggle the goods into Thailand. Thai groups have also been known to finalize production of goods coming from China by adding logos to the items imported into Thailand. Thai groups are also known to be transnational smugglers and final retailers.

Foreign groups involved in counterfeiting include Chinese, Laotian, Myanmar, Malaysian, Cambodian and European nationals. Europeans often base their Asian operations in Thailand because the Kingdom has a more developed infrastructure, better transportation and overall resources compared to neighbouring countries.

The characteristics of TOC are present in the production and dissemination of counterfeit goods. Counterfeiting schemes require a well-structured import system involving multiple countries, and thus effective cooperation among different groups working together. Practitioners described the process as increasingly systematic, utilizing larger and more organized networks with coordinated meetings and tasks. The supply chain usually follows four steps, each handled by a different broker. The first manages the production of the counterfeited product; the second transports the product to the border; the third trades the product across the border until the final destination; and the fourth is responsible for retailing the product.

²⁰⁴ Department of Special Investigation of Thailand. (2013). *DSI Annual Report 2013*. DSI, Bangkok.

²⁰⁵ MGR Online. *Thai webpage selling fake banknotes*. Retrieved from <https://mgronline.com/onlinesection/detail/9620000104326>

Thailand as an Origin, Destination and Transit Country

Thailand is an **origin** site for the production of CDs and DVDs that are to be smuggled largely to Aranyaprathet over the Cambodian border, as well as steroids which are smuggled primarily to Australia. Malaysian organized criminal groups based in the southern Thai city of Hat Yai are known to produce fake liqueurs. Thailand is also one of the main producers of trademark-violating toys.²⁰⁶

Raw ingredients for the production of counterfeit medicines have also been found in Thailand. For example, a large counterfeit medicine seizure in Spain revealed that Thailand was the source country for the raw components of the drugs, which included anabolic steroids, hormone-boosters, and cancer drugs.²⁰⁷

In the border regions, Thailand is mostly a **transit** country. Thailand is an ideal transit country because the Thai Copyright Act of 1994 does not criminalize the simple possession of counterfeited goods.²⁰⁸ As a result, law enforcement officers do not have the mandate to arrest individuals who are merely carrying counterfeit products in transit. In addition to counterfeit goods from China, gold from Dubai is often moved across the Thai border en route to its final destination.

Myanmar is emerging as a convenient production site for counterfeit products due to the lack of copyright laws. Therefore, Thai counterfeiters are increasingly relocating their productions into Myanmar from where they manage trafficking operations into Thailand, often with the use of shipping containers.

In 2015, the American Embassy in Thailand promoted a public awareness campaign to educate the public on the risks posed by fraudulent medicines.

Informative posters were displayed in popular public areas in Bangkok over a period of several months. According to the promoters of the campaign, consumer-oriented awareness raising should be coupled with increased law enforcement cooperation and training.

2.6.1 Emerging Trends: Counterfeiting

Counterfeiting techniques have greatly improved. The counterfeited items look increasingly like the products they are trying to imitate.

Smugglers are utilizing new ways of deceiving the authorities when concealing the items, such as double-bagging the products or hiding them in clothing.

²⁰⁶ United Nations Interregional Crime and Justice Research Institute. (2011). *Counterfeiting. A Global Spread, a Global Threat*. Turin, 61. Retrieved from http://www.unicri.it/topics/counterfeiting/organized_crime/reports/CTF_2011_Unedited_Edition_Final.pdf

²⁰⁷ United Nations Interregional Crime and Justice Research Institute. (2013). *Organized crime strategies in the production and trade of counterfeit medicines. Indications regarding organized crime motivations, modus operandi and strategies*. Turin, 22. Retrieved from http://www.unicri.it/topics/counterfeiting/medicines/savemed/D7.1_OC_Strategies_2013.pdf

²⁰⁸ The Copyright Act B.E. 2537 Section 31 reads "Any person who knows or should have known that a work is made by infringing the copyright of another person and commits any of the following acts against the work for profit is deemed to infringe the copyright: (1) selling, occupying for sale, offering for sale, letting for hire, offering for letting for hire, selling by hire purchase or offering for hire purchase; (2) communication to public; (3) distribution in the manner which may affect prejudicially the owner of copyright; (4) self-importation or importation by order into the Kingdom."

2.7

Documents Forgery

There has been a steady increase in fraudulent identity and travel documents detected in Thailand in recent years. Thai offenders frequently manufacture fake passports, and there is a burgeoning market for authentic stolen passports, which are then altered with new biodata and visa information.

Between 2012 and 2015, 622 forged passports were seized at Thailand's main international airport, as illustrated in the Immigration Department's official records reported below. Seizures were classified by the Immigration Department in eight categories:

1. Fake passports

2. Substitution of biodata information In this situation, the passport was real, but the biodata page was altered. Forgers substituted the photo and used chemicals to erase the original biodata information, replacing it with new information.

3. Fake visa page The passport was authentic, but the visa pages were either removed or edited.

4. Page substitution (stamps) Some pages of a real passport were substituted to conceal stamps or records that would reveal a violation of immigration laws.

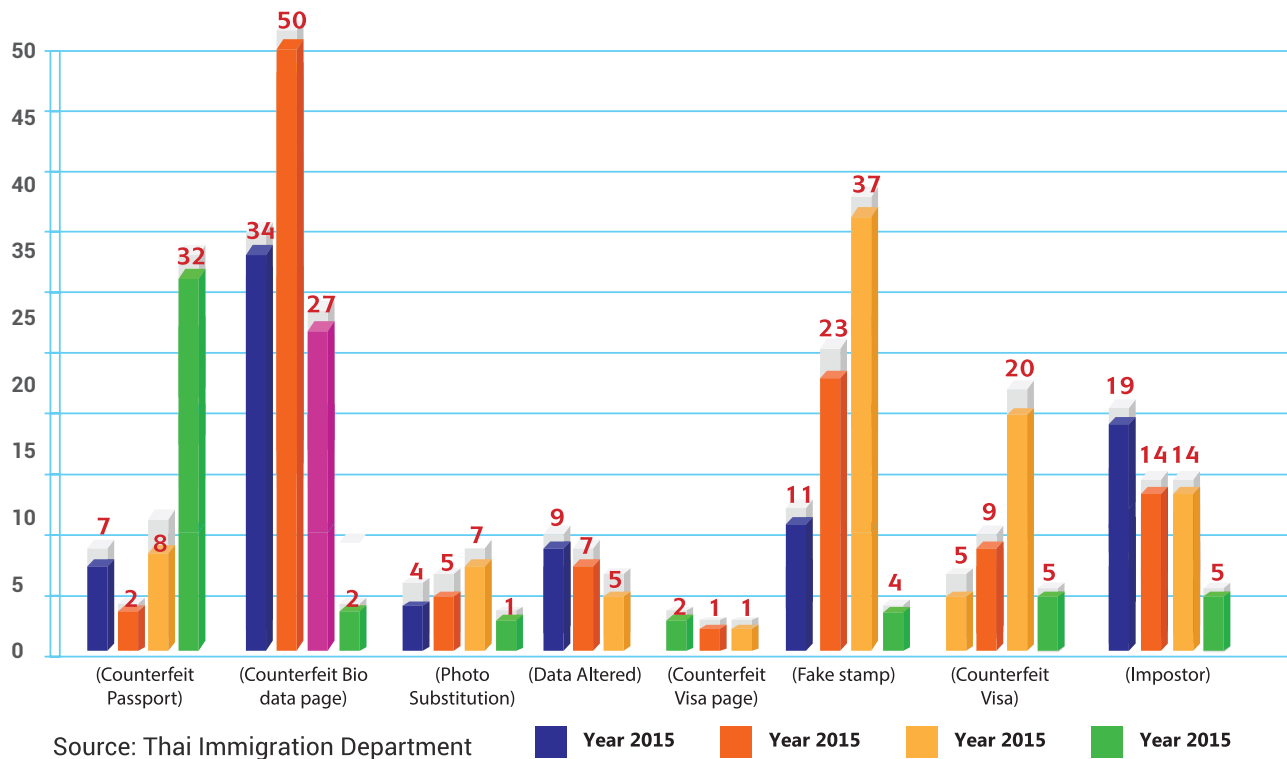
5. Partial biodata alteration Some biodata information was altered, usually the date of birth or the expiration date.

6. Photo substitution The original photo was replaced in a real passport.

7. Fake stamp A real passport would be altered with a fake stamp to conceal the deadline of the visa period, permitting the person to overstay.

The graphic below illustrates the forged passports detected at Thailand's main international airport between 2012 and 2015.

Fraudulent Document Statistic 2012-2015



The most common fake and stolen passports were for European Union nationalities, especially Italian, German, Greek, French, Spanish and Bulgarian. These countries are often targeted for irregular entry because of weaknesses in their entry processes. Passengers using fake or altered passports may conceal their real nationality, so it is hard to determine their country of origin. However, investigations conducted by airport authorities revealed that people who used fake passports were often Indian, Iranian, Iraqi and Afghan.²⁰⁹

Authentic but altered passports (in particular in the biodata page) have become the most common form of document forgery encountered in Thailand, although the production of entirely forged documents remains significant. The alteration of biodata pages commonly occurred in two circumstances. First, there were cases where the passenger used his or her real passport but changed the date of birth to conceal the real age of girls under 18. Second, impostors used stolen passports with edited visa photographs and biographical information. Forgery and trafficking in lost and stolen passports is a very lucrative market. Every year, around 60,000 passports are reported lost or stolen in Thailand and they typically sell for between 1,500 and 3,000 USD per unit, depending on their condition, nationality and the number of years that are left.²¹⁰ For example, the British Embassy has reported that around 2,000 British passports are lost or stolen in Thailand yearly. Organized crime procures these genuine passports and efficiently alters and distributes them. According to law enforcement officers, this type of forgery is the hardest to detect since every other component of the passport is authentic. Thai Immigration does not use fingerprints technology to verify the identity of foreign passports, which weakens the country's ability to detect forged passports.

²⁰⁹ Nation Thailand. Six facts about fake passport. Retrieved from <https://www.nationthailand.com/opinion/30228944>

²¹⁰ Henley, J. (2014, March 10). How Thailand's trade in fake passports fuels crime gangs around the world. *The Guardian*. Retrieved from <https://www.theguardian.com/world/2014/mar/10/thailand-trade-fake-passports-crime-gangs-world>

How Fraudulent Documents Facilitate TOC

The interviewees highlighted the following two key roles regarding how fraudulent documents facilitate TOC.

First, the forged documents assist offenders (especially those who are on 'blacklists' or watch lists) in moving across borders by concealing their real identity. A fake passport is not only a tool for travelling undetected, but also a facilitator for logistics such as renting accommodations, checking in at a hotel or buying a SIM card. It also eases money laundering, by allowing offenders to open bank accounts and make financial transactions under a false identity. In addition to transnational offenders, international terrorists also rely on fake passports to travel from one country to another.

Second, the fraudulent documents are used to facilitate the transfer of victims, since document forgery greatly facilitates trafficking in persons and migrant smuggling in Thailand. Faked or altered passports are used to hide the real age of smuggled or trafficked victims, especially girls under 18. Some victims are given a fraudulent passport because obtaining a real one is too expensive and time-consuming for those who live in remote areas far from administrative centres. Underage Laotian²¹¹ girls and Chinese²¹² victims are frequently trafficked with fraudulent documents.

When considering who produces and distributes fake and altered passports, interviewees said that there are at least twenty organized criminal groups engaged in ID fraud and operating in the capital and surrounding provinces. Bangkok's Khaosan and Sukhumvit areas are hotspots for this business along with other popular tourist destinations such as Pattaya and Phuket. Pakistani, Indian, Iranian and other Central Asian and Middle Eastern criminal organizations based in Thailand also participate in the production and dissemination of passports.

These criminal enterprises are transnational in nature. For example, in 2010 the DSI and the Spanish police uncovered a passport fraud network involving hundreds of people in many European and Asian countries. The network had operated for over ten years with a small forgery factory in Bangkok and transnational distribution benefiting firearms dealers, human traffickers and terrorists. The Barcelona-based cell of this international gang would steal tourists' passports and send them to their Pakistani associate in Bangkok, who completed forgery and delivery.²¹³ Law enforcement officers seized thousands of stolen passports and counterfeited biodata pages in an apartment in Bangkok.²¹⁴

²¹¹ INTERPOL. (2015). *Thailand Country Report 2015*. INTERPOL Thailand, Bangkok, 18. Retrieved from http://www.INTERPOLbangkok.go.th/site/documents/events/Thailand_Country_Report%20_15th_SOMTC.pdf

²¹² Tanyapongpruch, S. (2002). *Transnational Organized Crime in Thailand*. UNAFEI Resource Material Series. Tokyo, 59, 603. Retrieved from http://www.unafei.or.jp/english/pdf/RS_No59/No59_40PA_Tanyapongpruch.pdf

²¹³ In September 2009, an Iranian-born British citizen was arrested at Bangkok's Suvarnabhumi airport while carrying a bag of 103 stolen European, Canadian and Israeli passports.

²¹⁴ Henley, J. (2014, March 10). *How Thailand's trade in fake passports fuels crime gangs around the world*. *The Guardian*. Retrieved from <https://www.theguardian.com/world/2014/mar/10/thailand-trade-fake-passports-crime-gangs-world>

People who turn to local agents for help in procuring travel documents typically have no idea that their passport is not authentic. For example, Thai border agents who work in a province near Myanmar discovered hundreds of fake passports which were held by Myanmar victims of migrant smugglers. These victims were charged between 8,000 and 17,000 Thai Baht (between ca. 230 and 480 USD) as a document and transportation fee for transport into Thailand. Because the migrants came from some remote villages, it was not easy to obtain a passport due to the expense and the complicated process. As a result, the victims resorted to a local counterfeiter acting as an official, and most believed that they had legitimate passports.

When authorities targeted persons travelling with a fake passport, the victims were largely unaware that they had committed a crime, and their arrests did not decrease the number of fake documents in circulation. Thai law enforcement has shifted to a prevention and educational approach, treating fake passport users as victims rather than offenders, and offering them assistance. Authorities found that disseminating brochures and flyers about regular migration channels within vulnerable communities actually resulted in a decrease in the use of fake passports at their duty station.

2.8

Firearms Trafficking

International definition of trafficking in firearms:

“The import, export, acquisition, sale, delivery, movement or transfer of firearms, their parts and components and ammunition from or across the territory of one State Party to that of another State Party if any one of the States Parties concerned does not authorize it in accordance with the terms of this Protocol or if the firearms are not marked in accordance with article 8 of this Protocol” (Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition of 2001, supplementing the United Nations Convention against Transnational Organized Crime, Article 3, Paragraph E)

Applicable domestic laws in Thailand:

Controlling Firearms, Ammunition, Explosives, Fireworks and Imitation of Firearms Act of 1947; Penal Code; Criminal Procedure Code.

The stakeholders interviewed reported that many unregistered firearms had been found in the country, suggesting an illegal trade in weapons within the black markets of northern Thailand.

When firearms trade is conducted by criminal groups of multiple nationalities, these transactions clearly qualify as TOC. There is evidence of well-established links between firearms and drug traffickers along the Thai-Myanmar border, where drug producers from Myanmar sell or barter drugs in exchange for firearms.

Thailand is primarily a transit country for light weapons smuggled from Cambodia, China and North Korea to Myanmar. Some firearms from Cambodia are moved through eastern Thailand and delivered to insurgents based in Myanmar. However, most light weapons used by insurgent minority groups in Myanmar are from China and to a lesser extent from North Korea.²¹⁵

²¹⁵ Jane's Intelligence Review. (2001). Light Arms Trading in SE Asia. RAND blog. Retrieved from <https://www.rand.org/blog/2001/03/light-arms-trading-in-se-asia.html>

2.9

Trafficking in Cultural Property

International definition of trafficking in cultural property:

“The import, export or transfer of ownership of cultural property effected contrary to the provisions adopted under this Convention by the States Parties thereto, shall be illicit” (UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property of 1970, Article 3).

“The import and export of movable cultural property (i) which has been stolen in the other State Party or (ii) which has been illicitly exported from the other State Party” (United Nations Model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property, Article 4, Paragraph 4(a)).

Applicable domestic laws in Thailand:

Act on Ancient Monuments, Antiques, Objects of Art and Natural Museums of 1961 as amended in 1992.

Thailand is no longer a key transit country for the trafficking of cultural property, which once flooded the country during the Cambodian civil war (ca. 1970-1975). Recent academic research indicates that the smuggling of Cambodian antiquities into Thailand persists and that Bangkok (together with Singapore and Hong Kong) remains a key regional hub for art crimes,²¹⁶ but the decrease in illegal transactions is still notable. Only a few cases have been reported over the last two years. However, these rare cases highlighted an emerging trend: Thailand as an origin country for cultural property rather than a transit country.

Cultural property trafficked from Thailand include Buddha statues and heads, parts of stone castles, stone carvings of dancing girls and other traditional statues. The research literature²¹⁷ and practitioners' reports²¹⁸ indicate that the transnational journey of Thai art objects often ends in the United States. Investigations conducted by the Thai police in the mid-2000s indicate that illegal art dealing on the Internet is also prevalent.²¹⁹

²¹⁶ Gruber, S. (2014). *Perspectives on the Investigation, Prosecution and Prevention of Art Crime in Asia*. University of Hong Kong, Centre for Comparative and Public Law, Occasional Paper, 26, 10-11. Retrieved from <http://www.law.hku.hk/ccpl/pub/occasionalpapers/index.html>

²¹⁷ Brodie, N. (2005, Spring). In the News: the rest of Asia, in *Culture Without Context: The Newsletter of the Illicit Antiquities Research Centre*, 16, 17. Retrieved from <http://traffickingculture.org/app/uploads/2012/07/CWC-16.pdf>

²¹⁸ Na NakornPhanom, S. (2014). *Legal and Operational Tools for Facilitating the Restitution of Cultural Objects: Case study from Thailand*. Presentation at the Sub-regional Symposium for the Fight against Illicit Trafficking of Cultural Heritage in South East Asia. Bangkok, Thailand. Retrieved from http://www.unescobbkk.org/fileadmin/user_upload/culture/1970_symposium_SEA/Thailand_Case_Study_21Nov.pdf

²¹⁹ Brodie, N. (2005, Spring). In the News: the rest of Asia, in *Culture Without Context: The Newsletter of the Illicit Antiquities Research Centre*, 16, 17. Retrieved from <http://traffickingculture.org/app/uploads/2012/07/CWC-16.pdf>

In 1961 Thailand enacted the Act on Ancient Monuments, Antiques, Objects of Art and Natural Museums, which prohibits the unlicensed export of Thai cultural objects. The Act was amended in 1992 to create stricter controls over the illegal art trade. A bilateral agreement between Thailand and Cambodia, signed in 2000, extends such protection to artefacts of Cambodian origin. The enforcement of these regulations is challenging. Cultural heritage protection agencies in Thailand, as in most Asian countries, are understaffed and underfunded; lacking specialized training to effectively gather evidence; unable to patrol remote sites and to compete with the sophisticated resources of professional looters and art dealers. In certain areas, even government officials appear to be involved in the smuggling process.²²⁰ Traffickers take advantage of the low risk of detection and of the high financial returns generated by the illicit art trade. A Thai dealer told a journalist that the markup is significant, with a Cambodian looter receiving at most 130 USD for a piece that will sell in Bangkok for 30,000 USD or more.²²¹

Interviewees said the cultural properties trade is handled by Thai criminal groups which use professional networks and sophisticated methods to connect the cultural property with international art dealers.²²² For instance, in 2008 the Los Angeles Times reported on the long-standing existence of a transnational network for Thai ancient artefacts, involving both Thai and American dealers and benefiting museums and private collectors in the United States.²²³ Most of these artefacts came from the ancient civilization of Ban Chiang (present in north-eastern Thailand from 1000 BCE to 200 CE).²²⁴ Thailand has claimed state ownership over these and other objects found in the United States and 554 archaeological artefacts were returned to Thailand in October 2014.²²⁵

Very few government agencies interviewed in the course of this research were knowledgeable about trafficking in cultural property in Thailand. Most of the knowledge in this area is provided by international scholars, law enforcement authorities and organizations such as UNESCO and INTERPOL. Initiatives aimed at tackling illicit art trade in Thailand and Southeast Asia are usually promoted by the United States Federal Bureau of Investigations and UNESCO.

UNESCO raised awareness of art crimes among government officers and the general public during a sub-regional symposium on the Fight against Illicit Trafficking in Cultural Heritage in Southeast Asia, which took place in Bangkok in November 2014. In its presentation, UNESCO suggested a number of society-oriented and government-oriented measures that would enhance knowledge regarding antiquities theft. UNESCO encouraged Thailand to widely publicize education on Thai history and heritage. Government authorities were invited to promote the country's cultural heritage; to enhance cultural heritage management; and to increase cooperation within Thailand and neighbouring countries in order to counter illegal trafficking in cultural property and collaborate on prevention strategies.²²⁶

²²⁰ Felch, J. (2008, January 25). Raids suggest a deeper network of looter art. *Los Angeles Times*.

²²¹ Brodie, N. (2005, Spring). *In the News: the rest of Asia*, in *Culture Without Context: The Newsletter of the Illicit Antiquities Research Centre*, 16, 17. Retrieved from <http://traffickingculture.org/app/uploads/2012/07/CWC-16.pdf>

²²² Gruber, S. (2014). *Perspectives on the Investigation, Prosecution and Prevention of Art Crime in Asia*. University of Hong Kong, Centre for Comparative and Public Law, Occasional Paper, 26, 3. Retrieved from <http://www.law.hku.hk/ccpl/pub/occasionalpapers/index.html>

²²³ Felch, J., & Boehm, M. (2008, January 29). Probe of stolen art goes national. *Los Angeles Times*.

