

# Transnational Environmental Crime Project:

## A Workshop Report

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# Introduction

SOPHIE SAYDAN

On 13 February 2013, the Transnational Environmental Crime (TEC) Project based in the Department of International Relations at the Australian National University (ANU) convened a one-day workshop to showcase some of the project's research and interim findings. Support was provided by the Department of International Relations and the project partner organisation, the Department of Sustainability, Environment, Water, Population and Communities (DSEWPaC), now called the Department of the Environment (DoE).

In their opening addresses, both Professor Lorraine Elliott and Dr Kimberley Dripps (Deputy Secretary, DSEWPaC) highlighted the importance of partnerships between government agencies, academia and research institutions. They also emphasised the importance of mapping and analysing existing practices in the combatting of TEC activities.

The panels that followed focused on law enforcement responses and the policy context for dealing with TEC in general and transnational wildlife crime in particular, and on the role of international organisations and third parties (often non-governmental organisations) in initiatives for raising awareness, for preventing TEC, and for supporting operational and enforcement strategies.

Presentations were delivered by two of the project's Chief Investigators – Professor Elliott and Ms Julie Ayling; by the first two DSEWPaC Visiting Fellows to the TEC Project, Mr Grant Pink and Dr Dylan Horne; and by Dr Tanya Wyatt from the University of Northumbria in the UK who joined the TEC Project as a Visiting Fellow for semester 1, 2013. These individual presentations were followed by a practitioner panel convened by Mr Pink and Deb Callister (DSEWPaC) which focused on providing an update of recent activity by Interpol and the Australasian Environmental Law Enforcement and Regulators Network (AELERT) and approaches to the 16th CITES Conference of Parties on 3–14 March 2013.

This report provides a short summary of each presentation and an overview of the discussion that followed. The summaries have been prepared with the assistance of individual presenters.

# The challenges of quantifying TEC

LORRAINE ELLIOTT

The challenges associated with quantifying transnational environmental crime (TEC) – in effect, how much of it is there and how do we measure it – is particularly relevant to the first of the three themes that inform the TEC research project.<sup>1</sup> The objective there is to identify and evaluate the extent of these forms of illegal transnational trade, the nature of smuggling methods and trade routes, and associated cross-over crimes such as corruption, fraud and money-laundering. In her presentation, Professor Elliott suggested that while quantifying TEC is not a primary research purpose, it does have implications for mapping illegal trade in environmental commodities and for efforts to aggregate data to understand sectors and/or geographic investigations. In effect, she suggested that better data will lead to a better understanding of the problem.

Professor Elliott noted that observations about the paucity of data are made regularly in the academic and practitioner commentary on various sectors of transnational crime (including but not limited to TEC). This is an area of investigation that is characterised by what one commentator has referred to as ‘inaccuracies, simplifications [and] exaggerations’.<sup>2</sup> Even apparently reputable estimates – or estimates from reputable sources – are often highly speculative. The presentation then provided an overview of data sources that can assist in quantifying TEC. As Professor Elliott noted, this data is held in both closed and open forms. Closed sources that collect both regularised and incidental quantitative information include MIKE (Monitoring the Killing of Elephants), ETIS (Elephant Trade Information System), Interpol’s Ecomessage, the World Customs Organisation’s CENCOMM (Customs Enforcement Network Communication system), and EU–TWIX (the European Union Trade in Wildlife Information Exchange). Some of these data sources – such as Ecomessage and ETIS – use standardised designs and these systematic approaches have the advantage of improving the validity of the data and reliability of analysis. Others sources function more as communication and information exchange mechanisms and rely on more descriptive inputs. Some (such as EU–TWIX) do both.

<sup>1</sup> More information on these themes can be found on the TEC Project website, [ips.cap.anu.edu.au/ir/tec](http://ips.cap.anu.edu.au/ir/tec)

<sup>2</sup> Nikos Passas, ‘Cross-border crime and the interface between legal and illegal actors’, in Petrus van Duyne, Klaus von Lampe and Nikos Passas (eds) *Upperworld and underworld in cross-border crime* (Nijmegen: Wolf Legal Publishers, 2002), p. 11.

Professor Elliott pointed out that the TEC research project draws mainly on open-source data or on publicly available summary reports of closed data. Open-source data includes primary data – for example, seizure reports, or trade data such as that held in the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) trade database for input-output analysis – but gathering and aggregating this information can be time consuming and demanding in terms of capacity. For this reason, secondary sources can also be useful. Regardless of the nature of the source, data gathering and quantifying TEC generates a number of methodological and analytical challenges.

