



Exploring the Effectiveness of International Cooperation to Combat Transnational Organized Wildlife Crime: Lessons Learned from Initiatives in Asia

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Abstract

The thesis aims to explore the effectiveness of international cooperation to combat transnational organized wildlife crime by analysing some lessons learned from two specific initiatives in Asia: the Association of Southeast Asian Nations' Wildlife Enforcement Network (ASEAN-WEN) and the Border Liaison Office (BLO) Mechanism. However, both *exploring* and *measuring* effectiveness are part of a difficult *puzzle*.

To fit all the pieces of the puzzle together, the research explores the international framework within which the illegal wildlife trade is combated as well as the role of the various actors involved. The illegal wildlife trade is then examined as a transnational organized crime. This is followed by an analysis of the emergence of new structures or initiatives developed to facilitate cooperation and coordination to combat the illegal wildlife trade in Asia, and Southeast Asia in particular. The research provides a process evaluation of the initiatives on the illegal wildlife trade and cross-border cooperation and is grounded on findings which are constructed around themes identified based on available literature and perceptions of participants involved in the initiatives.

The thesis provides an in-depth analysis of two existing efforts in Asia and attempts to measure their effectiveness as organisations, though it is not possible to undertake an outcome evaluation. It also identifies ways to strengthen both the effectiveness of efforts and the way one could analyse or measure their effectiveness. This includes exploring the challenges of cooperation and the various actors involved; considerations on wildlife crime as a serious transnational crime and combating it through platforms for cooperation, and; exploring and measuring the effectiveness of the different initiatives in a process evaluation. Given the pervasive role of corruption, some reflections on this important matter are included. The thesis concludes with some thoughts for future research and engagement for the broader research community as well as practitioners or organizations involved in similar efforts to combat transnational organized wildlife crime.

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Three words come to mind: determination, stubbornness and perseverance.

'The Beast' is dedicated to my family, friends and colleagues for their unwavering support and unlimited patience while I was taming the beast on a part time basis.

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Chapter 1: Introduction and Research Overview

The thesis aims to explore the effectiveness of international cooperation to combat transnational organized wildlife crime by analysing some lessons learned from two specific initiatives in Asia. How did the idea come about? What is the focus of the investigation? How it was done? And crucially, why is it useful? This chapter aims to provide a broad overview to these questions and includes an initial exploration of the research boundaries and the focus of the research, as well as its usefulness today (see 1.1 to 1.5 below). The chapter also includes a brief overview of the ensuing chapters of the thesis (see 1.6 below).

1.1 Research foundations

The initial research concept emerged quintessentially due to the author's personal interest in transnational organized crime and my exposure and involvement in a number of projects and initiatives on transnational organized crime while I was working for the United Nations Office on Drugs and Crime (UNODC) and the United Nations Environment Programme (UNEP) in their regional offices in Bangkok, Thailand and later at TRAFFIC Southeast Asia, from 2007 onwards.

In particular, interest was stirred through involvement in two particularly interesting initiatives. The first was the *Border Liaison Office (BLO) Mechanism*, which is, in a nutshell, a concept to fuel informal law-enforcement cooperation across and along borders to combat transnational crime. The mechanism historically had a focus on drugs but there was an intention to expand it to other transnational crimes including human smuggling and trafficking as well as environmental crimes such as wildlife crime. This expansion started roughly around 2010 with the implementation of a new project to support it. The second was the Association of Southeast Asian Nations (ASEAN) Wildlife Enforcement Network (WEN) – or ASEAN-WEN in full. This initiative or network emerged in 2005 as an innovative and novel approach to combat wildlife crime in the region (see chapters 4 and 7 for details on both).

Both initiatives were funded by different sources and supported by different organizations including UN specialized agencies and a number of NGOs. Both had targeted activities, end dates, detailed

(sometimes painfully detailed) reporting frameworks, and a number of expectations and targets to achieve. Neither, however, had at the time really looked at the overall picture (e.g. how effective is the initiative?) nor had it ever been researched in detail.

Motivated by my supervisors at the time, I started to ask additional questions and found out that relatively little research with that type of focus existed on transnational organized crime and efforts to counter it, and in particular on the illegal wildlife trade (an area I was focusing on at the time) in Asia – and more concretely in Southeast Asia. Research in this field in other regions (notably Europe and the United States of America as well as in the Caribbean region) exists, but in Asia is limited to a handful of researchers (at least in the English, Spanish or French languages). Where research existed, the focus was mostly on specific species traded illegally rather than the overall regional picture and dynamics of the illegal wildlife trade and the criminal networks involved, which only some researchers had explored. What is more, virtually no research existed on the specific initiatives. The only available research - if it can be called that – was project reports (both internal and public) on the various initiatives written by the different implementing agencies to donors or as part of the reporting or evaluation process.

A further question I had at the time was: is it business as usual without more research on the matter? The reality at the time was somewhat complicated. If we look at the Wildlife Enforcement Network concept, for example, this was a relatively new model in Asia. By all accounts, working together to combat transnational wildlife crime was supposed to be a good approach and was being welcomed by countries in the region, and provided an excellent opportunity to bring countries together to combat the illegal wildlife trade at the regional level. As a new initiative, research on it was not available. If we look at the cross-border level, the BLOs were considered a ‘flagship initiative’ in the region according to both UNODC and the countries involved and had been reported as extremely successful in combating the illegal cross-border trade in narcotics. The expansion of the mandate to wildlife crime (and other transnational crimes) was, theoretically, an excellent idea.

My interest remained and I believed that further research would be needed to inform future decisions – and I subsequently embarked into the puzzle that is exploring the effectiveness of international cooperation to combat transnational organized wildlife crime.

1.2 Focus of the investigation

The aim of the research is, broadly speaking, to examine efforts to counter the illegal wildlife trade and increase cross-border and international cooperation in Southeast Asia, and to evaluate the effectiveness of the two specific initiatives highlighted above. It should be noted however that, due to the limited availability of data, as will be elucidated in ensuing chapters, the original aim of evaluating the impact of the initiatives was revised into an exploration of how they could become more effective to contribute towards combating transnational wildlife crime.

In order to do so, a number of questions have been developed to delimit the boundaries of the research, as well as its aims and objectives. The overall research question is:

- Are border and regional law-enforcement initiatives, such as the BLO mechanism and ASEAN-WEN, effective in combating transnational organized crime?

The broad nature of the research question requires that one examines its different dimensions (or sub questions) in order to achieve a full understanding of the specificities and issues involved. These include:

- What are the patterns of the illegal wildlife trade? (and how organized is it really?)
- Who is tasked with countering transnational wildlife crime? (and what are the roles of the respective actors involved?)
- What are the policies/initiatives that have been developed as a response in Asia and how do they work?
- What is the law-enforcement response?
- Is cross-border/international cooperation effective? (and how can it be measured?)

Chiefly, the research is about *networks*, international *law-enforcement cooperation* and combating *transnational wildlife crime*. Transnational wildlife crime is analysed by establishing how transnational, organized and criminal it might be, its links to other transnational crimes, and how it might be best to combat it. Networks are explored as multi-agency initiatives at the regional, sub-regional or global level that have emerged to assist countries to combat transnational crime by encouraging them to work together at the national, international, regional and/or sub-regional levels. International law-enforcement cooperation includes an investigation into how different

enforcement agencies work together to tackle cross-border or international crimes as well as the various levels of cooperation that exist, from the political level where decisions are made to the field level where criminals are arrested. By enforcement, it refers to actions taken by law-enforcement officers in the field that may lead to a seizure, arrest, prosecution or conviction.

It is also about the *effectiveness* of international cooperation to combat transnational organized wildlife crime. Defining effectiveness is however somewhat complicated and, as will be established, there are a multitude of interrelated issues that need to be considered when examining it. What is more, the thesis explores the effectiveness of initiatives in a field that is severely under-researched and where information is rather limited both on the initiatives themselves as well as on ways to measure their effectiveness. I have in fact, perhaps rather dangerously, not established one single definition of effectiveness and suggest that it has to be measured using a number of different and balanced measurements. The main reason is that, as highlighted in later chapters (see in particular chapters 4 and 8), there are a number of layers that should be taken into consideration, some of which can be very specific or sometimes difficult or impossible to measure. Different views and perceptions on effectiveness have therefore been explored throughout the different chapters, including the effectiveness of environmental regimes (see chapter 2); of international cooperation and law-enforcement efforts (chapter 4); some practical considerations on effectiveness (chapter 5); and perceptions of effectiveness and potential definitions and layers of effectiveness suggested by participants interviewed (chapter 7). I provide a final measurement of the effectiveness of the initiatives taking into account a broad number of potential indicators in the concluding chapter (see chapter 8).

1.3 Research blueprint

Once the overall focus of the research had been identified, a detailed and structured work plan for what I expected to need as well as who I should interview was prepared (see chapter 5 for details). One of the benefits of working for the organizations directly involved as well as in the initiatives themselves while I was developing the research idea was that, at the time, I could negotiate and gain access to materials, the initiatives and those involved from the outset. This proved to be an invaluable asset and allowed for excellent levels of access to the initiatives, though it was always important to distinguish the research from my employment.

Collection of data on the effectiveness of the initiatives on the illegal wildlife trade was made through:

- Academic research (international law, international environmental law, transnational policing, transnational organized crime, international politics/policy, international agreements, international conventions);
- Background research on the selected initiatives/projects;
- Information taken from different activities and events and the implementation of the different activities by means of attending different workshops, meetings and training events.

Interviews, focus groups or questionnaires were planned for the four different levels of personnel directly involved in the initiatives:

- Law-enforcement officers (field level/border staff);
- Senior law-enforcement officers (heads or provincial representatives);
- Senior government representatives & network focal points;
- Senior NGO, IGO, UN representatives and academics.

The first phase of research included academic research (on international law, international environmental law, transnational policing, transnational organized crime, international politics/policy, international agreements, CITES, etc.) as well as background research on the selected initiatives and projects. This provided a sound understanding of the background problem and the different people, groups of people and organizations that are involved in the different initiatives. The second phase involved gathering information from a number of activities and events of the initiatives by means of attending different workshops, meetings and training events. This was done in conjunction with the third, which involved 'elite' interviews (see box 5.1, chapter 5), as well as focus groups or questionnaires for the four different levels of personnel directly involved in the initiatives (from field level to heads/regional representatives, in addition to representatives from relevant governmental, intergovernmental, and nongovernmental organizations and academics).

The interviews aimed at a broad representation from the different levels to acquire a deep understanding of the overall state of affairs as understood by participants. It was agreed that it was necessary to conduct elite interviews to get a first-hand account from those directly involved in – or working with or for – the different initiatives. This was determined to be the most effective way to obtain information and perspectives from those involved.

The selection of participants for the interviews was done with the following criteria in mind:

- Involvement in activity/initiative;.
- Knowledge of activity/initiative;
- Involvement in efforts to counter wildlife crime or transnational crime;
- Knowledge of wildlife crime or transnational crime;
- Position within the government/initiative/organization (seniority);
- Access to participant and availability/interest of participants to participate in the research;
- Availability of funds to the researcher.

The research started in October 2010. The empirical research was conducted between March and October 2012 in Thailand, Viet Nam and Cambodia. In numbers (total number of interviews conducted, hours, people interviewed), the research included:

- Individual interviews: 34 people;
- Focus groups/group interviews: 6 groups

Hence, total interviews/focus groups: 40.

- Total people interviewed (individual): 34 people;
- Total people interviewed (in groups): 34 people;

Hence grand total (participants): 68.

- All interviews recorded: over 50h 50m.

The research therefore provides a snapshot of how two particular initiatives operated at a specific time (2010-2013) and place (Southeast Asia) based chiefly on the perceptions of those involved. Since 2013, I have continued to follow developments in the field and in relation to the organisations involved and these data are included where relevant up to the timing of writing in early 2017.

1.4 Boundaries of the inquiry

The research aims to explore the effectiveness of international cooperation to combat transnational organized wildlife crime by analysing some lessons learned from two specific initiatives in Asia.

The limelight of the research is on combating transnational crime. The thesis however focuses chiefly on a specific form of transnational crime: the illegal wildlife trade. Within the illegal wildlife trade the focus is on certain species (as can be seen by the case studies in chapters 4 and 6). The species-specific nature of the case studies does not, however, limit the research to these species, but to all plant and animal species protected under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) noting that the illicit trade is often different from species to species.

The aforementioned emphasis denotes a further boundary of the research, which is the focus on international trade of protected species at the cross-border and international (or regional) level and more precisely between certain countries in Asia, and in particular Southeast Asia (focusing mainly on Cambodia, Thailand, Myanmar, Lao PDR and Viet Nam). Internal (e.g. national) illegal trade is therefore not necessarily an area of focus (see chapter 4 for additional details).

The research explores the importance of initiatives and networks to combat illegal wildlife trade. In particular, the research provides an in-depth analysis of two existing efforts in Asia and, in doing so, attempts to measure their effectiveness and identify ways to strengthen both the effectiveness of efforts and the way one could analyse or measure their effectiveness. It does not however necessarily aim to provide the ultimate and final answer to combating transnational organized wildlife crime but merely further information on one of the ways to combat it through networks of organisations.

1.5 Usefulness today

As noted earlier and as will be highlighted in subsequent chapters, there is a relatively limited amount of data and research available on all transnational organized wildlife crime and in particular on the initiatives that are the focus of the research (see chapters 4, 6, 7 and 8). The thesis aims to contribute to knowledge by exploring some lessons from initiatives in Asia to combat transnational wildlife crime so that eventually a better understanding can be reached.

The research will contribute to the fields of transnational environmental crime, green criminology and in particular of transnational organized wildlife crime, and facilitate further research in the future on the illegal wildlife trade. Additional exploration of the degrees of organisation of the illegal wildlife trade and ways to evaluate the effectiveness of networks is something that is necessary, lacking and that requires significant attention (see chapters 4, 6, 7 and 8). This is not only needed in Asia, but across the world as a myriad of similar initiatives exist worldwide and research of this kind is limited or non-existent.

There is also a limited amount of academic and independent research on networks, particularly those explored here. The choice of initiatives is particularly interesting to explore if they successfully encourage bilateral or multilateral cooperation, and if this, in turn, increases the capacity of law-enforcement agencies to effectively counter transnational crimes. It also leads to a number of conclusions and recommendations that could be used to strengthen and enhance transnational cooperation and the initiatives themselves. Moreover, as it will be elucidated in later chapters (see chapters 7 and 8), each is particularly strong in certain aspects and weak in others and no attempt has previously been made to compare the two in order to strengthen the overall efforts to counter transnational crime.

The thesis also aims to provide recommendations and advice on potential follow-up actions to governments and donors, as well as intergovernmental organizations and NGOs involved in the different efforts. It is hoped that the research could have a considerable impact and provide a solid basis for future initiatives in Asia or in other regions of the world. The research may also be able to indicate useful paths for action against other forms of transnational organized crime in Southeast Asia.

It should be noted that, since the research started (2010) and even since the fieldwork was conducted (2012), a lot has changed. Projects that started have ended, been extended or have evolved. New ones have emerged. Moreover, similar cross-border efforts have been replicated and comparable regional initiatives have emerged in multiple corners of the world (see ICCWC 2013, 2016). The question however remains: how effective are they? As will be noted in the conclusion, some steps have been suggested that could contribute to this. These have, however, not started to date.

1.6 Chapter overview

The thesis has been divided into two parts. The *first* focuses on the illegal wildlife trade as a transnational organized crime and examines the international framework within which the illegal wildlife trade is combated, as well as the role of state and non-state actors in combating transnational organized wildlife crime. It also explores the research methodology. The *second* goes into further detail and analyses the two initiatives that are the focus of the research. It includes an analysis of the initiatives and of the perceptions of participants interviewed, and an exploration of the effectiveness of the initiatives to combat transnational organized wildlife crime. The thesis ends with some practical recommendations to enhance the effectiveness of regional and sub-regional initiatives designed to combat the illegal wildlife trade and some potential future areas of research or of interest¹.

Part I: Introduction, literature review and research methodology

Chapter 2 highlights that international environmental problems such as the illegal wildlife trade have resulted in the emergence of tailor-made procedures in international environmental law and the development of dynamic and flexible regulatory regimes aimed at enhancing cooperation to deal with environmental problems. Regulatory regimes facilitate a speedier response to new problems and are essential to enable effective cooperation. Dealing with international environmental problems is essentially political in nature and thus heavily linked to securing international cooperation at a global level taking into account the different priorities of states in the international community. States remain the key decision makers and retain control over the commitment to non-binding norms and rules. Nonetheless, they have responsibilities and have to cooperate with the international community to effectively deal with international environmental problems.