²²⁴ Felch, J. (2008, January 25). Raids suggest a deeper network of looter art. *Los Angeles Times*.

²²⁵ Na NakornPhanom, S. (2014). *Legal and Operational Tools for Facilitating the Restitution of Cultural Objects: Case study from Thailand*. Presentation at the Sub-regional Symposium for the Fight against Illicit Trafficking of Cultural Heritage in South East Asia. Bangkok, Thailand. Retrieved from http://www.unescobbkk.org/culture/heritage/illicit-trafficking/symposium/sea/?utm_medium=%252525252525252

²²⁶ UNESCO. (2014). *Prevention Measurement for Cultural Properties in Thailand*. Thailand country presentation at the Sub-regional Symposium for the Fight against Illicit Trafficking of Cultural Heritage in South East Asia. Bangkok, Thailand. Retrieved from http://www.unescobbkk.org/fileadmin/user_upload/culture/1970_symposium_SEA/Thailand_20Nov.pdf

2.10

Other Crimes

Other crimes reported by the interviewees include the trafficking of motorbikes and cars; human organs; cigarettes; call centres run by organized criminal groups; gambling; and credit card skimming. The following provides some examples of these.

Vehicle Smuggling

Motorbikes are often smuggled across the border from Thailand's Sa Kaeo Province and into Cambodia, while car smugglers tend to work out of Mae Sot Province.

Offenders who steal the motorbikes are mostly Thai, with occasional assistance from Cambodians. Often the perpetrators are teenagers trying to make money for drugs, while on the receiving end across the border in Cambodia, the offenders tend to be career offenders.

Motorbike smugglers usually work at night and will generally take three to six used bikes. New motorbikes are purchased for approximately 50,000 baht (1,400 USD) and then taken over the Cambodian border, where they sell for approximately 30,000 baht (840 USD). Offenders then report the bike as stolen and claim insurance payouts of approximately 30,000 baht.

Secondhand cars are usually sold by Pakistani groups in the Mae Sot region, after they had obtained the used cars from Japan. The cars are sold at a price that is significantly lower than market value, and so law enforcement officers assume that the cars are either stolen or that the business is a front for money laundering. The authorities suspect that the groups in question have a Thai lawyer since they manoeuvre around the law so well. Fraudulent licence plates are used to smuggle the vehicles across the border into the neighbouring countries, such as Cambodia, Myanmar and Lao PDR.²²⁷

²²⁷ Tanyapongpruch, S. (2002). *Transnational Organized Crime in Thailand*. UNAFEI Resource Material Series. Tokyo, 59, 603. Retrieved from http://www.unafei.or.jp/english/pdf/RS_No59/No59_40PA_Tanyapongpruch.pdf

Call Centres Run By Organized Criminal Groups

Call centres run by organized criminal groups are on the rise as can be seen from the Department of Special Investigation Annual Reports. The organized criminal groups use many different methods, with approximately 10,000 people falling victim to this crime in 2016. A typical call centre scam involves pretending to be an investor and convincing unsuspecting people to invest in an exciting opportunity. They transfer money into what turns out to be the scammer's own account. The research literature calls this practice boiler rooms.²²⁸

The organized criminal groups operating call centres in Thailand tend to be from from China (Taiwan was mentioned separately), Malaysia and South Korea. These groups do not typically have names and are merely identified by their nationality. Thai persons have been hired as staff in some of these organizations, notably if the organized criminal groups are based in neighbouring countries.

Credit Card Skimming

Identity theft is increasing due to credit card skimming. In recent years, the Royal Thai Police have caught numerous organized criminal groups conducting credit card fraud or skimming. For example, in 2019, the police caught a credit card gang which was charged with a 13 million baht (ca. USD 400,000) fraud.²²⁹

Credit card fraud is typically run by foreigners without the involvement of Thai nationals. Romanian organized criminal groups appear to specialize in this activity, as does the 'Piglet gang' (from Taiwan, Hong Kong and more broadly China), and Brazilian, Russian and Turkish offenders.

²²⁸ Schmid, T. (2010). *The Darker Side of Tropical Bliss: Foreign Mafia in Thailand*. *Thailand Law Forum*, 2. Retrieved from <http://www.thailawforum.com/foreign-mafia-thailand.html>

²²⁹ Bangkok Post. *Credit-card gang, hotelier charged with B13M fraud*. Retrieved from <https://www.bangkokpost.com/thailand/general/1697412/credit-card-gang-hotelier-charged-with-b13m-fraud>

Chapter 3

ASEAN INTEGRATION, DYNAMICS AND IMPLICATIONS ON TOC IN THAILAND

3.1

Background of ASEAN

The Association of Southeast Asian Nations, ASEAN, is a regional organization founded in 1967. It currently includes ten countries, namely Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Viet Nam. The key aims of the organization are accelerating the economic growth, social progress and cultural development of member states as well as promoting regional peace and stability.²³⁰

Although ASEAN is committed to the principles of national sovereignty, ASEAN nations have moved toward consensus-based policymaking, leading to non-binding regulatory frameworks. In addition, member states have taken significant steps forward the institutionalization of the ASEAN structure since the 1990s. The Declaration of ASEAN Concord II (or Bali Concord II) of 2003 was a milestone in this direction. It laid the foundations for the ASEAN institutional framework articulated in three pillars: an Economic Community (AEC), a Political-Security Community (APSC) and a Socio-Cultural Community (ASCC), all to be established by the year 2020²³¹ with a permanent secretariat based in Jakarta.

In January of 2007, the ASEAN heads of state or government (referred to as “Leaders”) adopted the Cebu Declaration on the Acceleration of the Establishment of the ASEAN Community, which aimed to expedite the integration process by establishing the three communities by the end of 2015.²³² To turn this commitment into reality, ASEAN adopted a Roadmap for the ASEAN Community (2008-2015).²³³

²³⁰ Kuala Lumpur Declaration on ASEAN 2025: Forging Ahead Together of 22 November 2015. Retrieved from <http://www.asean.org/storage/images/2015/November/KL-Declaration/KL%20Declaration%20on%20ASEAN%202025%20Forging%20Ahead%20Together.pdf>

²³¹ Ministry of Foreign Affairs of the Kingdom of Thailand. (2016). ASEAN 2025: Forging Ahead Together. Bangkok, 17.

²³² ASEAN Vision 2020. Retrieved from http://www.asean.org/?static_post=asean-vision-2020

²³³ ASEAN Secretariat. (2015). ASEAN Economic Community at A Glance 2007-2014. ASEAN, Jakarta. Retrieved from <http://www.asean.org/storage/2015/12/AEC-at-a-Glance-2015.pdf>

The ASEAN Community was officially launched on 31 December 2015²³⁴ with the signing of the 2015 Kuala Lumpur Declaration on the Establishment of the ASEAN Community together with a new 'Vision' of ASEAN's paths and goals until 2025, entitled 'Forging Ahead Together'.²³⁵

After fifty years of regional community building, the ASEAN's identity has shaped as a rules-based, people-centred²³⁶ and development-oriented concert of Southeast Asian nations,²³⁷ which aims to expand its significance as the seventh largest economy in the world²³⁸ while setting measurable ASEAN Development Goals.²³⁹

At the same time, ASEAN strives to narrow the development divide among its members²⁴⁰ and it is challenged by several non-traditional security threats, including the presence of organized crime, the regional proceeds of which amount to an estimated value of 100 billion USD yearly.²⁴¹

A wide range of regional policies serve ASEAN's multidimensional vision. Trade and investment facilitation, enhanced infrastructure connectivity and easier mobility of people are all instrumental to sustaining the region's economic growth.²⁴² People-oriented policies encompass greater access to education and healthcare, environmental sustainability, poverty eradication, culture promotion, disaster management, the elimination of violence against and discrimination of vulnerable groups, human rights and energy availability.²⁴³ The peace and security of ASEAN nations are being preserved through the promotion of the rule of law, democracy, good governance, disarmament, preventive diplomacy and criminal justice cooperation.²⁴⁴ ASEAN is also an outward-looking community,²⁴⁵ with consolidated partnerships with 10 extra-regional Dialogue Partners²⁴⁶ and the ambition to play a pivotal role in international fora²⁴⁷ by speaking in a common voice on matters of global concern.²⁴⁸

²³⁴ *Nay Pyi Taw Declaration on the ASEAN Community's Post 2015 Vision of 12 November 2014*. Retrieved from http://www.asean.org/storage/images/pdf/2014_upload/Nay%20Pyi%20Taw%20Declaration%20on%20the%20ASEAN%20Communitys%20Post%202015%20Vision%20w.annex.pdf

²³⁵ *Initiative for ASEAN Integration (IAI) Strategic Framework and IAI Work Plan 2 (2009-2015)*. Retrieved from <http://www.asean.org/wp-content/uploads/images/archive/22325.pdf>

²³⁶ *United Nations Office on Drugs and Crime. (2016). Protecting peace and prosperity in Southeast Asia: synchronizing economic and security agendas. UNODC Regional Office for East Asia and the Pacific, Bangkok, 3.*

²³⁷ *ASEAN Economic Community Blueprint. (2008). ASEAN Secretariat, Jakarta*. Retrieved from <http://asean.org/wp-content/uploads/archive/5187-10.pdf>

²³⁸ *ASEAN Socio-Cultural Community Blueprint 2025. (2015). ASEAN Secretariat, Jakarta*. Retrieved from <http://www.asean.org/wp-content/uploads/2012/05/8.-March-2016-ASCC-Blueprint-2025.pdf>

²³⁹ *ASEAN Political-Security Community Blueprint 2025. (2016). ASEAN Secretariat, Jakarta*. Retrieved from <http://www.asean.org/wp-content/uploads/2012/05/ASEAN-APSC-Blueprint-2025.pdf>

²⁴⁰ *ASEAN Vision 2020*. Retrieved from http://www.asean.org/?static_post=asean-vision-2020

²⁴¹ *ASEAN Dialogue Partners are States or inter-governmental organizations with which ASEAN interacts on a formal basis both bilaterally and with groupings such as the ASEAN +3. Current Dialogue Partners includes Australia, Canada, China, the European Union, India, Japan, New Zealand, the Republic of Korea, the Russian Federation and the United States of America. The United Nations Development Program (UNDP) also has dialogue status and Pakistan is a sectoral dialogue partner. Source: ASEAN Official Website.*

²⁴² *ASEAN Vision 2020*. Retrieved from http://www.asean.org/?static_post=asean-vision-2020

²⁴³ *The Habibie Center ASEAN Studies Program. (2014). The Bali Concord III: Towards a More Common ASEAN Platform on Global Issues. ASEAN briefs, 5, 2.* Retrieved from <http://admin.thcasean.org/assets/uploads/file/2014/11/ASEAN%20Briefs%20Vol.%201%20Issue%205.pdf>

²⁴⁴ *The ASEAN Charter of 20 November 2007*. Retrieved from <http://asean.org/asean/asean-charter/>

²⁴⁵ *ASEAN's Secretary-General for the term 2013 -2017 was H.E. Le Luong Minh from Viet Nam. He was assisted by the following Deputy Secretary-Generals: H.E. Hirubalan V P from Singapore (for APSC), H.E. Dr. Lim Hong Hin from Brunei Darussalam (for AEC), H.E. Vongthep Arthakaivalvatee from Thailand (for ASCC) and H.E. Dr. AKP Mochtan from Indonesia (for CCA).*

²⁴⁶ *Tariffs were reduced to 0-5% in 2010 for ASEAN 6 (Brunei Darussalam, Indonesia, Malaysia, the Philippines, Thailand and Singapore). As for the remaining four members, Cambodia, Laos, Myanmar and Vietnam, tariffs were to be eliminated by 2015 but this has been postponed to 2018.*

²⁴⁷ *Suksri, P., Sermcheep, S., & Srisangnam, P. (2015). Survey on the Use of Free Trade Agreements in Thailand, in Ing, L. Y., & Urata, S. (Eds.), The Use of FTAs in ASEAN: Survey-based Analysis. ERIA Research Project Report 2013-5. ERIA, Jakarta, 243-270.*

²⁴⁸ *ASEAN Economic Community Blueprint. (2008). ASEAN Secretariat, Jakarta*. Retrieved from <http://asean.org/wp-content/uploads/archive/5187-10.pdf>

3.2

Structure of ASEAN

ASEAN is an intergovernmental process, the institutional architecture of which is comprised of policymaking, and consultative and implementing bodies governed by the procedural rule of consensus. Chapter IV and Chapter X of the ASEAN **Charter**²⁴⁹ set out the mandate and functions of the different components of ASEAN's structure.

The **ASEAN Summit** stands out as the supreme policy-making body of ASEAN, bringing together the ASEAN Member States' Heads of State or Government. The Member States rotate annually in assuming its Chairmanship. The **ASEAN Coordinating Council** is second in importance, consisting of the ASEAN Foreign Ministers. Each of the three pillars of ASEAN has its respective ASEAN Community Council. Under the purview of the **ASEAN Community Councils** are the relevant ASEAN Sectoral Ministerial Bodies. Sectoral policymakers from the relevant Ministries of the Member States meet regularly within the framework of the three ASEAN Community Councils and of 30 **Sectoral Ministerial Bodies**, each of which is supported by the technical expertise of the related Senior Officials Committees.

TOC falls mostly under the purview of the ASEAN Political-Security Community, although combating or responding to TOC is a cross-cutting issue. The main sectoral bodies that deal with TOC are the Senior Official (Ministers) Meeting on Transnational Crime (SOMTC/AMMTC), and the ASEAN Senior Official (Ministerial) Meeting on Drug Matters (ASOD/ADM) which are under the Political-Security Community. The ASEAN Senior Law Officials (Ministers) Meeting (ASLOM/ALAWMM) is also under this pillar. The focal agencies for SOMTC are the police, while ASOD is led by Office of Narcotics Control Board, and the focal agencies for ASLOM are the Ministry of Justice & Office of Attorney General. The ASEAN Wildlife Enforcement Network (ASEAN-WEN), in turn, has both the forestry ministry and the police as its focal agencies.

Policy and institutional coordination is entrusted to a permanent **ASEAN Secretariat**, headed by the ASEAN Secretary-General with the support of four Deputy Secretary Generals (DSGs) from different Member States. Other permanent ASEAN bodies include the ASEAN Intergovernmental Commission on Human Rights (AICHR) with the mandate to handle cross-cutting human rights-related matters; the ASEAN Regional Forum through which ASEAN engages with non-ASEAN states on political and security matters; and the ASEAN Foundation in charge of supporting ASEAN in promoting awareness, identity, interaction and human development in four thematic areas: education, arts and culture, media, and community building.

The Committee of Permanent Representatives to ASEAN (CPR) constituted by the permanent representatives of ASEAN Member States is tasked with monitoring and implementing Leaders' decisions, coordinating cross-pillar issues, and providing support to the ASEAN Secretariat. The recommendations of the CPR also feed into policy discussions at the sectoral, ministerial and summit levels, including with ASEAN's external partners.²⁵⁰

²⁴⁹ *Ibid.*, paragraph 7.f.

²⁵⁰ ASEAN Secretariat. (2015). *ASEAN Economic Community At A Glance 2007-2014*. ASEAN, Jakarta. Retrieved from <http://www.asean.org/storage/2015/12/AEC-at-a-Glance-2015.pdf>

3.3

The ASEAN Economic Community (AEC) from the 2007 Blueprint to ASEAN Vision 2025

The scope and intensity of the ASEAN integration counts on the success of the formal and informal cooperation under the framework of all three ASEAN pillars, namely the ASEAN Political-Security Community (APSC), the ASEAN Economic Community (AEC), and the ASEAN Socio-Cultural Community (ASCC). The launch of the AEC, in particular, has had major implications on the regulatory regimes and joint actions on cross-border facilitation of trade in goods, services, and the movement of people in the region. Furthermore, as the goal of the Economic Community is the realization of the ASEAN single market, it can be observed that AEC rules and policies, in comparison with agreements under the other two pillars, have a tendency to impact on the regional economic supply chains and markets. Such dynamics could affect the operations of organized criminal groups in the region. Bearing this in mind, in this Chapter, we mainly focus on the development of the AEC and its consequences.

The economic integration among ASEAN members started in 1992 with the agreement which established the ASEAN Free Trade Area (AFTA) aiming at tariff elimination²⁵¹ to fulfil the ultimate goal of a single market and production base. Freer flows of capital and senior professional expertise were also encouraged with the ASEAN Investment Area (AIA), effective in 2010.²⁵² The AEC Blueprint 2015 (adopted in 2007) took more decisive action, going beyond trade and investment facilitation. The establishment of the ASEAN Economic Community (AEC) in December 2015 will, according to the Blueprint, transform the ASEAN region into a single market that is moving towards free movement of goods, services, investments, skilled labour, less restricted flow of capital,²⁵³ enhanced infrastructure and communications connectivity, and development of electronic transactions.²⁵⁴ One of the most outstanding changes under the AEC is the establishment of Mutual Recognition Arrangements (MRAs) that will standardize qualifications for eight categories of professionals, allowing for their mobility within the region, namely: engineering services; nursing services; architectural services; surveying services; dental practitioners; medical practitioners; accountancy services; and tourism professionals.

²⁵¹ ASEAN Economic Community Blueprint 2025. Retrieved from <http://www.asean.org/storage/images/2015/November/aec-page/AEC-Blueprint-2025-FINAL.pdf>

²⁵² Master Plan on ASEAN Connectivity. (2011). ASEAN, Jakarta. Retrieved from http://www.asean.org/storage/images/ASEAN_RT_2014/4_Master_Plan_on_ASEAN_Connectivity.pdf

²⁵³ *Ibid.*, 11-15.

²⁵⁴ Master Plan on ASEAN Connectivity. (2011). ASEAN, Jakarta, 18. Retrieved from http://www.asean.org/storage/images/ASEAN_RT_2014/4_Master_Plan_on_ASEAN_Connectivity.pdf

With a combined GDP of 2.6 trillion USD, the ASEAN Community is the seventh largest economy in the world and the third largest economy in Asia, following China and Japan. The ASEAN Community is also the third largest market in the world with 622 million people, of whom nearly half are younger than 30 years old. In the period 2007-2014, the region registered a trade increase of one trillion USD, with intra-ASEAN trade representing the largest share of this trade, followed by China, the European Union, Japan and the United States as key trading partners. Over the same period, the region recorded a sharp increase in foreign direct investment (FDI) inflows. The 136 billion USD in FDI attracted by ASEAN in 2015 accounted for 11% of global FDI inflows; European Union countries were the highest source of investment in the region, followed by intra-ASEAN flows. Finally, the region experienced a significant rise of visitor arrivals, increasing from 62 million arrivals in 2007 to 105 million in 2014; nearly half of these were intra-regional movements.²⁵⁵ These figures clearly indicate that the AEC Blueprint economic, financial and connectivity policies implemented towards the establishment of the Economic Community translated into a significant growth of goods, capital and people's circulation within and to the region.

At the launch of the ASEAN community in December 2015, ASEAN endorsed the AEC Blueprint 2025 to set the agenda for deeper and more cohesive economic integration. This Blueprint provides for the implementation of a more unified market by further reducing barriers that impede the seamless flows of goods, services as well as the movement of people. Included among key measures are the realization of National Single Windows, and the simplification of administrative regulatory regimes, documentary requirements as well as customs procedures. It is envisaged that the streamlining of rules and procedures could lead to better harmonisation of practices and greater transparency. Yet at the same time, such dynamics could expose the region to the challenges posed by transnational organized crimes and illicit economic activities.

²⁵⁵ Tariff elimination is regulated by the Common Effective Preferential Tariff Scheme for the ASEAN Free Trade Area (CEPT-AFTA) embodied in the ASEAN Trade in Goods Agreement (ATIGA).

3.4

ASEAN Connectivity : Key Strategies

ASEAN member states have adopted several connectivity facilitators ranging from infrastructure development to eased border restrictions and streamlined visa requirements. The Master Plan on ASEAN Connectivity (adopted by ASEAN Leaders in October 2010) has been providing key guidance in this process, outlining core strategies to enhance linkages among ASEAN Member States and between such States and the rest of the world.²⁵⁶ In parallel with the regional agenda, Thailand has implemented additional policies to further increase its own openness to the world, in particular free trade agreements and an extensive visa exception regime. This section illustrates what has been planned and what has been achieved so far in order to implement the view of a tightly connected region.

ASEAN Master Plan on Connectivity

In addition to the AEC Blueprint, another key instruments to the ASEAN integration process is the Master Plan on ASEAN Connectivity (MPAC). The MPAC sets out the implementation strategies for the ASEAN connectivity projects in the identified strategic areas under the AEC. It was developed in consultation with the relevant ASEAN Sectoral Bodies and other stakeholders which highlighted the regional efforts to improve ASEAN-wide policy coordination. This section gives an overview of the major policy developments and areas targeted by the ASEAN connectivity.

The Master Plan on ASEAN Connectivity 2010 (MPAC 2010) articulates three key strategic components, namely physical, institutional and people-to-people connectivity.

Extensive land, maritime and air infrastructure development serves the objective of improving **physical connectivity**. Efforts have been focused on expanding and harmonizing road and rail infrastructures, inland waterways transport, and air and sea navigation systems. Flagship projects include the completion of the ASEAN Highway Network and the Singapore-Kunming Rail Link linking five ASEAN member states with China.²⁵⁷

²⁵⁶ Master Plan on ASEAN Connectivity. (2011). ASEAN, Jakarta, 38. Retrieved from http://www.asean.org/storage/images/ASEAN_RT_2014/4_Master_Plan_on_ASEAN_Connectivity.pdf

²⁵⁷ Master Plan on ASEAN Connectivity. (2011). ASEAN, Jakarta, 23.