The first of these relates to the issue of what is being counted and by whom. As the presentation noted, information is reported in raw numbers, seizures, percentages or proportions (of legal trade), and also in terms of varying calculations of value (commodities, profit, value chain). The methodologies can be systematic or idiosyncratic (that is, relying on incidental reporting). The estimates and calculations of the upper and lower bounds (of values, percentages, even raw numbers) are often based on untested assumptions and often rely on ‘best guesses’. Professor Elliott noted also that researchers and policy officers (including enforcement officers) need to understand the purposes for which data has been collected. Those purposes can include enforcement and operational purposes for detecting and monitoring, for trends analysis (turning information into intelligence), for policy and management decisions, and for political purposes such as convincing politicians of the need to address TEC.

A second broad range of data challenges relates to the problems that arise from the paucity of data. Many systems rely on regular input by relevant agencies, but suffer from problems of under-reporting, uneven reporting, or even non-reporting. Data reporting can also be skewed: reporting based on seizures or enforcement results or shipment refusals often tells us only about outcomes in highly visible sectors or those in which enforcement agencies have a specific interest. Efforts to quantify TEC also face the challenge of scale, in particular whether to quantify at sector level (for example, wildlife, timber, and ozone-depleting substances) or at individual commodity or species level.

The presentation finished with a brief discussion of whether these problems can be addressed and, if so, how. Professor Elliott referred to a United Nations Office on Drugs and Crime pilot survey on organised criminal groups (2002) which suggested that the problems with data reliability and availability are relatively difficult to resolve. She also noted that the OECD has argued that further efforts are required to address the data problem. Suggestions in the policy literature include the need for standard protocols for data collection, better models for analysing data, and improved verification of data to avoid duplication.

# Law enforcement responses to transnational environmental crime: Choices, challenges and culture

GRANT PINK

The study undertaken during Grant Pink's Visiting Fellowship with the Transnational Environmental Crime (TEC) Project sought first to gain information and greater clarity regarding the operational and policy challenges encountered by practitioners and managers within government regulatory and enforcement agencies. Second, it examined how those challenges in turn influence and impact those agencies' ability to use law enforcement responses (LERs) as part of their efforts to combat transnational environmental crime (TEC). This research confirmed that, in global terms, most enforcement action taken against TEC is initiated by three core agencies. Although known by various titles around the world, they were referred to in this presentation as environmental regulatory agencies (ERAs), customs and port authorities (CPAs) and police agencies (PAs). Mr Pink explained how these agencies engage with one another either bilaterally or trilaterally as they partner to combat TEC. Despite the different legislative arrangements and nomenclature used throughout the world, his research also reinforced the three broad categories of law enforcement responses, each informed by different legal principles. Those categories of LERS are, generally speaking, administrative, civil and criminal in nature.

Primary data for this study were collected via questionnaires that were followed by semi-structured interviews involving 11 key informants (eight key national informants and three key international informants) from eight countries. The key informants all had direct TEC responsibilities and were performing a formal role within a national enforcement agency or an aligned international organisation. Mr Pink explained how the data were then subjected to thematic review followed by a more detailed analysis of the strengths, weaknesses, opportunities and threats of LER. This analysis then informed the reasoning for proposing some issues (operational and policy) worthy of further consideration by the three core agencies (but mainly ERAs) in terms of assisting them in their efforts in using LER more effectively to combat TEC. Mr Pink summarised key issues as follows:

- The three core agencies vary greatly in their approaches to combating TEC – the differences have significant impacts which can lead to duplication of effort or 'enforcement gaps'.
- The three core agencies have access to and utilise the three broad LER responses with different frequency and abilities –

these differences need to be understood and appreciated so that they can be exploited for maximum efficiency where possible.

- The profile of TEC could be raised – a low profile (for a crime type) can impact negatively upon a country's operational and policy readiness, preparedness and capacity to respond effectively to TEC.
- Staff using LER against TEC require a broad and unique skill set – they must be able to achieve outcomes in administrative, civil and criminal operating environments.
- There should be greater transparency in the application of LER and an increase in reporting against their use – agencies are increasingly expected to act more transparently and reporting against their use of LER to TEC is one way to achieve this.