Chapter 3 examines the role of state and non-state actors in combating transnational organized crime. It suggests the need to protect the environment has generated an intensified focus of transnational collaboration and emphasized the need for collective action. The state is no longer

¹ It should be noted that this thesis uses and expands on parts of three separate publications by the author and for which permission to use the different chapters in the thesis has been granted. This is the case for the final section of chapter 3 on CITES, chapter 4 and some sections of the chapter 7 and 8. Van Asch (2013) is available in: *Getting By or Getting Rich? The formal, informal and criminal economy in a globalized world* (see chapter 8) edited by Pietro Saitta, Joanna Shapland and Antoinette Verhage published in 2013 by Eleven International Publishing; whilst van Asch (2015) is in *Environmental Enforcement Networks: Concepts, Implementation and Effectiveness* (see chapter 9) edited by Michael Faure, Peter De Smedt and An Stas published in 2015 by Edward Elgar Publishing Ltd, and van Asch (2016) is in the *Handbook of Transnational Environmental Crime* (see chapter 25) edited by Lorraine Elliot and Bill Schaedla published in 2016 by Edward Elgar Publishing Ltd. The original chapters cannot be used for any other purpose without further permission of the publishers.

able to effectively deal with global problems alone. It needs to involve additional players that are able to fill in the regulatory gaps that states are unable to fulfil. The participation of non-state actors in the process does not obscure the role of the state. Rather, it complements it, as their involvement is mutually beneficial. The participation of additional actors is important to assist states and to ensure compliance with treaties, regulatory regimes and international obligations and to shape state behaviour. The participation such players, albeit in different ways, is crucial if environmental problems are to be addressed with some measure of success.

Chapter 4 focuses on the illegal wildlife trade as a transnational organized crime and includes work published by the author with a focus on the illegal wildlife trade. The chapter highlights that the illegal wildlife trade is best understood in categories, each with its own smuggling methods, trafficking routes and specific markets ranging from individual collectors and small traders to highly organized wildlife networks and organized crime groups with connections all over the world. It also underlines that, even though the illegal wildlife trade has been linked to other transnational crimes such as drugs, arms or people smuggling and criminal syndicates like the Mafia, most of the illegal wildlife trade is, however, done by competing networks dealing with particular species. Such networks display different levels of organization depending on the volume and value of the trade. It suggest links with other commodities and criminal networks exist through similar smuggling techniques and transport routes or through individuals participating in the illegal wildlife trade that may also be linked with other sorts of crime as a complementary trade or because they have particular links to other criminal networks. It also highlights the emergence of new structures of cooperation through the development of a number of initiatives, with a focus on the BLO mechanism and ASEAN-WEN.

Chapter 5 outlines the research methodology and explores the research questions, the methods used and the process that was followed to answer the questions. It provides an overview of how the methods were used in practice, the analysis and interpretation of data, and other issues of consideration such as ensuring the reliability, validity and credibility of the research and other important matters including research ethics and management of data.

Part II: Research findings

Chapter 6 and 7 provide an analysis of the two initiatives and collective efforts that are the focus of the research (the BLO Mechanism and ASEAN-WEN) and is based on an in depth analysis of the elite interviews conducted. It explores a number of categories or themes identified during the interviews and participants' perceptions on the illegal wildlife trade and how criminal networks and organized

crime may be involved; and also on the need for international cooperation to counter transnational wildlife crime and the range of players involved. It also explores the different initiatives as a platform for cooperation to combat wildlife crime, how to measure effective cooperation and the initiatives' perceived effectiveness. It ends with an interesting section on corruption and the illegal wildlife trade which highlights the devastating effect of corruption in the illegal wildlife trade.

Chapter 8 returns to the key research question: are border and regional law-enforcement initiatives, such as the BLO mechanism and ASEAN-WEN, effective in combating transnational organized wildlife crime? In order to answer the question, the different dimensions (or sub questions) explored in earlier chapters will be considered. The chapter explores the challenges of cooperation and the various players involved in combating wildlife crime. This is followed by some reflections on wildlife crime as a serious transnational organized crime and combating it through platforms for cooperation. The chapter also explores and measures the effectiveness of the initiatives and concludes with an overall assessment of their effectiveness to combat transnational organized wildlife crime. The thesis ends with some thoughts for future research and engagement for the broader research community as well as for practitioners or organizations involved in similar efforts.

Chapter 2: International Law, International Environmental Law, and the Development of Regulatory Regimes

2.1 Introduction

As it will be further elaborated upon in Chapter 4, organized crime is transnational in nature, and there is a need for cross-border and international cooperation to counter transnational crime. Before we proceed further to discuss the research methods used and the specific initiatives that will be analyzed throughout the thesis in order to establish or measure the effectiveness of international cooperation in fighting transnational organized crime in Southeast Asia, we need to analyze the role of the different players involved in combating transnational organized crime. The main reason for this, as it will be stressed in the next chapter, is that participation of different actors in international environmental affairs is what ultimately makes the environmental regimes work and parties able to meet their treaty obligations while effectively countering transnational environmental problems. Firstly, however, it is necessary to outline the basis of international law and of international environmental law, as well as the key arrangements that have developed in international environmental law that have contributed to ensure greater participation, and increased amounts of cooperation between countries to counter international environmental problems (Bernie, Boyle and Redgewell, 2009; Barret, 2003).

It is not the purpose of this chapter to explore the root causes of environmental problems², nor to examine the nuances of international law or of international environmental law. Rather, this chapter will aim to introduce the concept of the environment as an issue of common interest and concern (United Nations, 1945) and the need for international cooperation to counter environmental problems. Following a brief introduction to international environmental law, the following sections examine how international environmental law has emerged in response to international environmental problems, and how it has evolved with regards to the more 'traditional' international law. The chapter also explores the key aims and underlying principles of international environmental law and will serve as the basis for the following chapter that will highlight the different actors

² For more information on the driving forces behind international environmental problems see Hunter, Salzman and Zaelke, 2007, 43-122.

involved in international environmental law and their respective roles, with an emphasis on the changing role of the state and the importance of non-state actors in the development, implementation and enforcement of international environmental issues.

2.2 The environment, an issue of common concern

'Protection of the global environment (...) is the most difficult problem facing the international community³' (Tarlock, 1992, 61).

The initial issue that should be discussed is why international law should be involved in protecting the environment. Overall, international lawyers tend to agree on the fact that what happens to the environment is a common concern and that '[international environmental problems] threaten the globe. (...) Such a threat to the planet, (...) should perhaps lead us to shift our thinking, analysis and policy making onto a global level' (Yearly, 2000, 374; Bernie, Boyle and Redgwell, 2009).

Many environmental problems are international or global in nature and cross political borders. It will be argued throughout this chapter that countering such a diverse and growing range of challenges requires a coordinated effort amongst all parties – including states and non-state actors – to effectively deal with the problems (Victor, Raustiala and Stolnikoff, 1998; Sands, 2003; see also United Nations 1945, Preamble). Initially, however, the general characteristics of such problems will be examined, as well as how international environmental law has developed to counter environmental problems more effectively.

International environmental law has developed largely in response to the growing amount of environmental issues⁴. It has been argued that environmental problems are 'unusually' international, and inherently global in character, as their effects are global⁵ (Yearly, 1994, 158-160). The nature of

³ 'International community' has different connotations in international law and there are a number of discussions, for example on whether the term international community should be used, or whether it should instead be 'international society'. I will not delve into the discussion, but use international society as it is believed to be more encompassing (for details on these discussions, see for example Buchan 2008; Widlak, 2015). Bull (1977, 13) referred to international society as a 'group of states, conscious of certain common interests and ... values, form a society in the sense that they conceive themselves to be bound by a common set of rules ... and share in the working of common institutions'.

⁴ While international environmental law has developed *largely* in response to environmental problems, its development is also linked to other international threats and issues of concern such as for example international peace and security, human rights and poverty reduction. See United Nations, 1945, Chapters VI, VII. See also Elliott, 2005.

⁵ Environmental issues are global for several reasons: firstly they are often transboundary in character; secondly they are usually related to aspects of 'the commons', and finally; global environmental problems tend to require collective action and the participation of additional actors in the process in order to counter them.

the problem is, in many cases, determined with the aid of science. It is necessary to highlight at this stage that International environmental law is scientifically driven and has strong scientific foundations (Tarlock, 1992). One of the key reasons for this is that scientific analysis is a crucial point in the diagnosis and management of environmental problems: ‘many of the objects of environmental concern are only knowable through science’ (Yearly, 1994, 162) and can only be understood with the aid of science it is only through precise and specialized scientific analysis that the adverse effects environmental problems can be known (see Bodansky, Brunee and Hey, 2007; Yearly, 1994, 2000; Sands, 2003). Science has therefore been crucial in the identification and measurement of global environmental problems, such as biodiversity loss and pollution. It is important to highlight that scientific findings are usually widely accepted by the international society because tend to be a ‘neutral’ player that ‘aspires to universal generalizations and universally valid truths, which apply to the world over’ (Yearly, 2000, 384). While there is considerable debate over the uncertainty of scientific information – all sides use the findings in environmental debates to back up their respective arguments (see generally Buck, 1998) –, as Yearly (1994, 163) states, ‘the supposedly universalistic characteristics of scientific argument (...) lend(s) credibility’ to the necessary collective action.

Global environmental problems tend to relate to the international exploitation of ‘global commons’⁶ (i.e. – resources ‘covering, influencing or relating to the whole world’ and shared by all members of the international society) that should be preserved in the ‘common interest’ (United Nations, 1945, Article 1; Vogler, 1995, 9; Buck, 1998). Environmental problems can also be transnational⁷ in nature and cross boundaries of different states (even if they are not entirely global, they are international in nature). It is important to highlight that, while many processes of overexploitation may be initially local or regional in scale, when they are also experienced in numerous areas around the world they are considered global (or regional) problems (Green, 2001). In some instances, their global character arises from ‘the nature of the problem itself’, such as the depletion of the ozone layer. In others, for example with habitat loss, ‘[environmental problems] are repeated the world over or because one region’s problems are distributed or displaced elsewhere’ (Yearly, 2000, 384). While environmental problems tend to be international in nature and may affect different states, regions or the whole world⁸, it is important to highlight that not necessarily all environmental problems are global⁹

For more information, see S. Yearly; Social movements and environmental change, in Redclift and Benton, 1994, 158-160.

⁶ See generally Buck, 1998, chapter 1; Vogler, 1995, chapter 1.

⁷ Transnational refers here to activities ‘extending or operating across national boundaries’. See Oxford Dictionary Online, 2017.

⁸ Environmental problems can be local, international (affect a number of states), regional (affect a specific region) or global (affect the whole world) in nature

(Bernie, Boyle and Redgwell, 2009). Natural resources may lie either within or beyond the political and legal sovereignty of individual states. They can be local, national, international or global problems, and each can be tackled differently¹⁰ (Anreiter, 1997). In the case of the former, local or sub-national environmental problems are usually dealt with more effectively at national or sub-national levels by individual states (Stein, 1972). The latter and more 'global' cases are issues of 'common interest' where priority is given to concerns that are the most urgent for the globe as a whole (Yearly, 2000, 385) that require a 'more coordinated and concerted effort' (Anreiter, 1997, 9).

As a general view, it has been argued that it is in the 'common interest' to work together to protect the world's environment. This, however, is not without criticism (see Yearly, 2000), given that international environmental issues pose important challenges to the theory and practice of international relations and international environmental law (Green, 2001). The major discrepancies in international environmental law relate to the 'global' focus (both in terms of the 'global' problems, but in relation to potential 'global' solutions) on one hand and the conflict of international environmental law with the concept of state sovereignty (French, 2009, 263). The former difficulty challenges the idea that globally unified responses will flow from common goal problems, given the diverse perspectives of different countries. Specifically, in relation to their different geographical location and level of development: officials in developing and developed countries do not tend to agree on what the main environmental problems are, as states place a higher interest in different matters. In some cases, so-called 'global' environmental problems will be interpreted as an expression of special interest or as a priority of the different states (Yearly, 2000). As Middleton et al argue, amongst other authors, 'in some instances 'global policies' have been perceived to give priority to an environmental agenda of developed countries interests in the name of 'globalism'' (Middleton, O'Keefe and Moyo, 1993, 5; See also Yearly, 2000, p382). A second difficulty is the possibility of disagreement about which issues are global environmental matters, and which are not. So-called 'global' issues might therefore not necessarily be considered as a global problem by other states. It is necessary to highlight that even if all environmental problems were accepted as 'global', in practice, different countries and regions would still have distinct priorities (Yearly, 2000). Moreover, 'seeing a threat as a 'global' threat does not necessarily make it more likely that policy

⁹ Environmental issues should not only be described as national, or only as international or global. 'They can be global, regional, transboundary, domestic or a combination of all of these' (Bernie, Boyle and Redgwell, 2009, 9). Some environmental problems may only local and can be tackled by individual states. Nonetheless, the focus throughout this thesis will remain on cross-border, international, regional and global issues given that the overall theme is on transnational environmental crimes (in particular the illegal wildlife trade) and the effectiveness of international cooperation to counter it. We will therefore ignore local issues, albeit accepting that there are many cases of local and national issues that can be dealt with on an individual basis.

¹⁰ Resources can lie fully within a specific country; partially within a particular country, or; beyond national sovereignty. For more information, see Anreiter, 1997, 9.

makers will respond' (Yearly, 2000, 383). The emphasis on the global nature of the different environmental problems 'tends to imply that there is much more common interest in countering them than is, in fact, the case' (Yearly, 2000, 382).

A further problem is that international environmental problems involve significant scientific uncertainties. Although international environmental disputes are often attributable to differences in interests and values amongst states, they are complicated by uncertainties concerning actual scientific facts. This is because it is often unknown how serious a problem actually is, or if it is even possible to address, given that its effects can be widely dispersed and long term, with long latency periods. As scientists will not therefore always be able to provide conclusive answers, decisions are made in the face of uncertainty (Bodansky, Brunnee and Hey, 2007). An added difficulty that cannot be overestimated is that all environmental measures overlap with many political and economic policy areas. Environmental law making is therefore essentially political and institutional in nature (Green, 2001). Any processes designed to combat environmental problems are thus 'intrinsically linked to broader political and socioeconomic processes which in themselves are part of the global political economy' and part of a 'global system' (Green, 2001, 388-389).

The problems associated with international environmental issues are best understood as a reflection of the difficulties of securing international cooperation on global environmental management 'within a complex and diffuse structure of political authority' and with the 'deeply conflicting priorities' of states (Bernie, Boyle and Redgwell, 2009, 40). States have, nonetheless, managed to agree upon certain areas of common interest – such as biodiversity and pollution – that have emerged from the shadows and have now occupy a more important place the international environmental agenda (Yearly, 2000).

2.3 International Law & International Environmental Law

International environmental law is still a 'relatively new' field. Relatively new because such issues are 'not entirely new, nor are the legal arrangements' (Bodansky, Brunnee and Hey, 2007, 2). International environmental law is part of, and conforms to, many of the rules and norms of international law, which places individuals, governments and nongovernmental organizations under 'new systems of legal regulation' (Bernie, Boyle and Redgwell, 2009, 37), with recognized powers and duties, and rules and norms that have to be followed, even though they might not necessarily be

backed-up by an international institution with 'real powers of enforcement' (Held, 2000, 167) similar to those of the state within its territory¹¹.

International law offers many of the tools that are necessary for the development of standards and regulations to deal with international environmental issues (Bernie, Boyle and Redgwell, 2009). However, 'environmental concerns present the international community with a unique challenge, which demand a legal system that is adaptable to this new state of affairs' (French, 2006, 52-8). Traditional international law is, thus, not adequate enough to deal with international environmental problems, because of the very nature of environmental problems and of international law itself. This is mainly because international environmental problems are very dynamic and 'present a moving target'¹² that traditional international law is not able to keep up with because international law develops slowly¹³ (Bodansky, Brunnee and Hey, 2007, 7). Moreover, 'international law was conceived (...) as a law between states; states were its subjects and individuals its objects' (Held, 2000, 167). International law therefore primarily addresses questions of governmental conduct such as territorial claims, the use of force and human rights, to name a few. While some environmental problems may result from governmental conduct, most international environmental issues (such as the depletion of natural resources) result, generally, from private activities. For example, it is the consumers who wish to purchase ivory products – and the poachers who satisfy the demand for such products – that are the ones create the actual threat to African elephants, rather than activities of the state itself, albeit the state is also to blame for its lack of preventive action¹⁴ (Bodansky, Brunnee and Hey, 2007).

The challenge for international environmental law is to reconcile the concepts of international law with environmental problems (Sands, 1999, 119) and to develop new and effective ways of regulating activities that are harmful to the environment by 'requiring states to regulate or (...) influence the behavior of (...) non state actors within their borders' or by 'engaging the different

¹¹ As Greenwood (2008) notes, there is no 'Code of International Law'. There is no world Parliament or 'nothing that can really be described as legislation'. There is an International Court of Justice and a range of specialised courts/ tribunals but 'their jurisdiction is critically dependent upon the consent of States and they lack ... a compulsory jurisdiction of the kind possessed by national courts. The result is that international law is made largely on a decentralised basis by the actions of ... [member] States'. See also Bernie, Boyle and Redgwell, 2009; Held, 2000.