Greater **institutional connectivity** through the reduction or elimination of regulatory, tariff and logistic barriers to free movements of goods, services and skilled labour in the region. There are five key measures for better connectivity. First, transport is facilitated towards the full liberalisation of air and maritime transport systems.²⁵⁸ Second, the ASEAN Free Trade Area relies on the elimination of tariffs,²⁵⁹ an integrated system of certificates of origin and customs declaration documents (the ASEAN Single Window), and expedited cargo clearance and shipment procedures.²⁶⁰ Third, the Roadmap for Integration of Logistic Services calls for the liberalization of cargo handling, courier and custom clearance services.²⁶¹ Fourth, the Mutual Recognition Arrangements for eight categories of professionals ease their semi-free circulation within the region.²⁶² Finally, cross-border controls are being streamlined based on the ASEAN Plan of Action for Cooperation on Immigration.²⁶³

The third pillar, focusing on **people-to-people connectivity**, encourages greater intra-ASEAN mobility of people through the liberalisation and upgrading of travel and tourism services, coupled with the harmonization of visa requirements.

Within the regionally comprehensive initiatives, three sub-regional connectivity corridors were established, namely the Greater Mekong Sub-region area (GMS, comprising Cambodia, Lao PDR, Myanmar, Thailand, Viet Nam and China, established in 1992);²⁶⁴ the East ASEAN Growth Area (BIMP-EAGA, including Brunei Darussalam, Indonesia, Malaysia, and the Philippines, established in 1994); and the Indonesia, Malaysia and Thailand Growth Triangle (IMT-GT, established in 1994).²⁶⁵

Thanks to the implementation of these key connectivity strategies, the movement of people and goods across the region will become easier, faster and cheaper. However, the AEC and the connectivity Master Plan do not remove border controls. They provide only an easier flow of eight categories of professionals currently accounting for only 1% of the jobs in the region. Movements within the ASEAN region are still subject to domestic immigration laws, with each ASEAN country still applying different visa exception policies. However, in order to support ASEAN integration, each Member State has independently adopted unilateral schemes or bilateral agreements on visa exceptions for ASEAN nationals. As a result, all ASEAN nationals are now entitled to enter all ASEAN member states without a visa, although the conditions and duration of the stay in the foreign country vary in each country depending on the nationality of the visitor, and immigration border controls still apply to all visitors.

For example, Thailand grants a tourist visa exception to all ASEAN nationals for a period of 15 to 30 days depending on the nationality of the visitor. Thailand's unilateral tourist visa exception scheme has applied to Brunei Darussalam, Indonesia, Malaysia, the Philippines and Singapore since 1984. Later in the 2000s, Thailand signed bilateral agreements with Viet Nam (2000), Laos PDR (2004), Cambodia (2010) and Myanmar (2015) extending the same benefit to nationals of these countries.²⁶⁶

²⁵⁸ *Ibid.*, 24-25.

²⁵⁹ *Ibid.*, 26-27.

²⁶⁰ ADB. Greater Mekong Subregion. Retrieved from <https://www.adb.org/countries/gms/main>

²⁶¹ Master Plan on ASEAN Connectivity, 29-30.

²⁶² Department of Consular Affairs, Ministry of Foreign Affairs of the Kingdom of Thailand official website: www.mfa.go.th

²⁶³ Department of Consular Affairs, Ministry of Foreign Affairs of the Kingdom of Thailand. (2019). Summary of Countries and Territories Entitled for Visa Exemption and Visa on Arrivals to Thailand. Department of Consular Affairs, Bangkok. Retrieved from <http://www.mfa.go.th/main/contents/files/services-20150120-100712-551809.pdf>

²⁶⁴ MOT. (2019). International Tourists Arrivals to Thailand. Retrieved from https://www.mots.go.th/old/more_news.php?cid=522&filename=index

²⁶⁵ *Ibid.*

²⁶⁶ *Ibid.*

To foster foreign investment in its economy and bolster its tourism industry, Thailand has progressively extended visa benefits to a large number of countries. As of 2019, nationals of 64 countries and territories are exempt from visa requirements. The following table provided by the Thai Ministry of Foreign Affairs details the nationalities benefiting from these streamlined visa policies.²⁶⁷

Summary of Countries and Territories entitled for Visa Exemption and Visa on Arrival to Thailand

| Ordinary Passport | | | | | | | Diplomatic/Official Passport | | |
|--|--|-----------------|--------------|------------------------------|---------------|--------------|--|-------------------|-------------------|
| Passport holders of the following countries/ territories may apply for Visa on Arrival | Passport holders of the following countries/ territories may enter Thailand without a visa | | | | | | Passport holders of the following countries/ territories may enter Thailand without a visa | | |
| | Tourist Visa Exemption Scheme | | | Bilateral Agreement | | | Bilateral Agreement | | |
| Period of stay | Period of stay | | | Period of stay | | | Period of stay | | |
| 15 days | 30 days | | | 14 days | 30 days | 90 days | 30 days | 90 days | |
| Bulgaria | Andorra | Norway | Brazil* | Cambodia | Hong Kong** | Argentina | Bangladesh | Albania | Nepal |
| Bhutan | Australia | Oman | Korea (ROK)* | | Laos | Brazil* | (Diplomatic only) | Argentina | Panama |
| China | Austria | The Philippines | Peru* | Myanmar | Macau | Chile | Brunei | Austria | Peru |
| Cyprus | Belgium | Poland | Hong Kong** | (International Airport only) | Mongolia | Korea (ROK)* | Cambodia | Belarus | The Philippines |
| Ethiopia | Bahrain | Portugal | Vietnam** | | Russia (&VoA) | Peru* | China | Belgium | Poland |
| Fiji | Brunei | Qatar | | | Vietnam** | | Ecuador | Bhutan | Romania |
| Geogia | Canada | San Marino | | | | | Hong Kong | Brazil | Russia |
| India | Czech Republic | Singapore | | | | | Indonesia | Chile | Serbia |
| Kazakhstan | Denmark | Slovak | | | | | Kazakhstan | Colombia | Seychelles |
| Malta | Estinia | Slovenia | | | | | Laos | Costa Rica | Slovakai |
| Mexico | Finland | Spain | | | | | Macau | Croatia | South Africa |
| Nauru | France | South Africa | | | | | Malaysia | Czech Republic | Spain |
| Papua New Guinea | Germany | Sweden | | | | | Mongolia | El Salvador | (Diplomatic only) |
| Romania | Greece | Switzerland | | | | | Myanmar | Estonai | Sri Lanka |
| Saudi Arabia | Hungary | Turkey | | | | | Oman | (Diplomatic only) | Switzerland |
| Taiwan | Iceland | Ukraine | | | | | Pakistan | France | Tajikistan |
| Uzbekistan | Indonesia | UAE | | | | | (Diplomatic only) | (Diplomatic only) | Tunisia |
| Vanuatu | Ireland | UK | | | | | Singapore | Germany | Turkey |
| | Israel | USA | | | | | Vietnam | Georgia | Ukraine |
| | Italy | | | | | | | Hungary | Uruguay |
| | Japan | | | | | | | India | |
| | Kuwait | | | | | | | Israel | |
| | Latvia | | | | | | | Italy | |
| | Liechtenstein | | | | | | | Japan | |
| | Lithuania | | | | | | | Korea (ROK) | |
| | Luxembourg | | | | | | | Latvia | |
| | Malaysia | | | | | | | Liechtenstein | |
| | Maldives | | | | | | | Luxembourg | |
| | Mauritius | | | | | | | Mexico | |
| | Monaco | | | | | | | Montenegro | |
| | The Natherlands | | | | | | | The Netherlands | |
| | New Zealand | | | | | | | | |

Remarks

*Passport holders of Brazil, Republic of Korea and Peru are entitled for tourist visa exemption scheme. Meanwhile, Thailand also holds bilateral agreements on visa exemption for holders of diplomatic, official and ordinary passport for a visit of not exceeding 90 days with Brazil, Republic of Korea and Peru.

**Passport holders of Vietnam, and Hong Kong are entitled for tourist visa exemption scheme. Meanwhile, Thailand also holds bilateral agreements on visa exemption for holders of diplomatic, official and ordinary passport for a visit of not exceeding 30 days with Vietnam and Hong Kong.

²⁶⁷ ASEAN + Australia, China, India, Japan, Republic of Korea and New Zealand.

The ASEAN Summit 2016, the ASEAN Leaders agreed upon the adoption of the Master Plan on ASEAN Connectivity 2025 (MPAC 2025) which succeeds the MPAC 2010. The MPAC 2025 endorses five strategic areas which are:²⁶⁸

Sustainable Infrastructure: Improving project preparations, enhancing infrastructure productivity and supporting cities in adopting sustainable practices.

Digital Innovation: Capturing digital innovation requires the establishment of regulatory frameworks for the delivery of new digital services; sharing of best practices on open data; and equipping micro, small and medium enterprises (MSMEs) with the capabilities to access these new technologies.

Seamless Logistics: Improving logistics competitiveness will ease the movement of goods within the ASEAN community, increasing business opportunities for ASEAN citizens.

Regulatory Excellence: Focusing on standards harmonization, mutual recognition and technical regulations, as well as trade-distorting non-tariff measures in order to achieve regulatory excellence.

People Mobility: Providing comprehensive information on travel options and simplifying visa application processes; developing high-quality qualification frameworks in critical vocational occupations, and encouraging greater mobility of intra-ASEAN university students.

Thailand has experienced a sharp increase in the number of foreign visitors entering the Kingdom over the last years. Data provided by the Thai Ministry of Tourism indicate that the number of international tourist arrivals to Thailand was nearly 26 million in 2019.²⁶⁹ The overwhelming majority of these visitors were from ASEAN and East Asia countries, followed by European and Russian nationals. Travellers from the Americas, South Asia, Oceania, Middle East and Africa accounted for much smaller proportions.²⁷⁰ Among the top ten nationalities entering Thailand in 2019, only four were ASEAN member states (Malaysia, Laos, Myanmar and Viet Nam), while the remaining six were other countries (China, Japan, South Korea, India, Russia and the United Kingdom).²⁷¹ This indicates that the rapid influx of people into Thailand may not be just a function of ASEAN mobility mechanisms, but may be also a product of Thailand's broader visa exemption policy.

²⁶⁸ This consists of Bangladesh, India, Myanmar, Sri Lanka, Thailand, Bhutan and Nepal.

²⁶⁹ Consisting of Iceland, Liechtenstein, Norway and Switzerland.

²⁷⁰ Suksri, P., Sermcheep, S., & Srisangnam, P. (2015). *Survey on the Use of Free Trade Agreements in Thailand*, in Ing, L. Y., & Urata, S. (Eds.), *The Use of FTAs in ASEAN: Survey-based Analysis*. ERIA Research Project Report 2013-5. ERIA, Jakarta, 243-270.

²⁷¹ ASEAN Secretariat. (2018). *ASEAN Statistical Yearbook 2018*. ASEAN, Jakarta, 165-176. Retrieved from <https://www.aseanstats.org/wp-content/uploads/2019/01/asyb-2018.pdf>

Thailand's openness to free flows of goods goes beyond the AEC. The 13 free trade agreements (FTAs) currently in force in the Kingdom strongly connect the Thai market with several other markets. Some of these pacts are basic FTAs, providing for tariff elimination to increase trade volume. Others are 'FTAs Plus', covering also investment cooperation, competition policy and intellectual property rights. The ASEAN FTA Plus (AFTA) was the first such agreement to be ratified by Thailand. Negotiations between ASEAN and six Asia-Pacific commercial partners during the 2000s led to the establishment of five additional preferential trade corridors. The remaining seven FTAs resulted from bilateral initiatives between Thailand and some of its major trade partners. Furthermore, Thailand is now engaged in FTA negotiation with additional countries or groups of countries. Upcoming multilateral FTA include the ASEAN-Hong Kong FTA; the Regional Comprehensive Economic Partnership (RCEP)²⁷² and the Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation (BIMSTEC).²⁷³ Thailand is also engaging bilaterally with Pakistan, the European Union and the European Free Trade Association (EFTA).²⁷⁴ The following table concludes the regional and bilateral FTAs in which Thailand is currently engaged.²⁷⁵

| Regional and bilateral FTAs in which Thailand is currently engaged | | |
|--|----------------|-------------------------------|
| | Abbreviation | Effective Date |
| Regional FTAs | | |
| ASEAN Free Trade Area | AFTA | 1 January 2002 (for Thailand) |
| ASEAN-China FTA | ACFTA | 1 January 2004 |
| ASEAN-Japan FTA | AJFTA | 1 June 2009 |
| ASEAN-India FTA | AIFTA | 1 January 2010 |
| ASEAN-Korea FTA | AKFTA | 1 January 2010 |
| ASEAN-Australia-New Zealand FTA | AANZFTA | 12 March 2010 |
| Bilateral FTAs | | |
| | Bilateral FTAs | Bilateral FTAs |
| Thailand-China FTA | TCFTA | 1 October 2003 |
| Thailand-India FTA | TIFTA | 1 September 2004 |
| Thailand-Australia FTA | TAFTA | 1 January 2005 |
| Thailand-New Zealand FTA | TNZCEP | 1 July 2005 |
| Thailand-Japan FTA | JTEPA | 1 November 2007 |
| Thailand-Peru FTA | TPFTA | 31 December 2011 |
| Thailand-Chile FTA | | 8 October 2013 |

The negotiation of the Regional Economic Comprehensive Partnership (RCEP) has been largely agreed by the participating countries at the 3rd RCEP Summit in Bangkok in November 2019. Once adopted, RCEP will become the world's largest trade agreement, containing within its ambit all ten ASEAN Member States and five Asia-Pacific trading partners, namely Australia, China, Japan, New Zealand and South Korea.

All of these recent free trade developments could have meaningful consequences in the dynamics of transnational crimes at the national and regional levels. Such implications might prompt organized criminal groups to adapt their strategies to circumvent the new rules and procedures and make illicit profits.

²⁷² ASEAN Secretariat. (2019). *ASEAN Key Features 2019*. ASEAN, Jakarta, 47. Retrieved from https://www.aseanstats.org/wp-content/uploads/2019/11/ASEAN_Key_Figures_2019.pdf

²⁷³ Kuala Lumpur Transport Strategic Plan 2016-2025. (2015). ASEAN Secretariat, Jakarta, 10. Retrieved from http://www.asean.org/storage/2016/01/11/publication/KUALA_LUMPUR_TRANSPORT_STRATEGIC_PLAN.pdf

²⁷⁴ ASEAN Secretariat. (2015). *A Blueprint for Growth, ASEAN Economic Community 2015: Progress and Key Achievements*. ASEAN, Jakarta, 16. Retrieved from <http://www.asean.org/storage/images/2015/November/aec-p./AEC-2015-Progress-and-Key-Achievements.pdf>

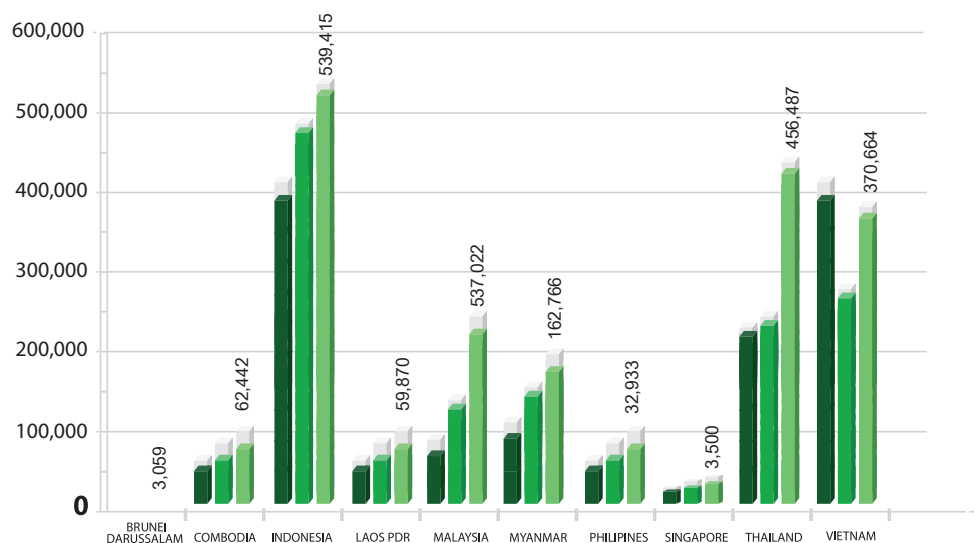
²⁷⁵ Kuala Lumpur Transport Strategic Plan 2016-2025. (2015). ASEAN Secretariat, Jakarta, 11. Retrieved from http://www.asean.org/storage/2016/01/11/publication/KUALA_LUMPUR_TRANSPORT_STRATEGIC_PLAN.pdf

ASEAN Connectivity: Process

ASEAN member states have been successfully advancing the implementation of the regional connectivity strategic framework. Steady progress was registered in the expansion of land, maritime and air transport infrastructures.²⁷⁶ In 2018, a significant expansion in total road length was observed across all ASEAN Member States (Figure 8.1), reaching more than 1.9 million kilometres, which is 62.5% longer than 2006.²⁷⁷ There are no more missing links along the ASEAN Highway Network,²⁷⁸ one of the two flagship projects envisioned by the ASEAN Strategic Transport Plan 2011-2015. Thanks to the liberalization of passenger and cargo air services, consumers now have the benefit of more destinations and lower fares.²⁷⁹ Maritime traffic management has become more integrated and competitive,²⁸⁰ as reflected in the significant increase in passenger traffic and cargo even before the formal establishment of the AEC.²⁸¹

Trade facilitation has also seen steady advancement, with 99% of intra-regional trade tariff lines at 0% on a regional average. They were almost completely eliminated in six ASEAN Member States (99.2% of tariffs at 0%).²⁸² Custom clearances were streamlined in five countries that have tested the ASEAN Single Window, reducing transaction times and costs.²⁸³ Moreover, visa exemption schemes for ASEAN nationals were implemented in all Member States.

Figure 8.1 Road length (kilometers) by ASEAN Member States, 2006-2018



Note : *For Indonesia, Lao PDR, Malaysia, Singapore, and Vietnam, the latest available data is 2017

Source : ASEAN Key Figures 2019, page 48.

■ 2006 ■ 2010 ■ 2018

²⁷⁶ ASEAN Secretariat (n 270)

²⁷⁷ ASEAN Secretariat. (2015). *A Blueprint for Growth, ASEAN Economic Community 2015: Progress and Key Achievements*. ASEAN, Jakarta, 10. Retrieved from <http://www.asean.org/storage/images/2015/November/aec-p./AEC-2015-Progress-and-Key-Achievements.pdf> ²⁷⁸ Ibid., 11.

²⁷⁹ ASEAN Secretariat. (2015). *Fact Sheet: ASEAN Economic Community*. ASEAN, Jakarta, 3. Retrieved from <http://www.asean.org/storage/2012/05/56.-December-2015-Fact-Sheet-on-ASEAN-Economic-Community-AEC-1.pdf>

²⁸⁰ ASEAN Secretariat, 52.

²⁸¹ ASEAN Secretariat (n 270).

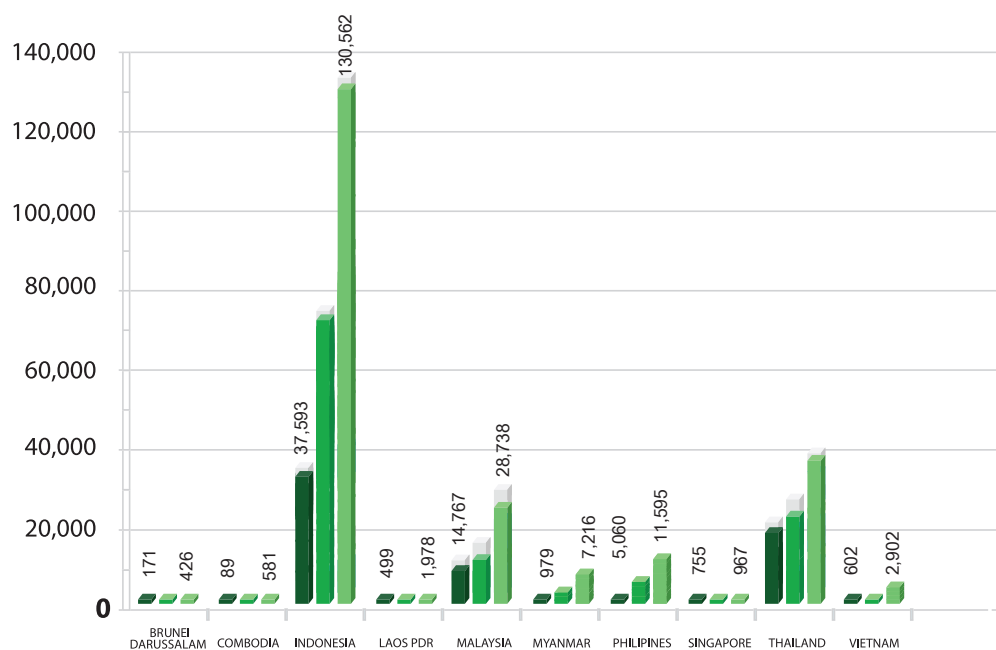
²⁸² United Nations Office on Drugs and Crime. (2014). *Effective Frontline Border Management in Southeast Asia's New Era of Integration*. UNODC Regional Office for East Asia and the Pacific, Bangkok, 10.

²⁸³ United Nations Office on Drugs and Crime. (2016). *Enhancing Cooperation on Border Management in ASEAN. Report of the Second Regional Conference: 'Enhancing Cooperation on Border Management in ASEAN. Preparing for a Safer and More Integrated Community'*, Bangkok, 1.

The combination of the progress in these different respects has resulted in the reduction of overall costs of doing business in ASEAN, making the region a more attractive trade and investment destination.²⁸⁴ An additional consequence has been the sustained increase in the documented cross-border movement of persons, the number of intra-ASEAN visitors was recorded at 34.8 million or 25.7 per cent of the total visitors to the region in 2018. This increased from 11.2 million or 21.8% in 2005.²⁸⁵

The following data and infographics provided by the ASEAN Secretariat illustrate key features of the advanced ASEAN connectivity.

