

TACKLING SOUTHEAST ASIA'S ILLEGAL WILDLIFE TRADE

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On the occasion of the Thirteenth Meeting of the Conference of the Parties (COP) to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Association of Southeast Asian Nations (ASEAN) announced a bold initiative to work together to neutralise the region's illegal wildlife trade. ASEAN's focus is on the organised form of the illegal trade, which is widely believed to involve large syndicated networks operating in the region and beyond. This is a step in the right direction. By exploring the possible links between the organised illegal wildlife trade and other more traditional forms of transnational crime, this article argues that tackling the illegal trade in wildlife involves more than our need to address an urgent biodiversity conservation issue. It suggests a more holistic approach instead; one which also takes into account the criminal enforcement and national security dimensions of the illegal wildlife trade.

I. INTRODUCTION

Between 2 and 14 October 2004, the Thirteenth Meeting of the Conference of the Parties (COP) to the *Convention on International Trade in Endangered Species of Wild Fauna and Flora* (CITES)¹ was held in Southeast Asia for the first time. The conference, which took place in Bangkok, was widely hailed as a demonstration of Southeast Asia's importance as a key player in the regulation of the international wildlife trade and an opportunity for the Asian states to reaffirm their commitment to CITES.² In this regard, the Association of Southeast Asian Nations (ASEAN)³ rose to the occasion and announced a bold initiative to work together to address the region's rapidly growing illegal trade in CITES-protected species. The *ASEAN Statement on CITES on the Occasion of the Thirteenth Meeting of the Conference of the Parties to CITES* ("ASEAN Statement on CITES"), declared on 11 October 2004, highlights six key areas of cooperation and commits the ten countries towards developing a Regional Action Plan for 2005-2010. The regional initiative seeks to adopt a holistic approach towards tackling the illegal wildlife trade but given the high profile that law enforcement issues tend to enjoy, the creation of a crime-fighting network

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¹ *Convention on International Trade in Endangered Species of Wild Fauna and Flora*, 3 March 1973, 993 U.N.T.S. 243.

² Darren Schuettler, "Asia Needs Network to Fight Illegal Wildlife Trade" *Reuters* (5 October 2004), archived at Planet Ark <<http://www.planetark.com/avantgo/dailynewsstory.cfm?newsid=27506>>.

³ ASEAN was formed in 1967 by Indonesia, Malaysia, the Philippines, Singapore and Thailand. It was later enlarged to include Brunei Darrusalam, Vietnam, Laos, Myanmar and Cambodia to become the ASEAN-10 it is today. While one of ASEAN's primary objectives during its early days was "to accelerate the economic growth, social progress and cultural development in the region through joint endeavours", areas of cooperation have expanded to include environmental and security concerns. More information about ASEAN is available at the ASEAN Secretariat website <www.aseansec.org>.

to improve intelligence-sharing, review weak laws and coordinate enforcement action has received most attention.⁴

The need to regulate the international trade in wildlife is an important component of biodiversity conservation policy and in this context, wildlife trade (whether legal or illegal) is often viewed as an “environmental” issue. As with many environmental concerns, the characterisation of the wildlife trade as of mere “environmental” consequence tends to reduce its importance on national policy-making agendas, *vis-à-vis* security and economic issues, resulting in fewer resources and less attention being committed to it. I would argue that this is an unjustified view of the illegal wildlife trade problem and risks under-estimating the impact of wildlife smuggling on wider social concerns. It is increasingly recognised that those transnational criminal organisations involved in arms, narcotics and human trafficking are likely to also be involved in the illegal wildlife trade.⁵ This suggests a link between the illegal trade in wildlife products and terrorism. In short, given the implications that the illegal wildlife trade could bear on security and its erosive effect on state institutions, there is a need for states to tackle the issue in a concerted fashion. It becomes vital to overhaul the prevalent institutional mindset which accords wildlife trade regulation dismally low priority. That ignores the wider impact of the international trade in wildlife and fails to recognise that organised wildlife trade is a form of transnational organised crime.

Against this background, the ASEAN initiative is a step in the right direction. In establishing the basis for coordinated action in criminal enforcement with its focus placed on intelligence gathering and sharing, capacity-building and greater inter-agency cooperation in anti-smuggling and customs controls, the ASEAN initiative is targeted at disrupting the supply chain in the illegal trade (particularly the high-value, large-volume international trade that is believed to involve syndicated networks of organised criminal gangs operating across the region and beyond). Tackling this organised illegal trade is a matter of great urgency not only because of the threat it poses to the region’s biodiversity and Southeast Asian countries’ future ability to earn revenues through the legal wildlife trade. The corrosive effect on state institutions and social order, and its implications for regional stability and security have already been mentioned. Moreover, one of the key areas of cooperation within ASEAN is fighting transnational crimes such as terrorism, drug trafficking, arms smuggling, human trafficking and piracy.⁶ As such, the initiative to combat the illegal wildlife trade may also be viewed as part of ASEAN’s wider battle against transnational crime and involves a synergy between the two crime-fighting endeavours to be pursued. On the wildlife trade side of the equation, the present initiative can only benefit from the use of existing resources, such as established institutional mechanisms and information databases, so as to establish a basis for action.

Prior to this, there has been no regional cooperation in this area where cooperation is imperative for tackling the illegal wildlife trade, a problem widely feared to have reached severe proportions in the region. Finally, CITES is also one of the few multilateral environmental agreements to which all ten ASEAN members are party. This fact alone provides a unique opportunity for ASEAN to collectively address an environmental problem of international concern and contribute to the global effort to protect our world’s biodiversity and precious wildlife. It must also be noted that CITES remains a toothless treaty regime unless states implement its provisions into domestic law and effectively enforce them. In

⁴ “Asian Nations Launch Regional Plan to Smash Wildlife Smuggling Rings” *Agence France-Presse* (11 October 2004), archived at ASEAN Secretariat website <<http://www.aseansec.org/afp/75p.htm>>.

⁵ Organised criminal gangs, including the Russian mafia and drugs cartels, are reportedly using existing arms and narcotics smuggling routes for the illegal trade in wildlife products. See Gaia Vince, “Organised gangs target wildlife trade” (17 June 2002), online: *New Scientist* <<http://www.newscientist.com/article.ns?id=dn2413&print=true>>.

⁶ See *ASEAN Declaration on Transnational Crime* (1997), online: ASEAN Secretariat <<http://www.aseansec.org/5640.htm>>.

this regard, ASEAN's collective effort at achieving better enforcement is also an attempt to realise the objectives of CITES.

The term "wildlife trade", as used in this article, refers generically to international trade in both flora and fauna and their derivative products. The following discussion focuses on the trade in animal products only because of comparatively poor documentation of the trade in plant products. Part II briefly introduces CITES and significant decisions that were taken during COP-13 in Bangkok. Part III comprises a conceptual analysis of the illegal wildlife trade. In Part IV, I will analyse the ASEAN initiative and suggest that it is a step in the right direction. I will argue that tackling the illegal wildlife trade is more than addressing an important environmental protection issue. The trade threatens state institutions and because of its links with other forms of contraband trafficking, may also pose a security threat. Finally, because of the trans-boundary and organised nature of the trade, more should be done to link the effort to tackle the illegal wildlife trade with other ASEAN efforts to combat transnational crime. Part V suggests that there is cause for optimism and draws some conclusions about the ASEAN wildlife trade initiative.