¹² In part, this results from changes in scientific knowledge and new data availability, as well as from the development of detailed understanding on the subject (Bodansky, Brunnee and Hey, 2007, 7)

¹³ The sources of international law (treaty, custom) are difficult to establish and are often subject to caveats and reservations.

¹⁴ Of course these are both related, as one is able to poach or pollute in many cases because the state is not doing enough to control, regulate and counter such issues, or it may not be clearly dealing with the root cause of the problem. For more information on Traditional sources of international law, see Bodansky, Brunnee and Hey, 2007, p290-360.

private actors directly' (Bodansky, Brunnee and Hey, 2007, 6-7) at the national level, and on a global scale, within the structure of international law. The evolution of a this new style of international law alongside the more 'traditional' international law developed and matured in many ways because of the rise in importance of global environmental problems.

A historical perspective

'Natural resource management has been a subject for international lawmaking for over 200 years' (Sand, 2007, 31; see also Bodansky, Brunnee and Hey, 2007). Human beings have had a major impact on the environment for a long time, with a tendency to exploit natural resources as if they were inexhaustible (Green, 2001). Yet, it was not until the last part of the 19th century that environmental issues first emerged in the international agenda. It was in the late 1960s and 1970s – as a consequence of a growing concern about the environment and because of the increased awareness of the nature of many environmental issues – that environmental problems emerged as a major focus of international concern (Green, 2001). In the 20th century international environmental law efforts have been steadily increasing in order to solve global and regional environmental problems. During this period, 'new principles (...) emerged concerning state responsibility for [the] protection of the environment, cooperation between states to deal with environmental problems and the need for an 'ecosystem' approach towards environmental protection' (Den Boer, Romsay and Rothwell, 1998, 1), together with increased global consciousness about these problems¹⁵.

In the evolution of international environmental law¹⁶, attention originally focused on clear, visible and immediate environmental problems such as transboundary resource use or pollution. In the 1970s, the dominant approach was to promulgate legislation designed to prohibit or restrict 'environmentally harmful activities' (Gunningham, 2009, 182). Legal responses to such problems were generally ad hoc and sporadic, involving the application of traditional principles of international law (equality of states, non-intervention, territorial integrity and state sovereignty, and related to state responsibility and territorial integrity (see generally Barret, 2003; Anreiter, 1997; Bodansky, Brunne and Hey, 2007; Kuokkanen, 2002). It is not until 1992 with the rapid development of international environmental soft law that, in Sand's (2007, 33-5) words, the 'modern era' of

¹⁵ General principles include among other: sovereignty and responsibility for the environment; good neighbourness and international cooperation; precautionary principle; common but differentiated responsibility, and; sustainable development. See generally Soto, 1996; Soroos, 1999; Sands, 1999 and 2003, Den Boer, Romsay and Rothwell, 1998; Green 2001. For more details on the history of international environmental law see Brown Weiss, 1993, 675-710).

¹⁶ For more elements on history of international environmental law, see Hunter, Salzman and Zaelke, 2007.

international environmental law started with the Stockholm conference. The rise in importance of international environmental problems highlighted the need to 'develop a body of law more specifically aimed at the protection of the environment' (Bernie, Boyle and Redgwell, 2009, 2). Since then, international environmental law has, to a significant degree, diverged from international environmental law and become a 'distinct body of law' (Den Boer, Romsay, Rothwell, 1998, 3) or a 'distinct field' of international law: 'distinct not simply in the sense of addressing a discrete set of problems through a discrete set of substantive rules, but also in the (...) sense of having its own distinctive characteristic structure and process, and its own set of conceptual tools and methodologies (...), legislative and administrative processes and concepts' (Bodansky, Brunnee and Hey, 2007, 5-6). As a result, international environmental law remains rooted in international law, but 'has come a long way from its origins in the application of broad principles derived from state sovereignty to environmental issues', especially over the past three decades (Bodansky, Brunnee and Hey, 2007, 4; see also French, 2009, 259).

The 1972 UN Stockholm Conference on the Human Environment was the first in a series of 'landmark' conferences (including the 1992 Rio Conference on Environment and Development (referred to as UNCED, the Rio Conference [or Earth Summit] and the 2002 Johannesburg World Summit on Sustainable Development [known also as WSSD or the Johannesburg Summit]) to discuss the environment and to seek solutions to environmental problems (Hunter, Salzman and Zaelke, 2007, 162).

These initiatives were historical benchmarks that significantly contributed and accelerated the development of international environmental law to what it is today (Den Boer, Romsay and Rothwell, 1998).

At the Stockholm conference, states issued the Stockholm declaration, which included a set of principles aimed at guiding the future direction of environmental activities environment, including among other principles that recognized the right to a healthy environment and the need to safeguard it for future generations, and that emphasized on the need for states to tackle environmental problems in a more coordinated way (United Nations, 1972; See also Hunter, Salzman and Zaelke, 2007; Den Boer, Romsay and Rothwell, 1998; Palmer, 1992; Soroos, 1999; Sands, 1999). Agreement (under Principle 21 of the Declaration) was also reached on a universal notion of state responsibility for environmental harm to areas beyond national jurisdiction (Den Boer, Romsay and Rothwell, 1998). Stockholm resulted in the UN General Assembly establishing the United

Nations Environmental Program (UNEP) in Nairobi in the 1970s, as well as a number of principles¹⁷, institutions and programs which helped provide a framework to promote the development of international responses to tackle transnational environmental issues (Den Boer, Romsay and Rothwell, 1998; Bodansky, Brunnee and Hey, 2007). Stockholm reinforced a new wave of consciousness that highlighted the severity and complexity of environmental issues and the need to collaborate to solve the problems (Anreiter, 1997).

The Rio Declaration with the primary goal of the formation of ‘a new and equitable global partnership through the creation of new levels of cooperation amongst states, key sectors of society and people’ was endorsed two decades later (United Nations, 1993, 3). The Declaration affirmed the sovereign right of countries ‘to exploit their own resources pursuant to their own environmental and developmental policies’ (Barret, 2003, 405) and proclaimed 27 general principles to guide action on the environment and development, including principles relating to national responsibilities and cooperation on environmental protection, the need for development and eradication of poverty, and the roles and rights of citizens, women and indigenous people (Green, 2001). Core principles of the Declaration demanded states to ‘cooperate in a spirit of global partnership to conserve, protect and restore the health and integrity of the Earth’s ecosystem’ (Principle 7), and called for ‘environmental measures addressing transboundary or global environmental problems (...) based on an international consensus’ (Principle 12)¹⁸ (United Nations, 1993, 4-5). Rio was a catalyst for the concept of sustainable development and the need to protect the environment and its natural resources for the sake of future generations¹⁹). The most widely used definition of sustainable development states: ‘sustainable development is the development that meets the need of the

¹⁷ The no harm principle, acquired special legitimacy when it was included in principle 21 of the 1972 Stockholm Declaration on the Human Environment. According to principle 21, ‘states have, in accordance with the charter of the UN and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other states or of areas beyond the limits of national jurisdiction’ (Barret, 2003, 121). The no harm rule was developed to prohibit one state to cause ‘significant environmental costs’ or ‘significant environmental harm’ to another. This notion represents a ‘cornerstone of international environmental law’. Environmental law has, however, extended considerably and now encompasses wider concerns (see Bodansky, Brunnee and Hey, 2007). It should be highlighted that in some cases, the no harm principle is disregarded. One of the main reasons for this because given that the causes and consequences of many environmental problems are uncertain, it is easy circumvented if it is not clearly known whether the harm is being caused by a particular activity or whether a the reduction or alteration of such activity would actually alleviate harm. The process of what constitutes harm is also controversial (see Barret, 2003, 122-123). However, for the purpose of this chapter, it needs to be highlighted that agreement is usually reached through negotiation, and the regulatory regimes that will be discussed represent the best vehicle for effective negotiation.

¹⁸ For more information see Bowman, Redgwell, 1996; Soroos, 1999, 33-35; Sands, 1999, 2003.

¹⁹ For additional information see Bowman, Davies and Redgwell, 2010, Vig, 1999; Den Boer, Romsay and Rothwell, 1998; Bernie, Boyle and Redgwell, 2009; Bodansky, Brunnee and Hey, 2007.

present without compromising the ability of future generations to meet their own needs'²⁰ (Bodansky, Brunnee and Hey, 1987; in Bodansky, Brunnee and Hey, 2007, 14). As the definition clearly highlights, the concept involves the integration of environmental concerns at all levels of decision-making to promote economic and social development in ways that avoided environmental degradation, and the overexploitation of natural resources²¹ (Green, 2001). To use as simple – yet clear – example, when a species becomes extinct, the loss is permanent (Bodansky, Brunnee and Hey, 2007).

In addition to the declaration, two binding conventions were signed (the Biodiversity Convention and the Climate Change Convention), and an 800 page 'blueprint' for sustainable development²² in the 21st century – called Agenda 21²³ – was created, together with additional non-binding principles and other agreements such as the agreement to create a commission on sustainable development to monitor and implement the Rio agreements and Agenda 21 (Hunter, Salzman and Zaelke, 2007, 173-197; See also Den Boer, Romsay and Rothwell, 1998; Sands, 2003). The Rio conference was the largest UN conference ever held at the time, with more than thirty thousand participants from 176 countries, including 103 heads of state or government assembled for the concluding of the earth summit (United Nations, 1992; Sand, 1999). Rio has been compared, with regards to its importance and vast participation, to key historical multilateral peace conferences, such as the Congress of Vienna or the 1919 Versailles Conference (Sand, 1999). After the Rio conference, there has been a remarkable growth in the amount and variety of international organizations, institutions and instruments seeking to address international environmental problems (Bodansky, Brunnee and Hey, 2007; Held, 2000).

It was during the above mentioned period that international environmental politics and international environmental law developed and matured with the negotiation of multiple conventions to protect the marine environment, to regulate the trade in endangered species and the control the dumping of hazardous wastes, to name a few (see generally Bodansky, Brunnee and Hey, 2007). It was also during this period that 'green movements, environmental (...) NGOs and international organizations established themselves as key actors in international environmental

²⁰ For more information see Green, 2001, 387-414; Sands, 1999, 128-129; Den Boer, Romsay and Rothwell, 1998, 13.

²¹ For information on the debate over the definition and principles of sustainable development, see Den Boer, Romsay and Rothwell, 1998.

²² For additional information on the elements of sustainable development see Bernie, Boyle and Redgwell, 2009.

²³ Agenda 21 is a comprehensive and detailed blueprint of the implementation of sustainable development that intended to launch a global partnership for sustainable development. For more information, see Hunter, Salzman and Zaelke, 2007, 195; Sands, 2003, 57-59.

politics alongside states' (Green, 2001, 389-393), but this latter point will be further discussed in the following chapter.

The next section will highlight that treaties remain the basis of most international environmental regulation, and will show that they are the most frequently used instruments for creating generally applicable rules relating to the environment - the 1992 Conventions on Climate Change and Biological Diversity mentioned above are, for example, law making treaties²⁴. Environmental treaties, however, have developed and evolved from the more 'traditional' concept of international law.

2.4 The treaty-making process and the emergence of regulatory regimes

Treaties and custom have historically been the main sources of binding international law²⁵ (Statute of the International Court of Justice, 1945). While custom is also important in international environmental law, treaties are the most common form of agreements²⁶ (Anreiter, 1997). Treaties, however, have adapted to the requirements that are necessary to effectively deal with environmental problems.

²⁴ Treaties of this kind are the most important basis for international environmental law (varieties/alternatives include or can be called: treaty, convention, protocol and/or covenant). Others (such as Memoranda of Understanding (MOU) are done at the administrative level and are not necessarily binding, but may still be taken into account or create good faith expectations. See Bernie, Boyle and Redgwell, 2009

²⁵ Art. 38 identifies the main sources of international law, summarized by Greenwood as follows: (a) Treaties between States; (b) Customary international law derived from the practice of States; (c) General principles of law recognized by civilised nations; and as subsidiary means for the determination of rules of international law: (d) Judicial decisions and the writings of "the most highly qualified publicists". See Article 38, Statute of the International Court of Justice (ICJ), 1945. Greenwood (2008) notes that the list is no longer believed to be complete but it provides a 'useful starting point'. See also Greenwood, 2008; Bernie, Boyle and Redgwell, 2009.

²⁶ Treaties, as formal institutions, enter into force by means of formal procedures, the most important of which is ratification. Ratification, however, as we shall briefly explain, is preceded by other decisions. Treaties are first signed. By signing, a state signals its *intent* to comply with the agreement: 'a signature only indicates a states' intent to seek ratification. It does, however, not impose a legal obligation for a state to actually ratify it' (Barret, 2003, 147). Nonetheless, a signature is 'not a mere gesture'. By signing, a country is 'obligated to refrain from undermining (...) [the treaty] objectives' (Barret, 2003, 147) The signature of a treaty marks the day the treaty is adopted. After the time for signature has elapsed, countries that have not signed can accede to it (there is usually is a fixed period of time for countries to sign the treaty after the treaty has been adopted). Accession to a treaty carries the same weight as ratification. Treaties and agreements only become legally binding only after they are ratified. The process of ratification is different in each and every state, and normally requires the approval from the parliament (or a similar organism). Treaties come into force after they have been ratified by a minimum number of countries (For more information, see Barret, 2003, 147-158) The agreed minimum number of ratifications varies according to each treaty. Moreover, ratification does not necessarily come hand in hand with implementation, as there are sometimes long delays in the actual implementation of the treaties (For more information, see Sand, 1999, 274).

The dynamic character of international environmental issues has called for the development of a more dynamic and flexible 'standard-setting process' for treaties in international law (Bodansky, Brunnee and Hey, 2007, 21; Brown Weiss, 1993, 689). Thus, treaties no longer reflect a 'static set of rules agreed to by states for an indefinite period of time'. Instead, they have a tendency to create regulatory regimes through which a 'complex pattern of detailed rules and standards evolves' (Bernie, Boyle and Redgwell, 2009, 17).

In contrast with the more traditional treaties in international law, the regulatory regimes – also known as framework arrangements –, do not include clear, detailed or specific rules. Rather, they 'establish basic aims, principles, norms, institutions²⁷ and procedures for coordinated international actions, including procedures for regularly reviewing commitment and for strengthening or revising them and developing other rules and institutions of the regime as deemed appropriate by the parties' (Green, 2001, 406). The phenomenon, also referred to as 'autonomous institutional arrangements' by Chrurchill and Ulfstain (2000, 625), marks a unique and distinct approach to 'institutionalized collaboration between states', being both more informal and more flexible, and 'often innovative in relation to norm creation and compliance' (Chrurchil and Ulfstsein, 2000, 625).

Before we proceed further, it has to be highlighted that International regulatory regimes provide a measure of international governance for addressing environmental problems. Placed between the traditional concept of sovereignty and a new world governance, the regimes are arrangements for cooperation and include all relevant actors – member states, International Governmental Organizations (IGOs), International Non-Governmental Organizations (INGOs), Non-Governmental Organizations (NGOs) and groups of experts – to provide 'issue specific remedies' to 'specific transborder externalities' (Barret, 2003, 133; Vogler, 1995, 23-5; Faure and Lefevre, 1999; Vig, 1999). Overall, arrangements of this kind address 'almost every kind of transnational environmental issue' (Barret, 2003, 133). It needs to be highlighted, however, that not every treaty is the same and not every environmental problem can be dealt with through the same mechanism. In fact, there are many different regimes that deal with different issues, each requiring specific arrangements (Vogler, 2000).

Under such framework, while states remain the 'key decision makers', they are also required to 'take measures' or 'all practicable measures' to protect the environment (French, 2009, 261; Bernie, Boyle

²⁷ A key feature of the institutional development of international environmental law is the establishment of treaty bodies within the framework of international environmental treaties. Such institutions, however, are not independent from their member states (French, 2009, 260-261)

and Redgwell, 2009, 17). All states have common, yet differentiated responsibilities²⁸, and have to ‘cooperate in spirit of global partnership’ to solve environmental problems (Bernie, Boyle and Redgwell, 2009, 132). While the initial obligations on parties to such treaties are general very broad and weak, treaties of this kind establish flexible and interactive processes which allow international environmental law to develop promptly in response to the emergence of new problems, recent scientific findings, or new priorities within the specific treaty (Green, 2001; Bodansky, Brunnee and Hey, 2007). In Bowman’s (2010, 29) words, regulatory regimes provide a more ‘malleable and sophisticated mechanism’ which is particularly important when dealing with environmental problems that are commonly of a ‘technically complex nature’ and constantly evolving in character (Bowman, Davies and Redgwell, 2010). The set-up of the regime allows for potential adjustments to the treaty when changes in scientific understanding arise²⁹. An example of such a regulatory regime – albeit it is also not a traditional regulatory regime – is the Convention on International Trade in Endangered Species (CITES). CITES is different to other regulatory regimes as it establishes clear obligations and responsibilities on states from the outset. However, as it will be further elaborated in the following chapter, it allows for the fast amendment of its appendices through the regular meetings of the parties.