Figure 8.2 Total number of registered road motor vehicles (000) by ASEAN Member States, 2005-2018



Note : *For Indonesia, Lao PDR, Malaysia, Singapore, and Vietnam, the latest available data is 2017

Source : ASEAN Secretariat, ASEANstats database

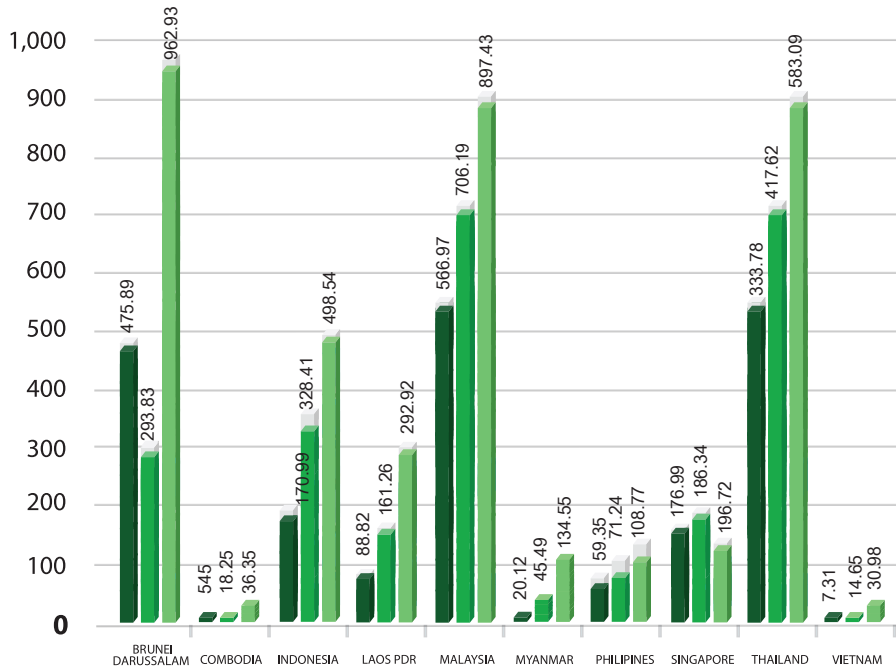
■ 2005 ■ 2010 ■ 2018

Source : ASEAN Key Figures 2019, page 49.

²⁸⁴ United Nations Office on Drugs and Crime. (2014). *Effective Frontline Border Management in Southeast Asia's New Era of Integration*. UNODC Regional Office for East Asia and the Pacific, Bangkok, 3.

²⁸⁵ United Nations Office on Drugs and Crime. (2016). *Protecting peace and prosperity in Southeast Asia: synchronizing economic and security agendas*. UNODC Regional Office for East Asia and the Pacific, Bangkok, 1-2.

Figure 8.3 Total registered motor vehicles per 1000 population by ASEAN Member States, 2005-2018



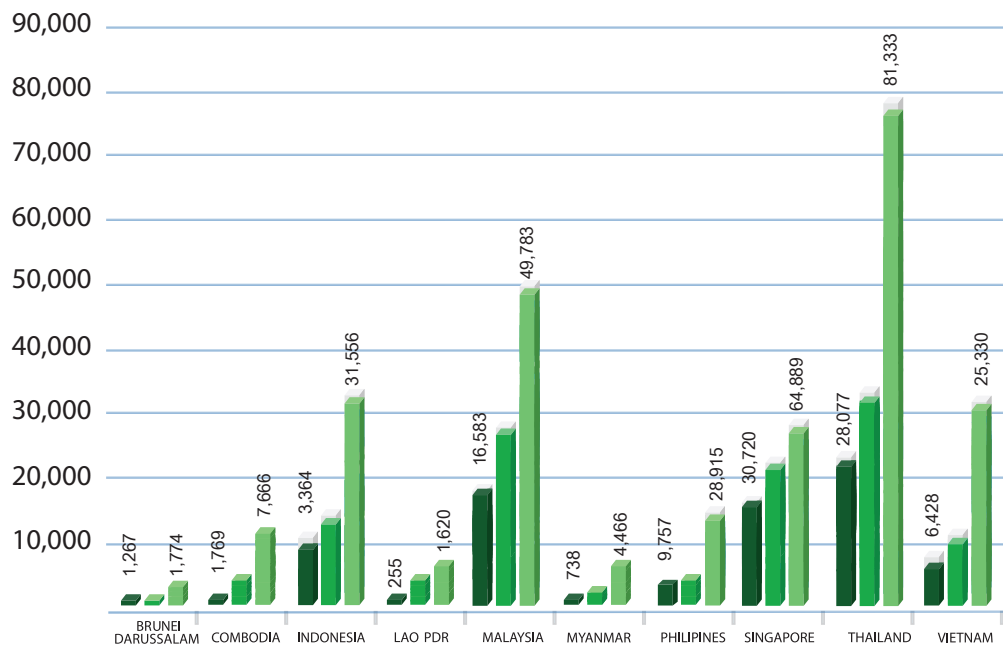
Note : *For Indonesia, Lao PDR, Malaysia, Singapore, and Vietnam, the latest available data is 2017

Source : ASEAN Secretariat, ASEANstats database

■ 2005 ■ 2010 ■ 2018

Source : ASEAN Key Figures 2019, page 50.

Figure 8.4 Number of international air passengers (000) by ASEAN Member States, 2005-2018



Note : *For Indonesia, Lao PDR, Malaysia, and Vietnam, the latest available data is 2017

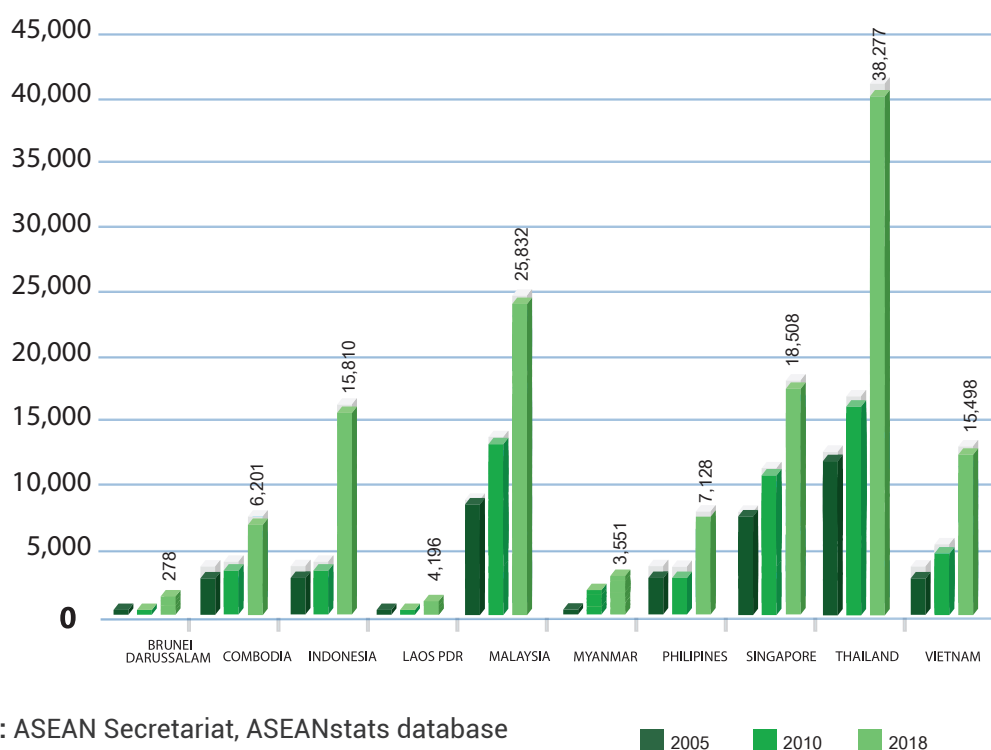
Source: ASEAN Secretariat, ASEANstats database

■ 2005 ■ 2010 ■ 2018

Source : ASEAN Key Figures 2019, page 51.

Visitor arrivals to ASEAN member states have increased consistently since 2005, as illustrated in the table below.

Figure 8.5 Number of visitor arrivals (000) by ASEAN Member States, 2005-2018



Source : ASEAN Secretariat, ASEANstats database
Source : ASEAN Key Figures 2019, page 52.

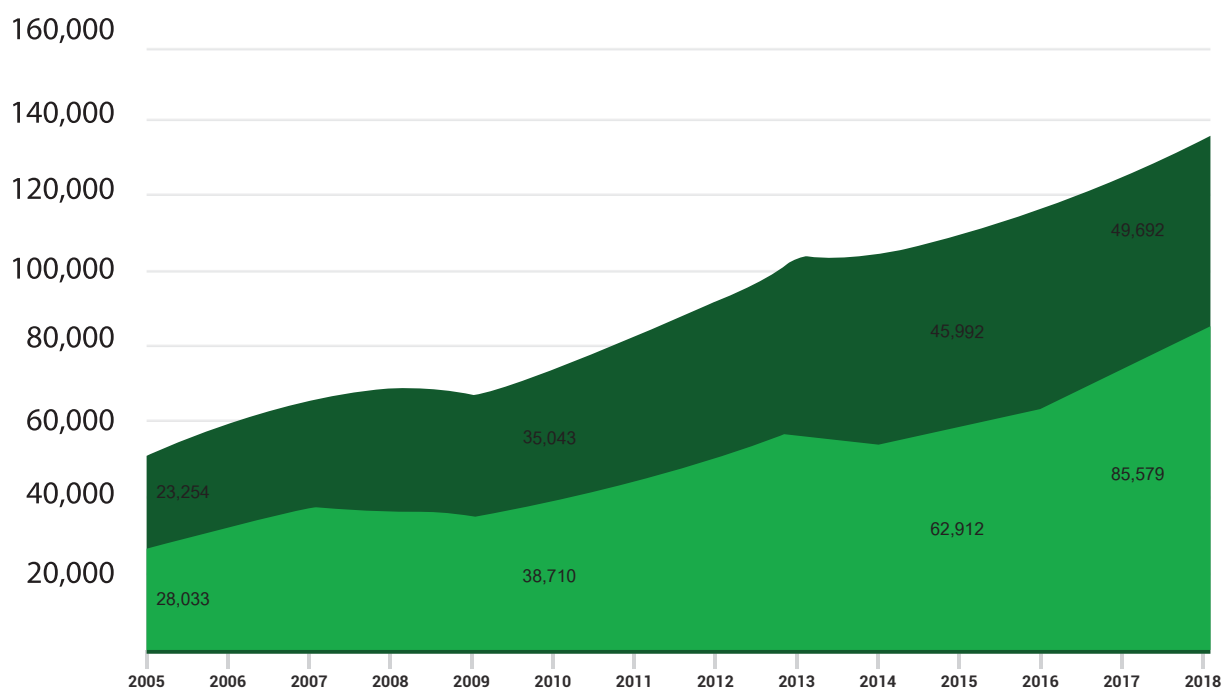
Thailand has welcomed even more tourists than other ASEAN member states, particularly non-ASEAN nationals, a total of 38.3 million from 2005 to 2018.²⁸⁶ In this regard, the UNODC predicted that visa-free arrangements will likely expand.²⁸⁷

The following graphic shows fluctuations in the growth of intra- and extra-ASEAN visitor arrivals from 2005 to 2018.

²⁸⁶ Engineering services, nursing services, architectural services, surveying services, dental practitioners, medical practitioners, accountancy services and tourism professionals.

²⁸⁷ United Nations Office on Drugs and Crime. (2014). *Effective Frontline Border Management in Southeast Asia's New Era of Integration*. UNODC Regional Office for East Asia and the Pacific, Bangkok.

Figure 8.6 Intra and extra-ASEAN visitor arrivals (000), 2005-2018



Source : ASEAN Secretariat, ASEANstats database

Source : ASEAN Key Figures 2019, page 53.

Stakeholders recognize the benefits of less restricted borders on ASEAN economies, but also drew attention to the downside of more open borders. For example, the UNODC has argued that the AEC made the region more vulnerable to TOC.²⁸⁸ TOC has the ability to evolve and grow faster than ASEAN states can manage.²⁸⁹ Therefore, economic integration should include the incorporation of public security measures into economic development programmes. For example, crime risk assessment should be a key component of infrastructure planning.²⁹⁰

²⁸⁸ Department of Consular Affairs, Ministry of Foreign Affairs of the Kingdom of Thailand. (2016). *Summary of Countries and Territories Entitled for Visa Exemption and Visa on Arrivals to Thailand*. Department of Consular Affairs, Bangkok. Retrieved from <http://www.consular.go.th/main/th/customize/62281-Summary-of-Countries-and-Territories-entitled-for.html>

²⁸⁹ Suksri, P., Sermcheep, S., & Srisangnam, P. (2015). *Survey on the Use of Free Trade Agreements in Thailand*, in Ing, L. Y., & Urata, S. (Eds.), *The Use of FTAs in ASEAN: Survey-based Analysis*. ERIA Research Project Report 2013-5. ERIA, Jakarta, 243-270.

²⁹⁰ United Nations Office on Drugs and Crime. (2016). *Protecting peace and prosperity in Southeast Asia: synchronizing economic and security agendas*. UNODC Regional Office for East Asia and the Pacific, Bangkok, 1-2.

3.5

Perception of the ASEAN Economic

Almost all interviewees were indeed aware of what the AEC is and of its membership criteria, with many explaining the process during their interviews. Responses commonly involved descriptions relating to the free movement of people, trade and goods.

Our findings indicate that there are also some misconceptions about the AEC among Thai practitioners. There is a widespread feeling that the AEC provides for the free movement of all ASEAN citizens to work across the region. But the AEC permits only the free movement of eight categories of skilled professionals,²⁹¹ which collectively account for only 1% of the current ASEAN population. What really allows for greater circulation of people regionally is the permissive visa exemption policy implemented by Thailand and other countries to promote tourism, commerce and investments.

The majority of the stakeholders questioned on this issue believed that the AEC would be challenging for Thailand. Some cited mostly positive outcomes, such as more economic prosperity in Thailand and across the region, while others believed it would have a negative impact on the crime rate. Those who believed it would have a negative impact on the crime rate said the increase in tourists and the free movement of capital, labour and investments would be increasingly difficult to control. One respondent noted perceptively that the ability of nations to cooperate would be the determining factor of the success of the AEC.

AEC Integration and Changing Pattern of TOC

The Cross-Border Trade Agreement was adopted in 2003, allowing for more open borders, fewer and less rigorous border inspections, additional visa exemptions, and more products that are not subject to search. These streamlined border procedures are designed to reduce the time spent by vehicles at border checkpoints. The number of visitors to Thailand is predicted to increase by more than 25% every year until 2018, which will likely further increase the number of countries benefiting from visa exemptions.²⁹² As previously noted, Thailand has extensive visa exemption and visa on arrival programmes, with 76 countries both in the region and internationally.²⁹³ It is also a member of thirteen different free trade agreements, promoting the country's trade connectivity through the eradication of import tariffs.²⁹⁴ However, as the region becomes more open and connected, transnational organized crime can increase and diversify.²⁹⁵

²⁹¹ Engineering services, nursing services, architectural services, surveying services, dental practitioners, medical practitioners, accountancy services and tourism professionals.

²⁹² United Nations Office on Drugs and Crime. (2014). *Effective Frontline Border Management in Southeast Asia's New Era of Integration*. UNODC Regional Office for East Asia and the Pacific, Bangkok.

²⁹³ Department of Consular Affairs, Ministry of Foreign Affairs of the Kingdom of Thailand. (2016). *Summary of Countries and Territories Entitled for Visa Exemption and Visa on Arrivals to Thailand*. Department of Consular Affairs, Bangkok. Retrieved from <http://www.consular.go.th/main/th/customize/62281-Summary-of-Countries-and-Territories-entitled-for.html>

²⁹⁴ Suksri, P., Sermcheep, S., & Srisangnam, P. (2015). *Survey on the Use of Free Trade Agreements in Thailand*, in Ing, L. Y., & Urata, S. (Eds.), *The Use of FTAs in ASEAN: Survey-based Analysis*. ERIA Research Project Report 2013-5. ERIA, Jakarta, 243-270.

²⁹⁵ United Nations Office on Drugs and Crime. (2016). *Protecting peace and prosperity in South-east Asia: synchronizing economic and security agendas*. UNODC Regional Office for East Asia and the Pacific, Bangkok.

The Office of National Economic and Social Development Board reported that AEC integration will make general markets more competitive, requiring businesses to come up with diverse strategies on how to survive in this new economic climate.²⁹⁶ It is safe to assume that this diversification of strategy will also apply to TOC.

Negative Changes

Among those who thought AEC integration would have a negative impact on TOC, there were three common themes:

First, transportation across borders is expected to be easier because of the increase in transportation infrastructure among countries in the region, which will limit costs for TOC and therefore increase its appeal.²⁹⁶ The stakeholders interviewed were concerned that traveling across borders will become so easy that offenders will be able to move freely and Thailand will become a safe haven for them. Others believe that transportation will become so simple that domestic offenders will adapt their operations and become international offenders, raising the level of TOC.

Second, interviewees indicated that **transporting goods** both legally and illegally **will become easier and cheaper** with AEC membership, increasing illicit trafficking opportunities. This presents a problem for Thailand as it challenges the country's efforts to crack down on smuggling and trafficking of illegal goods, especially wildlife. Interestingly, an expert noted that with the eased goods transportation framework, offenders will be less concerned with concealing illegal items, and instead spread the risk over multiple vehicles. As a result, the costs of transportation will decrease, and the profits of traffickers will be higher.

Third, many interviewees said that as a result of eased movements of people and goods, it would be **easier and faster to commit international crimes**.²⁹⁷

An agency respondent was asked what the AEC portends in terms of labour mobility, and what mechanisms are in place to regulate and monitor labour mobility across borders. The agency respondent clarified that it is difficult to apply the terminology 'regulate' to the situation, because ASEAN is actually facilitating labour mobility, not regulating it.

There is no ASEAN mechanism to recognize skills other than the eight categories of skilled labour and allow for their free movement. In many countries, immigration and labour laws are not harmonious. For

²⁹⁶

²⁹⁷ *Ibid.*

example, there is no mutual recognition agreement for construction workers, domestic helpers, workers on plantations, etc. Supply and demand help dictate additional flows of unskilled labour across borders. Migrant workers often face challenges in entering a foreign country alone, and so they resort to the help of a recruiting agency. However, many recruiting agencies are not legitimate and trick people into some form of exploitation. The countries that are due to receive these migrant workers should implement tighter border controls. ASEAN member states, with the strong encouragement of migrant worker advocates, are now in the process of negotiating an agreement in order to protect the human rights of migrant workers.

Interviewees were asked how visa requirements and travel restrictions will change for nationals of ASEAN member states. They explained that workers who are not included in the eight professions must follow the laws of the receiving state, which means a migrant worker needs to have a job opportunity before moving.

Ultimately the **overwhelming majority of agencies believe that the levels of TOC will increase due to AEC**. Some interviewees expect changes in the complexity of the crime itself, especially given that the developmental of technology helps offenders adapt. An interviewee underlined the need to strike a balance between softer rules for mobility and the needs of law enforcement in the new regional landscape.

An expert in TOC was asked to predict which TOC activities will become more salient in Thailand in the coming years. The expert identified drug trafficking, trafficking in persons and cybercrime as prominent emerging TOC activities. The expert also identified drugs as the greatest threat to Thai national security.

Positive Changes

A number of stakeholders said there would also be positive changes associated with the AEC. Some officers said it was possible that there would be a reduction in the amount of trafficking in persons and migrant smuggling because of the AEC. The visa exemption policies supporting the implementation of the AEC will encourage regular migration and fewer migrants will be compelled to use smugglers and traffickers in order to migrate. The Thai Ministry of Social Development and Human Security already reported this new trend. Additionally, some interviewees predict that some illegal activities will be relocated to neighbouring countries where minimum wages are lower. Therefore, fewer workers will migrate to Thailand, and some undocumented migrants will return to their countries of origin because of increased job opportunities, albeit in connection with illegal activities. Others said that an increase in TOC may be counterbalanced by integration, since regional integration implies stronger cooperation among the law enforcement authorities of ASEAN member states. Nonetheless, stakeholders could not predict what would happen to TOC because of AEC integration. This implies that there is a need to raise awareness among public officials and institutions about the trends in TOC.

3.6

Challenges for Thai Agencies

The UNODC reports that the volume of transnational organized crime has already increased with AEC integration.²⁹⁹ As a result, agency representatives were asked what challenges they envisioned for their agencies due to AEC membership. The most common response was that **information sharing and cooperation** among ASEAN member states would be challenging since they depend on trust among countries. This answer reflects the realist perspective of international relations, where countries are all looking out for their own national priorities and interests at all times. Although information sharing and cooperation is a significant challenge, it is also the top priority for Thailand's agencies.

Key stakeholders interviewed in Thai agencies predict that the number of TOC cases and **workload** will increase tremendously for all agencies involved.

Interviewees believe **criminal cases will be harder to handle** given their increased transnational nature. The lack of consistency in policy, legislation and investigation techniques across ASEAN member states makes this a significant obstacle to prosecution of crime. If an offender is committing the same type of crime in Thailand and in Myanmar, there are many things to consider. Once the offender is caught, in which country will the offender be charged? Are the punishments the same in both countries? Is the conduct even a crime in both countries? Did the offender or trafficked person enter the country illegally?

Counter-TOC capacity will also need to be updated and expanded in order to respond to emerging threats, and thus **training** is needed for staff. Some agencies cited training in general, but most were specific in stating that their staff needed training in language skills. Better language skills and the use of a common working language will make information sharing much easier.