## Policy responses to transnational wildlife crime in the Asia-Pacific region

DYLAN HORNE

This presentation defined transnational wildlife crime (TWC or wildlife crime) as the trading and smuggling across borders of species in violation of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Dr Horne noted that globally, governments and international organisations have responded to the challenges of transnational environmental crime (TEC), including TWC, in both operational and policy contexts. The policy context – the focus of this presentation – was defined as the suite of documents, plans, programs, regulatory schemes, strategies and so on that provide for a coordinated, coherent response to, and support for, the fight against wildlife crime. Current knowledge of this policy context, particularly of policy responses at the national and agency levels, is, Dr Horne suggested, poor.

The research being reported here considered four broad topic areas relevant to an investigation of policy: an overview of the high level (global and regional) policy context for six Asia-Pacific countries (Australia, Fiji, New Zealand, Papua New Guinea, Thailand and Vietnam); the potential requirements of an ‘optimal’ policy response to wildlife crime at the national/agency levels; existing wildlife crime policy responses in those six countries; and a preliminary assessment of the degree to which current policy responses meet the potential requirements of an optimal policy response.

The high level wildlife crime policy context for the six case study countries includes various instruments at the global and regional levels. As Dr Horne pointed out, global-level policy is primarily derived from CITES and any subsequent resolutions or decisions adopted by States parties, as well as resolutions from relevant United Nations bodies. Policy at the regional level consists of various programs, action plans, cooperation agreements and treaties in the Southeast Asian and Pacific regions. The potential requirements of an ‘optimal’ policy response at the national/agency levels were determined to fall into four broad categories: it must be proactive and intelligence based, multifaceted addressing many aspects of the problem, multilateral involving cooperation between several actors, and monitored, evaluated and adapted as necessary. The research found that policy responses at the national and agency levels vary considerably.

Dr Horne told the workshop that it is difficult to conclude that existing policy responses fulfil the requirement of being proactive. Policy responses generally tend to satisfy the multifaceted requirement,

particularly in those countries where policies are relatively well developed, although some areas for improvement may exist, he suggested. Policy responses also generally tend to satisfy the multilateral requirement in Australia, New Zealand, Thailand and Vietnam, but not in Fiji or Papua New Guinea. While it was not possible to evaluate fully whether existing policy responses fulfil the monitoring and evaluation requirement, Dr Horne said that it appears that it may be less than ideal. Possible reasons for the perceived shortcomings, and potential areas for improvement via policy interventions, include lack of technological capability and appropriate data collection, inappropriate measures of success, organisational culture, a lack of sufficient implementation of measures that specifically target criminals, and ineffective operation of networks at the officer level.

## Discussion

The discussion that followed the two presentations focused on three broad areas: cross-over crimes, criminalisation and priorities; performance measures; and the role of non-governmental organisations (NGOs). In response to questions from the audience, the presenters noted that criminalisation of TEC is uneven and has often been in response to public sentiment (Grant Pink gave the US as an example). Most law enforcement agencies, he noted, readily admit that TEC is not a priority for them, except where cross-over crimes (such as drug smuggling or people trafficking) intersect with existing crime prevention priorities. Dr Horne suggested that the limits to the criminalisation of TEC may also be a function of a focus on the appropriateness of penalties. If penalties were increased through the legislative process, for example, this could provide a direct impetus to change the priority given to TEC. To put it another way, he suggested that the low priority that law enforcement agencies give to TEC could be a function of relatively low penalties rather than of the perception of this form of crime held by enforcement officers and agencies executives.

Both presenters suggested that the issue of performance measures (not just how to measure performance but against what criteria) remains a challenge. This relates, as they pointed out, to the distinction between the existence of policy and the implementation of that policy. Mr Pink

referred to work being undertaken by the OECD and, in the Australian context, by the Australian Institute of Criminology, but acknowledged that it is difficult to go beyond measuring intermediate outcomes. Dr Horne argued that existing performance measures could provide little impetus to develop proactive approaches to addressing transnational wildlife crime. For example, he suggested that the focus on seizure data as a performance measure indicates response, but does not necessarily provide any insight into whether law enforcement responses are successful in reducing the total extent of TWC. The speakers also queried how networks function to support enforcement activities, noting that these often function well at the agency-to-agency level through memoranda of understanding for example, but function less well at the officer-to-officer level. This led Dr Horne to ask whether what is being created are networks of agencies or networks of people, and which might be more effective.