Essentially, contemporary environmental treaties, and the institutions they create, establish international environmental regimes and ongoing regulatory processes where the treaty text itself only represents ‘the tip of the normative iceberg’ (Bodansky, Brunnee and Hey, 2007, 21). Because of the above mentioned need for flexibility, ‘framework agreements establish the basic principles and their respective regimes, while the majority of the norms are elaborated by more precise regulatory protocols addressing particular activities’ (Bodansky, Brunnee and Hey, 2007, 21; See also Bowman, Davies and Redgwell, 2010). Detailed measures and standards require the creation of, and agreement on, specific protocols or annexes to existing conventions or the adopting of non-binding guidelines or recommendations elaborated through decisions of treaty bodies. Such protocols are usually negotiated, signed and ratified through regular meetings of the parties (Anreiter, 1997, 18). Technical details can therefore be added through a more flexible and dynamic process. This allows the parts of the treaty that need to be acted upon to be amended more easily by the decisions of the parties by means of ‘formally non-legally binding decisions’, provided parties agree (Bodansky, Brunnee and Hey, 2007, 21). Such informal methods to set environmental standards (commonly

²⁸ Common suggests that certain risks affect all nations on earth (e.g. climate change or peace and security to name a few) and that nations should cooperate to tackle them. Differentiated suggests all countries should not contribute equally to tackle them as the burden should be placed more prominently on more affluent economies and developed countries. See generally Stone, 2004, 276-301.

²⁹ For more information, see Brown Weiss, 1993, 8.

referred to as soft laws³⁰), adopted in the context of a binding agreement, allow for the speedier development and adjustment of the different environmental regimes and for the flexibility that is necessary when dealing with global environmental problems. Treaties have therefore become regulatory regimes with their own machinery for ensuring compliance and implementation (Bernie, Boyle and Redgwell, 2009; Bodansky, Brunnee and Hey, 2007).

The main objectives of the different regulatory regimes are to encourage cooperation to counter environmental problems, to effectively alter state behavior, and to improve the response to global environmental problems. The different regimes can also act as 'learning facilitators' by sharing or encouraging states to inform and share experiences that may benefit from others (Young and Levy, 1999).

Generally, such treaties impose basic obligations that are intended to correct, through collective action, 'the problem that brought countries to the negotiation table in the first place' (Barret, 2003, 161). It is important to highlight that by imposing equal restriction and duties on all parties, treaties manage to overcome a potential 'political deadlock' and encourage further cooperation, as it is in the communal benefit of all parties to cooperate (Anreiter, 1997, 14). Most agreements, for example, tend to incorporate trade restrictions as a means of achieving their objectives³¹: the CITES convention prohibits trade wild animal and plant species – and their related products and derivatives – that are listed in its appendices, by restricting imports and exports (Barret, 2003). Most environmental treaties aimed at the protection of the environment and preserving global commons employ measures to control the movement resources in selected countries or areas (Isozaki, 2003). It is important to highlight that, ultimately, regimes are developed to alleviate problems that require international cooperation and collective action: 'a regime that channels behaviors in such a way as to eliminate or substantially ameliorate the problem that leads to its creation is an effective regime' (Young and Levy, 1999, 1).

As Barret states, however, 'successful international cooperation ultimately depends on more than just treaty design. It depends also on the support given to the treaty by state behavior' (Barret, 2003, 219). Thus, treaties that sustain 'real' cooperation must somehow enforce participation and compliance with its norms and rules. And yet, most environmental treaties do not actually

³⁰ The term Soft Law is 'simply a convenient description for a variety of non-binding instruments used in contemporary international relations' (Bernie, Boyle and Redgwell, 2009, 35). On environmental matters, they usually take the form of codes of practice, codes of conduct, recommendations, guidelines, resolutions and/or declarations (e.g. a joint ministerial declaration) within the context of umbrella or framework treaties.

³¹ Amongst other reasons, trade control measures are employed in treaties on nature protection in order to restrain unsustainable use of living resources (Isozaki, 2003, 45), See also Barret, 2003.

incorporate enforcement mechanisms. Rather, they aim to 'coordinate state behavior' and to induce compliance by encouraging states to alter their behavior (Mitchel, 1996; see also Barret, 2003, 254). A crucial factor in encouraging such alteration of their behavior is, as we will further elaborate upon in the following chapter, the participation of additional actors in the different efforts to counter environmental crimes: non state actors may transform state identities and their interests 'and through doing so change (...) [state] behavior' (Mitchel, 1996, 23).

A particular characteristic of many of such arrangements is that they establish an institutional framework with a defined structure and roles in the form of Conference of the Parties (CoP), subsidiary bodies, and secretariats. In order for the regime to function effectively, arrangements are hierarchical, with the CoP as the visible, legislative and authoritative head and 'supreme body' that directs cooperation and triggers behavioral responses from the parties (Chrurchill and Ulfstein, 2000, 631; Young and Levy, 1999, 24). The different bodies develop and control the environmental commitments of the parties with regards to the specific treaty (Chrurchill and Ulfstein, 2000). The CoP is the organ on which all states parties are represented. It has a more informal function than a plenary organ of an intergovernmental organization. CoPs meet regularly (annually, biannually or every other year at different venues around the world in accordance with its decisions) to discuss, and monitor enforcement and implementation (Den Boer, Romsay and Rothwell, 1998). The CoP usually conducts the 'major business of monitoring, updating, revising and enforcing the conventions' (Hunter, Salzman and Zaelke, 2007, 248). A bureau elected by the CoP may act on its behalf between regular meetings and serves as facilitating organ during the CoP decisions.

Its key functions are: to deal with internal matters and to provide guidance to the subsidiary bodies; to contribute to the development of new substantive obligations by amending or adopting new protocols; to supervise the parties implementation and compliance (as well as to decide over the consequences of noncompliance, and; to adopt any necessary arrangements with international organizations and states, as necessary. The Subsidiary groups are either advisory groups (that provide scientific or technological advice), groups that provide financial assistance and transfer of technology (such as a multilateral fund), or responsible for implementation and compliance with the treaty provisions (subsidiary bodies may, occasionally, have additional roles). The membership of the bodies consists of qualified experts from all parties. The Secretariats are responsible for the 'day-to-day operations of the convention' (Hunter, Salzman and Zaelke, 2007, 250-51) They can be either on a permanent (such as the CITES secretariat) or on an interim basis. The secretariat is generally located in intergovernmental organizations such as the UN (the CITES Secretariat is hosted by UNEP) and its main functions are to provide services to the treaty bodies (CoP, subsidiary bodies, and state

parties) and to assist with the implementation and development of cooperation arrangements under the treaty. Its functions vary depending on different conventions, but usually involve monitoring and reporting on the implementation of states and gathering, analysing and distributing information. The secretariat usually engages in the different activities and liaises with other international organizations when necessary³².

The first agreement of this kind was the Convention on International Trade in Endangered Species of Wild Fauna and Flora in 1973: the 'CITES CoP represents what one might call the full-fledged CoP model' (Churchil and Ulfstein, 2000, 630). Since then, a considerable number of similar agreements have been concluded, establishing a common pattern of institutional arrangements. The purpose of such arrangements is to develop the normative content of the different regulatory regimes³³. Such arrangements, because of their nature, are not intergovernmental organizations in the traditional sense. The regimes can be considered independent and autonomous entities with their own particular compliance mechanisms and law making powers (Churchil and Ulfstein, 2000). However, such regimes are 'in no sense independent from their member states' (French, 2009, 260-61). Thus, they are similar to an intergovernmental organization, albeit with a less formal and more ad hoc nature than traditional intergovernmental organizations, and with an emphasis to 'adjust to hard and soft rules alike' (Sand, 1999, 67; Churchill and Ulfstein, 2000).

It is necessary to keep in mind that any efforts to protect the environment in the 'horizontal, anarchic international system' that is international environmental law usually require a 'strategic manipulation of incentives' (Barret, 2003, 18). Treaties of this kind should therefore be seen as an instrument of a broader strategy where the key elements are to achieve a maximum number of participation and to ensure countries comply with the norms and regulations set forward for the greater good of the international society. This is particularly important when dealing with environmental problems.

³² For additional information on the structure of regulatory regimes, see Churchill and Ulfstein, 2000; Hunter, Salzman and Zaelke, 2007, 148 and 626-627. ; Brown Weiss, 1993, 688-689.

³³ 'Most of the agreements in question establish what international relations writers describe as regimes, i.e. to cite one widely quoted definition, 'governing arrangements constructed by states to coordinate their expectations and organize aspects of international behavior in various issue areas. [Regimes] thus comprise a normative element, state practice, and organizational roles' (Kratochwil and Ruggie in Churchill and Ulfstein, 2000, 623)

Non-binding agreements in international environmental law

A particular 'routine practice' of international environmental law is the growing use of non-binding instruments (soft laws) – such as codes of practice, recommendations, guidelines, standards, declarations or principles – to compliment the more general treaty obligations (Sand, 1999, 64; Anreiter, 1997; Brown Weiss, 1999). Since the 1970s, the use of soft laws and the 'regulatory' approach discussed above has become the 'favorite technique of international environmental law-making' (Sand, 1999, 65).

Soft laws are non-binding norms, a 'half-way stage in the law making process' that make a major contribution to the establishment of 'a new legal order in a fast growing and unsettled field' (Bernie, Boyle and Redgwell, 2009, 37). They can be 'real vehicles for focusing consensus on rules and principles and for mobilizing a consistent, general response on the part of states' (Bernie, Boyle and Redgwell, 2009, 34). The reason for this is that, while soft laws also have to go through a tough negotiation process, the non-binding character of such arrangements has a tendency to facilitate agreement upon the necessary collective action (Redgwell, 2010). Soft laws are therefore real solutions to produce agreement and to change the political thinking on an issue. The use of soft laws has also facilitated the process so that issues can be countered more quickly than it would be otherwise possible through traditional legal instruments (Den Boer, Romsay and Rothwell, 1998). A further advantage of soft law over 'hard law' is that 'it can enable states to take on commitments that otherwise they would not, because they are binding, or to formulate them in a more restrictive form that could not at that point be agreed in treaty form' (Bernie, Boyle and Redgwell, 2009, 35). Treaty bodies, most notably the CoP, will usually adopt non-legally binding measures 'because states are unwilling to commit themselves to a hard obligation[s]' (Chrurchil and Ulfstein, 2000, 642). In addition, the adoption of soft laws has a legitimizing effect on policy and practice because it 'contributes to the evolution of new international and national law and to the harmonization of environmental law and standards at the global level' (policies adopted may later take legal form at the national, regional or international level) (Bernie, Boyle and Redgwell, 2009, 37). Moreover, regardless of the 'soft' and non-legally binding character of the agreements, standards or guidelines adopted, such agreements usually influence and shape state practice as their formally binding counterpart (Sand, 1999; Bowman, Davies and Redgwell, 2010, 36-38). In fact, it should be highlighted that that soft law arrangements developed as part of a treaty may also end up as an intermediary step on the road towards a binding agreement. Soft agreements can be a very important catalyst in securing an agreement with a harder edge later, and a useful step of a longer journey with the potential to develop into a more stringent law or a new treaty (Palmer, 1992; Anreiter, 1997).

It has to be noted that, while the success of soft law instruments is establishing the foundations of the evolution of contemporary international environmental law, it has also produced a backlash: 'governments have become wary of attempts at formulating reciprocal principles even when couched in non-mandatory terms, being aware that 'soft' declarations or recommendations have a tendency to harden over time, and return to haunt their authors'³⁴ (Sand, 1999, 68). This is due to the fact that, in reality, 'the distinction between hard and soft law is difficult to discern', as soft laws can have – in practical terms – the same value as hard law, even when they are in non-binding form (Bowman, Davies and Redgwell, 2010, 37; Brown Weiss, 1999). It is anticipated that the formulation of nonbinding agreements in international environmental law is likely to increase more rapidly than the negotiation of formal international conventions. This is because 'agreement is normally easier, (...) the costs are less, the opportunity for detailed strategies to be set forth are greater, and the ability to respond to rapid changes in (...) scientific understanding of environment and development issues are more vast' (Brown Weiss, 1993, 708).

The need for regulatory regimes

Before we proceed to further discuss the role of states and the broader international society in countering international environmental problems, it is necessary to examine the need for the regulatory regimes. This will be done by returning to the concept of 'global commons' previously mentioned, and by examining the reaction of the different countries to environmental problems and to international cooperation. This will be done by briefly exploring the tragedy of the commons, the prisoner's dilemma and the red/black card game of international cooperation.

Global³⁵ commons are areas and resources that do not fall within the sovereign jurisdiction of individual states (Vogler, 2000, 2005). The resources in such areas are finite (i.e. there are limited amounts) and subtractive (i.e. if one party consumes it, the other cannot) (Soroos, 2005). The tragedy of the commons³⁶ represents the 'ruin is the destruction toward which all men rush, each pursuing his own best interest in a society that believes in the freedom of the commons. Freedom in a commons brings ruins to all' (Hardin, 2005, 28). The tragedy develops as follows:

'Picture a pasture [that is] open to all. It is expected that all herdsmen will try to keep as many cattle as possible on the commons. Such an arrangement may work reasonably well for

³⁴ For examples see Franck and Weisband, 1971.

³⁵ A conventional definition of the term global is: 'covering, influencing or relating to the whole world' (Vogler, 2000, 9).

³⁶ For more information on the tragedy of the commons, see Vogler, 1995

centuries because of tribal war, poaching and diseases [that] keep the numbers of both man and beast well below the carrying capacity of the land. Finally, however, comes the day of reckoning, that is (...) when (...) social stability becomes a reality. At this point the inherent logic of the commons remorsefully generates tragedy [because] every man is locked in a system that compels him to increase his herd without a limit – in a world that is limited’ (Hardin, 2005, 28).

The tragedy describes many causes of environmental degradation³⁷ (Hunter, Salzman and Zaelke, 2007). With the absence of a global government it is difficult to regulate the commons and the outcome will be, as noted above, ‘ruin to all’, given that without any regulatory body or international agreement to control and preserve the commons, if one farmer has noble intent and leaves the common area so that the it flourishes, others (the ‘free riders’) will ‘take advantage of his generosity and graze even more’ (Hunter, Salzman and Zaelke, 2007, 129). In other words, an external authority must intervene to enforce good behavior and the preservation of the global commons. The solution to the tragedy is therefore the need to create some sort of regulatory regime that adopt and enforce rules that impose limits on the global commons and that can regulate the commons on behalf of – and in the collective interest of – all parties (Soroos, 2005; Vogler, 2000).

Above, it has been argued that it is in the ‘common interest’ to work and cooperate together, yet securing that cooperation on a global scale is not as easy as it might sound. This is exemplified by the prisoner’s dilemma, which highlights the difficulty of international cooperation. The dilemma is a hypothetical demonstration of why individuals fail to cooperate when it would be on their best interest to do so³⁸. Specifically, it is a situation in which one prisoner has to choose whether to cooperate or not, when he does not know if the other prisoner will do so. In effect, it is in the best interest of both parties to cooperate, yet achieving such cooperation is not an easy task: ‘if this were an easy problem, countries wouldn’t have agonized over how to address it for the last decade’ (Barret, 2003, 83).

The dilemma, explained also by Barret through a card game of red (cooperation) and back (self-interest) cards, shows that mutual cooperation for a greater general benefit, rather than a more unequal distribution of benefits is the ideal target. The dilemma, however, is that when one tries it

³⁷ It needs to be highlighted nonetheless, that not every environmental problem is consistent with the dynamics of the tragedy of the commons (see Soroos, 2005, 35).

³⁸ As Barret (2003, 56) note, the prisoner’s dilemma is best described by Luce and Raifa (1957): ‘Two suspects are taken into custody and separated. The district attorney is certain that they we guilty of a specific crime, but he does not have the adequate evidence to convict them at the trial. He points out to each prisoner that each has two alternatives: to confess to the crime (...), or not to confess. If they both do not confess, then (...) he will book both of them on minor charges (...) and they will both receive a minor punishment; if they both confess (...) he will recommend less than the severe sentence; but if one confesses, and the other does not, then the confessor will receive lenient treatment (...) whereas the other will get ‘the book’ slapped at him’. See Barret, 2003, 56; See also Vogler, 1995, 10-11).