Agencies also said **technology** would be a challenge in the future. They predict that TOC will use technological developments to their benefit, making criminal enterprises harder to combat. Investigators must also adapt and incorporate new technologies. Some interviewees prioritized the enhancement of technological systems available to Immigration, such as the e-passport system and the biometric screening system, which are commonly used in many developed countries.

The Master Plan for ASEAN Connectivity³⁰⁰ acknowledges the necessity of protecting its members from the dangers associated with more connectivity. To deal with AEC implementation, ASEAN member states require a coordinated and strategic plan of action to reverse the rising tide of TOC.³⁰¹ Security therefore must be incorporated into every aspect of integration in order to help ensure that transnational organized crime is contained.³⁰² For example, hundreds of millions of shipment containers arrive in the region every year, yet not even 2% are inspected:³⁰³ this kind of practice allows TOC to grow.

²⁹⁹ United Nations Office on Drugs and Crime. (2016). *Protecting peace and prosperity in South-east Asia: synchronizing economic and security agendas*. UNODC Regional Office for East Asia and the Pacific, Bangkok.

³⁰⁰ Master Plan on ASEAN Connectivity. (2011). ASEAN, Jakarta. Retrieved from http://www.asean.org/storage/images/ASEAN_RT_2014/4_Master_Plan_on_ASEAN_Connectivity.pdf

³⁰¹ United Nations Office on Drugs and Crime. (2016). *Protecting peace and prosperity in South-east Asia: synchronizing economic and security agendas*. UNODC Regional Office for East Asia and the Pacific, Bangkok.

³⁰² *Ibid.*

³⁰³ *Ibid.*

Chapter 4

STRENGTHENING THAILAND'S CAPABILITY TO COMBAT TOC UNDER THE AEC

Interviews conducted with a large sample of practitioners allowed an assessment of how they see their agency's preparation efforts; if preparation and the available resources are enough; what else is needed; how important it is to prepare; and perceptions about whether ASEAN member states have prepared for the criminal ramifications of regional integration.

All sixteen³⁰⁴ government agencies represented by interviewed stakeholders have undertaken some preparations for regional integration, focused mainly on building their technical capacity to combat TOC, but also on improving cooperation both at the interagency and at the international level, and on promoting law reform and policymaking. Foreign language training and the use of technologies were key components of such preparations. However, stakeholders were equally divided between those who felt current preparations were enough, and those that think more needs to be done. In order to fill these preparation gaps, the '4M' are needed: money, manpower, material and management.

³⁰⁴ The government agencies represented by the interviewed stakeholders were Office of the Attorney General, Ministry of Social Development and Human Security, Ministry of Foreign Affairs, Immigration Department, Customs Department, Royal Thai Police, National Security Council, Department of Special Investigation, Natural Resources and Environmental Crimes Suppression Division, National Intelligence Agency, Office of the Narcotics Control Board, Anti-Money Laundering Office, Courts of Justice, Intellectual Property and International Trade Court, Pollution Control Department, and Department of National Parks Wildlife and Plant Conservation.

4.1

Perceptions of Thailand's Readiness for the Impact of AEC

Thai government officers are concerned about the need to effectively prepare for the impact that regional integration may have on their workload, and in particular, the expected increase in TOC activity in Thailand. The table below provides an overview of the answers in terms of importance.

How important do you think it is to be prepared for when Thailand joins the AEC?



Some officers noted that adequate preparations are particularly necessary in Thailand due to the country's central position within the AEC, which makes it a regional hub for any kind of activity. Therefore, they emphasized that preparations should encompass all ranks and operational levels, and should adopt an integrated and multidisciplinary approach, involving many relevant stakeholders, including NGOs.

4.2

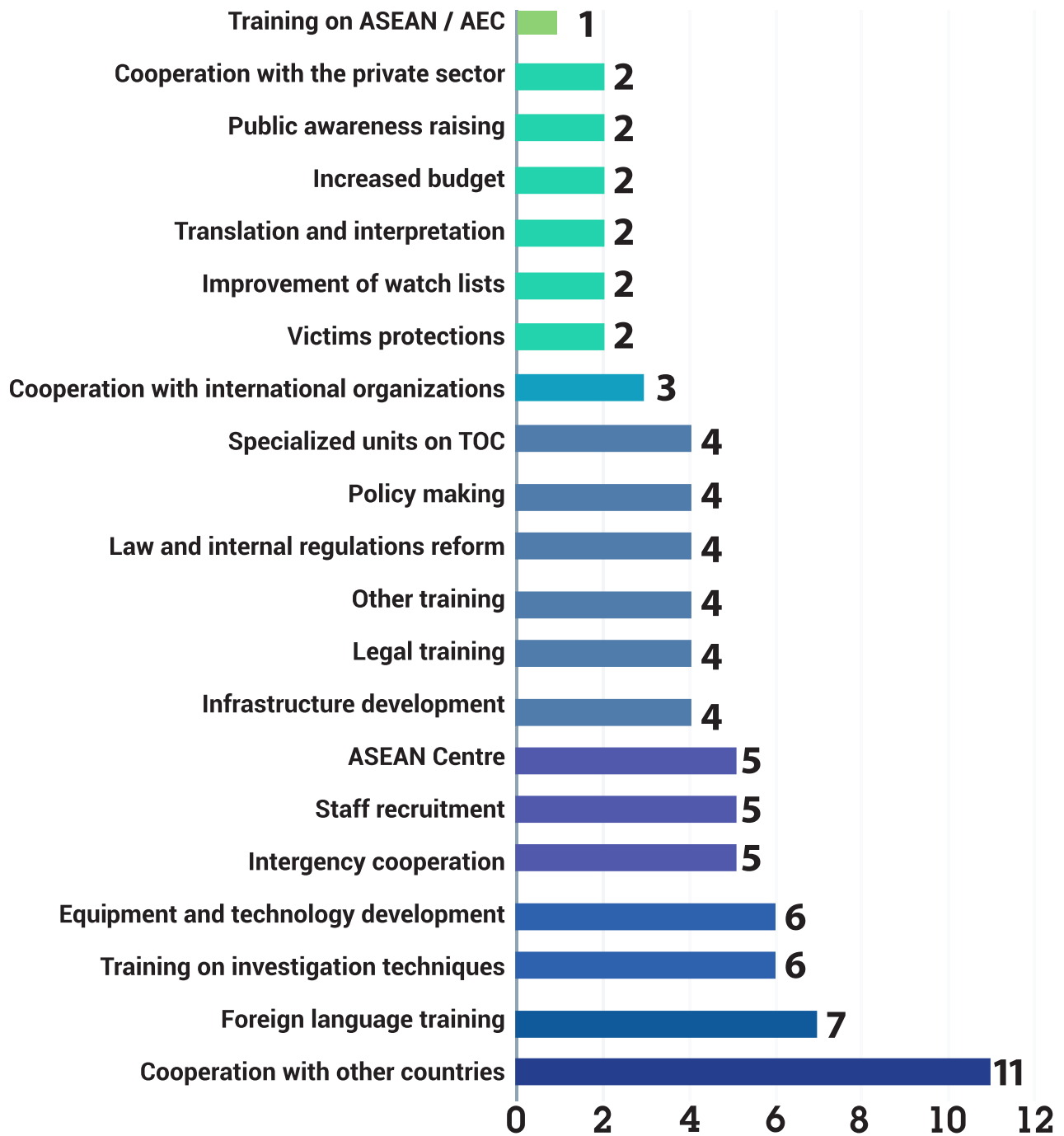
Preparations Undertaken by Key Thai Government Agencies

When asked to describe what preparations their agencies undertook regarding the expected impact of the AEC on TOC in Thailand, if any, the majority of interviewees said they have carried out preparations. The answers were consistent both at the headquarters and at the field level, and across all government agencies.

However, the duration, content, and officers' awareness of the preparations undertaken vary greatly across and within agencies. According to the interviewees, some organizations have been preparing for a long time, while other officers observed that preparations within their agency needed to begin early, prior to joining the Community. Higher ranking officials had more details about their agency's preparations, while others were aware of their agency's preparation.

An overall analysis indicates that, in order to prepare for the expected impact of the AEC on TOC in Thailand, government agencies have focused mainly on building their capacity to cope with TOC, secondly on improving cooperation both at the interagency and at the international level, and thirdly on law reform and policy making.

The following chart illustrates preparations for the AEC within the government sector by number of agencies.



Preparations

Preparations within most interviewed agencies consist primarily of developing their human resources capacity through a variety of **training**. Improving foreign language skills has been a primary concern of many government agencies. Many agencies have organized **language training**, focusing mainly on English. Other languages, such as Chinese, Japanese, Korean, French and ASEAN languages have been incorporated, the latter especially in border areas. In fact, in almost all the border areas visited, border authorities benefit from courses on the language of the neighbouring country, such as Burmese, Karen and Khmer. Teaching activities are either offered to staffs by their agency with government funds or implemented in partnership with local universities and individual volunteer professors. One agency reported that, despite the pressing need for language training, this could not be organized due to the lack of funds. Therefore, officers tried to maximise the opportunities to practice and improve their English skills through different approaches: besides engaging with NGOs working in a similar field that could help with language training, staffs attended professional trainings conducted in English and increased peer-to-peer learning via online conversations in English.

In all cases, language courses were offered free of charge, during or outside office hours depending on the agency. While classes are still the preferred teaching method in most government agencies, the Immigration Department launched a self e-learning website and mobile application, both which are accessible anytime by all officers across the country. This promising practice can represent a more sustainable approach to continuous learning if it is given a wider platform. It also does not add any additional training costs for the provider. E-learning is a practical solution to two problems with language training: the limited course duration and the limited number of officers involved due to lack of funding.

The duration and frequency of classes made possible by the limited funds cannot adequately supply a working knowledge of foreign languages. The average duration of language courses is only two or three months (with a frequency ranging from three to six hours per week), but some agencies had courses as short as only one week.

Language courses are usually mandatory only for frontline officers and optional for other staffs. As such, the number of officers involved is limited. Although government officers usually had a strong willingness to participate, the limited resources available and the lack of a systematic policy on foreign language requirements within the public administration remain key obstacles.

In some agencies, officers have benefited from **training on a wide range of investigation techniques**, from crime scene investigation to cyber forensics, **including the use of technologies** in the investigation, prosecution and judicial process.

The Immigration Department has made significant progress in setting up an advanced fake passport detection system. The establishment of fraudulent document detention centres in major Thai airports was accompanied by the delivery of specialized training to both airline staff and frontline officers from the beginners to the expert level, including an online training application accessible by all immigration officers across the country. The new detection system is supported by increased information sharing with ten countries which are members of the Immigration Control Experts Team. Thai Immigration is currently promoting a plan to establish the ASEAN Fraudulent Document Detection Centre at airports in ASEAN member states in order to train local authorities and airline staff, and to foster a regional network of cooperation for the purpose of document verification.

A few agencies also organized **legal training** and other training programmes, on subject areas such as human rights and good governance. However, specific training on ASEAN and AEC matters was delivered by only one agency.

Agencies identified **cooperation** with relevant national and international stakeholders as the second most common form of preparation for the regional integration. Government agencies have engaged with relevant authorities from other countries both regionally and internationally; with other Thai law enforcement and security organizations with the goal of working as a single team or task force to share information and intelligence; with international and regional organizations such as the United Nations, INTERPOL and ASEANAPOL; and with the private sector and other non-government actors.

Cooperation has been fostered in numerous sectors and it is usually essential in order to achieve greater crime detection and investigation capacity. Examples of cooperation include mainly intelligence development and information sharing with other countries, especially with neighbouring countries; for example, coordinated border management, through the establishment of joint inspection units and the appointment of liaison officers in border areas to streamline cooperation with the corresponding foreign authorities. Thailand recommended to the 26th ASEAN Summit (2015) the strengthening of cooperation on border management.³⁰⁵ Joint investigations with foreign law enforcement agencies have become more frequent. In order to facilitate these operations, the Thai authorities have posted some law enforcement attachés abroad with duties including to expedite the issuing of international arrest warrants. Some agencies have also promoted joint training with foreign counterparts, officer exchange programmes, and study visits to countries with more advanced law enforcement capacity. The shortage of Thai officers with adequate foreign language skills is a major challenge.

The third major trend consists of **increasing the use of information and communication technologies** (ICT) throughout the criminal justice system. Several agencies have acquired more sophisticated equipment, such as devices to verify travel documents, biometric and fingerprints technology, X-ray machines for lorry and goods inspection, software to enable a Customs Single Window within ASEAN, and E-justice conference centres to present evidence in court via teleconference. Social media and mobile chat applications have become a popular means of information exchange among public officers both domestically and transnationally. An interesting initiative is the growing use of online manuals and mobile training applications made by several agencies to make language and investigation training more accessible to all officers across the country and cut training costs.

³⁰⁵ INTERPOL. (2015). *Thailand Country Report 2015*. INTERPOL Thailand, Bangkok, 4. Retrieved from http://www.INTERPOLbangkok.go.th/site/documents/events/Thailand_Country_Report%20_15th_SOMTC.pdf

In a number of agencies, procuring newer equipment was combined with the **recruiting** of additional staff; individuals who were more qualified with a higher education, legal expertise, technological awareness and foreign language skills.

A more comprehensive policy of preparation for the regional integration was identified within the Office of the Attorney General, the Royal Thai Police, the Department of Special Investigation and the Court of Justice.³⁰⁶ These agencies set up the **ASEAN Centre**, a specialized department with the duty to provide policy and technical support to ease the transition towards a more regionally integrated work environment. Each agency's Centre received specific mandates and tasks, for example disseminating knowledge of the ASEAN integration process; fostering cooperation with countries in the region, notably through study visits abroad; translating domestic legislation on the rights of victims, witnesses and offenders into various ASEAN languages and gathering relevant laws from other ASEAN member states. Additionally, the Ministry of Foreign Affairs' National ASEAN Committee with its thematic subcommittees regarding social, economic and security-related issues serves as the Thai focal point for all ASEAN-related matters.

Infrastructure development was often found in border areas where local authorities expect the current screening infrastructure to be challenged by the increased flows of people and goods. There are two strategies to counterbalance this expected trend.

First, more police stations and police 'boxes', immigration checkpoints, customs houses, inspection rooms and infrastructure for vehicles inspection were built at border gates. Particular attention was given to the Special Economic Zones where the volume of trade has already increased and there exists a need for enhanced controls. For example, in one of these zones there are currently between 1,000 and 2,000 people crossing the border every day; the expectation for the future is 5,000-10,000 people daily. The construction of a bigger bridge and additional border checkpoints aims at expanding the access gates and redistributing the flows toward a new border terminal that will allow people to transit directly into the immigration office.

Second, some agencies announced **more frequent inspections** of people and goods according to stricter rules and procedures in line with international standards. To this end, they increased the number of border patrols and adopted more effective inspection procedures.

Some organizations coupled their capacity building efforts with ad hoc **policymaking and law reform** initiatives. Select agencies conducted a threat assessment in order to update their crime prevention strategies to cope with the expected increase in TOC. Legislative reforms were promoted to strengthen existing laws under the Royal Thai Police and the Anti-Money Laundering Office, to facilitate cooperation with INTERPOL and to align internal regulations with the Anti-Participation in Transnational Organized Crime Act of 2013.

³⁰⁶ ASEAN Corporation Center. Retrieved from <https://acc.coj.go.th/th/page/item/index/id/1>

Other forms of preparation include the Office of the Attorney General, the Court of Justice,³⁰⁷ the Royal Thai Police and the Customs Department **establishing specialized units** to develop expert capacity to deal with TOC, trafficking in persons, drug trafficking and cybercrime.³⁰⁸ A focus on **victim protection** was found in some agencies that have equipped themselves to provide better services matching the needs of victims of trafficking in persons and trained their officers in the treatment of such victims. The **improvement of watch lists and databases on criminal records** was also observed. The Royal Thai Police database was linked to INTERPOL's red alert list to ease the identification of international offenders accessing immigration screenings and a border authority developed a joint database on criminal records with the corresponding foreign agency. **Translation and interpretation services** were improved in a few agencies by establishing a panel of interpreters and translating laws to be placed in police stations into several ASEAN languages, with a view to facilitating interactions with foreign victims and suspects. To **raise public awareness** on the risks of trafficking in persons and migrant smuggling, some agencies targeted villages in neighbouring border areas where they disseminated knowledge on how to cross the border regularly without resorting to smugglers and traffickers. However, only a handful of agencies saw their **budget** increasing in view of the regional integration.

As mentioned before, several agencies have embarked on multiple forms of preparations. For example, the Royal Thai Police has adopted a comprehensive policy consisting of setting up an ASEAN Centre and a TOC unit; training on law enforcement and cooperation; applying new technologies to investigations; seeking cooperation with foreign law enforcement agencies; and suppressing corruption. The police further envisage the establishment in the future of an integrated ASEAN investigation team for TOC cases.³⁰⁹

³⁰⁷ The Court of Justice had established a human trafficking department within the court of first instance and the court of appeal. Retrieved from <https://crimc.coj.go.th/th/content/category/detail/id/8285/iid/130923>

³⁰⁸ Specialized units on TOC and human trafficking were previously set up also within the Department of Special Investigation and the Ministry of Social Development and Human Security, respectively.

³⁰⁹ Kanchanakit, C. (2014). *Transnational Organized Crime: new security problem in the AEC era*, in *Annual Report of Royal Thai Police Year 51*. Bangkok, 445.

Chapter 5

THE ROLE OF INTERNATIONAL COOPERATION IN TOC MATTERS IN THAILAND

5.1

Perceptions of Thailand's Readiness for the Impact of AEC

Thailand has engaged at all levels of external cooperation against TOC – bilaterally, sub-regionally, regionally and globally. Each level has proved to have its own utility and role and serves different purposes. According to the stakeholders interviewed, Thailand's regional and sub-regional activism in the field of criminal matters is driven by the key concern of controlling illicit flows across borders, in particular trafficking in persons, drugs and wildlife. Thailand is initiating multilateral border monitoring mechanisms within the Mekong sub-region and it is a primary recipient of regional technical assistance programmes aimed at enhancing border management. Thailand has recently played a pivotal role in the inclusion of wildlife and timber trafficking on the AMMTC agenda and in the adoption of the ASEAN Convention against Trafficking in Persons. The country acts as a co-shepherd for the AMMTC and SOMTC drug trafficking agenda and pushed for the institutionalization of the ASEAN Ministerial Meeting on Drug Matters as well as for the establishment of the ASEAN Narcotics Co-operation Centre that was set up in September 2014 in Bangkok. Thailand, together with China, also took the lead in the development of the ASEAN Regional Forum Work Plan 2015-2017, which serves as a roadmap for regional cooperation on counterterrorism and transnational crime.

Another important initiative proposed by Thailand is the organization of the ASEAN Conference on Crime Prevention and Criminal Justice (ACCPCJ) under the purview of the ASEAN Senior Law Officials Meeting (ASLOM) and the ASEAN Law Ministers Meeting (ALAWMM). The ACCPCJ uniquely provides a platform for discussing cross-sectoral, cross-pillar collaboration on crime prevention and criminal justice issues in ASEAN. The 1st ACCPCJ was convened in Bangkok in November 2016 and the 2nd ACCPCJ was organized in Bangkok in February 2020.

In recent years, Thailand has also been working in close consultation with the other ASEAN Member States and the UNODC in promoting more comprehensive ASEAN cooperation in border management. Initiatives to enhance cross-border cooperation at the regional level have been put forward by Thailand at various ASEAN high level and sectoral meetings. At the 13th ASEAN Defence Ministers Meeting (ADMM) in July 2019, Thailand proposed a concept paper on the role of ASEAN defence establishments in supporting border management to strengthen coordination and cooperation amongst ASEAN defence establishments in dealing with cross-border challenges. In particular, the concept paper underlined the need for greater interaction between the existing mechanisms dealing with transnational crimes and cross-border issues, among other, ASEAN Directors-General of Immigration Departments and Heads of Consular Affairs Divisions of the Ministries of Foreign Affairs (DGICM), SOMTC, ASEANAPOL, ASOD, ASEAN Directors-General of Customs, ASEAN Our Eyes (AOE), Border Liaison Office (BLO), and the Malacca Straits Coordinated Patrols (MSCP). A proposal for consideration of an ASEAN border management cooperation roadmap will be presented to the ASEAN Member States at the future SOMTC and AMMTC in 2020.

In relevant global multilateral fora, such as the United Nations Commission on Crime Prevention and Criminal Justice, Thailand has addressed TOC from a sustainable development perspective, placing great emphasis on the adoption and implementation of goal 16 of the Sustainable Development Agenda.

5.2

Key Partners

Interviewees were asked whether they were aware of any Memorandum of Understanding (MoU) or cooperation mechanisms in place that their organization has with other countries and/or regional and international organizations to combat TOC. The overwhelming majority of interviewees (91%) answered in the affirmative and were usually able to provide details about the partners and type of cooperation in place. The discussion about concrete examples of international cooperation to combat TOC generated two main findings.

Firstly, although almost half of interviewees³¹⁰ mentioned the existence of MoUs or similar formal cooperation agreements³¹¹ and recalled that formal meetings are organized frequently enough (particularly in the ASEAN context), **informal cooperation** based on personal contacts with foreign officers and trust still prevails. Formal cooperation has proved to be time-consuming since officials must go through a long chain of authority to get approval especially for information exchange; this generates significant delays in investigation and prosecution. Interviewees explained that informal channels were much more efficient. An example is the use of mobile chat applications in order to communicate with foreign partners.

Secondly, the large majority of professionals interviewed indicated that **bilateral cooperation with competent authorities from other countries** was more practical and effective than multilateral cooperation because it was faster, less expensive and an overall simpler arrangement. Numerous examples of successful international cooperation against TOC were described by interviewees.