II. CITES AND COP-13

In 1973, twenty-one countries signed the *Convention on International Trade in Endangered Species of Wild Fauna and Flora* (CITES), some ten years after the World Conservation Union (IUCN) first called for an international agreement to regulate the global trade in endangered species.⁷ CITES came into force on 1 July 1975.⁸ Today, 167 countries⁹ are party to the treaty and it is widely considered to be one of the most successful multilateral environmental agreements in force.

CITES has two key objectives. First, it seeks to strengthen the international protection of endangered species by regulating international trade in species threatened by trade. Second, it seeks to ensure that commercially exploited species which are not currently threatened do not in time become endangered, which in turn helps to ensure that sustainable trade can continue and thereby allow exporting, importing and re-exporting countries to reap the resultant economic benefits. These two objectives are achieved by the creation of a permit system which controls international trade in the various species that are listed on the three CITES Appendices.

A. *The Regulatory Approach Adopted (Appendices I, II and III)*

Endangered species are given CITES protection by their inclusion in one of the three Appendices. A "species" is any "species, sub-species, or geographically separate population thereof"¹⁰ while a "specimen" is defined as "any animal or plant, whether alive or dead, belonging to a species listed in a CITES Appendix, as well as the readily recognizable parts of derivatives of such species".¹¹ The level of protection that a particular species receives is dependent on the Appendix it is listed in, the highest level of protection being given to those species listed on Appendix I. Unsurprisingly, Appendix I includes "all species threatened with extinction which are or may be affected by trade".¹² Trade in these specimens is subjected to very stringent regulation based on a "double control" system operated by the

⁷ Online: CITES <<http://www.cites.org/eng/disc/what.shtml>>.

⁸ *Ibid.*

⁹ As of January 13 2005. See CITES "List of Contracting Parties", online: CITES <<http://www.cites.org/eng/disc/parties/chronolo.shtml>>.

¹⁰ Art. I(a) of CITES.

¹¹ Art. I(b) of CITES.

¹² Art. II(1) of CITES.

importing and exporting states. Certificates are also required for the re-export of specimens and any specimen introduced from the sea.¹³ Appendix II in turn includes species which may not be presently threatened by extinction, but may become so unless trade therein is strictly regulated to prevent over-exploitation. Appendix II contains a much larger number of species than Appendix I because, in some instances, it includes whole genera rather than single species. Commercial trade in Appendix II specimens is allowed if it is “not detrimental to the survival of that species” and the specimen was not obtained in contravention of the law of the exporting state.¹⁴ No import permit is required but the importer must present an export permit or re-export certificate before entry is allowed. Finally, Appendix III only contains species which have been unilaterally listed by Parties as being subject to regulation within their jurisdictions for the purpose of preventing or restricting exploitation, and as needing the cooperation of other parties in the control of trade.¹⁵ The exporting state’s management authority must issue an export permit for Appendix III species based on slightly less stringent standards than those for Appendix II species.

B. *Institutions*

The CITES Secretariat is located in Geneva, Switzerland. It oversees the application of the CITES system although the responsibility for its day-to-day operation is borne by the national authorities of the parties. The Secretariat, apart from its general supervisory duties, convenes regular and extraordinary meetings of the Conference of the Parties (COP). The COP meets at least once every three years to consider and adopt amendments to Appendices I and II, to review the progress and conservation of listed species, and to make recommendations for the improvement of the CITES regime. The COP may also establish additional committees and working groups and at the discretion of the CITES Secretary General, the Secretariat may seek assistance from “suitable inter-governmental or non-governmental international or national agencies and bodies technically qualified in protection, conservation and management of wild fauna and flora”.¹⁶ TRAFFIC,¹⁷ the world’s largest wildlife trade monitoring programme and expert on wildlife trade issues, was founded largely to aid in the implementation of CITES and is a joint programme of the World Wildlife Fund (WWF) and IUCN. It works closely with the CITES Secretariat and national governments to assist the implementation and administration of CITES.

C. *The Illegal Wildlife Trade*

The creation of a permit system to regulate the international trade in species has also created opportunities for evasion of the system as criminal entities seek to exploit loopholes in the regulatory system. At this juncture, it is important to note that the majority of trade in wild plants and animals is *legal* and provides vital income for some of the world’s poorest countries. The global legal trade in wildlife resources was estimated in the early 1990s to have an annual export value of almost US\$159 billion.¹⁸ While it is almost impossible to estimate the true size of the illegal trade which by its very nature escapes detection and quantification, the United Nations Environment Programme’s (UNEP) 1998 valuation of

¹³ Art. III(4) and (5) of CITES.

¹⁴ Art. IV(2)(a) and (b) of CITES.

¹⁵ Art. II(3) of CITES.

¹⁶ Art. XII(1) of CITES.

¹⁷ For more information about TRAFFIC, visit its website at <www.traffic.org>.

¹⁸ “Switching Channels: Wildlife trade routes into Europe and the UK”, WWF/TRAFFIC report (December 2002) at 4, online: TRAFFIC <http://www.traffic.org/news/press-releases/switching_channels.pdf>.

US\$5-8 billion *per annum* is often cited.¹⁹ It is arguable that, in this regard, fighting the illegal wildlife trade problem is also a way of ensuring that countries involved in the legal trade, particularly exporting countries that tend to be developing ones, can continue to reap sustainable profits and vital export earnings from their natural resources.

D. COP-13 in Bangkok, 2004

The Thirteenth COP meeting of CITES was convened in Bangkok in October 2004. This marked the first time that a CITES COP meeting was held in Southeast Asia. This turned the spotlight on the region's role in CITES (particularly in light of Laos' ascension earlier in the year,²⁰ making all ten ASEAN members party to the international agreement) and the severity of the illegal wildlife trade problem in the region.

Each year, the World Wildlife Fund (WWF) proposes a list of species that have suffered the greatest detriment from unregulated trade. Nine out of ten of the most endangered species on the 2004 list are found in Asia—the Yellow-crested Cockatoo from Indonesia, the Ramin tree, a reef fish called the Humphead Wrasse, the Asian tiger and elephant, the Great White Shark, the Irawaddy dolphin, the Pig-nosed turtle and the Asian Yew tree.²¹ These species received CITES protection when they were listed on Appendix I or II at COP-13.²² The most warmly welcomed listing was probably that of the Irawaddy dolphin, the “poster boy” of the COP-13 Conference whose transfer from Appendix II to I was proposed by Thailand.²³

For many years, there has been reluctance within CITES to list high-value marine and timber species.²⁴ At COP-12, a changing approach was signalled by the listing of seahorses, whale sharks and the Bigleaf Mahogany amongst others. This trend became more significant at COP-13 with the Appendix I listing of the Irawaddy dolphin, an Appendix II listing for the Great White Shark, Ramin, Agarwood (a unique group of tree species that produces a fragrant resinous wood) and the Asian yew tree.²⁵ Pro-whaling nations also, once again, failed to secure a down-listing of some populations of Minke whales from Appendix I to Appendix II. The general opposition to the down-listing was prompted by the parties' desire for CITES to be consistent with International Whaling Commission (IWC) measures.

One of the most significant developments at COP-13 was also the growing cooperation between CITES and the United Nations Food and Agriculture Organisation (FAO), which for the first time provided input on proposals to amend the listing of or add marine species to the Appendices. There are also ongoing efforts to conclude a Memorandum of Understanding between CITES and FAO. Equally significant were efforts to achieve greater synergy between CITES and the Convention on Biological Diversity. For example, resolutions encouraging synergies between the Secretariats of the two environmental agreements

¹⁹ UNEP, *Policy Effectiveness and Multilateral Environmental Agreements*, Environment and Trade Series (Geneva: UNEP Economics, Trade and Environment Unit, 1998).