(especially in the case of the red and black card game), tests have shown that only a fraction of players of the game votes for cooperation when there is a greater general benefit. However, this is only a fraction of the total community of players that participate in the game. In other words, and in the case of international environmental problems, only a fraction of the international society will choose to cooperate, if the choice is up to individual states alone. Studies have shown, however, that if there is an organization that intervenes in the game, (such as a government or a regulatory body), then the players (i.e. the international society) would place a much larger proportion of votes towards cooperation for the general benefit of the whole community. It is necessary to highlight at this stage that, even though the obligation to cooperate in good faith is one of the most important aspects of international environmental law (together with the application and adherence to the core principles of international environmental law³⁹), actual cooperation is one of the key problems in countering international environmental problems. Of course, if the problem deals only with resources that lie entirely within a nation's territorial sovereignty, they can be managed effectively without international cooperation. However, as it has been explained above, shared resources are prone to overuse when countries pursue unilateral policies (Barret, 2003).

The main reasons for the dilemma and behavior of the players are, as Abraham and Chayes claim, the lack of transparency and of discussion amongst the players: 'conditions (...) specify that (...) parties cannot communicate with each other and that they have no information about each other's moves (...). If only the parties could talk about their problems and observe how others have chosen, the dilemma could be avoided' (Chayes and Chayes, 1995, 144, in Barret, 2003, 61). In opposition, Benet argues that transparency and communication would not help, as, while a larger number of parties would undoubtedly choose to cooperate, a fraction of them would always fend for themselves (Barret, 2003). It is important to remember that, above all, these processes are political and diplomatic processes in nature. International environmental law is closely linked with politics and international relations, and it is very difficult to separate these spheres from each other (Cameron, 1996). International environmental law is, thus, diplomatic in nature, and political in spirit:

³⁹ Core principles of international environmental law include the concept of sovereignty over national resources (Sands, 1999, 127; see also Bowman, Davies and Redgwell, 2010, 48-52); the obligation of states not to cause environmental harm (for more information see (Hunter, Salzman and Zaelke, 2007, 502-507); see also (Bowman, Davies and Redgwell, 2010, 52-55) the obligation of states to conserve the environment and its natural resources; the need for states to assess and monitor actual impact on the environment of activities, the concept of common but differentiated responsibility and the 'polluter pays' principle (Sands, 1999, 129-130) and; the need for international cooperation to solve international environmental problems (see Den Boer, Romsay and Rothwell, 1998, 9-12; Sands, 1999, 127-128) In addition, the precautionary principle (see Bernie, Boyle and Redgwell, 2009; Sands, 1999, 129-130) envisages taking anticipatory actions in order to avoid environmental harm before it occurs, and in the face of uncertainty. See Hunter, Salzman and Zaelke, 2007, 510 (Note only the principles that are most relevant to the thesis have been highlighted. For a general overview see on the principles of international environmental law, see Chapter 4 in Sands, 2003).

‘in the game of diplomacy, self-interest is the only sound basis on which to predict the reactions of the other nation’ (Barret, 2003, 49).

However, it will be argued – somewhat in the middle of the above perspectives – that even though states will ultimately seek their own benefit, the regulatory approach discussed above is a key move toward effective – and up to date – cooperation, through the various discussions and negotiations at the different CoP meetings. The main reasons for this are that it encourages international, regional, multilateral and bilateral cooperation and, of equal importance, that it’s unique and generic character, coupled with the application and use of non-binding arrangements, facilitates agreement on key and pressing issues to be tackled. After all, as Barret (2003, 33) states ‘an effective treaty can improve on unilateralism and make every party better off’. Treaties of this kind represent a ‘real vehicle for lawmaking, with (...) wide appeal to the international community’ (Bernie, Boyle and Redgwell, 2009, 13; Green, 2001, 387-414), and are arguably the best way to get the prisoners to cooperate or to get countries to hand in their red cards to the regulating body of the treaty, which is actually comprised the states themselves (Barret, 2003). Through the different meetings, and with a certain amount of pressure applied by the different actors of the international society at different points along the way, common interests can be found alongside the individual self-interests. Negotiations should identify with a collective mission even if this sometimes this may go against the self-interest of certain states⁴⁰.

Ultimately, international environmental law-making is a complicated process that is heavily entrenched in political – it is a ‘political game’⁴¹ – and economic spheres, and there will always be a proportion of countries that will not wish to cooperate. The challenge of international environmental law is to accommodate the perspectives of the different countries (north and south), as well as their priorities, into a ‘global partnership’ to achieve sustainable development and to counter environmental problems (Hunter, Salzman and Zaelke, 2007, 164). As noted above, this is not as easy as it seems. For the process to work, it is not only essential to find a formula acceptable

⁴⁰ The best example of a well negotiated treaty is probably the Rio declaration, with a ‘delicate balance of policy goals’ reflected in two sets of key principles: ‘on the one hand, public participation, the ‘precautionary approach’ and the ‘polluter pays’ maxim (principles 10, 15 and 16) which are considered to be essential by developed countries. On the other hand (...) key principles include the ‘right to develop’, poverty alleviation and the recognition of ‘common but differentiated responsibilities’ (principles 3, 5 and 7)’ which are essential to developing countries (Sand, 1999, 67).

⁴¹ It is worth highlighting that, while most problems addressed by international law are predominantly political in nature, international law ultimately seeks to address failures of human behavior through the development of rules, institutions and other modalities of international governance. Of course this is political in scope. Nonetheless, there is an additional dimension which is not traditionally shared by other international problems in international law: it involves impacts on extremely complicated physical processes that have an effect on the earth as a whole (Bodansky, Brunne and Hey, 2007).

to a large rough number of countries. Since treaties must be self-enforcing, they must do more than simply tell countries what to do: ‘treaties must make it the interest of the countries to behave as every country would like them to behave’ (Barret, 2003, 18).

International environmental law is best seen as ‘effort to reconcile competing or differing concerns of nations. Before treaties come into force, they need to be negotiated and ratified by a minimum number of parties in a process that normally takes several years before states agree to the terms of the treaties⁴². Treaties of this kind, nonetheless, tend to be more rapidly agreed upon, and come more rapidly into force than traditional international law treaties. The challenge is to engage enough key states to participate and to ensure commitments are the adhered to (Bodansky, Brunnee and Hey, 2007, 11).

2.5 Effectiveness of environmental regimes

It needs to be stressed from the outset that determining effectiveness of an environmental regime is a very complicated task. As it is not the purpose of this chapter – or of the thesis – to examine the effectiveness of a particular environmental regime, this section will not attempt to do so. However, given that the thesis will focus on the effectiveness of international cooperation to counter transnational organized crime, it is worth briefly highlighting, for the benefit of latter discussions⁴³, the multitude of interrelated issues that need to be considered when examining the effectiveness of a particular regime and effectiveness in a broader sense. Effectiveness (see generally Vogler, 2000, 155-179; Young and Levy, 1999; Anreiter, 1997; McCormick, 1999, 52) can be seen as:

- Effectiveness as international law (legal approach): the rules and regime constructed are consistent with the norms, principles and legal obligations of international law.
- Effectiveness as transfer of authority (normative approach): the regimes, as a form of governance, encourage international cooperation, information exchange, cross-border and international coordination and monitoring. The regimes should also have sufficient decision making powers.

⁴² The ratification process involves the relevant national legislative power of each state (...) confirming that the state will be legally bound by the treaty’ (Green, 2001, 387-414)

⁴³ Chapter 4 as well as chapters 6, 7 and 8 will further expand on notions of effectiveness and ways to measure the effectiveness of initiatives based on available literature and perceptions from participants interviewed.

- Effectiveness as behavior modification (political approach or policy effectiveness): the regimes should be effective in changing the behavior of states towards the environmental problem and the rules of the treaties should be observed. Note: the change in behavior must be sustained.
- Effectiveness as problem solving (implementation): efforts must be able to address the environmental problems effectively.
- Economic effectiveness: activities and efforts must be cost effective and efficient.
- Environmental effectiveness: the environmental objectives of the treaty are achieved.

All the above dimensions of effectiveness are interrelated and there are a multitude of overlaps that exist between them. There are also additional dimensions that are not listed above, as this is only an exploratory list and does not attempt to be comprehensive. Nonetheless, it is important to highlight here that, ultimately, environmental effectiveness is the most important aspect that would determine the effectiveness of a particular regime (Anreiter, 1997, 22; Young and Levy, 1999, 273). However, it will only be met if a combination of the other dimensions occurs. Particularly important is the point listed above as 'behavior modification'.

The development of environmental strategies and plans of action to effectively counter environmental issues has been continuously undermined – at both national and international levels – by lack of political will, continuous debates over scientific uncertainties and a general failure or unwillingness to conduct preventive action (McCormick, 1999). Indeed, 'a major determinant (...) is the willingness and the ability of national governments to translate regime rules, procedures and (...) commitments into practices that succeed in directing (...) behavior (Young, 1999, 273).

Against this backdrop, the different actors of the international society are essential to ensure that rules and norms are implemented and that theory is translated into action. As it will be further elaborated upon in the next chapter, non-state actors have thus stepped in to: generate the necessary political pressure; raise awareness and funds for implementation of activities; assist with the monitoring of the different treaties, and; promote public awareness about environmental problems and the need to counter them (McCormick, 1999).

2.6 Conclusion

Throughout the chapter, it has been highlighted that the environment is an issue of common concern and that a shift in the way 'traditional' international law worked was necessary in order to effectively deal with global environmental problems (Bernie, Boyle and Redgwell, 2009). This is because of their 'global' nature and the fact that it is in the 'common interest' of the international society to protect their 'global commons' (Yearly, 2000). The nature and character of international environmental problems and the need to have the greatest possible degree of participation by the widest possible range of parties has thus resulted in the emergence of tailor-made procedures in international environmental treaty making with the development of a dynamic and flexible 'standard-setting process' (Bodansky, Brunnee and Hey, 2007, 21). Such processes have created complex regulatory regimes⁴⁴ aimed at enhancing cooperation amongst states to deal with international environmental problems in a new and innovative way. This has allowed for rules to be adjusted and developed more promptly in response to the emergence of new problems and new priorities by making use of non-binding guidelines, adopted and negotiated through the meetings of the parties (Bodansky, Brunnee and Hey, 2007, 13-21; Bernie, Boyle and Redgwell, 2009). As stressed throughout the chapter, soft laws make a crucial contribution to the development and increased participation of states in international environmental law by focusing consensus, facilitating agreement and enabling states to commit when they would otherwise not (Bernie, Boyle and Redgwell, 2009).

It has been stressed that the regulatory approach is crucial to enable effective cooperation and that this approach makes every party better off, has wide appeal to the international society, and is arguably the best way to find a way to work together for a common goal (Barret, 2003; Bernie, Boyle and Redgwell, 2009, 13; Green, 2001, 387-414). Against this backdrop, the legal status parts of the treaties 'seems to be of secondary importance' (Bodansky, Brunnee and Hey, 2007, 23-24; See also Bernie, Boyle and Redgwell, 2009, 36). Specially as 'it does not seem to make them any less effective than binding measures' (Bodansky, Brunnee and Hey, 2007, 23-24) and because regardless of the 'soft' character of some agreements, the standards and guidelines adopted influence and shape state practice as effectively as their formally binding counterpart (Sand, 1999; Bernie, Boyle and Redgwell, 2009).

⁴⁴ A key feature of the institutional development of international environmental law is the establishment of treaty bodies within the framework of international environmental treaties. Such institutions, however, are not independent from their member states (French, 2009, 260-261)

As argued throughout this chapter, environmental law making is essentially political in nature (Green, 2001). Dealing with international environmental problems is thus heavily linked to securing international cooperation at a global level taking into account the different priorities of states, the 'key decision makers' (French, 2009, 261) in international environmental law. Regardless of the binding nature of treaties, states retain control over the commitment to non binding norms and rules. And yet, they have responsibilities towards the international society and have to cooperate in a spirit of global partnership to counter international environmental problems (Bernie, Boyle and Redgwell, 2009). They also have, as will be discussed in the next chapter, to work closely with other actors of the international society – namely intergovernmental organizations, international organizations, and nongovernmental organizations – to effectively deal with the problems. It is necessary to highlight that, despite the remarkable growth of international environmental law over the past few decades, one of its most significant problems and weaknesses is enforcement. As a general proposition, it can be stated that 'the policing of international law has proved extremely difficult' (Den Boer, Romsay and Rothwell, 1998, 17):

'Though nature pays no attention to lines drawn up on a map, the institutions that can be used to correct an externality are defined by political boundaries. Local or intranational externalities are the easy ones to put right; they can be corrected by the state – by a legislature that creates a law, a judiciary that settles disputes, and an executive that enforces the law. Transnational externalities can only be corrected by the intervention of two or more states. They are thus much harder to remedy' (Barret, 2003, 107).

After all, International law is not the law of a world government and the international system has little in common with unitary government systems. There is no world government that is authorized to both 'police the streets' to ensure compliance or to tax the world's citizenry, and there is no world fund to pay for the provision of transnational public goods. In addition, there is no world legislature to create binding laws on global community - the UN General Assembly may be stylistically similar to a parliament, but its resolutions are not legally binding on member states – and parties cannot appeal to a world legislature. Nor can parties depend on a world court, as even though there is one, its primary role is dispute settlement, and it can only decide on cases that 'all parties agree should be heard' (Barret, 2003, 108). Moreover, there is no world executive with the authority to enforce the decisions (Bowman, Davies and Redgwell, 2010; Barret, 2003). It is indeed a major successes that International environmental law-making has managed to develop a different method for keeping order in an 'anarchic international system' and it has been able to adapt to its own characteristics: even though 'the international system lacks the hierarchical legal structure that characterizes (...) national institutions, it is nonetheless highly organized' (Barret, 2003, 108).

Chapter 3: the Role of State and Non State Actors in Combating Transnational Organized Crime

3.1 Introduction

Chapter 2 highlighted the emergence of new procedures in international environmental law that allow for a more dynamic and flexible process to safeguard the environment. This process has managed to achieve the greatest possible degree of participation and involvement from states and has created regulatory regimes that have increased cooperation and participation of countries in efforts to counter international environmental problems. Regulatory regimes are thus, the best way to get countries to cooperate and to work together for the greater good of the community (Barret, 2003). One of the more important developments is that the regimes facilitate and promote cooperation between states and non-state actors and makes use, as will be further elaborated upon below, of the relative strengths of the different actors to effectively counter environmental problems. Overall the regimes are concerned with 'regulating environmental problems, providing common standards and practices for prevention (...), or promoting conservation and sustainable use of natural resources and biodiversity' (Bernie, Boyle and Redgwell, 2009, 9). In addition, environmental regimes seek to strengthen and harmonize national environmental laws and policies. The participation in environmental treaties and its regulatory regime does not, however, directly ensure the fulfillment of commitments. To achieve such results, it is important that the different institutions of the regulatory regimes work effectively, and that they cooperate closely with both state and non-state actors to ensure the implementation of commitments and the monitoring of the conventions. A further concept that was highlighted is the inherently political nature of international environmental law and that states – the 'key decision makers' (French, 2009, 261) – retain control over the degree of commitment to the different norms and rules developed (Bernie, Boyle and Redgwell, 2009).

This will be further discussed throughout this chapter when a particular feature of international environmental law is highlighted: the increased participation of non-state actors (Redgwell, 2010). While throughout most of the 20th century the international system was one of 'nation-states and their subunits', today it includes both state and non-state actors as 'essential components constantly

interacting' (Brown Weiss, 1993, 709). As the chapter will demonstrate, there are increasing amount of responsibilities accorded to the different actors in the international society when dealing with environmental issues. This, it will be argued, is both necessary and essential.

The different sections of this chapter examine the actual implementation of environmental law, and the different ways of ensuring compliance with the norms and regulations that the states have adhered to. The role of states and the various actors in the international society, with regards to the additional array of actors involved in international environmental problem-solving will also be discussed. It will be argued that that the state remains the key actor and decision-making 'machine' in international relations and in international law. However, since the last quarter of the 20th century, the importance of non-state actors has increased significantly to the point where non state actors hold unique roles and responsibilities that supplement those of the state, and that are key to ensuring compliance with treaty provisions, and effective enforcement. This is predominantly the case in relation to environmental problems, transnational environmental crime and the illegal trade in endangered species. States therefore have to work closely with a different array of intergovernmental organizations, international organizations, and nongovernmental organizations to effectively deal with international environmental problems.

3.2 The Changing Role of the State: Actors in International Environmental Law

'In a very real sense, modern international environmental law is no longer made by states alone' (Bernie, Boyle and Redgwell, 2009, 9)

As it was discussed throughout the previous chapter, the development of international environmental law has changed the way traditional international law works. Emphasis has been added on the need for collective action to protect global commons as contributions and solutions to transnational or global environmental concerns on the part of any state demand cross-border, bilateral, or multilateral cooperation. Thus, collective action that is agreed upon is required in order to act upon international environmental problems. In order to reach that goal, a 'negotiated balance' between the traditional rights of states (i.e. territorial integrity and territorial sovereignty) and the environmental needs of the international society is sought, since 'neither can be absolute in the environmental context' (Bodansky, Brunnee and Hey, 2007, 9). Such collective action is agreed upon, coordinated, and achieved through the creation of environmental regulatory regimes.