The interviewees indicated the following: at the headquarters level, the strongest cooperative relations are usually those with non-ASEAN member states and entities. Australia, the United States, INTERPOL and the UNODC are key partners in Thailand's fight against TOC and the primary technical assistance providers for investigative training, funds and equipment. According to the interviewees, the longest established and most fruitful relationships are those in place with the Australian Federal Police (and more recently with the Australian Border Force) as well as with American law enforcement authorities such as the Federal Bureau of Investigations, the Drug Enforcement Administration, the Bureau of International Narcotics and Law Enforcement Affairs, and Homeland Security investigations. Thai law enforcement officers often engage also with their Japanese, Chinese and Russian counterparts. According to Bangkok-based personnel, Myanmar is a good example of active partnership with an ASEAN country, especially in combating trafficking in persons. Relevant Thai stakeholders acknowledged the value of cooperation with INTERPOL and the UNODC. Local embassies, through their foreign law enforcement attachés, play a very active role in building a cooperative relationship in criminal matters with the relevant Thai agencies, covering both joint police operations and various forms of technical assistance.

³¹⁰ 27 out of the 60 interviewees (45%) indicated their awareness of the existence of MOUs or similar formal agreements. .

³¹¹ E.g. extradition treaties and regional and international treaties that include provisions on cooperation, such as the ASEAN Treaty on Mutual Legal Assistance in Criminal Matters, the ASEAN Convention Against Trafficking in Persons, Especially Women and Children, and UNTOC.

A quite different scenario was found in border areas, where the main (and often exclusive) counterparts are the corresponding border managers of the neighbouring country, with Myanmar, Malaysia and Cambodia representing increasingly cooperative partners. Cooperation with neighbouring countries is often facilitated by funds and technical support provided by the UNODC or Australia. The Border Liaison Offices (BLO) set up by the UNODC at the Thai-Myanmar, Thai-Laotian and Thai-Cambodian borders were often mentioned as an effective coordinated border control mechanism.

Despite the generalized preference for bilateral cooperation, interviewees discussed twelve interesting examples of successful multilateral initiatives involving multiple countries regionally and globally.³¹² Only seven stakeholders recalled cooperation in the ASEAN framework (in particular the Senior Official (Ministers) Meeting on Transnational Crime), suggesting that the proliferation of ASEAN meetings and the increasingly active ASEAN policymaking are not perceived as a primary instrument of cooperation by most practitioners. Nevertheless, there has been an increase in the number of multilateral initiatives within the Greater Mekong Subregion.

The following box illustrates Thailand’s most promising practices mentioned by practitioners:

| Promising practices in international cooperation against TOC in Thailand | | |
|---|---|--|
| Initiative | Participating countries and organizations | Information |
| Bilateral cooperation | | |
| Border Liaison Office (BLO) | Thailand-Myanmar, Thailand-Cambodia, Thailand-Laos, UNODC | A BLO is a centralized clearing house for information received from the vicinity of border areas and a point where joint actions can be taken and coordinated. ³¹³ Since 1996, 70 BLO units have been established at key border crossings in the ASEAN region, of which 18 are in Thailand. The UNODC-sponsored BLO has strengthened coordination among front-line border agencies and cross-border cooperation with the relevant authorities from neighbouring countries in the response to TOC. |

³¹² 18 out of 60 interviewees identified examples of multilateral cooperation, of which six focused on multilateral cooperation at the sub-regional level within the Greater Mekong Subregion (comprising Cambodia, Laos, Myanmar, Thailand, Vietnam, and Yunnan Province in China), ten addressed multilateral cooperation at the regional level (the ASEAN and Asia-Pacific region), and three referred to global multilateralism.

³¹³ United Nations Office on Drugs and Crime. *Supporting Regional Integration with Effective Border Management: Border Liaison Offices*. UNODC Regional Office for East Asia and the Pacific, Bangkok.

Promising practices in international cooperation against TOC in Thailand

| Initiative | Participating countries and organizations | Information |
|---|---|--|
| Bilateral cooperation | | |
| Thailand-Myanmar Anti Trafficking in Persons Task Force | Thai and Burmese Immigration Departments | Immigration authorities in three key border checkpoints established the Thailand-Myanmar Anti-Trafficking in Persons Task Force. It involves local authorities and it is described by the personnel involved as a very effective mechanism to track and suppress illicit flows, as well as to provide assistance to the victims. At the HQ level, the Thai Department of Special Investigation and the Myanmar Police Force signed a memorandum of understanding on cooperation against trafficking in persons in 2011 which has been effectively implemented. |
| Australia-Thailand joint task force against TOC (upcoming) | Royal Thai Police and Australian Federal Police | The upcoming establishment of the first Australia-Thailand joint task force against TOC is a significant step forward in Thai-Australian cooperation in criminal matters. The Australian government is a key partner in criminal investigations and a primary technical assistance provider for Thai law enforcement agencies. It is also a driver of regional cooperation against trafficking in persons through the Australia-Asia Programme to Combat Trafficking in Persons and the Bali Process. |
| Thailand-INTERPOL operational cooperation | Thailand and INTERPOL | According to Thai law enforcement officers, INTERPOL is a key partner in criminal information exchange. Thanks to the instalment of the I24/7 ³¹⁴ system in Thailand and the linkage of the Royal Thai Police criminal database to INTERPOL's red alert list, Thailand now ranks first in Asia and third worldwide for the number of arrests of individuals subject to INTERPOL's red notices (18 cases solved in 2015). |

³¹⁴ INTERPOL Official Website: Data exchange. Retrieved from <http://www.INTERPOL.int/INTERPOL-expertise/Data-exchange/I-24-7>

Promising practices in international cooperation against TOC in Thailand

| Initiative | Participating countries and organizations | Information |
|--|--|---|
| Bilateral cooperation | | |
| International Law Enforcement Academy (ILEA) in Bangkok | United States-sponsored | The ILEA provides a wide range of investigative training with an outlook on supporting criminal justice institution building and capacity in Asia, as well as strengthening cooperation among law enforcement agencies in Asia. Between 1999 and February 2015, 16,835 criminal justice officers from 14 Southeast and East Asian countries attended training at ILEA in Bangkok. ³¹⁵ Besides promoting ILEA, American specialized agencies provide Thai authorities with training and technical assistance, including language and investigative training, forensics and cyber-forensics, enhancement of CCTV images etc. |
| Multilateral cooperation at the sub-regional level | | |
| Memorandum of Understanding on Drug Control in the Greater Mekong Subregion | Cambodia, China, Lao PDR, Myanmar, Thailand, Vietnam and the UNODC (secretariat) | Since 1993, this memorandum of instrument provides an operational platform to address challenges related to drugs and precursor chemicals production, trafficking and use. It is complemented by a Sub-regional Action Plan covering the following five thematic areas: law enforcement cooperation; international cooperation on legal and judicial matters; drug demand reduction; drugs and HIV; and sustainable alternative development. ³¹⁶ |

³¹⁵ International Law Enforcement Academy in Bangkok. (2015). Institutional pamphlet, Bangkok.

³¹⁶ United Nations Office on Drugs and Crime, Regional Office for East Asia and the Pacific. Mekong MOU on Drug Control. UNODC, Bangkok. Retrieved from <https://www.unodc.org/southeastasiaandpacific/en/what-we-do/toc/mou.html>

Promising practices in international cooperation against TOC in Thailand

| Initiative | Participating countries and organizations | Information |
|--|---|--|
| Multilateral cooperation at the sub-regional level | | |
| Greater Mekong Subregion Border Cooperation against TIP and TOC (GMS BCATIP/BCATOC) | Thailand, Myanmar, Laos, China | The GMS BCATIP/BCATOC is a border patrol cooperation mechanism involving immigration authorities operating in the Golden Triangle. It focuses on patrolling against illicit trafficking along the Mekong river. It has been in place since 2015, with two meetings convened annually and regular informal communications. |
| Route 3A Border Cooperation against TIP and TOC (R3A BCATIP/BCATOC) | Thailand, Laos, China | R3A BCATIP/BCATOC replicates the previous cooperation mechanism but with a focus on road patrolling. It was inaugurated in 2015 and an office is being created as a cooperation centre. The personnel that have been involved credit R3A BCATIP/BCATOC with making the investigation process faster and more effective. |
| The Safe Mekong Project | Thailand, Myanmar, Laos, Vietnam and China. | This project has a coordination centre in Chiang Mai and is an effective platform for criminal information sharing in order to support drug suppression operations. During 2015-2016 under the Safe Mekong project, the Thai Office of Narcotics Control Board and Narcotic Suppression Bureau have destroyed one major drug smuggling group running 26 networks, leading to the confiscation of drug-related assets by the Anti-Money Laundering Office. ³¹⁷ Since 2011, over 9,100 transnational drug trafficking cases were dealt with and 35 tons of drugs were seized. |

³¹⁷ Laohong, K. (2016, August 3). Major drug gang smashed by Safe Mekong operation. *The Bangkok Post*. Retrieved from <http://www.bangkokpost.com/news/crime/1051921/major-drug-gang-smashed-by-safe-mekong-operation>

Promising practices in international cooperation against TOC in Thailand

| Initiative | Participating countries and organizations | Information |
|---|--|---|
| Multilateral cooperation at the sub-regional level | | |
| Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT) | Cambodia, China, Lao PDR, Myanmar, Thailand, Vietnam | <p>The COMMIT initiative, in place since 2004, aims to develop close cooperation against trafficking in persons through practical actions in five main areas: policy and cooperation; legal frameworks, law enforcement and justice; protection, recovery and reintegration; mechanism of implementation; and monitoring and evaluation.³¹⁸ Flagship activities include the Regional Training Programme to Combat Trafficking in Persons and the focus on engaging the tourism sector.³¹⁹</p> |
| ASEAN Wildlife Enforcement Network (WEN) | 10 ASEAN member states + external partners | <p>WEN is the world's largest regional intergovernmental law enforcement network for wildlife crimes and it involves police, customs and environment agencies of all ten ASEAN member states.</p> <p>This initiative focuses on capacity building and enforcement action to respond to wildlife trafficking. It led to three successful law enforcement operations with INTERPOL, namely Cobra 1, Cobra 2 and Cobra 3, jointly planned by participating countries. An ongoing project consists of investigation of ivory trafficking with the use of DNA analysis. In addition, ten Wildlife Checkpoints were established across Thailand and regional meetings and trainings are organized annually. The network links with the CITES offices, INTERPOL, the United States Fish and Wildlife Service, the United States Department of Justice and other wildlife law enforcement groups.</p> |

³¹⁸ ECPAT. (2014). *ECPAT International Journal*, 9, 24-27.

³¹⁹ ECPAT. (2011). *Global Monitoring: Status of Action Against Commercial Sexual Exploitation of Children in Thailand (2 nd. ed.)*, 12. Bangkok, Thailand. Retrieved from http://resources.ecpat.net/EI/Pdf/A4A_II/A4A_V2_EAP_THAILAND.pdf

Multilateral cooperation at the international level

| Initiative | Participating countries and organizations | Information |
|------------|---|-------------|
|------------|---|-------------|

Multilateral cooperation at the sub-regional level

| | | |
|--|---|---|
| <p>Regional Enforcement Network for Chemicals and Waste (REN)</p> | <p>25 Asian countries, UNEP and WCO</p> | <p>The REN project, launched in 2002, is the only intergovernmental cooperation mechanism addressing hazardous chemical and waste trafficking in the world. It involves the UNEP, the WCO and customs and environmental agencies from 25 countries. Meetings are organized regularly to share information and promising practices. Operational cooperation led to the successful Operation Sky Hole Patching.</p> |
| <p>Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime</p> | <p>48 members including Asia-Pacific countries, IOM, UNHCR, UNODC</p> | <p>The Bali Process (in place since 2002) is a framework for cooperation in information exchange, transfer of capacity and monitoring of policy responses. Several capacity building projects involve Thailand, Indonesia, Australia, the IOM and the UNHCR. Successful initiatives include the Regional Curriculum for Frontline Border Officials (which guides officers in victim identification and protection) and the implementation of Policy Guides on Criminalizing Migrant Smuggling and Trafficking in Persons (which contributed to strengthening legislative frameworks in the region).</p> |

Multilateral cooperation at the international level

| Initiative | Participating countries and organizations | Information |
|--|---|--|
| Multilateral cooperation at the sub-regional level | | |
| Immigration Control Experts Team (ICE Team) | Immigration Department from 11 countries worldwide: Thailand, Australia, Canada, the United States, Germany, the United Kingdom, Norway, the Netherlands, France, the Republic of Korea and Austria | The ICE Team is aimed at real-time information sharing and training on fake passport detection. Thanks to the support provided by the Australian government, Thai immigration established the Document Verifying Unit at Suvarnabhumi airport and have trained airlines staff. These initiatives proved to be very effective, as reflected in the significant increase in detection, seizures and arrests. |
| The Egmont Group of Financial Intelligence Units (FIUs) | 125 countries worldwide | The Egmont Group promotes the global exchange of financial intelligence, training and expertise sharing among relevant financial authorities to fight against money laundering and financing of terrorism. Egmont Group FIUs meet bi-annually. |

5.3

Key Fields of Cooperation

From a substantive perspective, four key areas of cooperation were identified:

1. Information and intelligence sharing;
2. Joint law enforcement operations, from detection to the investigation and arrest phase;
3. Capacity building and technical assistance, in particular the provision of training and technical equipment;
4. Mutual legal assistance and other forms of cooperation at the prosecution and judicial stages (such as the issuing of arrest warrants, the collection of evidence and testimony, and coordination in criminal proceedings involving foreign defendants).

Less frequently, Thailand has engaged in international cooperation for the purpose of policy development and awareness raising in local communities. Few agencies undertook consultative meetings on best strategies and practices against TOC, security dialogues with other countries, and study visits abroad.

The extent to which these forms of cooperation apply vary greatly between the capital and border areas and depending on the partner. Cooperation with neighbouring countries, especially in border areas, is primarily focused on anti-trafficking in persons and drug control through information exchange and joint law enforcement. Thai law enforcement officers (notably the Royal Thai Police, the Immigration Department, the Department of Special Investigation, and the Anti-Money Laundering Office and Customs Department) frequently team up with extra-regional partners (such as the United States, Australia, Italy, INTERPOL, and the United Kingdom) in counter-TOC joint field operations in Thai territory. Additionally, the Australian, American, British and Canadian governments are key technical assistance providers, including in the delivery of technical and language training and the provision of equipment, as well as facilitators of regional cooperation together with the UNODC and INTERPOL.

Almost all agencies included in this study have benefited from these technical assistance programmes, with the Royal Thai Police, the Immigration Department, the Office of the Attorney General and the Department of Special Investigation being the primary recipients. Thai beneficiaries are overwhelmingly satisfied with this technical support and hope that further training opportunities will be provided. Continuous efforts are being made by the Australian Federal Police and the UNODC to deliver training in provinces across Thailand; however, training efforts are still concentrated in Bangkok, including at the US-sponsored International Law Enforcement Academy (ILEA).

Cooperation with non-governmental organizations (NGOs) remains a largely unexplored field of work. In their interactions with government agencies, NGOs engage primarily in policy advocacy, making recommendations on issues to be included in the government priorities agenda and on ways to address them. Anecdotal examples show that some NGOs have also supported capacity building within some specialized government agencies.

Promising Practices from Interviews

The Foreign Anti-Narcotics Community of Thailand (FANC)

The FANC is a professional organization consisting of representatives of countries and international organizations who are dedicated, in cooperation with the Kingdom of Thailand, to the suppression of TOC, illicit drug trafficking, terrorism, migrant smuggling, trafficking in persons, child sexual exploitation and abuse, money laundering, extortion and corruption. The FANC currently has 63 individual members from 40 different Thai and international law enforcement agencies, including international organizations such as INTERPOL and the UNODC. The Chairmanship of the groups rotates periodically.

The overall objectives of FANC are to:

- enhance enforcement efforts against international drug-trafficking and transnational crime through close personal contact of its members,
- maintain a close professional association with representatives of the Government of Thailand, in particular, those counterparts who are involved in the suppression of drug and transnational crimes, and
- render through its members, advice, assistance, support and guidance to all counterpart agencies engaged in narcotic and transnational crime suppression.

The FANC has been operating for over 30 years and has proven to be very effective among Thai and foreign law enforcement agencies with attachés based in Thailand, to the point that other countries in the region have shown interest in imitating this model.

A meeting is convened monthly in Bangkok to discuss various criminal problems. Members of the group consider it extremely useful from an operational perspective, both in terms of information and intelligence exchange and cooperation in investigations: "This helps to accelerate investigations in a way that anticipates INTERPOL's action". For instance, a series of joint operations conducted by the Thai and the Italian police over recent years led to numerous arrests of child sex offenders in Thailand.

The FANC also serves as a forum to leverage expertise, to maintain a dialogue on capacity building and to coordinate in order to avoid duplication in the delivery of training. Western countries are particularly active in this regard, with the FBI and the Australian Federal Police representing important donors offering funds and technological equipment.

However, the group remains characterized by an uneven degree of participation and capacity among its members. For example, while the United States participates with representatives from six different law enforcement agencies, the majority of embassies only have one police attaché who covers criminal matters in several countries in the region. Some members argued that cooperation is particularly effective among Western law enforcement agencies, while representatives from ASEAN member states play a less active role. Despite such limitations, it is widely agreed that the FANC remains a valuable cooperation mechanism for the fostering of continuous networking among key professionals.

There was wide consensus among interviewees that the cooperation in place is useful and effective (50 out of 52 interviewed). Some of the Thai officers stated that current international cooperation is essential to solving many transnational cases, and that Thailand is very active within that cooperation. This statement was backed by international stakeholders and international NGOs who unanimously acknowledged the effective operational relationship, although the NGOs noted that the Thai authorities often cannot meet their requests. However, cooperation by ASEAN member states in criminal matters was often referred to as inefficient and not sufficiently developed. This latter issue requires a deeper analysis in the context of the regional integration.

5.4

The ASEAN Framework of Cooperation in Justice and Security Matters

The ASEAN Political-Security Community (APSC) is grounded on the related Blueprint, which was adopted in 2009 at the 14th ASEAN Summit and which provides a roadmap and timetable to establish the APSC by 2015. The role of the APSC is to forge regional cooperation and common mechanisms in the political and security fields by subscribing to a comprehensive approach to security, acknowledging the interwoven relationship between political, economic, social cultural and environmental dimensions of development. It is expected that the APSC will play a pivotal role in fostering confidence building measures, preventive diplomacy and peaceful approaches to conflict resolution within ASEAN Member States.³²⁰ TOC is addressed as a non-traditional security issue in the framework of security cooperation.³²¹

In 2015, ASEAN Leaders adopted ASEAN Vision 2025, a new strategic framework envisioning the enhancement of a rules-based and inclusive community,³²² which takes a major step forward in the fight against TOC. It lays out the necessary steps to address each type of crime, particularly through strong institutional cooperation in border management, while recognizing the importance of awareness raising campaigns to promote local participation.³²³

Among the APSC Sectoral Ministerial Bodies, the ASEAN Ministerial Meeting on Transnational Crime (AMMTC) is the highest policymaking body on ASEAN cooperation in criminal matters. Its work is supported by three implementing Senior Officials Committees, namely the Senior Officials Meeting on Transnational Crime (SOMTC); the ASEAN Senior Officials on Drugs Matters (ASOD); and the Directors-General of Immigration Departments and Heads of Consular Affairs Divisions of Ministries of Foreign Affairs Meeting (DGICM).

³²⁰ ASEAN Political-Security Community Blueprint. Retrieved from <http://asean.org/wp-content/uploads/images/archive/5187-18.pdf>

³²¹ Section B.4 of the 2009 Blueprint mandates the ASEAN states to strengthen cooperation in addressing non-traditional security issues, particularly in combating transnational crimes and other transboundary challenges.

³²² Ministry of Foreign Affairs of the Kingdom of Thailand. (2016). ASEAN 2025: Forging Ahead Together. Bangkok.

³²³ Section B.3. of the APSC Blueprint 2025, entitled Enhance ASEAN capacity to address non-traditional security issues effectively and in a timely manner.

5.5

ASEAN Policy and Institutional Framework for Cooperation Against TOC

ASEAN member states have made concerted efforts to combat TOC since the early 1970s. Initial efforts were focused on drug trafficking.³²⁴ The ASEAN Declaration on Transnational Crime of 20 December 1997 laid the foundations for a basic framework for regional cooperation on fighting these crimes,³²⁵ which was further elaborated in the Manila Declaration on the Prevention and Control of Transnational Crime of 25 March 1998.³²⁶ A more cohesive strategy and framework for regional cooperation was crafted one year later, in the **ASEAN Plan of Action to Combat Transnational Crime of 23 June 1999**.³²⁷

Key Components of the ASEAN Plan of Action to Combat Transnational Crime

Policy framework

Information exchange

Improve the ASEANAPOL regional database to facilitate sharing of critical intelligence; establish a regional compilation of national laws; conduct typology studies; maximise the use of information and computer technology to exchange data; identify relevant contact persons and facilitate networking.

Legal matters

Criminalize specific transnational crimes; harmonize relevant national policies among ASEAN member states; develop multilateral and bilateral mutual legal assistance arrangements; protect the integrity of travel documents and strengthen immigration controls.

³²⁴ ASEAN Plan of Action To Combat Transnational Crime of 23 June 1999, in ASEAN Documents on Combating Transnational Organized Crime and Terrorism, Jakarta, 2012. Retrieved from http://asean.org/?static_post=asean-plan-of-action-to-combat-transnational-crime

³²⁵ ASEAN Declaration on Transnational Crime of 20 December 1997, in ASEAN Documents on Combating Transnational Organized Crime and Terrorism, Jakarta, 2012. Retrieved from http://asean.org/?static_post=asean-plan-of-action-to-combat-transnational-crime

³²⁶ The Manila Declaration was adopted at the first Asian Regional Ministerial Meeting on Transnational Crime organized by the United Nations Centre for International Crime Prevention on 23-25 March 1998 in Manila, Philippines. The Meeting was a follow-up to the Naples Political Declaration and Global Plan of Action against Transnational Crime adopted at the World Ministerial Conference on Organized Transnational Crime held in Italy in November 1994 and further approved by the UN General Assembly in its resolution 49/159.