²⁰ Laos acceded to the treaty on 1 March 2004 and the treaty came into force on 30 May 2004. Laos' accession made it the 165th party to CITES. Online: CITES <<http://www.cites.org/eng/disc/parties/chronolo.shtml>>.

²¹ “Asian wildlife tops WWF list of most threatened by illicit trade” *Agence France-Presse* (9 September 2004), online: News AFP <<http://asia.news.designerz.com/asian-wildlife-tops-wwf-list-of-most-threatened-by-illicit-trade.html>>.

²² Detailed information on the appendix listing of each species, the country proposing the listing and the voting result is available on the ASEAN Wildlife Trade Initiative website <http://www.traffic.org/25/network9/ASEAN/ebulletins/index_is6_1.html>.

²³ “Ban for rare Asian dolphin trade” *BBC News* (8 October 2004), online: BBC <<http://news.bbc.co.uk/1/hi/sci/tech/3726594.stm>>.

²⁴ International Institute for Sustainable Development, “Earth Negotiations Bulletin CITES-13 Final” at 18, online: <<http://www.iisd.ca/cites/cop13/>>.

²⁵ *Ibid.*

regarding alien species, and cooperation between *ex situ* breeding operations and *in situ* conservation programmes, were adopted.²⁶

Most significant for present purposes, enforcement received considerable attention at COP-13, beginning with the Thai Prime Minister Mr. Thaksin Shinawatra's speech which stressed the urgent need for Southeast Asian nations to tackle the illegal wildlife trade. He also expressed Thailand's willingness to lead the formation of a Southeast Asian law enforcement network to combat the illegal wildlife trade.²⁷ This was followed by the *ASEAN Statement on CITES* at the ASEAN Ministerial Session on CITES which was held in conjunction with the COP-13 conference. The Statement sets out key areas of cooperation and commits the ASEAN nations to the promulgation of a Regional Action Plan to realise the objectives set out in the Statement. This initiative will be discussed below.

III. PLACING THE ILLEGAL WILDLIFE TRADE IN CONTEXT

It would be difficult to have a fruitful discussion about the illegal wildlife trade problem in Southeast Asia without some background information about the illegal wildlife trade in general. As such, Part III seeks to furnish the reader with such an understanding, particularly the characterisation of the trade as a form of transnational crime that is enjoying increasing levels of organisation. I begin with a brief description of the difficulties of quantifying the trade (both legal and illegal) and proceed to an analysis of the illegal wildlife trade as a form of enterprise crime. I then propose to explore the involvement of organised criminal groups in the trade and the reasons for their involvement. Finally, I will look at the trade within Southeast Asia itself, focusing on Singapore and Vietnam as important *foci* in any enforcement strategy.

A. *Quantifying the Wildlife Trade*

The effort to quantitatively describe the international trade in wildlife must unfortunately begin with the disclaimer that this cannot be done with a desired level of accuracy. The trade suffers from poor documentation of the species and products, as well as the trading volumes and monetary values involved. Two main sources of data would be customs data and annual reports that are submitted by member states to the CITES Secretariat in fulfilment of their treaty obligations.²⁸ However, these two sources of data are far from flawless. Customs data, which includes information on trade volumes and declared values of imports and exports, provide information only on what has been reported or detected by enforcement officials—by definition, illegal smuggling escapes such detection and therefore, customs data can only provide us a very crude and somewhat unreliable measure of overall levels of illegal activity. As for information compiled for CITES reporting purposes, there is relatively good documentation of CITES-listed species but such species only comprise a small percentage of the overall number of wildlife species in trade.²⁹ Furthermore, there are problems with the accuracy of CITES trade reporting and CITES trade data is better for live animal specimens than for plants or animal and plant products.³⁰

However, given the importance of having at least an idea of the extent of trading activity in violation of CITES, such informational deficiencies have not deterred efforts to estimate

²⁶ *Ibid.*

²⁷ *Supra* note 2.

²⁸ Steven Broad, Teresa Mulliken & Dilys Roe, "The Nature and Extent of Legal and Illegal Trade in Wildlife" in Sara Oldfield, ed., *The Trade in Wildlife: Regulation for Conservation* (London: Earthscan Publications, 2003) 3 at 7.

²⁹ *Ibid.*

³⁰ *Ibid.*

the size of the illegal trade. While bearing in mind that the value of the international wildlife trade is even less well documented than the number of specimens in trade, a crude estimate of the illegal wildlife trade worldwide is nonetheless placed at some US\$5-8 billion. Some even suggest at least £10 billion (US\$18.8 billion) a year.³¹ TRAFFIC puts the figure at US\$15 billion for all wildlife products (forest-related or not) and nearly US\$160 billion if wild-sourced timber and fish products are included.³² It is widely believed that the problem is more acute in Southeast Asia than in other parts of the world.³³

B. *Conceptualising the Illegal Wildlife Trade as “Enterprise Crime”*

The illegal trade in wildlife in contravention of CITES has been recognised as one of the five broad categories of “transboundary” or “international” environmental crime³⁴ by bodies such as the G8, the United Nations,³⁵ Interpol³⁶ and the European Union.³⁷ Distinct from traditional predatory crime, such as theft or robbery which results in the involuntary redistribution of existing wealth in society, environmental crime involves the production and/or distribution of goods and services which are rendered illegal by their classification by international or domestic law.

Such “enterprise crime” is more effectively conceptualised as a market than a form of social deviance.³⁸ Thus, the illegal wildlife trade can be viewed as being structured around multilateral exchanges involving numerous parties such as producers, agents, retailers and

³¹ Stuart Chapman, head of Species Programme at WWF-UK, quoted in “Organised gangs target wildlife trade”, *supra* note 5.

³² *Supra* note 28 at 14.

³³ Michael Sullivan, “Southeast Asia’s Illegal Wildlife Trade: Profits, Demand Fuel Commerce in Endangered Species” *National Geographic Radio Expeditions* (3 November 2003), online: National Public Radio <<http://www.npr.org/programs/re/archivesdate/2003/nov/wildlife/>>. The US-based Wildlife Conservation Society is quoted as saying that “the scale and impact of the illegal wildlife trade is greater overall in Asia than in other parts of the world” by Sonny Inbaraj, “Conservation: Criminal Link in Wildlife Trade Worries Experts” *Inter Press Service* (5 October 2004), *archived* online: allAfrica.com <<http://allafrica.com/stories/200410050016.html>>.

³⁴ The other areas of offences are the illegal trade in ozone-depleting substances (ODS) in contravention of the Montreal Protocol; dumping and illegal transport of hazardous waste in contravention of the Basel Convention; illegal, unregulated and unreported (IUU) fishing in contravention of various regional fishing management regimes, illegal logging and trade in timber in violation of national laws (there are currently no binding international controls on the international timber trade, except for CITES-listed tree species). See Duncan Brack & Gavin Hayman, *International Environmental Crime: the Nature and Control of Environmental Black Markets*, (London: Royal Institute of International Affairs (RIIA), 2002) [RIIA paper].

³⁵ The United Nations Environment Programme (UNEP) works with Interpol in its efforts to deal with crimes against the environment. The United Nations Interregional Crime and Justice Research Institute (UNICRI) has, since 1991, taken an active interest in researching crimes against the environment, which would include the illegal wildlife trade. The institute aims to publish a Global Organised Crime Report that will provide a comprehensive analysis on the subject. A useful preliminary report by Svend Soyland, “Crime Organisations and Crime Against the Environment: A Desktop Study” (Rome: UNICRI, 2000), is available at UNICRI’s website <<http://www.unicri.it/pdf/cocae.pdf>>.