Throughout the chapter it was stressed that that solutions to collective actions in international environmental law usually depend on dynamic arrangements between states and on the regulatory regimes, and the intergovernmental institutions that are created where a great variety of actors, in addition to the states themselves, have a voice. The inclination of international environmental law has therefore been to create global and multilateral treaty-based regimes that pursue the greater good in order to prevent a tragedy of the commons. The use of regulatory regimes seems, by far, the most flexible and beneficial way to reach agreement on – and act upon – the necessary norms, rules and standards that states must adhere to in order to protect the environment. As explained using the examples of the prisoner’s dilemma and the black and red card game, effective cooperation leaves every state better off. Undoubtedly, there are different debates on the how international regulatory regimes should be designed in order to accomplish this objective, how can states be motivated to join and commit to the standards that are set by the regimes, and how the burdens of such commitments should be shared (Bodansky, Brunnee and Hey, 2007).

As Cameron argues, effectively countering international environmental problems requires more than ‘just intergovernmental cooperation’. It is argued in latter sections that states cannot act alone to effectively counter environmental problems because ‘states alone do not possess the sum of the real world power necessary or adequate to solve problems of such scale and complexity’ (Cameron, 1996, 33). States, therefore, can benefit from the assistance of additional actors to counter environmental problems. Such actors do not generally go against the wishes of the state. Rather, they supplement and assist with state activities, and ensure compliance of international commitments. It needs to be recognized that under this so-called ‘new’ system, there is an increasing amount of pressure on states to conform to agreements and a growing amount of organizations that are vigilant on state actions. This is believed to be a very practical way to ensure environmental commitments are not ignored or put aside. It is important to emphasize that, while some of the traditional functions of the state have changed in the international environmental law-making process, the state remains the absolute power in any decision making process. The ‘absolute’ power, however, has made close ‘friends’ that tend to influence the way in which it behaves. Before we further elaborate on any of these points, however, it is necessary to analyze the different actors in international environmental law and their functions and roles.

3.3 International Environmental Law & the Changing Role of the State

In traditional international law, it was largely states that have rights and responsibilities (Hunter, Salzman and Zaelke, 2007). States are the primary and principal subject of international law: they negotiate, create, adopt, ratify and implement treaties and only states are responsible for implementing them (Sands, 1999). The 'substance' of international law is, ultimately, developed through a process of inter-state negotiation as sovereignty designates states as 'the only players with unlimited rights to act in the international system' (Barret, 2003, 54). Thus, nongovernmental actors do not participate in, nor are they subjects of, international law, even if they play a significant role in the process (Hunter, Salzman and Zaelke, 2007). With the development of international environmental law, states remain main actors, albeit they are not the exclusive ones: recent changes in international environmental law have afforded a 'historically unparalleled opportunity' for non-state actors to participate in the development, formulation, implementation, monitoring and enforcement of international environmental law (Redgwell, 2010, 692; Raustiala, 1997b). As Yamin argues, non-state actors are no longer 'mute observers'. Rather, they are 'actors in their own right'; 'reconciling this insight with state-centric accounts (...) is more of a theoretical challenge because, in practice, it is abundantly clear that formal legal rules assisting (...) [them with] a peripheral role in the international affairs represent an inaccurate and obsolete view of the international legal order' (Yamin, 2001, 161).

International environmental problems have therefore required the participation of a new set of actors that, in conjunction with the state, hold specialized roles and specific responsibilities in international environmental law. The different actors interact amongst themselves as a 'web of institutions' that is linked through a variety of arrangements with the task of providing 'governance without government' (Bodansky, Brunnee and Hey, 2007, 11). In other words, they need to influence state conduct and state practice for a better collective outcome. The traditional key player in international law is therefore no longer the only actor in international affairs. Although states remain – and will probably continue to remain – the central body in international environmental law, the nature of the state system is in itself changing (Jordan et al., 2005; Wapner, 2005, 539). The state is no longer able to effectively deal with global problems alone. It needs to involve additional players that will assist him in resolving its problems (Bodansky, Brunnee and Hey, 2007; Aas 2007, Michalowski and Bitten 2005; Noortmann, Reinisch and Ryngaert 2015).

Before we proceed to further elaborate on the different types of actors, and their roles and functions in international environmental affairs, it is necessary to examine when – and how – this

process started and the key reasons why non state actors need to be involved in international environmental efforts.

Until the latter part of the 20th century, non-state actors were usually denied participation in international affairs. A key milestone that contributed to changing this relationship was the 1992 Rio Earth Summit, where the principles for supporting wide participation in environmental problem-solving and the need to involve, whenever relevant, the nongovernmental community 'received a significant political boost and some legal and institutional backing' (Cameron, 1996, 35). The Summit marked a watershed in the relationship between states and non state actors (Yamin, 2001). Agenda 21 called governments to recognize that non state actors hold 'well established and diverse experience, expertise and capacity in fields (...) of particular importance to the implementation and review of environmentally sound and socially responsible sustainable development' and highlighted that their resources 'should be tapped, enabled and strengthened' (Yamin, 2001, 151; see United Nations, 1945, Ch27, Article 21). This followed earlier dialogues held with the establishment of the UN in 1945 when the involvement of nongovernmental organizations in intergovernmental policy and program discussions was formalized: Article 71 of the UN charter notes that 'the economic and social council may make suitable arrangements for consultation with nongovernmental organizations which are conceived with matters within its competent' (Cameron, 1996, 33; See United Nations, 1945, Article 71).

Today, the development of international environmental law can no longer be understood without taking into account non-state actors in the process, particularly when dealing with environmental issues such as wildlife trade (Bodansky, Brunnee and Hey, 2007). As Bisschop (2013, 169) highlights in the context of timber trade⁴⁵ governments, civil society and international organizations 'have the potential to shape the governance and regulation of the tropical timber trade'.

Since Rio, the role of international organizations and the broader international society has become more important in the achievement of environmental objectives and their involvement in environmental policy has increased (Raustiala, 1997b). There has been a gradual recognition that environmental problems can only be effectively addressed if there is a system of 'environmental governance' (Den Boer, Romsay and Rothwell, 1998, 23) to ensure cooperation between states, as well as between states and non state actors: environmental issues 'need to be managed over time in ways that increase cooperation and coordination among a large number of stakeholders' (Hunter, Salzman and Zaelke, 2007, 220). This is the responsibility of the state, but also of international

⁴⁵ This is also applicable to broader trade in fauna and other flora in general.

organizations such as – but not exclusively – the United Nations, as well as bodies created under the treaties regulatory regimes (Hunter, Salzman and Zaelke, 2007).

Global environmental issues therefore involve a complex array of players: 'States, international institutions, individuals, NGOs, business, and technical experts – and these categories only begin to capture the rich variety of actors involved' (Bodansky, Brunnee and Hey, 2007, 16). It needs to be highlighted that such players are not a homogenous set of actors, will vary widely in membership, goals, approach, and resources and usually have different methods, objectives and priorities (Yamin, 2001; Raustiala, 1997a; McCormick, 1999; Michalowski and Bitten 2005; Duffy, 2010). It is also important to highlight that the effectiveness of their involvement will vary 'according to their seriousness of purpose, funding, depth of research, skills in political advocacy, means of exercising pressure, and narrowness of focus' (Bernie, Boyle and Redgwell, 2009, 101-102). Thus, not necessarily all actors will be involved in international environmental affairs. Some, however, have become effective at achieving a consultative status in international environmental regimes and have been instrumental in the development and negotiating process for a range of conventions and protocols. This particular group is able to perform a variety of functions that are crucial for the development and implementation of international environmental agreements (Sands, 2003). It is such actors that will be the focus of the next section.

Actors in International Environmental Law:

As noted by Raustiala (1997b, 567; see also Sands 2003): '[s]tates can no longer claim to be the sole holders of the right to participate in the international legal order and its processes, having been joined by a new range of actors'.

Alongside the states there are, thus, numerous organizations charged with different roles to protect the environment (Hunter, Salzman and Zaelke 2007). They all have different functions within the system, and perform different tasks. Overall, there are five basic types of global and regional organizations: there are global intergovernmental organizations (such as the United Nations and its specialized units); regional intergovernmental organizations (such as ASEAN); the different secretariats and CoP of the international conventions; global quasi-governmental organizations (such as IUCN), and; Non-Governmental Organizations (NGOs) (such as WWF, TRAFFIC, or other similar organizations)⁴⁶ (Den Boer, Romsay and Rothwell 1998, 25). Arguably the most important and influential non state actors are intergovernmental, intra-governmental and international institutions.

⁴⁶ For more information, see Chapter 2 in Den Boer, Romsay and Rothwell, 1998.

For example, two of the most important contributors to international environmental law and international environmental regimes are IUCN, a 'hybrid organization' comprising of member states, government agencies, over 800 national and international NGOs and over 10.000 scientists, experts and lawyers from around the world' (Bernie, Boyle and Redgwell, 2009, 102), and the United Nations Environmental Program (UNEP)). They have both played a very important role in initiating negotiations and supporting countries by providing sound advice and expertise to 'substantially increase countries capability to respond to environmental problems' (Bernie, Boyle and Redgwell, 2009, 102-103). The NGO community is also an important and permanent player in the international arena⁴⁷.

Before we proceed any further, it is necessary to briefly highlight the difference between the terms that will be used for the remainder of this chapter: 'non state actor' and 'nongovernmental organization'. The broad 'non state actor' term covers every organization that is not a state (Yamin, 2001, 149-150). This includes all types of organizations mentioned above. The term 'non state actor' will be used when we wish to refer to the broad range of actors involved in international environmental law. When we wish to refer to particular non-governmental organizations we will refer to them as NGOs.

Non state actors are complex actors at global, regional, subregional and bilateral level. They perform different functions as determined by the parties (states) (Sands, 1999). The different actors can be usually grouped in several interlinked dimensions according to: the types and degree of influence they exercise in the policy cycle agenda; the basis on which they exercise influence, power and expertise, and; the way in which they exercise influence on states to support a set of policies or to implement international obligations. Actions of one actor are rarely understood in isolation (Gunningham, 2009, 181), as the different types of organizations 'play a significant role in virtually every aspect of the international environmental process' (Bodansky, Brunnee and Hey, 2007, 20) and exercise different degrees of influence in the 'life cycle' of international agreements (Yamin, 2001, 153). In general, it can be argued that no single organization controls the management of global environmental issues' (Hunter, Salzman and Zaelke, 2007, 219).

It is crucial to highlight that the participation of additional actors in the environmental process 'is not meant to obscure the central importance of interstate relations in world affairs' (Wapner, 2005, 539). As noted above and throughout the previous chapter, states remain the main decision makers in

⁴⁷ For more information on non state actors see Tarlock, 1992; Anreiter, 1997; Sands, 1999; Bernie, Boyle and Redgwell, 2009; Vogler, 1995; Raustiala, 1997b; Noortmann, Reinisch and Ryngaert, 2015; Michalowski and Bitten 2005; Otto 1996.

international environmental affairs, and will probably continue to be for the indefinite future (Wapner, 2005; See also Jordan et al, 2005, 212; Barret, 2003, 53; French, 2009, 261). States are ‘the primary players in games of international environmental relations (...), as represented by their governments’ (Barret, 2003, 53). States, however, depend largely on non state actors as they are crucial for the effective development and implementation of international environmental regimes and to ensure compliance with the different obligations. This is exemplified in the wildlife trade where non-state actors are ‘taking up responsibilities traditionally reserved for the nation state’ (Bisschop 2013, 169; see also Loader, 2002; Sheptycki 2002).

States and non state actors can sometimes have a paradoxical relationship: while states are the dominant players in both the development and implementation of international environmental law, they often need to incorporate a range of non state actors into ‘states-only’ activities that have traditionally been reserved to states (Bodansky, Brunnee and Hey, 2007; Raustiala, 1997a). ‘The paradoxical nature of the relationship (...) is felt all the more keenly as it is certainly arguable that the effectiveness of international environmental regimes depends on their success in influencing [states] actions’ (Cameron, 1996, 32). The involvement of the broader international community – viewed in terms of broader than a community of states alone – in international environmental efforts is seen as mutually beneficial, as governments will benefit from the information, expertise, knowledge and resources of their ‘new’ partners, as well as from a certain amount of political ‘cover’ (Redgwell, 2010). In return, the ‘new’ partners will gain increased access to information and a more direct input into official positions, discussions, and standard-setting processes (Hunter, Salzman and Zaelke, 2007; Raustiala, 1997b). This also reflects a more inclusive approach to the concerns of the wider international society. Governments, with limited resources and a growing list of concerns, are gradually providing greater roles to environmental non-government organizations because they are able to effectively ‘fill the regulatory space that states previously occupied’ (Gunningham, 2009, 196-8). Such organizations are, arguably, the main actors that ensure environmental problems get tackled, the ones that provide the impetus to the movement, and the ones that enable states to comply with their obligations. As Gunningham states: ‘at regional, national or global level, probably the biggest gains have been achieved by environmental (...) organizations’ (Gunningham, 2009, 196).

Roles and Functions of Non State Actors

As noted above, the different actors of the international society hold different roles in virtually every aspect of international environmental law (Bodansky, Brunnee and Hey, 2007). The last few decades

have particularly witnessed an extraordinary rise in the level of international activities undertaken by non state actors (Yamin, 2001).

This section will highlight the different roles and functions that such actors may hold to support the activities of the state (see Sands, 2003, 71; Stein, 1972, 259; Anreiter, 1997, 13; Faure and Lefevre, 1999, 142; McCormick, 1999, 55-56; Noortmann, Reinisch and Ryngaert, 2015). The roles and functions of the different actors will be grouped in the following categories: informational, normative and operational. In order to highlight the importance of non state actors in the monitoring, implementation and compliance of international environmental agreements, there will be a separate section for this issue. It is important to note that the below sections are interlinked and that involvement is not necessarily sequential. Moreover, as noted above, different types of organizations will be more involved than others. Some may be more involved in all aspects, others may be highly involved in some aspects and have limited influence over others, and another group may only hold specific functions.

1. Informational:

One of the key roles of non state actors is to provide information about new and emerging issues, disseminating such information, facilitating information exchange, and initiating discussions that may, ultimately, lead to states taking normative action against international environmental problems (Sands, 1999, 2003).

Non state actors, particularly specialized groups, are often the first ones to identify the different environmental problems and alert governments to the need for action (Yamin, 2001). Most of the current serious environmental issues were not immediately apparent until such expert networks recognized the problem because of new scientific findings or new research about a particular issue (Bodansky, Brunnee and Hey, 2007). Non state actors are thus crucial actors in the 'problem-definition process' and can advocate from a universal perspective, particularly when they provide neutral scientific information of specific problems (Yamin, 2001, 153; Stein, 1972; Tarlock, 1992, 72).

As a result, they provide constant forums for discussion of current and pressing environmental issues at different seminars, conferences and scientific engagements before this is pushed through a series of international conferences and meetings at the national or international level (Yamin, 2001; Bodansky, Brunnee and Hey, 2007, 18; Buck, 1998, 8; Anreiter, 1997, 13). They also raise awareness about the existence of environmental problems and provide the necessary arena to exchange

information and deliberate upon matters that require collective action (Akande, 2010; see also Den Boer, Romsay, and Rothwell, 1998, 25; Bodansy, Brunne and Hey, 2007, 20). The United Nations and its specialized units, for example, are well known for providing the principal forums for cooperation and coordination of activities where 'most of the interstate cooperation necessary for developing international environmental policy and regulatory regimes has been realized' (Bernie, Boyle and Redgwell, 2009, 45; see also Sands, 1999, 120-121). UNEP in particular has achieved the most as facilitator of meetings and a coordination unit. Its involvement is seen as an impartial and unbiased force which facilitates negotiations and potential compromise between states (McCormick, 1999; Sands, 2003; Bernie, Boyle and Redgwell, 2009).

A particular example of the role that non state actors play by providing and sharing information is the reporting of negotiations. NGOs have been, for some time, providing daily bulletins at the different meetings and CoPs. The bulletins provide a detailed account of the statements, proposals, discussions, points of contention, and decisions of the day and are given to the participating delegates (Burke, 1997; in Raustiala, 1977a). To use a famous quote from a delegate attending the 1972 Stockholm Conference: 'the crew that put out ECO should attend all international conferences so we'll know what the hell is going on' (Raustiala, 1997a, 730). This particular example highlights the importance of non state actors, as the reporting of ongoing negotiations is something governments cannot do on their own. If they did, it would be considered 'biased and unrepresentative'. Equally, if a UN agency or a formal secretariat published daily reports, they would have an 'official document' status, and participants would find it very difficult (or impossible) to agree on its content, style, tone, and the like within the given time-frame (Raustiala, 1997a, 730). NGOs may publish such a bulleting as this would be considered an informal and informative document only.