³²⁷ ASEAN Plan of Action To Combat Transnational Crime of 23 June 1999, in ASEAN Documents on Combating Transnational Organized Crime and Terrorism, Jakarta, 2012. Retrieved from http://asean.org/?static_post=asean-plan-of-action-to-combat-transnational-crime

| | |
|--|---|
| Law enforcement matters | Develop joint tactical exercises and exchange programmes; appoint police attaches/liaison officers in the capital of ASEAN member states; enhance intelligence sharing and law enforcement cooperation. |
| Training | Promote regional training programmes, conferences and exchange of best practices. |
| Institutional capacity building | Establish the ASEAN Centre for Combating Transnational Crime; make the ASEAN Ministerial Meeting on Transnational Crime the highest policy making body in this field within ASEAN; strengthen institutional linkages among the relevant ASEAN bodies and mechanisms; create inter-agency task forces at the national level. |
| Extra-regional cooperation | Seek technical assistance from and enhance information exchange with ASEAN Dialogue Partners, United Nations specialized agencies and other international organizations. |
| Institutional Framework | |
| Establishment of three key bodies | The ASEAN Ministerial Meeting on Transnational Crime, ³²⁸ as the highest policy making body. |
| | The Senior Officials Meeting on Transnational Crime, ³²⁹ as an implementation body. |
| | The ASEAN Secretariat, acting as the Secretariat of the previous two bodies. |

In 2004, the ASEAN Member States signed the ASEAN Treaty on Mutual Legal Assistance in Criminal Matters (ASEAN MLAT)³³⁰ aimed at improving the effectiveness of ASEAN law enforcement authorities in the prevention, investigation and prosecution of offences through legal cooperation.³³¹ The 2009 ASEAN Political Security Community (APSC) Blueprint institutionalized security cooperation into the structure of the regional organization by 2015 and mandated the Community to “strengthen cooperation in addressing non-traditional security issues, particularly in combating transnational crimes and other transboundary challenges”.³³²

³²⁸ The AMMTC is the highest policy making body on ASEAN cooperation against transnational crime. It comprises ministerial level representatives from ASEAN Member States responsible for transnational crime matters.

³²⁹ The SOMTC is mandated to implement policies and plans adopted by the AMMTC as well as the ASEAN Plan of Action on Transnational Crime through the development of five-year work programmes. The Meeting is to be convened at least once a year, with its Chairmanship coinciding with the Chairmanship of the AMMTC.

³³⁰ ASEAN Treaty on Mutual Legal Assistance in Criminal Matters (MLAT) of 29 November 2004. Retrieved from <https://cil.nus.edu.sg/rp/pdf/2004%20Treaty%20on%20Mutual%20Legal%20Assistance%20in%20Criminal%20Matters-pdf.pdf>

³³¹ ASEAN Treaty on Mutual Legal Assistance in Criminal Matters. Retrieved from <http://agreement.asean.org/media/download/20160901074559.pdf>

³³² ASEAN Political-Security Community Blueprint. Retrieved from <http://asean.org/wp-content/uploads/images/archive/5187-18.pdf>

ASEAN Chiefs of National Police (ASEANAPOL)

ASEANAPOL is composed of the Chiefs of the National Police of ASEAN Member States. The first formal meeting of the Chiefs of ASEAN Police was held in 1981 and the ASEANAPOL Conference is held annually. The 25th Joint Communiqué signed by the ASEAN Chiefs of Police during the 25th ASEANAPOL Conference established a Permanent ASEANAPOL Secretariat, which became operational in Kuala Lumpur in 2010.³³³

The **objectives** of ASEANAPOL are to:

- Ensure the effective implementation of all resolutions adopted at the ASEANAPOL Conferences;
- Serve as a coordination and communication mechanism to allow members to establish and to maintain all channels of interaction amongst members;
- Foster mutual assistance and cooperation amongst members; and
- Endeavour to increase regional cooperation efforts against transnational crime.

The main **functions** of ASEANAPOL are to:

- Prepare and implement work plans for effective implementation of all the resolutions adopted in the annual Joint Communiqués signed at the ASEANAPOL Conferences;
- Facilitate and coordinate cross-border cooperation on intelligence and information sharing and exchange;
- Facilitate and coordinate joint operations and activities involving criminal investigations, the building and maintenance of the ASEANAPOL database, training, capacity building, the development of scientific investigative tools, technical support and forensic science.³³⁴

ASEANAPOL has relationships with nine Dialogue Partners, namely the national police of Australia, China, Japan, South Korea, New Zealand, the Russian Federation, Turkey, the ASEAN Secretariat and INTERPOL, as well as with five Observers: the Timor Leste National Police, the United Kingdom National Crime Agency, EUROPOL, the ASEAN Wildlife Enforcement Network, and the International Committee of the Red Cross.

³³³ ASEANAPOL Official Website. Retrieved from <http://www.aseanapol.org/about-aseanapol>

³³⁴ Retrieved from <http://www.aseanapol.org/about-aseanapol/objectives-and-functions>

5.6

Recent Developments in ASEAN Cooperation Against TOC

The year 2015 marked not only the establishment of the ASEAN Community but also a fruitful ASEAN Summit in terms of innovations in the ASEAN TOC agenda. The Summit produced the **Kuala Lumpur Declaration on Combating Transnational Crime**, which introduced three new concepts.

First, it endorsed the **ASEAN Convention Against Trafficking in Persons, Especially Women and Children (ACTIP)** and its Plan of Action.³³⁵ The ACTIP encompasses three core objectives: preventing and combating trafficking in persons, including ensuring just and effective punishment of traffickers; protecting and assisting victims of trafficking in persons; and promoting cooperation among the parties in order to meet these objectives.³³⁶ According to some interviewees, the ACTIP presents several added values with respect to the UNTOC Optional Protocol on Trafficking in Persons. For example, it provides for higher standards of protection of victims of trafficking in persons than those envisioned in the UNTOC protocol. It also incorporates anti-corruption elements in its Article 8 (entitled 'Criminalization of Corruption'), drawing on the United Nations Convention against Corruption to address trafficking in persons more comprehensively. Additionally, it is tailored to the ASEAN region and thus its scope is more specific, better serving the particular needs of countries that may not be applicable at the global level.

One respondent defined ACTIP as a milestone in ASEAN security cooperation because of its legally binding nature, which shows the commitment of ASEAN member states to minimum standards, harmonizing regulatory frameworks, and implementing ambitious tasks and follow-up mechanisms. Additionally, the ACTIP is the first ASEAN treaty which does not require ratification by all Member States, needing only six signatories to enter into force, which represents a revolutionary change in ASEAN policymaking. Finally, the ACTIP has a strong human rights component and for the first time the ASEAN Intergovernmental Commission on Human Rights (AICHR) has a mandate to assist the SOMTC. Interviewees unanimously acknowledged that the ACTIP constitutes a huge advance in regional cooperation in criminal matters and expected this instrument to have a significant impact at the national level.

³³⁵ Kuala Lumpur Declaration on Combating Transnational Crime of 30 September 2015. Retrieved from <http://asean.org/wp-content/uploads/images/2015/October/ammtc/KL%20DECLARATION%20IN%20COMBATING%20TNC.PDF>

³³⁶ ASEAN Convention Against Trafficking in Persons, Especially Women and Children (ACTIP) of 21 November 2015. Retrieved from <http://www.asean.org/storage/images/2015/November/actip/ACTIP.PDF>

The Kuala Lumpur Declaration also addressed illicit trafficking in persons, wildlife and timber as new areas of TOC under the purview of the AMMTC.³³⁷ The proposal to include wildlife and timber trafficking on the AMMTC and SOMTC agenda was initially led by the Royal Thai Police. Thailand was subsequently put in charge of developing and implementing a Plan of Action³³⁸ to tackle a regional illegal market of protected species with an estimated value of 23 billion USD, according to the UNODC.³³⁹ On 20 September 2017, the AMMTC has also adopted ASEAN Plan of Action in Combating Transnational Crime (2016-2025), which is the follow-up plan to the Kuala Lumpur Declaration. The plan focuses on the adoption of legal matters, national strategies/action plans as well as cooperation to combat TOC within the ASEAN community.³⁴⁰ Nonetheless, some interviewees commented that in practice, there is delayed action or inaction in following the plan and this is caused by a lack of interest on the part of some member states in effectively combating environmental crimes and fostering regional cooperation. In fact, most investigations are carried out separately in individual countries.

Interviewed stakeholders said that the top issues that should be addressed in the Plan of Action are information sharing, law enforcement cooperation, development of a legal database, harmonization of laws,³⁴¹ capacity building, and mutual legal assistance. They also stressed that the Action Plan should include performance indicators. There was disagreement among interviewees on whether Thailand would have the capacity to take this agenda forward. Those who were of the view that Thailand does indeed have this capacity, noted that the country has the most advanced laws and policies concerning environmental crimes among ASEAN member states, high technical capacity with investigations spreading to e-commerce, good information sharing among relevant agencies, and adequate equipment such as x-ray machines.

Finally, the Kuala Lumpur Declaration called for the drafting of a new ASEAN Plan of Action to Combat Transnational Crime³⁴² that will update the 1999 Plan. Some interviewees were asked which updates were most important to combat current TOC threats. Two relevant stakeholders argued that the priority is not a matter of agreeing on a new list of initiatives, but rather of agreeing on a monitoring mechanism for their implementation. The Plan of Action against TOC adopted in 1999, like most ASEAN policy frameworks, lacks performance indicators and a mechanism to review achievements and shortcomings. Therefore, it is difficult to evaluate whether the regional policy has been effectively implemented and what gaps should be addressed by the upcoming revised Plan. Nevertheless, interviewees expressed consistent views: the existing plan is adequate to cope with the current threats, Thailand has the capacity to implement the Plan, and Thailand has adopted a domestic strategy in line with the regional policy. Since each country has different priorities, commitment is the key issue which needs to be addressed. ASEAN member states should agree on a roadmap with timelines and indicators in order to allow stakeholders to measure the progress which has been made in implementing some practical minimum standards.

³³⁷ Kuala Lumpur Declaration on Combating Transnational Crime of 30 September 2015. Retrieved from <http://asean.org/wp-content/uploads/images/2015/October/ammtc/KL%20DECLARATION%20IN%20COMBATING%20TNC.PDF>

³³⁸ Freeland Foundation. (2015). ASEAN Security Ministers prioritize wildlife and timber trafficking. Retrieved from <http://freeland.org/press-releases/asean-prioritize-trafficking/>

³³⁹ The Global Initiative against Transnational Organized Crime. (2015). Tackling timber and wildlife trafficking in ASEAN. Retrieved from <http://globalinitiative.net/tackling-timber-and-wildlife-trafficking-in-asean/>

³⁴⁰ ASEAN Plan of Action on Combating Transnational Crime (2016-2025). Retrieved from https://asean.org/wp-content/uploads/2012/05/ASEAN-Plan-of-Action-in-Combating-TC_Adopted-by-11th-AMMTC-on-20Sept17.pdf

³⁴¹ UNODC. Legal framework to address wildlife and timber trafficking in the ASEAN region: A rapid assessment. Retrieved from https://www.unodc.org/documents/southeastasiaandpacific/Publications/wildlife/Legal_Study_WTT_12_13June2015.pdf

³⁴² Kuala Lumpur Declaration on Combating Transnational Crime of 30 September 2015. Retrieved from <http://asean.org/wp-content/uploads/images/2015/October/ammtc/KL%20DECLARATION%20IN%20COMBATING%20TNC.PDF>

To strengthen the regional efforts in combating environmental crimes, the Working Group on Illicit Wildlife Trafficking and Timber was formed in 2017 and convened for the first time in 2018. This new regional body reporting to SOMTC and AMMTC complements the pre-existing ASEAN Working Group on CITES and Wildlife Enforcement (AWG CITES-WEN) and the ASEAN Wildlife Enforcement Network (ASEAN-WEN) which had been in operation as the subsidiary bodies of the ASEAN Senior Officials on Forestry (ASOF) and the ASEAN Ministers on Agriculture and Forestry (AMAF) under the ASEAN Economic Community (AEC). The ASEAN-WEN has both the Forestry Ministry and the police as its focal agencies. As illegal trade in endangered species was becoming a greater international concern, the Special ASEAN Ministerial Meeting on Illegal Wildlife Trade in March 2019 endorsed the Chiang Mai Statement of ASEAN Ministers Responsible for the CITES and Wildlife Enforcement on Illegal Wildlife Trade which sets out to further ASEAN cooperation through regional wildlife trade policy, demand reduction, and law enforcement, including through addressing emerging wildlife cybercrime.

Another advancement is the adoption of the Concept Proposal on the Establishment of an ASEAN Network for Combating IUU Fishing by the 41st ASEAN Ministers on Agriculture and Forestry (AMAF). The proposal laid out two priorities: first, the formulation of ASEAN General Fisheries Policy; and second, the establishment of an ASEAN IUU Task Force to support effective exchange of information and better communication between the law enforcement authorities and governmental competent authorities. The common decision on the creation of the Network in promotion of sustainable fisheries could complement the existing regional efforts to combat illegal fishing activities and potentially the related transnational crime, including trafficking in persons.

To address the growing challenges of cybercrime and the related criminal actions, the ASEAN Member States adopted the ASEAN Declaration to Prevent and Combat Cybercrime, at the 31st ASEAN Summit in Manila in 2017. In its statement, the importance of harmonization of laws related to cybercrime and electronic evidence and accession to existing regional and international instruments in combating cybercrime were among the issues highlighted. The ASEAN Leaders further resolved to enhance cooperation among themselves and with the relevant agencies such as ASEANAPOL, EUROPOL, and the INTERPOL to enhance cyberspace security, prevention and response capabilities against cybercrime.

It is also noteworthy that cooperation on transnational crime at the ASEAN level has become more cross-sectoral and cross-pillar. This is evident in the adoption of the Bohol Trafficking in Persons Work Plan 2017-2020 as an implementation of ACTIP. It was endorsed by nine sectoral bodies of all the three ASEAN pillars, including SOMTC, ASLQM, SOMSWD, ACWC and SLOM. The initiative effectively became the first ever cross-sectoral and cross-pillar action plan adopted by ASEAN. More recently, ASEAN has also adopted the Work Plan of the ASEAN Plan of Action to Prevent and Counter the Rise of Radicalization and Violent Extremism (ASEAN PoA PCRVE 2018-2025) with the largest number of participating ASEAN Sectoral Bodies/Entities/Organs.

ASEAN has been driving forward partnerships with the external parties and inter-regional cooperation on transnational crime leading to the adoption of several multilateral and bilateral agreements. These include the ASEAN Plus Three Cooperation Work Plan 2018-2022, the ASEAN-China Work Plan on Cooperation in the Field of Non-Traditional Security Issues (2019-2023), the ASEAN-European Union Work Plan to Combat Terrorism and Trans-national Crime (2018-2021), the SOMTC-United States Work Plan for Transnational Crime (2019-2021) and SOMTC-ROK Work Plan for Cooperation to Prevent and Combat Transnational Crime 2019-2023. Draft work plans with the other dialogue partners including Australia, Canada and Russia are also being developed. Further to the conclusion of such work plans, at the East Asia Summit in 2019, the ASEAN Leaders reaffirmed commitment to forge closer cooperation with relevant international organizations, including the UNODC, and the Financial Action Task Force (FATF).

5.7

Practitioners' Perspectives on ASEAN Cooperation Against TOC

Some Thai practitioners were asked to evaluate whether security cooperation in the ASEAN context is effective and successful or still at an initial stage. The vast majority stated that the ASEAN system is still at a 'lowest common denominator' stage and recalled that their security cooperation with non-ASEAN countries such as the United States, Australia and Japan is still much closer than their cooperation with ASEAN member states. A cohesive system of regional cooperation has not yet been achieved, for both practical and cultural reasons. For example, the implementation of the ASEAN MLAT is a lengthy process. The least developed ASEAN member states do not have the capacity to engage in such coordination, while the most developed ones do not want to be burdened by members who have a more limited capacity. From a cultural perspective, stakeholders emphasized that there is still a huge lack of trust and a strong reluctance to work together on concrete goals. The issue of sovereignty is particularly sensitive and needs to be handled organically. As a result of the intergovernmental nature of ASEAN (as opposed to the supranational example of the European Union), ASEAN bodies such as the AMMTC and SOMTC do not have full authority to take concrete action. This element, coupled with differences in the national agendas, prevents Member States from integrating their efforts to combat TOC as a 'regional single force', resulting in coordination on a bilateral basis where common interests are at stake.

Nevertheless, some professionals expressed confidence in the progress that ASEAN Vision 2025 will foster. They noted that ASEAN member states have collaborated with one another in elaborating and committing to the implementation of this new Vision, which includes a strategy to increase capacity in efficiently addressing non-traditional security issues. Whether this agenda will be coherently promoted or not depends on the alignment of national priorities. The effectiveness of regional cooperation varies greatly depending on the type of crime addressed. For instance, while efficient cooperative relations characterise the fight against drug and trafficking in persons, countries in the region attach different degrees of importance to combating environmental crimes.

5.8

Eleven Key Challenges in Regional Cooperation against TOC

Thai and international governmental stakeholders were asked to discuss why ASEAN member states struggle to cooperate in criminal matters. They identified eleven challenges.

1. Limitations in the Exchange of Information

While ASEAN Member States attach great importance to the information sharing system on transnational crimes, there seems to be some limitations when it comes to the reality on the ground. Based on the perception of the interviewed practitioners, three main shortcomings were raised.

First, the lack of a **regional criminal information database** (in particular a 'blacklist' of wanted persons) and a regional immigration database. Some officers were of the view that the ASEAN Secretariat should act as a hub for information sharing by developing a regional database accessible by all member states and coordinating a secured internet service to exchange criminal information via email.

Second, the need to **streamline the approval process** to disclose information to foreign agencies. Information requests currently have to go through several stages of validation from the local to the ministerial authorities. Completing the process may require several months, or years, and is clearly outpaced by criminal activities.

Third, the need to **harmonize rules and procedures** for information sharing across the region. In Thailand, the Act on Mutual Legal Assistance in Criminal Matters B.E. 2535 (1992) with the latest amendment in 2016 stipulates that the principle of reciprocity applies in the rendering of legal assistance.

2. A need for confidence-building

A large number of interviewees acknowledged that due to different socio-economic development levels in the region, ASEAN Member States tend to have different approaches in addressing issues of common concern, including TOCs and the perception of corruption among public officials. Noting that all ASEAN decisions are consensus-based, the challenge therefore is how Member States can best promote confidence-building in their decision-making process related to these issues.

3. Disparities in law enforcement capacity

Law enforcement operation capacity is uneven across the region, with huge disparities in equipment and technical expertise. The perception of TOC threats is different from country to country, thus influencing different national priorities and how such capacity is built.

However, the shortage of human resources, and in particular the shortage of officers with a specialized knowledge of TOC, seems to affect most ASEAN Member States.

Moreover, the uneven detection and investigation capacity is compounded by inconsistencies in the mandates and procedures of ASEAN law enforcement agencies. For example, cybercrimes can be under the responsibility of different departments depending on the country. These inconsistencies, along with the frequent turnover of officers both at the management and the field level, are a challenge to the coordination among relevant agencies regionally.

In light of the above, and considering the different levels of integration among ASEAN Member States, particularly those in the Mekong sub-region, several interviewed practitioners argued that Thailand would be well-placed to further strengthen technical cooperation in this field with its neighbouring countries.

4. Lack of mechanisms for monitoring and evaluation of implementation

It is a well-known fact that ASEAN has adopted numerous declarations, decisions and instruments that are both legally and non-legally binding in nature. Whatever the case, ASEAN's ability to follow up their implementation is often cited as a cause for common concern. This element, coupled with the lack of monitoring and evaluation mechanisms for the implementation of regional policies and action plans, is regarded by many as a critical gap preventing ASEAN from achieving a coherent joint effort against TOC.

Furthermore, the translation of ASEAN decisions and commitments from the policy to practitioner level continues to be a challenge. An interviewee reported that around 1,000 ASEAN meetings are organized every year, with many of them TOC-related, and a noteworthy number of related declarations, Plans of Action and memoranda of understanding are regularly adopted. Yet, this dynamism seems to remain purely formal as there is a struggle to filter the contents of AMMTC and SOMTC resolutions into national strategies and to have them reflected in concrete cross-border cooperation. Most regional meetings gather only high-ranking officials instead of linking local practitioners, and neither the agenda of the meetings nor the outcomes are available to the public.

Several stakeholders argued that a regulatory framework in all ASEAN matters and related monitoring mechanisms is greatly needed. One relevant stakeholder noted that implementation of the APSC Blueprint will include monitoring and evaluation mechanisms, and there will be regular meetings among ASEAN Member States.

While most stakeholders advocated for more legally binding decision-making in the ASEAN context, there were also opposing views with respect to the need for more legally binding instruments. The Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime provides a relevant example in this regard. Some stakeholders argued that the voluntary and non-binding nature of this regional cooperation mechanism encourages the participation of member states, since it is perceived as a resource to develop more practical solutions.

5. Relevance of the regional TOC agenda

With the adoption of the ASEAN Charter and now, with the ASEAN Vision 2025, TOC continues to be among the top agenda items. However, the interviewed practitioners were of the view that regional cooperation in criminal matters may not be as responsive to the TOC threats for two key reasons.

The first reason is that the law enforcement system in the region is structured primarily to deal with local crime, and not with TOC.