³⁶ Interpol became involved in fighting environmental crime in 1992, following the adoption of a resolution at its 63rd Session in Rome authorising the formation of an Environmental Crimes Committee. Under the auspices of the Environmental Crimes Committee are two working groups, one of which is the Wildlife Working Group formed in February 1994. Interpol and CITES have signed a Memorandum of Agreement. For further information, visit Interpol’s website at <www.interpol.org/Public/EnvironmentalCrime/Default.asp>.

³⁷ The European Union is trying to promulgate a Convention on the Protection of the Environment Through Criminal Law. The illegal commercial trade in endangered species and their products has been identified as a form of organised environmental crime. An informative study, coordinated by Tanja Fröhlich, “Organised Environmental Crime in Member States” (Kassel: Betreuungsgesellschaft für Umweltfragen, 2003), is available on the European Commission website <<http://europa.eu.int/comm/environment/crime/#studies>>.

³⁸ RIIA paper, *supra* note 34 at 6.

final consumers where supply and demand interact according to classical free-market dynamics. A key problem is that, like most environmental problems, the externalities or societal costs of environmental crime are, by and large, not obvious.³⁹ Although the individual parties involved may all benefit from an environmental crime, the associated environmental damage means that society overall is harmed. Such harm includes the detrimental effect on the functioning of societies and state authority (*e.g.*, corruption and the use of violence by wildlife smugglers are not unique phenomena.), environmental problems such as the rampant depletion of endangered species with a direct impact on biodiversity and an indirect effect on the future ability of exporting countries to profit from their natural resources. The failure to account for these wider social costs results in the regulators setting dismal levels of penalties and poor enforcement efforts.

C. *The Key Players in this "Market"*

In the wildlife trade, both legal and illegal, there is always a chain, from capture or harvesting of the wildlife, to transporting and on to marketing to consumers in the marketplace. Intermediate processing and intermediate destinations are usually found along the chain. In this broad general pattern, a distinction can be made between range states (exporters) and consumer states (importers), the two roles not being mutually exclusive. The organised criminal groups essentially form a distribution network that links the range states and the consumer states, often via important re-exporting entrepôts, ignoring artifices such as national boundaries and utilising the most circuitous routes to avoid detection.

The idea of such a chain that links production, distribution and final consumption suggests that within the illegal wildlife trade, there are different "criminal constituencies". This means that a multi-pronged enforcement approach is necessary to deal effectively with these distinct criminal groups. At least four types of illegal trade have been identified: (1) low-volume, low-value "tourist" cases (2) high-volume, low-value opportunist smuggling (3) high-volume, high-value smuggling by syndicated networks (4) low-volume, high-value "smuggle to order" operations for collectors.⁴⁰ These orders tend to involve high-value animals and, for example, professional smugglers have been known to concentrate on supplying Rhesus Macaques to the lucrative laboratory market by "laundering" wild-caught monkeys through captive breeding facilities.⁴¹ Types (3) and (4) would be the focus of the ASEAN initiative as they are most likely to be "organised" and require a regional enforcement approach. This is not likely to be the case for types (1) and (2). For example, a wide-reaching public awareness campaign aimed at educating tourists and the tourism industry will be more suitable for addressing low-volume, low-value "tourist" trade.⁴²

³⁹ *Ibid.*

⁴⁰ *Ibid.* at 7.

⁴¹ *Ibid.* at 7.

⁴² Describing tourist demand for wildlife products as "low-volume and low-value" may cause some misunderstanding of the serious problems that such demand poses and thus, this characterisation requires some contextualisation. Relative to syndicated smuggling, tourist demand is certainly minor in volume and monetary value, especially when demand is not aggregated. However, aggregate tourist demand may prove otherwise. Tourist demand for exotic wildlife presents and ignorance about the laws regarding bringing CITES-listed species into their countries have contributed to the continuing problem of trade in wildlife products in tourist destinations. For example, tourist demand for ivory products has contributed to the domestic illegal ivory trade in Thailand, where Payuhakiri in Nakorn Sawan Province has become well known in recent years as the centre of the ivory carving industry in Thailand. Reducing demand for such products is vital to tackling the illegal wildlife trade problem and this has been the focus of the 2000-2004 Wildlife Trade Campaign by WWF in Thailand. More information about this campaign is available at the WWF Thailand website <www.wwfthai.org>. Unfortunately, while tourist demand must not be ignored in any analysis of the illegal wildlife trade, it is without the scope of this paper to dwell further on this topic.

D. *The Organised Illegal Trade in Wildlife*

1. *A working definition*

The definition of “organised crime” has been the subject of a voluminous literature. However, we may rely on a working definition for the purposes of this paper. A useful one would be the National Criminal Intelligence Service’s (NCIS) definition provided in its *United Kingdom Threat Assessment on Serious and Organised Crime*.⁴³ According to its definition, organised crime groups are those which meet all of the following criteria: (1) it involves at least three people; (2) criminal activity is prolonged or indefinite; (3) the motivation for the criminals is profits or power; (4) serious criminal offences are being committed. Those involved in the high-value, high-volume trade are certainly likely to meet the above definition. The smuggling rings involved in the trade would typically involve more than three people. The trafficking of wildlife products on circuitous routes to avoid detection and its on-going nature means that it meets the second criterion. Finally, the motivation of organised crime, in general, is economic benefits and the illegal trade in wildlife does not differ in this regard. The extraordinarily large profits to be gained form a major incentive for involvement in the trade.

2. *Reasons for its proliferation*

The availability of huge profits is the most obvious reason for the involvement of organised criminal groups in the illegal wildlife trade. Roth and Merz claim that the illegal wildlife trade comes only second to narcotics trafficking.⁴⁴ Also, values along the commodity chains in the wildlife trade increase at exponential values of between twenty-five to fifty times.⁴⁵ The value of narcotics such as heroin, on the other hand, may increase by only two orders of magnitude along the supply chain. The worldwide “war on drugs” and rapidly falling global prices⁴⁶ may soon render smuggling and trading wildlife more profitable than drugs.

The ease and low risks with which smugglers can bring illegal species into a country also makes the illegal wildlife trade an attractive option for organised criminal groups.⁴⁷ It is not difficult to conceal protected animal and plant species amongst other commodities in ships, air freight or cargo trucks. It is also not difficult to alter the required CITES permits to reflect a different quantity, country of origin or species so as to appear compliant with legal requirements.⁴⁸ Weak laws and poor enforcement of wildlife laws at borders pose comparatively little deterrence. For example, prior to amendments introduced in the Criminal Justice Act in 2003, the United Kingdom had such weak international wildlife trade laws that it served as a global centre of wildlife trafficking.⁴⁹ The Control of Trade

⁴³ National Criminal Intelligence Service (NCIS), *United Kingdom Threat Assessment on Serious and Organised Crime* (London: NCIS, 2000), online: NCIS <www.ncis.co.uk/PDFS/small_threat.pdf>.

⁴⁴ H. Roth & G. Merz, *Wildlife Trade Resources: A global account of economic use* (Berlin: Springer Verlag, 1997).

⁴⁵ RIIA paper, *supra* note 34 at 11.

⁴⁶ Competition in the cocaine trade has significantly slashed profit margins and the further opening-up of cocaine markets has increased competition and as orthodox economics goes, competition has benefitted the consumer. For an interesting analysis of why cocaine prices have fallen so significantly in recent years, despite decreasing supply, see “The Price of Powder” *The Economist* (27 November 2004).