2. Normative

As noted above, non state actors have played an important role in highlighting new environmental problems, and bringing them to the attention of the international society. They have also played an essential coordinating role to encourage states to enter into dialogue, generating political consensus on the key issues that need to be addressed and facilitating and encouraging collective actions to solve environmental problems (Bernie, Boyle and Redgwell, 2009; Bodansky, Brunnee and Hey, 2007; Stein, 1972). These are one of their most important roles in international environmental law.

As a matter of fact, non state actors have shaped policy making at both the national and international level. They are able to intervene in debates and meetings – even in some cases as

members of official delegations – and have the ability to shape the agenda of meetings and conferences (Yamin, 2001; Bodansky, Brunnee and Hey, 2007; Tarlock, 1992). In addition, they can exercise informal power to shape the way in which problems are addressed, the priority they receive, and in some cases, the way governments cooperate with each other to solve them (Yamin, 2001). Non state actors have also influenced states to strengthen and develop national legislation and are also important players in the negotiation and development of environmental regimes as well as other actions taken to effectively counter global environmental issues (Den Boer, Romsay and Rothwell, 1998; Bodansky, Brunnee and Hey, 2007; Wapner, 2005). They are particularly active in the international standard-setting and implementation processes and have strongly contributed to the development of national and international legal obligations and the development of soft laws (Den Boer, Romsay and Rothwell, 1998; Bodansky, Brunnee and Hey, 2007; Sands, 1999, 2003). In addition, non state actors are increasingly involved – and participate more directly – in international institutions and have substantial influence in the design and implementation of international environmental regimes (Bodansky, Brunnee and Hey, 2007; Buck, 1998, 7).

Given that many global and regional environmental issues are ‘relatively novel and highly complex’ – new problems keep on appearing (Raustiala, 1997a, 726-7) – and there is ‘little experience to guide the policy making process’ (Raustiala, 1997b, 558-9; See also Tarlock, 1992, 69), non state actors can provide a varied range of information about potential policy options (Raustiala, 1997a, 726). Such information is often provided to policy makers freely by multiple organizations. The ‘plurality of sources’ ensures data quality and the ‘biases of most major NGOs are fairly well known to the governments’ and can easily be avoided. The result is that states can maximize their information and benefit from ‘reasonably accurate, efficacious, and creative policy advice’. States are also able to minimize their expenditures by working with the different actors of the international society (Raustiala, 1997a, 727). It needs to be highlighted that some organizations have played a fundamental role in the creation of environmental regimes and in the pioneering of initiatives. The most notable examples are UNEP and IUCN, which are renowned for producing ‘extensive, well-researched policy papers’ and have helped draft, negotiate and adopt multiple binding multilateral agreements. Such organizations have greatly contributed to the development of international environmental law and have provided secretariats for several international conventions such as CITES (Soroos, 1999; Peterson, 1990; Raustiala, 1997a).

A key aspect of the participation of non state actors is that it also ensures wide participation in international environmental issues. This is largely, particularly in the case of the UN, its ‘consensus and negotiating procedures’ have created a real potential for securing approval and participation in

international environmental efforts. If one takes into account the quantity of states and their different interests and priorities, this has proved essential when dealing with global environmental problems as it ensures a global participation and support (Bernie, Boyle and Redgwell, 2009). Other non-state actors, including several high profile NGOs, also have a major and positive role to play in this process (Tarlock, 1992). For example, it was pressure groups that led to the convening of the 1972 Stockholm convention and contributed to the development of the Rio Declaration, Agenda 21 and the different treaties opened for signature at the conference (Bernie, Boyle and Redgwell, 2009, 48; Yamin, 2001, 151).

3. Operational

In addition to the above, non state actions are unique partners as they hold vast amounts of expertise in international environmental issues, they are able to motivate governments, in different ways, to ensure they comply with international norms and regulations, and are able to help by providing resources and assistance with implementation of activities.

International environmental issues are so technical and specialized that governments sometimes rely on external assistance and expertise to seek solutions to the problem (Vogler, 2000). By providing extensive information and assistance to governments, non state actors have 'put themselves forward as actors with solutions' (Yamin, 2001, 155). As a result, governments now look at diverse international organizations and NGOs as partners in the development and implementation of international environmental law, with the capability to provide specialized technical, scientific and policy advice and assist them directly or behind-the-scenes. Such groups increase the capacity of governments to undertake negotiations and comply with international obligations (Yamin, 2001). For example, one of the initial roles of many environmental organizations and NGOs was wildlife conservation. As such, these organizations have been heavily involved in wildlife conservation issues to 'ensure and support the creation of environmental regimes'. Given that they possess substantial expertise in the area and that they are able to bring forward expert and independent – although not necessarily always objective – judgments, they have become important actors in wildlife negotiations, to the point that they have become part of national delegations at the different CoP (Raustiala, 1997b, 551-9; Raustiala, 1997a, 733; see also Michalowski and Bitten 2005).

Globally, states have an increasing number of issues to deal with at both national and international levels. In addition, in reality, environmental issues tend to figure towards the bottom of the national agenda. What is more, states are becoming increasingly porous and unable to effectively deal with

environmental issues independently, due in many cases to the lack of funds (Bodansky, Brunnee and Hey, 2007). Given the abundance of expertise and funds available to the state outside of its sovereign authority, it is clear why states have acceded to collaborate with a growing variety of non state actors to resolve environmental problems. Independent networks and NGOs are able to assist governments with international environmental problems as they have the resources and the necessary expertise to assist with the problems⁴⁸. Moreover, given the different levels of development in different countries, it is necessary that the costs and burdens are shared. It will be argued that non state actors play an important role in this particular aspect as they are able to channel funds into different activities. In some cases such activities are funded by more developed countries that, under international environmental law, are called upon to assist with the burdens and costs of measures taken in developing countries that may benefit the international society as a whole (Bodansky, Brunnee and Hey, 2007). States therefore must accept the assistance of non state actors to effectively counter environmental problems. This last point – predominantly the case in relation to environmental problems, transnational environmental crime and the illegal trade in endangered species – is crucial to understanding how the traditional roles of the state have changed in international environmental law.

In addition, it can be argued that a further role of the international society is to motivate and assist states when they do not find the necessary motivation by themselves, as well as to engage with them when needed, and to ensure that they comply with the rules and regulations they ratified. Non state actors put a considerable amount of pressure on states by openly demanding action, including international cooperation, and educating the public about the existence of problems and the need to do something about them. This is arguably the most important role of the NGO community in international affairs (Yamin, 2001). Non state actors can also motivate states to join and commit to standards set by treaties and their regulatory regimes, share part of the economic burden of complying with such norms and regulations in order to achieve the desired goals, and apply, when necessary – and if possible – an additional layer on pressure on states to comply with international commitments (Bodansky, Brunnee and Hey, 2007). This, of course, places a further constraint to the concept of state sovereignty, as ‘adherence to the concept of state sovereignty poses difficulties for the establishment of a role for non state actors in helping develop and enforce primary rules’ (Cameron, 1996, 31). Nonetheless, it has to be highlighted that, while the participation is desired, it is ultimately the actual states that have the final word, and the role of the international society is to assist states.

⁴⁸ Budgets of the largest nongovernmental organizations is usually equal to, if not double, the annual expenditure of government organizations that deal with environmental problems (Wapner, 2005, 527).

3.4 Monitoring, Implementation and Compliance with International Environmental Agreements

As we have noted above, non state actors play significant roles and participate more intensively in international environmental agreements (Redgwell, 2010; Victor, Raustiala and Stolnikoff, 1998). As a result, there are different actors that may end up being responsible for parts of the monitoring and implementation of, and compliance with, treaty provisions. It is necessary to highlight that the participation of non state actors in international environmental efforts and in environmental regimes is largely dependent on the type of agreement reached amongst states, and whether or not they allow non state actors to be involved in the process (Mitchel, 1996).

Compliance with treaty provisions is usually facilitated by non state actors, which are arguably one of the best 'assistants' states and the treaties regulatory machinery have when dealing with international environmental problems. Before we examine the involvement of non state actors to ensure implementation and compliance with environmental regimes, it is necessary to clarify the term 'compliance' and its implications. In traditional international law, compliance⁴⁹ focuses on concepts such as breach, state responsibility, invocation of responsibility by another state, dispute settlement and restitution and compensation. This is 'seldom applied in international law generally and even less so in international environmental law' (Bodansky, Brunnee and Hey, 2007, 23; See also Fisher, 1981; Young, 1979). States rarely enforce international environmental law by invoking state responsibility, and cases of noncompliance are rarely addressed through traditional dispute settlement (Bodansky, Brunnee and Hey, 2007). Rather, as noted in previous sections of this chapter, the overall aim of international environmental regimes is to enhance cooperation and alter state's behavior towards environmental problems.

In international environmental law, the term compliance is commonly applied in comparing behavior to specific treaty provisions, a treaty's broader spirit and principles, implicit international norms, informal agreements and even tacit agreement (Mitchel, 1996, 5). Even if parties do not reach actual compliance or do not go beyond minimum treaty requirements, they can include considerable beneficial behavioral change. Compliance and behavioral change, however, are wanted if they lead to the achievement of the treaty goals. In Young's terms, 'we are interested in a treaty's problem-solving, as well as behavior changing impacts' (in Mitchel, 1996, 24).

⁴⁹ Compliance is understood here as 'an actor's behavior that conforms to a treaty's explicit rules' (Mitchel, 1996, 5; see also Hunter, Salzman and Zaelke, 2007, 369)

The term compliance is often misused: ‘the term compliance is often not used in a consistent way, but focused with related terminology such as implementation, effectiveness, or even enforcement’ (Faure and Lefevre, 1999, 138-9). These terms refer to ‘different aspects of the process of achieving international political and legal cooperation’ (Faure and Lefevre, 1999, 139). It is therefore necessary to clarify the different meanings of such terms.

Implementation refers to ‘specific actions’ (organizational, legislative and practical actions) that states take to make international agreements ‘operative in their national legal system’ (Faure and Lefevre, 1999, 139). Implementation, thus, links the national realm with the international treaty obligations. It is a complex process – ‘what turns grand principles and commitments into actual practice’ (Victor, Raustiala and Stolnikoff, 1998, 29) – and an essential part of international environmental affairs. Implementation of international environmental law ultimately depends on national actions⁵⁰. For example, once a treaty has entered into force, it must be implemented⁵¹. Though states are normally given ‘substantial leeway in choosing the means for implementation’ (Barret, 2003, 149), the process will often require the development of national legislation or the adoption of certain regulations at the domestic level to give domestic force to the treaty obligations. In addition, in most cases parties will be required to report on their implementation (often to the secretariat and at CoP meetings) (Barret, 2003). Implementation of treaty provisions is done with the aim of achieving compliance. Compliance is therefore ‘the extent to which the behaviors of the different states conform to the conditions of the treaty’ (Faure and Lefevre, 1999, 139).

As noted above, the term ‘compliance’ is also misused to refer to the enforcement or to the effectiveness of a treaty. The former indicates the methods available to states to implement and comply with treaty obligations. The latter is concerned with the effect of the treaty objectives or particular parts of the treaty (Faure and Lefevre, 1999, 139). It needs to be highlighted that ‘compliance with a treaty doesn’t necessarily mean that it is more effective’ (Mitchel, 1996, 6). Compliance can provide, in theory, a proxy for effectiveness, as greater compliance will, theoretically, produce more environmental improvements. Nonetheless, ‘greater compliance is neither a necessary nor sufficient condition for effectiveness’. The process of making conventions effective has proved a ‘long term task’ and the involvement of key actors is crucial in making this possible. Above all, states need to be willing to cooperate and work together to counter the problem at hand

⁵⁰ National actions maybe include the enactment of international standards into domestic legislation, the establishment of domestic procedures, the monitoring and reporting of certain regulated activities, the punishment of any violations, and the judicial application of the law (Bodansky, Brunnee and Hey, 2007, 17; See also Sands, 2003, 174-5)

⁵¹ Implementation refers here to ‘the process of putting (...) commitments into practice’ (Hunter, Salzman and Zaelke, 2007, p363)

(Mitchel, 1996; Green, 2001). Franck (1998, 909-25), similarly, suggests that cooperation will be more likely and that international law will be more effective if the system is fair and legitimate (in both the creation and application of rules) and based on a sense of community with shared values and reciprocity on the need to take action but also subject to the scarcity of goods, which would actively require members to take action and counter the problem.

Compliance is often evaluated against treaty provisions rather than the treaty as a whole (Mitchel, 1996). In general, parties tend to comply with some provisions and not with others. While compliance may be because of parties' particular interests, noncompliance tends to be because either because states choose not to comply with specific provisions, because they cannot comply with them (or they are incapable to comply with them) or because they do not reach the acquired target even if they do comply with the treaty provisions (Mitchel, 1996; Faure and Lefevre, 1999). One of the greatest challenges posed to those involved in the international environmental movement is ensuring implementation of, and compliance with, international agreements. It has long been recognized that most implementation gaps with environmental regimes are not the result of any premeditated violation of treaty obligations, but rather of parties' lack of reporting, or institutional and financial constraints - this is particularly the case in developing countries (Sand, 1999, 166).

With particular attention to the reporting, the concept of state sovereignty creates a barrier to any intrusions into the domestic affairs of the states as states are very resistant to information gathering within their borders by other states or international organizations. As a result, most international environmental agreements rely on national self-reporting (Raustiala, 1997a; 1997b). It is the states themselves that report on their progress and compliance (or lack of compliance). In such situations, there are clear incentives for states that are not in full compliance to misrepresent, procrastinate, and otherwise fail to provide information in a timely and truthful fashion. Indeed, this is often the case. It needs to be highlighted that this is as much as a result of a lack of capacity as much as a lack of 'good-faith efforts'. Many states will simply not have the necessary tools, personnel, or resources to adequately gather the information. Regardless of cause, however, 'information tends to be sorely underprovided – even when states are fully in compliance – and this underprovision is a major source of delay and ineffectiveness' (Raustiala, 1997a, 728). Non state actors thus have a clear role to fulfill in order to close the reporting.

Non state actors, and particularly the NGO community, provide an alternate route to gain information about state behavior. Certain NGOs are well positioned and are able to provide independent assessments of state compliance as well as other useful information. Indeed, NGOs

place a significant amount of effort and financial resources on the monitoring of state actions (Raustiala, 1997a). Clearly not all states welcome this monitoring. One of the reasons for this is that NGOs remain 'imperfect monitoring agents', as NGO monitoring is sometimes concerned with particular issues or projects rather than specific actions. It is argued, nonetheless, that NGOs are well qualified to assist with the monitoring and implementation of international environmental regimes, particularly when they help address the environmental problem and make available their independent assessments. In addition, the regimes can become more effective if it includes particular 'target groups' and NGOs with expertise in the implementation and monitoring process (Raustiala, 1997a; Victor, Raustiala and Stolnikoff, 1998). A prominent example of this, further discussed in a latter section of this chapter, is CITES.

One of the most characteristic and innovative features of the CITES was its emphasis on verification of compliance with the rules of the treaty. As such, the Secretariat was empowered by the parties to follow up on alleged infractions and to draw them to public attention, in close collaboration nongovernmental organization TRAFFIC (an IUCN/WWF specialist group set up in 1976 that was created to act as an independent watchdog for the wildlife trade⁵²) (Sand, 1999). Within CITES, NGOs have therefore been instrumental watchdogs of the convention, monitoring the implementation and compliance with the treaty provisions, as well as the wildlife trade and the progress of the conservation regime. It is believed that without the monitoring of CITES, the work of the convention would not be as effectively undertaken: 'the stronger and more active NGOs are [in the regime] (...) the larger the probability of compliance' (Faure and Lefevre, 1999, 142; See also Yamin, 2001; Raustiala, 1997b; Sands, 1999).

Returning to the issue of enforcement mentioned above, it is important to highlight that, while non state actors play a significant role in the development, monitoring and implementation of international environmental law, their enforcement function is rather limited. States – 'as principal subject[s] of international law, (...) have the primary role in enforcing rules', and are usually unwilling to transfer much enforcement powers to secretariats and non state actors (Sands, 2003, 182, 191-200). While a small number of NGOs undoubtedly plays an increasing role in the enforcement of international environmental standards – under the direction and in close cooperation with the relevant governments –, most non state actors have coordinating or monitoring roles (Tarlock, 1992; Buck, 1998; Sands 2003).

⁵² For more information, see Traffic, 2017.