In the discussion, both Mr Pink and Dr Horne recognised that NGOs have become active in identifying and responding to the challenges of transnational environmental crime. Mr Pink suggested, however, that greater clarity is required about what that role is, including where that applies to questions of information, intelligence and evidence gathering. He noted the so-called 'perverse' issue that arises when NGOs fill a capacity gap, often in developing countries, which can have the effect of reinforcing a government perspective that they therefore do not need to fund such enforcement activity. Dr Horne noted that the range of possible policy responses and instruments is not confined just to the government sphere of regulatory and enforcement instruments. He provided the example of demand reduction where NGOs can and do play an important role, citing the Asia's Regional Response to Endangered Species Trafficking (ARREST) program which involves government and NGO partners. He suggested that in developing countries which lack resources, this role can be crucial, noting that the drawbacks that Mr Pink identified might be less important outside the regulatory and enforcement sphere. Comments from the audience also pointed to the importance of demand reduction strategies to complement policies to address the 'supply side' of TEC and TWC. There was a discussion in this context about the pros and cons of captive breeding, for example, with the speakers noting that such an approach cannot address the preference for 'wild and free' that is a driver for some aspects of the illegal wildlife trade, and raising also the possibility that captive breeding can provide a cover for 'laundering' wild species as legitimate in trade.

## An assessment of media and partner engagement with the International Consortium on Combating Wildlife Crime

TANYA WYATT

Tanya Wyatt's address described wildlife trafficking as a multi-billion dollar black market that annually involves hundreds of millions of plants and non-human animals. She noted that wildlife trafficking has finally begun to gain the attention of academics and law enforcement communities, who are collaborating with environmental and conservation non-governmental organisations in developing strategies to reduce this violent, environmentally destructive green crime. Key to this is raising the global awareness of the prevalence and impact of wildlife trafficking and coordinating law enforcement operations, which is the aim of the International Consortium on Combating Wildlife Crime (ICCWC). ICCWC is a collaborative effort of Interpol, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the World Customs Organisation, the World Bank, and the United Nations Office on Drugs and Crime. It aims to bring coordinated support to national wildlife law enforcement agencies and enhance the awareness of this green crime. Dr Wyatt presented the initial findings of her study into how effective ICCWC's efforts have been in achieving this objective since its creation in November 2010. To do so, media articles that contained the terms 'wildlife trafficking', 'illegal wildlife trade', and/or 'ICCWC' were collected from LexisNexis in all languages from 24 July 2002 to 24 July 2012. This was used to gauge the amount and nature of media coverage regarding wildlife trafficking. In addition, with the cooperation of Interpol, the amount and nature of requests made to Interpol for information and non-confidential law enforcement operations were collected to gauge possible changes in the awareness and engagement of law enforcement agencies. Dr Wyatt reported that while it appears from the increased coverage of wildlife trafficking in the media and from the increase in law enforcement contact with Interpol's Environmental Crime Programme that ICCWC may be having some influence, it has only undertaken four activities in two years and some partners seem more engaged than others. She suggested that it will be an initiative to watch in the future, particularly since it was recently awarded nearly €2 million in funding.

## Harnessing third parties for transnational environmental crime prevention

JULIE AYLING

This presentation emphasised what Julie Ayling referred to as the huge potential for third parties to be active participants, alongside governmental authorities, in crafting and implementing strategies to prevent transnational environmental crime (TEC). It also explored the ways in which the capacities of third parties are now, and could be, harnessed by states for the prevention of TEC, bringing together criminological and regulatory theories that highlight the roles that non-state actors are able to play in the control of crime.

The presentation began by exploring the issue of illicit poaching and trading in rhino horn. A dramatic rise in the value of rhino horn over the last decade, Ms Ayling reported, has seen increasing numbers of rhinos being poached and a growing involvement of organised criminal syndicates in the transnational trade. As a result, range states like South Africa have been putting more and more resources into law enforcement. The presentation recognised that there are many impediments to effective law enforcement and the impact on poaching is as yet quite limited. Prevention clearly needs to be a priority but in the context of uncertain application of laws and low penalties, law enforcement is not very successful at prevention through deterrence. So if government-led law enforcement is not the whole answer, Ms Ayling asked, what else can be done?