⁴⁷ Mara E. Zimmerman, “The Black Market for Wildlife: Combating Transnational Organized Crime in the Illegal Wildlife Trade” (2003) 36 *Vand. J. Transnat’l L.* 1657 at 1670.

⁴⁸ For a more detailed discussion of the various smuggling techniques that may be employed, see V. Menon & A. Kumar, *Wildlife Crime: an Enforcement Guide*, 2nd ed. (Dehradun: Natraj, 1999).

⁴⁹ “UK Legal System fails to deter wildlife traffickers” (8 May 2002), online: WWF UK <http://www.wwf.org.uk/News/n_0000000557.asp>: “Bringing UK wildlife criminals to justice”, Press Release, TRAFFIC, online: <http://www.traffic.org/news/press-releases/UK_wildlife.html>.

in Endangered Species (Enforcement) Regulations 1997 (COTES), which governs the trade of globally rare species within the UK, did not give enforcement officers the authority to arrest offenders and has a maximum penalty of two years' imprisonment while a criminal caught trading rare native species could be arrested under the Wildlife and Countryside Act 1981 and smuggling wildlife across UK borders carried a maximum penalty of seven years under the Customs and Excise Management Act 1979.⁵⁰ An obvious obstacle to enforcement of COTES was the inability to arrest offenders. Finally, even when these offenders face prosecution, the lack of awareness of wildlife crimes and their impact coupled with the lack of sentencing guidelines were some reasons why judges in the United Kingdom hand out lenient penalties. With the amended Criminal Justice Act, the maximum prison sentence for wildlife trafficking is increased from two to five years. Police officers are also given powers to enter premises without a warrant, search and seize property, and compel suspects to be questioned. The problems of weak legislation, as existed in the UK for a long time before the amendments were introduced, are arguably found in larger magnitude in developing countries such as Cambodia and Vietnam where wildlife laws are embryonic⁵¹ and enforcement at border areas almost negligible.

Finally, the illegal wildlife trade is attractive to organised criminal groups because of their synergistic links with trafficking of other contrabands, particularly narcotics. The links between the illegal wildlife and narcotics trades can take three different forms.⁵² The first is parallel trafficking of drugs and wildlife along similar smuggling routes, with the latter as a subsidiary trade. In Latin America, where drugs are frequently produced in wildlife-rich areas, many drug cartels trade both types of contraband through their distribution networks.⁵³ The United States Fish and Wildlife Service has reported that in 1993, more than a third of cocaine seized in the United States was associated with wildlife imports.⁵⁴ The second is the use of ostensibly legal shipments of wildlife to conceal drugs. The use of wildlife products as drug mules often causes inhumane animal cruelty. Finally, wildlife products have been used as a currency in exchange for drugs and such exchanges are often also part of the laundering of drug traffic proceeds.

3. *The 'target group' for enforcement purposes*

Within the specific category of organised crime, three general criminal groups may be identified.⁵⁵ At the bottom of the pyramid are groups of local farmers or indigenous peoples who hunt species for illegal sale to supplement their incomes. Further up are larger groups of "middlemen" who purchase the species from the impoverished peasants and re-sell them at huge profits. Such "middlemen" may comprise an extensive distribution network. Finally, there are the major smuggling rings that are usually involved in other clandestine smuggling activities. Because they tend to have resources, knowledge of smuggling routes and techniques, and tend to resort to violence, such smuggling rings are traditionally perceived as

⁵⁰ "Bringing UK wildlife criminals to justice", *ibid.*

⁵¹ Vietnam, for example, acceded to CITES in 1994 but it was only in 2000 that the Vietnamese government established a CITES Legislation Working Group and in April 2001, draft CITES legislation was completed. The legislation was passed in February 2002, lifting a very short suspension of Vietnam for non-compliance with legislative standards. (Interview with Assoc. Prof. Lye Lin Heng, National University of Singapore Faculty of Law, on file with author.)

⁵² Dee Cook, Martin Roberts & Jason Lowther, "The International Wildlife Trade and Organised Crime" (June 2002), online: WWF <<http://www.wwf.org.uk/filelibrary/pdf/organisedCrime.pdf>>.

⁵³ "Organised Criminal Gangs Deal Wildlife and Drugs" *Environmental News Service* (19 June 2002), archived at Common Dreams News Center, <<http://www.commondreams.org/headlines02/0619-07.htm>>.

⁵⁴ *Supra* note 52.

⁵⁵ *Supra* note 47 at 1668.

the greatest difficulty in regulating the illegal wildlife trade.⁵⁶ Given that CITES is only concerned with the regulation of the international trade in endangered species, even though the distinction between “domestic” and “international” trade is not always helpful and there are significant implications to focusing solely on international activity,⁵⁷ the law enforcement component of the ASEAN initiative would focus on the second and third identified categories of international smuggling networks.

E. *Locating the Wildlife Trade Issue within the ASEAN Context*

Southeast Asia is believed to be responsible for an estimated 25% of the global multi-billion dollar illegal wildlife trade,⁵⁸ criss-crossed by syndicates of organised criminal groups extending from Malaysia, Singapore and Thailand to Vietnam and Southern China.⁵⁹ The single most important cause is the high (and increasing) Chinese demand for exotic wildlife as food and traditional medicine, a trend fuelled by the economic boom and resultant affluence in China.⁶⁰ Poverty, corruption, breakdown of government and years of civil strife, amongst other reasons, have contributed to the emergence of a willing supply source in Southeast Asia (particularly Vietnam, Laos, Cambodia, Myanmar, and further south in Malaysia and Indonesia), which also happens to be “mega-rich” in biodiversity.⁶¹ Further, the integration of transport infrastructure in recent years and porous borders amongst the Southeast Asian nations have facilitated rampant trans-border smuggling.⁶² Finally, extraordinary profit levels, combined with the relatively low risks of criminal sanction in most jurisdictions, have only encouraged proliferation of the illicit trade.

Two countries, Singapore and Vietnam, have been selected to demonstrate their particular roles in the illegal wildlife trade. Singapore has historically been one of the most important wildlife transshipment centres internationally.⁶³ It is therefore a significant intermediary destination in the wildlife supply chain. Vietnam, on the other hand, has rapidly evolved in the past few decades from being a supply source of wildlife to becoming the region’s key distribution centre. Its close proximity to Asia’s largest destination for smuggled wildlife products, China, with whom it shares a long border, has allowed its major cities to serve as collection centres of goods for further distribution in Southern China.

1. *Singapore*

One of the busiest ports in the world, Singapore is a key transshipment centre in the wildlife trade. Singapore has been described as “notorious as a ‘laundering’ port for illegal wildlife”

⁵⁶ *Ibid.*

⁵⁷ Despite an international ivory ban, elephant populations continued to plummet because domestic ivory markets continued their flagrant trade, unregulated. The impact of failing to pay attention to the unregulated domestic ivory markets is well-documented by Tom Milliken in “The World’s Unregulated Domestic Ivory Markets” (October 2002), online: TRAFFIC <http://www.traffic.org/cop12/ivory_markets.pdf>.

⁵⁸ *Supra* note 4.

⁵⁹ Sonny Inbaraj, “Conservation: Criminal Link in Wildlife Trade Worries Experts” *Inter Press Service* (5 October 2004), archived online: allAfrica.com <<http://allafrica.com/stories/200410050016.html>>.

⁶⁰ “Nothing Safe from Rich, Hungry in China” *Reuters News Service* (7 October 2004), archived online: Planet Ark <<http://www.planetark.com/dailynewsstory.cfm?newsid=27561&newsdate=07-Oct-2004>>.