The second reason is that the regional TOC agenda does not provide for adequate safeguards to counterbalance the potential side effects of economic integration in terms of threats to public security. Within the context of the AEC, for example, Member States have not adequately considered assessing the risks related to trade and infrastructure expansion and they have not focused on eliminating criminal threats as much as they increased their efforts to enhance regional connectivity. According to an interviewee, the significant development gaps existing among ASEAN member states are reflected in knowledge and awareness gaps. The UNODC, for example, noted that in a context where Southeast Asia is redefining border management objectives from control to facilitation, the threats posed by TOC are developing faster than current security approaches are evolving. The regional economic and security agendas are not advancing at the same pace and they are poorly coordinated. Inter-sectoral coordination is a key issue to be addressed in order to ensure coherent governance over the development of the three Communities.

6. Different legal frameworks and operational procedures in ASEAN Member States

Differences in the legal systems and protocols across the region challenge all stages of the criminal justice process when faced with TOC. Practitioners cited two limitations which are especially serious.

First, the inconsistency in criminalization of offences and in procedural codes obstructs investigations and prosecutions. Conduct that is considered by law a criminal offence in one country is sometimes not criminalized in the others. For example, Myanmar is still in the process of developing legislation addressing counterfeiting and computer crimes. For this reason, Myanmar authorities may not be responsive to Thai requests for mutual legal assistance in respect of such offences, since they lack a legal basis on which to engage in joint investigations on counterfeiting crimes. Another example is that difficulties often emerge when gathering evidence that is subject to diverse admission criteria in courts across countries.

Second, when different rules and procedures apply, coordination is disrupted. Information sharing is often regulated by inconsistent protocols that prevent reciprocity. A frequently cited example is the regional ASEAN mutual legal assistance treaty, the inadequate implementation of which is thought to be the result of conflicting protocols and delays in the process, which make informal channels more effective. Extradition is equally ineffective in the ASEAN region due to inconsistencies in domestic laws.

7. Time-consuming bureaucracy

Local officers continuously referred to how official cooperation is significantly undermined by the long and time-consuming line of authority. According to some stakeholders, the entire ASEAN structure is characterized by a redundant and lengthy bureaucracy, leaving the stakeholders longing for bilateral cooperation. This further illustrates why informal channels (from informal networking during regional conferences and trainings, to the use of mobile chat applications and gatherings in social events) are the prevalent forms of cooperation against TOC in the ASEAN region. Yet, personal contacts also have some limitations, notably the high turnover rate in law enforcement, which implies that individual connections will expire.

This is particularly problematic when an approval from the central authority is needed and there is limited or no delegation of power to agencies located at the borders. For example at the Thai-Myanmar border, Myanmar border agents have no decision-making power and must wait for the green light from the central government in order to cooperate with the Thai border authorities.

A similar problem is also present within the judicial system, where the inefficiency of the extradition process represents a major shortcoming in the ASEAN framework for cooperation in criminal matters. However, the adoption of the Model ASEAN Extradition Treaty in 2018 could be an important step to streamlining the extradition process within the region.

8. Insufficient foreign language skills among public officials

The ability of public officials, both in Thailand and other neighbouring countries, to co-operate on TOC cases is continuously challenged by their insufficient foreign language skills. This is a core problem that needs to be addressed, especially as some border officers need an interpreter when they speak to their foreign counterpart. Some Bangkok-based technical assistance providers noted that training is usually conducted with simultaneous interpretation, which doubles the costs and therefore diverts funds that could otherwise be allocated to additional training sessions.

9. Insufficient joint investigations

For some law enforcement officers, the key challenge that needs to be addressed is the insufficient cooperation in field operations among relevant agencies from ASEAN member states. An immigration officer explained that when there is a need for a joint investigation, the investigation is handed over to the other country's law enforcement agency, which conducts its own investigation and reports back to the original. In addition to more cooperative joint operations, there is a desire to establish multinational investigative units or task forces, based on a harmonized system of cooperation accepted by all countries.

Some stakeholders are of the view that ASEANAPOL could play a more active role in this regard. So far, the organization has not been instrumental in shaping regional law enforcement cooperation due to the principle of non-interference in domestic matters and the lack of decision-making power, since ASEANPOL is not an ASEAN body.

10. Lack of an interagency approach to border management

Stakeholders argued that the top priority in securing borders is fostering national co-ordination among the relevant agencies to build an interagency approach. The ASEAN Secretariat highlighted the need to establish integrated units to deal with border management across the region, but these still need to be developed.

This is a field of work where cooperation with Dialogue Partners and international organizations, in particular the European Union and the UNODC, has proved to be effective. The first border management technical assistance programme sponsored by the European Union and INTERPOL in the ASEAN region (2009 - 2012) targeted the particularly sensitive Thai-Cambodian border in Poipet and it was inspired by the EU's Integrated Border Management approach. The programme was aimed at establishing standard operating procedures at the border, extending the I-24/7 network and developing an integrated network for information exchange. The outcome was positive, since it introduced an integrated approach to border management in the ASEAN region, where awareness of this approach was limited.

11. Lack of funds

While acknowledging the above challenges, relevant practitioners interviewed underlined that it is hard to address them without more funds. The regional system of security cooperation appears to be heavily dependent on the technical and financial support provided by ASEAN's Dialogue Partners and other donors, partly due to the principle of Member States' equal contribution which characterizes the ASEAN community.³⁴⁵ Although donor-funded technical assistance has been highly beneficial to relevant agencies across the region, this approach may not be a sustainable solution in the long term. Thai criminal justice practitioners seek more financial support from their government in order to improve their capacity and increase regional cooperation initiatives.

³⁴⁵ Based on the principle of equal contribution endorsed by ASEAN, each Member State provides equal funds to the ASEAN Secretariat. This amount is currently 2 million USD per country per year, which provides the ASEAN Secretariat with a total budget of 20 million USD per year. This budget is largely insufficient to support the ambitious visions that ASEAN is bringing forward, and the organization heavily relies on the voluntary contributions of Dialogue Partners.

Chapter 6

CONCLUSIONS AND RECOMMENDATIONS

6.1

Conclusions

6.1.1 Overall Picture

Thailand has demonstrated that it takes the threat posed by TOC seriously by establishing a comprehensive legal framework in line with international standards; creating specialized police units for TOC, trafficking in persons and environmental crimes; and pursuing legal actions against corrupted public officers. Nevertheless, there are still gaps in capacity, resources, expertise and law enforcement.

Thai practitioners have reflected on the concerns and challenges that could arise along with the AEC's free movement of goods, trade and people, especially an increase in TOC levels. They have been forthcoming in stating that this would be a challenge to their workload and capacity. Thus, extensive preparations must be undertaken in order to minimize the negative impact that regional integration may have in the form of organized crime. An adjustment in strategy and policies to combat these activities is also needed for risk mitigation. For example, strengthening security cooperation among ASEAN member states and with the international community would be an asset.

Many promising initiatives to prepare for the combating of TOC were found across government agencies, ranging from the use of e-training mobile applications to the intensification of foreign language programmes. However, more policy initiatives and resources are needed. In the interviews, professionals of every rank and field of work agreed that more interagency and international cooperation, continuous technical and language training, and the provision of more technologically advanced equipment are needed.

On the basis of the interviews, Thai criminal justice practitioners believe that bilateral cooperation, including through informal channels, is the most effective way to address TOC. This suggests a twofold way forward. One path would be to maximize the potential of the cooperation that currently works best. This implies building further capacity, fieldwork and strategic intelligence on the basis of the mutual trust gained with some consolidated partners. The other path would focus on the pressing need to overcome challenges that hinder cooperation among ASEAN member states in criminal matters. This endeavour encompasses a broad spectrum of priority actions, such as confidence building, strengthening of language skills and criminal database development, and harmonization of criminal laws and procedures, to name a few.

6.1.2 The Way Forward

When stakeholders were asked what actions were necessary in order to respond to TOC more efficiently, they focused on cooperation, enforcement, legal reform, capacity building and public awareness. Although most agreed that Thailand had good practices in place, the best practices need to be refined and integrated across the country.

Closer **cooperation** among relevant stakeholders will help combat TOC at all levels. Cooperation within each agency should come first, followed by inter-agency cooperation and then cooperation with external actors. Better cooperation and collaboration will lead to better information sharing with other countries. Information in Thailand is decentralized, which makes it challenging for local information to be shared far and wide. Officers need better data technology skills in order to manage information sharing across the country.

Stakeholders repeatedly called for **stricter enforcement** of existing laws and reducing the length of the judicial process.

Legal and policy reform were cited as ways to streamline bureaucracy and strengthen institutional resolve to fight TOC. A stronger political will to fight TOC would have a major impact. Law enforcement should maintain its independence from the executive power. Interviewees recommended extending immunity to foreign law enforcement agents operating undercover in Thailand, since it is difficult for foreign agents to penetrate criminal groups without full immunity. Stakeholders also recommended establishing a specific unit within the courts of justice to arrest people who did not attend their mandated court appointment, since the police are already overwhelmed with duties.

Capacity building on the whole would benefit the fight against TOC. Capacity building includes research, training and the funds necessary to make such advancements possible. Research, including information sharing among agencies and strategic intelligence capabilities, is essential. Improving specific technical capabilities such as biometric and fingerprint detection, the ability to intercept phone calls, and other electronic communications would give stakeholders more tools to track and prosecute crimes.

Some officials lack awareness of how to handle situations involving TOC or even how to properly identify it. Capacity building requires sustained funding for law enforcement, especially for research, training, technical equipment and reasonable salaries.

Stakeholders repeatedly called for **better public awareness** of TOC, which could allow the public to recognize illegal activity and report to the authorities when they see something suspicious. The need for deeper knowledge and greater awareness in particular of environmental crimes, both among the public and key professionals, was also referenced frequently by stakeholders.

Awareness of wildlife trafficking among the public and by officials has improved significantly, but there is more work to be done in order to promote wildlife protection as a national priority. Focusing on prevention in addition to suppression is also key, since this will reduce the demand for wildlife products.

Awareness of hazardous waste trafficking lags behind the awareness of other forms of TOC. In addition to public awareness, law enforcement efforts would be enhanced by developing more capacity to investigate and prosecute these crimes. The lack of GPS monitoring for waste shipments is but one example of the current deficiency in capacity. Since the field itself is not well defined, different ministries are involved but they are not coordinating with one another. According to the stakeholders, ministries have a tendency to look at violations in isolation rather than addressing the larger criminal activity.

The majority of the relevant stakeholders were of the opinion that the practices mentioned above are in place, with the common caveat that those practices simply are still not as effective as they need to be. As for coordination and cooperation in terms of information sharing, some promising practices are in place. For example, whenever an arrest is made for undocumented migration, all relevant agencies are notified. The Anti-Money Laundering Office liaises with financial institutions in order to have suspicious transactions reported. Some databases already exist, such as the civil registration database and an INTERPOL database called I24/7, which has proven to be useful. However, more needs to be done. Linked databases on criminal records and greater dissemination of information from immigration and customs would be beneficial for combating TOC.

Training procedures are in place, although they tend to be regionally selective, leaving many in the more remote areas poorly equipped.

6.2

Recommendations

The following recommendations aim to help Thailand in combating each type of TOC currently operating in Thailand. These recommendations were gathered from the interviews while conducting this research.

6.2.1 Recommendations: Trafficking in Persons and the Smuggling of Migrants

Since the majority of victims are from marginalized population groups, assistance programme should prioritize persons who are often overlooked, such as refugees, and displaced and stateless children, as they are especially vulnerable to exploitation and trafficking.

It is recommended that agencies promote public awareness of trafficking in persons including by engaging with the community's members. In particular, it was suggested that educating the people at risk about legal channels of migration and how to safeguard against exploitation could be useful for victim protection.

It was further suggested that law enforcement need more training on identifying acts criminalized by the related TOC law. Additionally, the national law and policy, as recommended by the ACTIP, should be continually evaluated and amended to better respond to the evolving situations.

As the traffickers are increasingly employing new tactics using the latest technologies, the law enforcement should also promote greater technical capabilities of the relevant officers including exchange of intelligence among border agencies. Coordinated patrols and inspections with the neighbouring countries should also be explored.

6.2.2 Recommendations: Money Laundering

The Anti-Money Laundering Office indicated that the Thai public at large are not fully aware of the dangers of money laundering until they become directly affected by it. Therefore, efforts should be taken by relevant stakeholders, particularly government agencies, media, and academia, to promote greater awareness and understanding of this issue. Additional funding for these efforts should be increased to ensure that the message reaches a wider audience.

6.2.3 Recommendations: Drug Trafficking

Since drug trafficking is fuelled by demand for drugs, it is recommended that relevant stakeholders focus their priority on drug demand reduction policies. Additionally, the competence of officers in intercepting shipments of drug precursors and in implementing anti-drug policy should be promoted in a sustained manner.

6.2.4 Recommendations: Wildlife and Timber Trafficking

The ivory conservation framework needs to be implemented through increasingly strict controls, with better policies regarding the disposal of seizures. A law enforcement officer noted that there are containers of ivory kept on hold in Thai ports pending the adoption of regulations on their disposal, which may incentivize corruption.

With the expectation that the Thai law enforcement would benefit from improved forensic capacity to better identify and suppress ivory trafficking routes, more investment should be made to enhance their technical capabilities. In this regard DNA analysis could also help law enforcement identify the origin of ivory and rhino horns.

Several responses by interviewees point out the need for better screening processes in the Thai mail system. The smuggling of tiger skins and other exotic animal products is rarely detected since they arrive via post and the Thai mail system does not systematically scan or x-ray incoming packages. The country should allocate more resources to its mail system and scan packages regularly rather than randomly.

The government agency which is mandated to manage wildlife-related issues is currently not a justice authority and can only intervene on the prevention side. For this reason, agencies which have responsibilities on the suppression side should develop their expertise in the environmental field.

There is a need to raise political interest and public awareness about wildlife and forest crimes, especially among the public officials and also the villagers who often play the role of suppliers of wildlife. Also, since foreign tourists are among the primary buyers of wildlife products, similar policies should be considered to address the problem on the demand side.

6.2.5 Recommendations: Trafficking in Hazardous Waste and Chemicals

Like other forms of crime, public awareness constitutes the main concern with regard to trafficking in hazardous waste and chemicals and its impact on the environment and on people's health. It is recommended that environmental issues be included in education curricula at all levels.

The Pollution Control Department within the Thai Ministry of Environment estimated that 60% of hazardous waste produced in Thailand is managed improperly. The Thai government should thus increase the fines and punishments for illegal dumping. The country needs more investigators who are trained to identify, detect and track the movements of illegal waste.

6.3

Recommendations: Strengthening Thailand's Capability to Combat TOC under the AEC

In addition to the recommendations for Thailand to combat each type of TOC currently operating in Thailand, recommendations for Thailand to prepare for combating TOC under the AEC were also presented by the stakeholders interviewed.

A higher share of interviewees acknowledged the shortage of resources which are needed to perform their duties efficiently. Most government officers highlighted their resource needs and frequently mentioned the **'4Ms': money, manpower, material, management** as the way forward to fill these gaps.

Human resources-related needs were the most frequently mentioned, with many Thai interviewees indicating that their respective agencies need not only more staff (especially 'operatives' rather than desk officers), but also more qualified staff with specific expertise and a higher level of professionalism. This need is felt even more strongly at the field level in provinces across Thailand.

A better knowledge of foreign languages clearly emerged as the main need in the context of regional integration. It was widely recognized that the shortage of foreign language skills among public officials and the lack of available interpreters to support police investigation impacts both law enforcement capacity domestically and effectiveness in international cooperation. It is also too limited to allow for effective management of criminal justice and victim recovery procedures involving foreign nationals.

Besides a widespread need for higher proficiency in English, many officers underlined how important it is to have available staff members who can also speak Chinese, Russian, Arabic and ASEAN languages (the latter especially in border areas).

Furthermore, more interpreters are critically needed, especially in border areas; there are currently very few interpreters, with the majority stationed in Bangkok. One interviewee suggested that interpretation services should be made systematically available, for example by signing an agreement with interpretation agencies to which government officers can reach out when needed.

Equally important, according to several interviewees, is to increase the number of personnel with sound **legal and technical expertise**, in particular staff members who are familiar with modern investigation techniques, have a specialized knowledge of TOC and have the ability to use the newest technologies. The qualifications required for newly recruited staff members should also include higher levels of education. The goal set by one interviewee is to acquire suitable professionals for a **specialized TOC unit** replicating the initiative already undertaken by other Thai criminal justice agencies.

For greater manpower, the interviewees recommended that government agencies undertake two mutually reinforcing initiatives: promoting increased and more selective **staff recruitment** processes and providing staff members with more extensive **training** in foreign languages, investigation techniques and prosecution of TOC, and the use of technologies and legal training.

The shortage of adequate equipment, such as updated **technology** and its associated training, greatly challenges the operational capacity of many government agencies, particularly those engaged in the field with detection and investigation duties. Those interviewed frequently asked for more advanced detection technology, such as devices to detect fake passports, cash flows, cell phone communication and illegal items. They also requested X-ray machines and GPS systems, while some said that they lacked even basic equipment: vehicles, bulletproof vests, database software, and laptops.

Several interviewees considered it necessary to increase **interagency coordination** and to **streamline procedures** in order to ease cooperation among government agencies, especially for the purpose of information and data sharing. This issue is linked to the need for better interagency **TOC-related data management** in order to plan effective preparation for the regional integration, which was emphasized by several government officers. A handful of interviewees stressed the need for more complete data on the incidence of TOC and database on criminal records.

The TOC-related information sharing process among Thai agencies was frequently described as poorly organized, time-consuming and inefficient. The research team learned that every agency has its own database that it does not share with other agencies. Some officers noted that information sharing with other Thai agencies is often ineffective because of the lack of cooperation and the restrictions imposed by some protocols. These statements were reflected by an international stakeholder who said that there is no ability to produce strategic intelligence to support law enforcement.

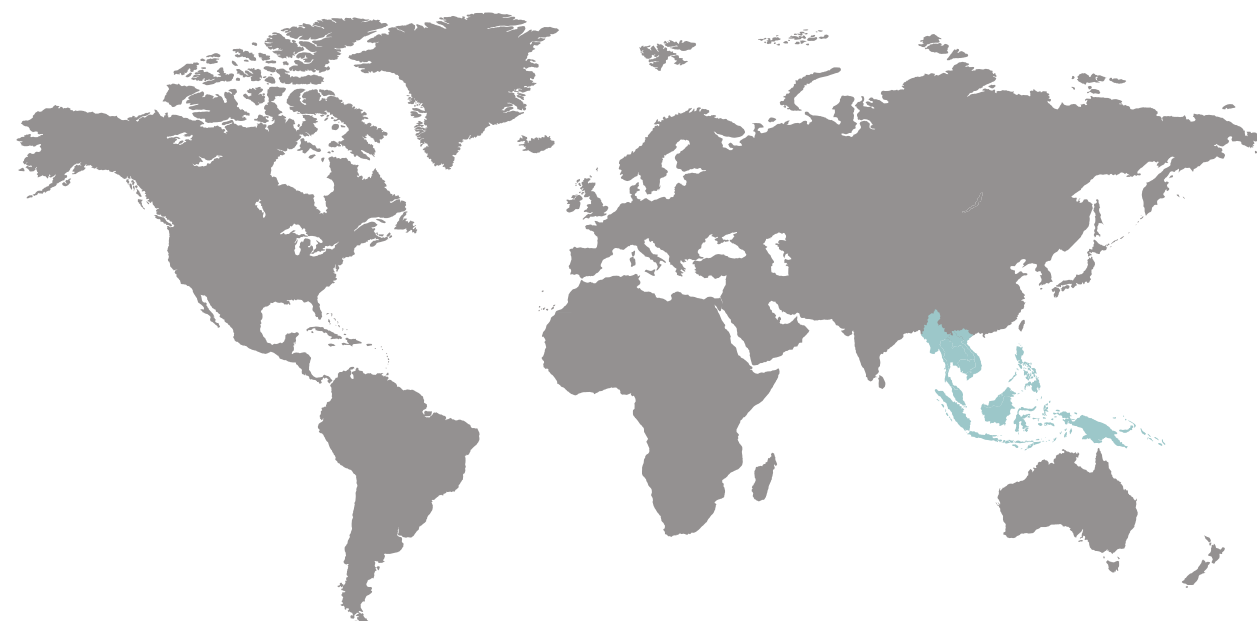
A large share of interviewees (including government, non-governmental and international stakeholders) said it is equally important to **intensify cooperation in criminal matters with other countries in the region** in order to enhance the ability to track offenders and to request and serve arrest warrants. An NGO representative stressed that Thailand cannot stand alone in this fight and needs to cooperate more with other ASEAN member states. There are a number of urgent challenges:

First, mutual legal assistance and other criminal justice cooperation mechanisms are obstructed by time-consuming protocols. **More streamlined procedures** are needed to enable international cooperation.

Second, government officers should acquire a better **knowledge of ASEAN and its member states**, including awareness of the AEC among public officials, knowledge of TOC-related laws of other ASEAN member states and an understanding of the culture of other ASEAN member states.

Third, there are obstacles to **information sharing** with other ASEAN member states and with INTERPOL. No regional hub for information sharing nor data centre on immigration with real-time information currently exists for instant sharing. As a result, information ex-change only occurs on a bilateral basis and is subject to a number of limitations and delays. In addition, even if the Royal Thai Police database was linked to INTERPOL's red alert list to ease the identification of international offenders, some officers reported that the new system is still not accessible by all field offices. Therefore, some law enforcement units are still not provided with a complete watch list but instead given isolated names shared by INTERPOL on a case-by-case basis via formal letter, preventing Thai enforcement officers from developing a more accurate detection system.

While the '4Ms needs' were the most frequently mentioned demands of government officers, additional gaps were occasionally referenced. These include corruption among public officials and significant gaps in the domestic legislation, especially with regard to terrorist activities. Further research is required to analyse these aspects more extensively.





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