The research being reported here identified third parties as non-state actors who are not offenders and who may be in a position to intervene at a point in the crime 'script' to prevent the crime. A crime script is made up of the essential steps required to complete the crime. Possible roles for third parties become clear when one considers the 'crime triangle', a graphical representation of routine activities theory. Third parties may act as controllers of crime – that is, as 'guardians' of victims, as supervisors or 'handlers' of potential offenders, and as 'place managers', able to secure a particular place or environment from crime. Third parties may also play a role in relation to the causal social contexts of crime by, for example, being active in educative and welfare assistance roles.

This presentation raised the question of how the capacities of third parties to prevent TEC can be activated. National governments (and organisations comprised of them) were identified as a logical place to locate a coordinating function for this purpose. The presentation drew on regulatory theory, in particular the work of Peter Grabosky and his colleagues, to explore a range of strategies ranging along a continuum

of coerciveness. These strategies include conscription of third parties (the most coercive), requirements for record keeping and disclosure, co-optation of external interests, and the use of incentives and other forms of non-formal facilitation of crime prevention by third parties. Examples of each were drawn from the illicit trade in wildlife. Some of the difficulties and risks involved in mobilising third parties for TEC prevention were also then considered, including the problem of reconciling the sometimes clashing agendas of third party actors, accountability issues, and the complexity of creating robust networks and trust between government and third parties. Ms Ayling finished her presentation by noting that not all possible third party mobilisations will necessarily be constructive, so any potential intervention needs to be thoroughly planned, monitored and evaluated.

## Discussion

The two presentations were followed by discussions which centred on the value and importance of engaging both state and non-state actors in TEC prevention. Both presenters observed that various agencies and parties viewed wildlife crime from different perspectives and, as a result, that there was an imbalanced and uncoordinated approach to wildlife crime prevention. Dr Wyatt informed the workshop that there was some suggestion from her research that inter-agency collaborations such as the ICCWC worked better at policy level than on the ground, as these agencies have always worked together. Ms Ayling noted that not every possible use of third parties to help prevent TEC will necessarily be positive and so each will need proper consideration and planning. She highlighted the importance of coordination in the collaborative efforts and networked responses to TEC.

## Practitioner panel: CAWT, AELERT and Interpol–ECC

GRANT PINK AND DEB CALLISTER

The practitioner panel provided an overview of and update from several of the regional and international bodies that the Transnational Environmental Crime (TEC) Project partner organisation, the Department of Sustainability, Environment, Water, Population and Communities (DSEWPaC) and now called the Department of the Environment (DoE) is actively engaged with as part of its efforts directed towards combating TEC. More specifically, Interpol's Environmental Crime Programme (Interpol–ECP), the Coalition Against Wildlife Trafficking (CAWT), and the Australasian Law Enforcement and Regulators neTwork (AELERT) were discussed.

Grant Pink's presentation provided an overview of Interpol–ECP. He explained that in recent years, Interpol–ECP had increased its profile and expanded its activities beyond those that related to pollution and wildlife issues into stand alone and cross cutting matters in the fisheries and forest sectors. A range of Interpol–ECP projects were discussed which highlighted the operational opportunities for individuals and agencies to become involved. The presentation concluded with a discussion of Interpol's National Environmental Security Task Force initiative, a framework which focuses on national security and agencies working together to enhance national and international efforts to combat environmental crime.

Deb Callister's presentation provided an overview of the history and operations of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and CAWT. She explained that CITES was a multilateral environmental agreement that facilitated the lawful trade of endangered species. She also mentioned the CITES Sixteenth meeting of the Conference of the Parties, being held in Bangkok, 3–14 March 2013, and made reference to the possibility of DSEWPaC setting up a wildlife enforcement network in the Oceania region. In terms of CAWT, Ms Callister explained that the main difference between this organisation and CITES was that its focus was on the illegal trade of wildlife. She added that the effectiveness of CAWT was strengthened through the cooperation of the network of both government and non-government partners, and reminded the audience also that Australia had taken over the role as Chair of CAWT in May 2012.

In the final section of this practitioner panel, both Mr Pink and Ms Callister spoke about AELERT. Their presentation generally underscored the benefits of networks in environmental enforcement

compliance. They also pointed to the importance of AELERT's contribution to regional and international compliance and enforcement activities. In particular the work of AELERT's Operations Cluster was showcased in terms of its contribution to global environmental enforcement initiatives such as Operation TRAM and Operation RAMP (run under the auspices of Interpol). They also acknowledged difficulties and problems associated with the exchange of information and intelligence between different agencies and groups and suggested that one of the many benefits of AELERT was that it provides a forum and mechanisms that facilitate such exchanges.

## Contributors

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