⁶¹ A general observation is that biodiversity resources tend to be concentrated in developing countries where resources for effective conservation and regulation of trade are highly limited. This hypothesis certainly holds true for the Southeast Asian countries mentioned above.

⁶² Nantiya Tangwisutijit & Pravit Rojanaphruk, “Wildlife Trade Rides the Boom” *The Nation* [of Thailand] (17 September 2004), archived online: Asian Wildlife Consultancy Co. Ltd <<http://www.asianwildlife.com/news/sep04/wildlifetrade.htm>>.

⁶³ The other globally significant centre is Hong Kong and the United Arab Emirates has been identified to be a centre of growing importance. See *supra* note 18.

prior to its ratification of CITES in 1986.⁶⁴ While serious concerted efforts have been made to enable Singapore to fulfil its CITES obligations (and it has been argued that Singapore has managed to achieve this⁶⁵), Singapore's free port status and the large trading volumes that it experiences on a daily basis have not allowed it to completely control its intermediary involvement in the illegal wildlife trade.

In November 2003, authorities in Singapore acknowledged that wildlife smuggling was on the rise and Singapore's ports increasingly served as transit points in the shipment of endangered species between the United States and ASEAN countries such as Indonesia and Vietnam.⁶⁶ Four wildlife smuggling syndicates have been identified to be operating in Singapore.⁶⁷ In September 2004, 6555 marine turtle eggs harvested from the Green Turtle and the Hawksbill Turtle were seized from a vessel headed for Jurong fishing port.⁶⁸ Other seizures in 2004 include reptile skins and red sandalwood (which is listed on CITES Appendix II). The shipments of turtle eggs and reptile skins both originated from Indonesia, while the red sandalwood originated from India.⁶⁹ The large size of the seizures suggests that these shipments are not mere examples of low-value opportunistic smuggling but may involve organised criminal organisations.

However, CITES does not regulate the transshipment of species. Article VII of CITES states that it is not applicable to the "transit or trans-shipment of specimens through or in the territory of a Party while the specimens remain in Customs control". This is indicative of the dependence of CITES authorities upon supporting law enforcement agencies, such as Customs, as the "frontline" of wildlife trade controls. Resolution 7.4 which recommends that parties inspect transshipments and check the presence of valid export documentation as required by CITES may have induced some states to apply CITES controls to transits and transshipments,⁷⁰ but the fundamental non-application of CITES to transshipments or transits remains.⁷¹ In Singapore, while scheduled species in transit do not fall within the ambit of the *Endangered Species Act* and thus do not require permits, transshipments of live animals and birds are regulated by the *Animals and Birds Act*.⁷² Import and export permits are required under the latter Act if the specimens are alive, thus enforcing CITES indirectly.⁷³

Because of the high level of trading activity and limited attention paid to enforcing wildlife trade regulations, Singapore is vulnerable to being exploited as an intermediary destination. Its utility as a transshipment centre is increased because of its extensive trading links with other parts of the world and its proximity to range states within Southeast Asia. Tackling the illegal wildlife trade would necessarily involve increasing enforcement activity in intermediary destinations like Singapore. However, the problem is not an easy one to solve. Increasing Customs and CITES law enforcement controls at Singapore's ports and airport may just lead to smuggling rings re-routing their goods to avoid Singapore. This indicates

⁶⁴ Meyers & Bennett, "Answering 'the call of the wild': an examination of U.S. participation in international wildlife law" (1989) 7 Pace Env'tl. L. Rev. 75.

⁶⁵ Lye L.H., "The Implementation of the Convention on International Trade in Endangered Species in Singapore" (1999) 2(1) Journal of International Wildlife Law and Policy 46.

⁶⁶ "Singapore's growing illegal trade" *Reuters* (4 November 2003), archived online: CNN <<http://edition.cnn.com/2003/WORLD/asiapcf/southeast/11/03/singapore.wildlife.trade.reut>>. Examples of endangered species that are frequently smuggled into and out of Singapore include cockatoos from Indonesia, rattlesnakes and scorpions from the U.S., and marine turtles (which are listed on CITES Appendix I) from Indonesia.

⁶⁷ Geraldine Chua, "Singapore hub of rising Asia illegal wildlife trade" *Reuters* (4 November 2003), archived online: TRAFFIC <<http://www.trafficindo.org/Full%20Reuter%20story.htm>>.

⁶⁸ "Singapore seizures highlight regional challenge" (15 November 2004), archived online: Indian Jungles <<http://www.indianjungles.com/231104b.htm>>.

⁶⁹ *Ibid.*

⁷⁰ Germany and Switzerland, for example, have adopted such legislation.

⁷¹ *Supra* note 65.

⁷² *Ibid.*

⁷³ *Ibid.*

the difficulties of disrupting smuggling routes, as organised criminal groups often possess the ability to stay just a step ahead. Nonetheless, an effective strategy to neutralise the illicit wildlife trade must include measures to deal with intermediate destinations.

2. Vietnam

It has been estimated that the total revenue and profits from the illegal trade in Vietnam are approximately US\$66.5 million and US\$21 million annually.⁷⁴ In the past four decades, Vietnam has transformed from being a supplier of abundant wildlife to being a conduit of trade which is largely destined for China, the region's largest consumer market. It is arguable that Vietnam ought to assume central importance in the ASEAN initiative because it is such a significant corridor of illegal wildlife trading activity between ASEAN (particularly for supplies coming from Cambodia and Laos, and increasing connections to other countries such as Malaysia) and China. It would be a truism to mention that if the ASEAN initiative fails to take the trade linkages between Vietnam and China into account, the entire regional strategy would suffer a major lacuna which would significantly hamper its chances of success. In this regard, it is noteworthy that China is likely to participate in the ASEAN initiative.⁷⁵ This is important as improving enforcement along the long and largely unpoliced border between China and Vietnam could significantly obstruct and reduce wildlife smuggling. The brief analysis below seeks to highlight the salient aspects of Vietnam's involvement in the region's illegal wildlife trade.

In the last forty years, Vietnam has lost some two hundred bird species and approximately one hundred and twenty species of other animals to the illicit trade.⁷⁶ These days, there are "so few animals left in Vietnam"⁷⁷ that smugglers have turned to neighbouring Laos and Cambodia to supply animals which are usually captured by poor indigenous peoples to eke out a living. These animals, which include relatively common snakes, pangolins, lizards, birds and turtles as well as endangered animals such as tigers, bears and wild ox, are destined for Thailand, Taiwan and South Korea, but the largest market is China.⁷⁸ Although Vietnam's domestic consumption of wild species for meat and medicine is of increasing concern, the majority of the trade is estimated to be destined for China where they command more lucrative prices.⁷⁹

According to a study conducted by Li and Li,⁸⁰ the trade between China and Vietnam began to increase in 1989 after war between the two countries ended. This increased trading activity soon led to the development of a trading network involving some Chinese provinces, Vietnam, some other Southeast Asian nations, Hong Kong and Macau. Vietnam's role as a conduit soon grew since transportation links between China and Vietnam are fairly well developed. Li and Li inferred that wildlife from Laos, Thailand, Cambodia, Myanmar and Vietnam is first transported to border cities in Vietnam. The wildlife is then taken to the wildlife purchase stations in the Chinese border areas which serve four different trade routes

⁷⁴ Nguyen Van Song, "Tracking the Trade: Vietnam's Illegal Wildlife Business", Economy and Environment Program for Southeast Asia (EEPSEA) Research Report 2003—RR6, online: EEPSEA <http://web.idrc.ca/fr/ev-47045-201-1-DO_TOPIC.html>.

⁷⁵ *Supra* note 3.

⁷⁶ *Ibid.*

⁷⁷ James Compton, director of TRAFFIC Southeast Asia, quoted by Ken Stier in "The New Ho Chi Minh Trail: Wildlife smugglers aim for the China market" *Asiaweek* (24 July 1998), *archived* online: Asiaweek <<http://www.asiaweek.com/asiaweek/98/0724/feat6.html>>.

⁷⁸ Stier, *ibid.*

⁷⁹ James Compton, director of TRAFFIC Southeast Asia, email interview (on file with author).

⁸⁰ Li Yiming & Li Dianmo, "The Investigation on Wildlife Trade Across Guangxi Borders Between China and Vietnam" (1995) Institute of Zoology, Chinese Academy of Sciences, Beijing. Online: China Council for International Cooperation on Environment and Development, Biodiversity Working Group <<http://monkey.ioz.ac.cn/bwg-cciced/english/bwg-cciced/tech-25.htm#3>>.

across China.⁸¹ According to their investigations at two ports, Longyao and Dongxing, it is estimated that the value of wildlife imported to China through Longyao is approximately 31.7 million USD a year while that through Dongxing is about 31 million USD. There are ten other ports on the Guangxi-Vietnam border. This crude estimation only gives us a glimpse of the massive scale of the illegal wildlife trade between China and Vietnam.

To its credit, the Vietnamese government appears committed to addressing the illicit trade and has been working closely with conservation experts and international non-governmental organisations to strengthen its implementation and enforcement of CITES as well as develop a national action plan to improve its wildlife trade controls.⁸² Just before COP-13 in Bangkok, Vietnam's Deputy Prime Minister Mr. Nguyen Tan Dung approved the *National Action Plan to Strengthen the Control of Trade in Wild Fauna and Flora in Viet Nam from 2004 to 2010*.⁸³ Clearly, this action plan "provides an important building block" for the ASEAN initiative as the only national-level example of its kind in the region.⁸⁴

IV. THE ASEAN INITIATIVE

As previously mentioned, during the ASEAN Ministerial Session on CITES which was conducted in conjunction with the COP-13 conference in Bangkok, the plan for an ASEAN-wide coordinated effort to crack down on the illegal wildlife trade was announced.⁸⁵ The *ASEAN Statement on CITES* purports to form an overarching consensus amongst ASEAN member states and serve as a basis for encouraging and facilitating closer engagement amongst the Southeast Asian nations. A Regional Action Plan will be formulated to realise the objectives of the adopted Statement. The formulation of this action plan will be led by Indonesia, chosen because of its experience in tackling the illegal logging trade.⁸⁶ Thailand pledged at the start of COP-13 to create a police training centre specifically for wildlife crime in Southeast Asia and also offered to host a meeting in 2005 to discuss further cooperation to tackle wildlife trafficking.⁸⁷

This marks the first time that Southeast Asian nations are engaging in cross-border cooperation to tackle the illegal wildlife trade. As such, it marks a significant milestone. In this section, I will argue that the ASEAN initiative is a step in the right direction. The illegal wildlife trade in Southeast Asia has reached crisis proportions and an adequate response requires regional cooperation. Further, a significant category of the illegal trade is that conducted by organised criminal entities which form a syndicate across the region, exploiting the enforcement loopholes that currently exist. The activities of such organised criminal groups not only contribute to the devastation of the region's biodiversity, hence presenting an environmental protection issue. Because of its links to other illicit activities such as arms and drugs trafficking and money-laundering, the illegal wildlife trade is also a criminal activity, a form of transboundary organised crime, and poses similar threats to state institutions and social stability. The destabilising effect on state institutions, such as that caused by rampant corruption of customs officers, is particularly acute in countries where state

⁸¹ These four routes are: (1) the sale in wildlife markets in border cities in China, (2) part of the wildlife will be transported to wildlife markets in other parts of Guangxi, (3) through Guangxi, some of the wildlife will be transported to other Chinese provinces, (4) wildlife is brought to Guangdong province where some of it is consumed locally while the rest is sold to Hong Kong and Macau.

⁸² "A national action plan to address the illegal wildlife trade in Viet Nam gets underway", online: TRAFFIC Indochina <<http://www.trafficindo.org/national-action-plan.htm>>.

⁸³ TRAFFIC, Press Release, "Viet Nam endorses national action plan to control wildlife trade at the highest level" (7 October 2004), online: TRAFFIC <<http://www.traffic.org/news/press-releases/vietnam.html>>.

⁸⁴ *Ibid.*

⁸⁵ *Supra* note 4.

⁸⁶ *Ibid.*

⁸⁷ *Ibid.*

institutions are weak or emerging. Finally, as will be discussed further below, the illegal wildlife trade is a possible source of funding for terrorist activities. This renders regional security as another important reason for addressing the illegal wildlife trade. Recognising that the organised wildlife trade is a form of transnational crime, I would urge that greater synergy between the initiative to tackle the illegal wildlife trade and the wider fight against transnational crime in Southeast Asia be pursued.

The following section commences with a brief analysis of the *ASEAN Statement on CITES* as it sets out the basis for cooperation before proceeding to a discussion of the Regional Action Plan.

A. *The ASEAN Statement on CITES*

As the statement is a fairly short one, it may be set out in full⁸⁸:

*ASEAN Statement on CITES on the Occasion of the Thirteenth Meeting
of the Conference of the Parties to CITES
Bangkok, 11 October 2004*

Aware that the countries of ASEAN are rich in biodiversity and home to many endangered species of wild fauna and flora;

Recognizing the conservation actions and commitments that have already been made with respect to the species regulated by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) through its Decisions and Resolutions;

Acknowledging the progress made at the national and ASEAN levels in promoting sustainable use of wild fauna and flora;

Recognizing that concerted and coordinated joint actions are required to address the illegal exploitation and trade in CITES-listed species within the ASEAN region;

Recognizing that efforts on a regional level may be most effective and appropriate in addressing a regional-level problem;

Acknowledging the importance and benefits of regional cooperation and coordination in developing, coordinating, implementing and enforcing laws and regulations on conservation of wild fauna and flora;

Aware of the importance of sharing information and technical expertise within ASEAN with a view to increasing the capacity of ASEAN as a whole;

Aware of the importance of involving ASEAN Member Countries as well as all relevant governmental, intergovernmental and non-governmental organizations in these efforts; and

Stressing the importance of financial and technical support and assistance from the international community in helping countries in ASEAN to build resources, expertise and capacity to address illegal exploitation and trade in wild fauna and flora;

We, the ASEAN Ministers Responsible for the Implementation of CITES, hereby acknowledge the need:

1. to enhance awareness of and to ensure further cooperation and coordination among all national agencies involved in wild fauna and flora trade law enforcement including the sharing of intelligence information and, where appropriate, the establishment of inter-agency committees, taskforce or coordination groups;

⁸⁸ Reproduced from the ASEAN Secretariat website <<http://www.aseansec.org/16470.htm>>.

2. to further promote regional cooperation through the establishment of bilateral and multi-lateral arrangements between enforcement agencies responsible for common boundaries to achieve more effective control of illegal international trade in wild fauna and flora and their products;
3. to strengthen enforcement efforts along key border regions, including further building of capacity and capability;
4. to consider undertaking the review of their respective national legislation to facilitate the implementation of CITES if deemed necessary;
5. to encourage wider scientific research, wild population assessment and trade monitoring to ensure that sufficient and accurate biological and trade information is available on key wild species in trade so as to ensure that the trade is not detrimental to the wild population;
6. to urge countries, donors and organisations to provide urgent sufficient financial and technical support to ASEAN countries to strengthen the above efforts, in particular related to provision of scientific information on the key species in trade and building capacity and capability for CITES enforcement; and under the auspices of the ASEAN Senior Officials on Forestry (ASOF) through the ASEAN Experts Group on CITES (AEG-CITES), to develop an ASEAN Regional Action Plan on Trade in wild fauna and flora to implement the above commitments and actions.

A brief analysis

Given that this statement was issued at a CITES COP meeting and CITES is widely perceived as a cornerstone of biodiversity conservation policy, it is not surprising that the Preamble of the ASEAN statement begins with the acknowledgement of the region's rich biodiversity and the conservation efforts taken in the name of CITES. It then goes on to describe the illegal trade as a region-wide problem that, in order to be adequately addressed, requires efforts at the regional level. This statement is important because it forms the platform for regional cooperation. The statement then sets out six key areas of cooperation, the most important ones for purposes of fighting the organised illegal trade being: (1) cooperation among all national agencies involved in wildlife trade law enforcement including the sharing of intelligence information and establishment of inter-agency committees, taskforce or coordination groups; (2) establishing arrangements between enforcement agencies responsible for common boundaries to better control the illegal trade; (3) strengthened enforcement efforts along key border regions.

It may be argued that the failure to identify the illegal trade as an environmental crime and to highlight its organised nature in the *ASEAN Statement on CITES* is regrettable. Such a characterisation may do much to alter the paradigm within which the illegal wildlife trade is frequently perceived. Rather than merely being a conservation issue, the illegal trade assumes significance as a law enforcement and security issue. It is arguable that the Statement is a broad policy statement that seeks essentially to be all-encompassing in order to reflect the multi-pronged approach that would be required to truly deal with the illegal trade. It would have been inappropriate to focus so pointedly on the organised illegal trade, much as it is a significant issue. Other policy statements⁸⁹ demonstrate that the action plan would focus on syndicated wildlife smuggling rings and the three above-mentioned specific measures form the basis of cooperation.

⁸⁹ During the opening of COP-13, Thai Prime Minister Mr. Thaksin Shinawatra said that Asia needs a special crime-fighting network to combat the illegal wildlife trade. He also offered to host a summit regarding the formation of a regional network of law enforcement agencies. It is arguable that such statements show that the law enforcement approach would focus on the organised transnational illegal trade.

B. *The Regional Action Plan*

The illegal wildlife trade is a transboundary environmental crime and in its organised form, poses a significant threat to state institutions and social order. The links between the trafficking of wildlife and other contrabands such as narcotics and arms are increasingly recognised. From the perspective of biodiversity conservation, curbing the illegal trade is a high-priority issue that has direct bearing on the region's environmental health which is deteriorating rapidly because of the impact of the illegal wildlife trade on species survival. However, from a law enforcement perspective, tackling the illegal wildlife trade is part of a larger battle against organised criminal groups profiteering from illicit activities through the use of violence and corruption. Finally, from a security perspective, there are certain intersections between transnational organised crime and terrorism.⁹⁰ One of the ways which terrorist cells fund their activities is through engaging in the same sort of activities that the organised crime groups do.⁹¹ It is arguable that this trend is likely to grow as many modern-day terrorist networks are structured as cells to reduce the possibility of law-enforcement penetration and increase organisational flexibility. A consequence of adopting such a cellular structure is that each cell is expected to secure its own funding—organised crime presents itself as an attractive option. It is suggested that given the low risks of detection and high profits associated with the illegal wildlife trade, it would not be surprising to discover the involvement of terrorist cells in the trade.

Recognising the wider implications of the illegal trade in wildlife should only increase the urgency on the part of ASEAN members to tackle the issue in a concerted fashion. I would suggest that an effective action plan should seek to leverage on existing resources, including institutional structures and information databases that are committed to fighting organised crime.⁹² Such leveraging could result in significant benefits. For example, an understanding of the smuggling techniques, *modus operandi* and routes adopted by criminal groups involved in the more traditional forms of organised crime would provide useful information that may also be applied to a trade which is so poorly documented and understood. Further, useful resources such as ASEANAPOL, a collective database on criminals and criminal activities in the region, exist to provide valuable information. Thus, the action plan should include measures to facilitate networking and lateral coordination amongst the persons and agencies involved in this initiative and those involved in combating the more traditional forms of transnational crime.

V. CONCLUSION

For the international community, the CITES COP-13 meeting was a success in many respects. For conservationists, securing the listing of seriously endangered species like the Irawaddy dolphin and the Ramin tree was a major cause for celebration. The willingness of COP-13 to list economically valuable marine and plant species indicated a certain courage to challenge economic interests in the name of biodiversity conservation. Finally, COP-13 marked a significant breakthrough by securing ASEAN's commitment towards neutralising the illegal

⁹⁰ For an interesting analysis of the convergence of international organised crime and terrorism, see Louise I. Shelley & John T. Picarelli, "Methods not motives: Implications of the convergence of international organized crime and terrorism" (2002) 3(4) Policy Practice & Research 305.

⁹¹ Al Qaeda, for example, is heavily involved in many forms of organised crime such as money-laundering and credit card fraud to fund its activities. For an excellent study of Al Qaeda, including its financial infrastructure, see Rohan Gunaratna, *Inside Al Qaeda: Global Network of Terror* (Columbia University Press, 2002).

⁹² Following the ASEAN Declaration on Transnational Crime in 1997 which culminated in the ASEAN Plan of Action to Combat Transnational Crime, tackling transnational crime has been one of the key areas of cooperation for the regional grouping. For further information, see online: ASEAN Secretariat <<http://www.aseansec.org/4964.htm>>.

and unsustainable wildlife trade in the region through a coordinated regional effort. Given that Southeast Asia is responsible for some 25% of the global illegal trade in wildlife, this regional effort could deal a significant blow to the illicit trade if properly conceived and implemented. Thus, there is an incentive for the international community to aid ASEAN in its effort to deal with the wildlife trade crisis. Such aid, including monetary funding and technical assistance, could make a significant difference as one must not forget that ASEAN is made up of countries of disparate socio-economic conditions and the countries in which the wildlife trade is most prolific are also the ones least able to deal with the problem effectively because of the lack of financial resources.

Traditionally perceived as an environmental issue, the illegal wildlife trade has, in truth, a wider impact than its detrimental effects on species survival and biodiversity. On one level, tackling the illegal trade will aid countries that are dependent on the legal trade to continue to reap profits from their natural resources. As these countries tend to be developing ones, protecting this revenue source is an important aspect of sustainable development. However, my focus has been the law enforcement and security threat that the illegal trade poses and I argue that tackling the organised illegal trade should be viewed as part of the wider global struggle against transnational crime. As such, I propose that this latest ASEAN initiative (which would culminate in a regional action plan) should focus on achieving greater synergy with on-going efforts by ASEAN to combat transnational crime. In conclusion, I would suggest that there is cause for optimism. Given that there has been no prior regional cooperation in this area, this initiative marks a big step forward. Announcing it at an international conference of what is widely perceived to be one of the most successful international environmental agreements (*i.e.* CITES) is arguably a display of serious political commitment. Finally, one of the most important linkages in the region's wildlife supply chain, Vietnam, has already announced a national blueprint for tackling the trade. It remains to be seen if there will continue to exist sufficient political will to realise the vision set out in the *ASEAN Statement on CITES*. For the sake of protecting Southeast Asia's dwindling natural heritage, we can only hope for the best.