3.5 State and Non State Actors: a Mutually Beneficial Coexistence?

The pattern that emerges from the participation of non state actors in international environmental law is the greater access and participation at initial states of the negotiations – ‘as the structure of the negotiating space is defined and policy prescriptions are debated’ – and less access to latter parts of the negotiation, when ‘details of essentially fixed positions are hammered out’ (Raustiala, 1997b, 571). When the focus shifts back to implementation and monitoring, non state actors often reemerge as major participants in international environmental regimes.

The participation of additional actors in international environmental law, however, poses a threat to several concepts of traditional international law. International law was originally designed to ‘regulate the interactions of states by defining their respective rights and obligations’ within the traditional ‘state centric’ approach (i.e. the state as the ultimate sovereign). In brief, international law’s key notions are state sovereignty, which recognizes the freedom of states act freely within their territory, and territorial integrity, which recognizes the right of states to be ‘free from interference from others’ (Bodansky, Brunnee and Hey, 2007, 9).

The development of international environmental law alongside the traditional state centric approach of international law has, as a result, given rise to potentially contradictory notions in international law, as it contextualizes international environmental law in terms of the ‘mutual rights and responsibilities of states’ (Bodansky, Brunnee and Hey, 2007, 10) to protect the environment: certain environmental problems require particular actions on behalf of the international society as a whole when their impacts are global, or when activities that occur within one state inflict significant harm (following the no harm principle), or have adverse effects on the territory of another⁵³ (Bodansky, Brunnee and Hey, 2007; Barret, 2003). This brings about a great amount of debate amongst different authors in international relations and international law, specifically on the notion of sovereignty – ‘the cornerstone of international law’ (Cameron, 1996, 31) – as ‘common concerns’ of the international society may challenge state’s sovereignty (Hunter, Salzman and Zaelke, 2007).

In traditional international law, states hold the dominant and primary role (Sands, 1999). States are the permanent sovereigns of over the resources of their territory: sovereignty refers to the absolute ‘independence and supremacy of the state’ (Elian, 1979, 12; Sands, 2003; Buck, 1998). Sovereignty therefore indicates the ‘absence of any higher authority’ (Craven, 2010, 215). States are independent

⁵³ The no harm rule is meant to prohibit one state to cause significant environmental costs/harm to another. This notion represents a ‘cornerstone of international environmental law’. Environmental law has, however, extended considerably and now encompasses wider concerns (Bodansky, Brunnee and Hey, 2007)

entities that do not want to give 'an inch of authority to foreign powers' (Barret, 2003, 109). They are their own supreme authority with their own and specific interests (Keohane, 2000). Given that most international environmental treaties, by their very nature, constrain a state's sovereignty, they arguably represent a problem within international politics, international law and international relations theory, particularly relating to the role and significance of states in international environmental law-making and implementation, and to the notion of state sovereignty (Hunter, Salzman and Zaelke, 2007; Green, 2001). These challenges give rise to multiple discussions, given that a fundamental principle of international law is 'the absolute sovereignty of every nation (...) within its own territory'⁵⁴ (Barret, 2003, 119).

The main discussions with regards to international environmental law and international politics are as follows: Realists view the pursuit of power and the use of power as the primary determinant of international behaviors in an anarchic system of international relations where each sovereign state has their specific national interests and self-interest (Waltz, 1979; Noortmann and Ryngaert, 2010; Vig, 1999). They believe that international law has little impact on the behaviors of states and that it should only be used for issues that are relatively unimportant and not related to security of sovereign nation-states. Realists would therefore tend to choose to cooperate unless there is a regulatory regime that does not constrain their sovereignty and power. They would accept other actors only if they retained full authority. Institutionalists admit that states are the key players in international relations, but, on the other hand, agree that non state actors play a crucial role as 'participants in an effort to elicit compliance' (Mitchel, 1996, 4-7; Vig, 1999). They believe non state actors can be crucial to assist states to monitor (and sometimes implement) the treaties and norms they have agreed upon. Institutionalists would tend to use the red card as they tend to agree with Morgenthau that 'the great majority of rules of international law are generally observed by all nations' (Mitchel, 1996, 4). The participation of non state actors in international environmental law can also be seen as an effect of globalization, which 'continues apace and has implications for sovereignty that affect[s all states]' (Keohane, 2000, 110).

The issue of transboundary resources makes it clear that 'absolute sovereignty is an idea of the past' (Buck, 1998, 28). In the present, states have to – and indeed have chosen to - cooperate on new international regimes. In the process, their sovereignty control has changed. In most cases, international environmental law reflects the common interests of the international society as a whole and is guided general principles that are beneficial for the community as a whole, based on

⁵⁴ For more information on the key issues and challenges in international environmental politics see also Green, 2001, 387-414

the belief that the outcome is best for all parties (Barret, 2003). States therefore have rights and responsibilities that go above and beyond their sovereign rights. Such rights and responsibilities, to a certain degree, may take precedence over the traditional notions of state sovereignty and territorial integrity. There has, therefore, been a shift in from the traditional principle of state sovereignty and a new set of principles and rules have been created which 'can delimit and curtail the principle of state sovereignty itself' but that does not actually challenge state sovereignty (Held, 2000, 168). Rather, they complement it.

It is important to highlight that, in such instances, it is the different states that, ultimately, agree on the mutual restraints that are placed upon them – and that are necessary – in order to prevent a 'tragedy of the commons' (Barret, 2003, 49-50; see also Bodansky, Brunnee and Hey, 2007, 11), such as the extinction of wild animal species. The participation of non state actors remains a privilege 'granted and mediated by states' (Raustiala, 1997a, 724). The inclusion of non state actors in environmental institutions and in the environmental processes is therefore not unpredictable or random. Rather, it is based on the 'confluence of governmental incentives' and the comparative advantages, expertise and resources non state actors possess (Raustiala, 1997a, 720-734). Non state actors are thus seen as partners of the state and as 'vehicles for taking action on international or transnational environmental problems' (Akande, 2010, 253; See also Anreiter, 1997).

The relationship between states and NGOs is sometimes depicted as inherently oppositional: an increase in power and importance by non state actors must necessarily come at the expense of state power (Akande, 2010). It is strongly believed that this is not the case. As Raustiala (1997a, 724) clearly notes, sovereign states are both empowered and enabled by the participation of non state actors in international environmental affairs. The participation of such actors does not undermine but rather compliments and strengthens the capability of states to deal with environmental issues with 'greater efficiency, effectiveness and legitimacy' (Raustiala, 1997b, 539; See also Raustiala, 1997a; Soroos, 1999). The role of states is thus reinforced by the supplementary role of international organizations and, to a lesser extent, other non-state actors (Sands, 2003).

Non state actors fill the void in both domestic and international environmental competencies that states are unable to deal with because of scarce resources or lack of expertise (Tarlock, 1992; Aas 2007, Duffy 2010). This is particularly the case in smaller and developing countries that often lack the resources and manpower to develop the necessary expertise. In such cases, governments may call on non state actors to assist in the process and rely heavily on non state actors to ensure implementation of, and compliance with international obligations (Palmer, 1992; Sands, 2003; Raustiala, 1997b). The participation of such groups is not a threat to the sovereignty of the state, but

rather leads to more realistic and more effective agreements and to more successful measures to counter environmental problems (Victor, Raustiala and Stolnikoff, 1998). In most cases, the degree of participation of the different organizations involved usually reflects the range of resources, expertise, and influence they have over the state and the amount of trust states may place on them (Raustiala, 1997a).

Upon examination of the particular roles of environmental NGOs, it can be clearly observed that they are increasingly involved in all aspects of international environmental law (Hunter, Salzman and Zaelke, 2007). Even though the formal rights accorded to NGOs have, theoretically, not changed over time, common practice has modified them somewhat (Cameron, 1996). In addition to their formal rights, NGOs have played a more informal – and very effective – role, often in the background providing support to government officials and policy makers. More and more frequently, however, NGOs are taking active roles in the development or strengthening of laws and the implementation of activities, as well as a more direct role in international environmental regimes, including its development, compliance mechanisms, and implementation process (Hunter, Salzman and Zaelke, 2007; Cameron, 1996; Bernie, Boyle and Redgwell, 2009).

As the next section will highlight, NGOs have ‘quasi official’ roles in monitoring and reporting processes under CITES (Bodansky, Brunnee and Hey, 2007, 21). They have a ‘symbiotic relationship’, in which the NGO may, as requested, conduct research or other services that the secretariat lacks the resources, manpower, expertise or the authority to provide for itself. In return, the NGO receives a greater amount of input into the decisions of the treaty secretariat and the CoP. Such arrangements have become ‘instrumental to the effective implementation of CITES’ (Hunter, Salzman and Zaelke, 2007, 264) as well as for the supervision of treaty commitments (Den Boer, Romsay and Rothwell, 1998). Returning to the global roles and functions of NGOs in international environmental law, NGOs also have an increasing amount of influence on states and are capable of influencing state policy, rule-making, and lobby or pressure governments to ensure they develop, enact and enforce stronger national legislation and comply with treaty regulations, even if states ‘lack the incentive to do so’ (Bodansky, Brunnee and Hey, 2007, 20; See also Wapner, 2005; Gunningham, 2009) . Moreover, the NGO community plays an important role in engaging civic society, shaping public opinion, and influencing consumers and markets about the need to counter environmental problems (Bodansky, Brunnee and Hey, 2007; Wapner, 2005; Gunningham, 2009). Once empowered, the communities can respond to these processes more successfully. They also engage and create partnerships with different types of organizations to effectively deal with

environmental issues. This is extremely important given that the most important NGOs tend to have larger annual budgets than the total amount states spend annually on environmental issues⁵⁵.

3.6 The Illegal Wildlife Trade and CITES⁵⁶

The use and protection of wildlife has historically been considered a matter of domestic law. Controlling the growing amount of international wildlife trade has, nonetheless, been the subject of international cooperation for over a quarter of a century (Hunter, Salzman and Zaelke, 2007).

The growing concern over the amount of 'international economic activities' such as the trade in wild animals and plants has called for increased international cooperation to respond to activities such as the illegal wildlife trade and the preservation of biodiversity: 'wildlife species are (...) renewable natural resources but, like many 'flow resources', they have a critical level below which a decrease in reproduction capacity becomes virtually irreversible' (Sand, 1999, 144).

'The need to prevent extinctions can be justified scientifically because of the need for the preservation of biodiversity. Briefly, the term biodiversity encompasses 'an umbrella term for the degree of nature's variety' (Bowman, 1996, 5). The core concept is the preservation of ecosystems: 'all living organisms exist and function not in isolation, but as part of a wider environment, and it is through the preservation of the entire ecosystem that diversity can be secured' (Bowman, 1996, 5). This is considered at interdependent three levels: the protection of species diversity (variety of different species in existence); the genetic diversity (genetic variation between populations of a particular species) of species, and; the ecosystem diversity (species habitat) (Den Boer, Romsay and Rothwell, 1998). It can also be justified as economically for the lost revenue of the illegal trade. Ultimately, however, concerns are really affected by deep 'ethical value judgments' and moral philosophy that justify the conservation of wildlife (Sand, 1999, 144; Bowman, Davies and Redgwell, 2010, 61).

While 'extinction is a natural consequence (...) and a regular occurrence in the natural world' (Hunter, Salzman and Zaelke, 2007, 7) over long periods of time, the current rate of mass extinctions is not: it is 'at least a thousand time greater than the natural rate and is created by human beings, 'one species among the 14 million or more species sharing the planet' (Hunter, Salzman and Zaelke, 2007,

⁵⁵ For example, in 1992 the budget of WWF was roughly US\$200Mill for the total annual budget of US\$75 of UNEP (Wapner, 2005, 527-537; See also Gunningham, 2009, 197; Hunter, Salzman and Zaelke, 2007, 219).

⁵⁶ See footnote 1 in the Introduction for details on previously published worked used in this thesis.

7). 'Humanity is destroying the very ecosystem it depends on for its survival and prosperity' by overexploiting species for food, ornaments, pets or luxury items (Hunter, Salzman and Zaelke, 2007, 9; TRAFFIC, 2008). Exploitation of species for commercial purposes is not, nevertheless, the only cause of wildlife depletion. The destruction of natural habitats, followed by introduction of alien and invasive species, unsustainable harvesting, and the decrease in population diversity of species (range of species) are also key factors in the process (du Plessis, 2000; Sand, 1999; Den Boer, Romsay and Rothwell, 1998).

The different approaches to protect biodiversity would therefore be a focus on conservation, combating illegal trade, or on habitat protection, with the most effective response incorporating elements of all (Den Boer, Romsay and Rothwell, 1998). For the purpose of this chapter, the focus will remain on international efforts directed to the protection of the diversity of species, and more specifically the Convention on International Trade in Endangered Species of Wild Fauna and Flora (hereinafter referred to as CITES) , the main convention dealing with the international wildlife trade (Bowman, Davies and Redgwell, 2010; see generally CITES, 2017). Other efforts should, nonetheless, not be underestimated, as they remain highly important for the preservation of biodiversity.

As noted above, there are multiple threats to biodiversity. Before CITES is discussed in further detail, it is necessary to highlight that the convention is not a general wildlife treaty, as it only attempts to deal with one component: the overexploitation of species because of the international trade, which is one of the multiple threats to wildlife (Sand, 1999). There have been multiple discussions on CITES (Hutton and Dickson, 2000). For example, it has been argued that the primary rules of CITES address the activities of the actors engaged in the trade 'rather than focusing on processes which, if regulated, could also have a positive impact on wildlife conservation, such as sustainable management, habitat destruction, or the establishment of protected areas'⁵⁷(Cameron, 1996, 188). The views of other commentators vary. Overall, it is believed that, despite its weaknesses, CITES has had a very significant impact on the trade in endangered species (Den Boer, Romsay and Rothwell, 1998). Some are very favorable to CITES and consider the convention as 'perhaps the most successful of all international treaties concerned with wildlife' (Sand, 1999, 168; See also Lyster, 1985). Others see different 'weaknesses, limitations and criticisms' (Den Boer, Romsay and Rothwell, 1998, 95-119) and rate its success as 'symbolic rather than substantial', though conceding its usefulness as an international forum for wildlife issues (Sand, 1999; Trexter, 1990). The objective here, however, is not to discuss what CITES should or should not address, as it is not relevant thesis, and would also require an independent piece of research by itself. Rather, the aim of this section is

⁵⁷ The merits and shortcomings of this approach are discussed by Swanson (1992, 57).

to introduce the convention and its background in order to further elaborate on the international trade in endangered species and more specifically, the illegal wildlife trade (see chapter 4).

The convention was conceived in an effort to regulate the international trade (trade that crosses borders between countries) in wild animals and plants. As it will be further elaborated below, safeguarding species from overexploitation requires not only effective communication and cooperation at the governmental level, but also amongst other players of the international society (Isozaki, 2003).

CITES is an international agreement between governments that was concluded after two previous unsuccessful international attempts to regulate wildlife (Sand, 1999, 145-149). The concept of the convention goes back to a 1963 resolution of the IUCN assembly, followed by draft texts provided at the IUCN environmental law center, and culminating in a conference in Washington DC in February 1973. By March of the same year CITES was negotiated and signed by 21 states. On 1 July 1975 it entered in force⁵⁸.

From its inception CITES was seen as a flagship treaty (Lanchberry, 1998). Hailed by conservationists as ‘Magna Carta for Wildlife’ (Sand, 1999, 148-149; Layne, 1973; Kij, 1974) and ‘the world’s leading, most successful international conservation convention’ (Huxley, 2000, 11), CITES was both ‘a conservation and a trade instrument (...) to protect wild fauna and flora both for humankind (...) and as a national heritage’ (Sand, 1999, 148-149). Today, it is regarded by many as one of the most widely accepted treaties in existence (Den Boer, Romsay and Rothwell, 1998) and remains ‘one of the most important international conventions for the conservation of wildlife’ (Cameron, 1996, 204).

The convention was established as an instrument for cooperation⁵⁹ and to prevent international trade to cause extinctions by promoting trade controls: ‘CITES seeks to protect biodiversity through the regulation of international trade in endangered animals and plants and their products’⁶⁰(Cameron, 1996, 188). Its aim is to ensure that international trade in specimens of wild animals and plants does not threaten their survival. Its objective is thus to regulate or restrict trade

⁵⁸ See generally CITES, 2017; See also Churuchil and Ulfstein, 2000, 630; Sand, 1999, 147-148, 237; Cameron, 1996; Lanchberry, 1998, 69; Den Boer, Romsay and Rothwell, 1998, 105; Romsay and Rothwell, 1998, 105.

⁵⁹ The preamble to convention states: ‘international cooperation is essential for the protection of certain species of wild fauna and flora against over-exploitation through international trade’ For more information, see Chapter 1 in Huxley (2000)

⁶⁰ See also CITES Article II of CITES (2017b).

species in decline because of commercial trade (i.e. international trade in wildlife) (Sands, 2003; Redgwell 2010). This is managed by subjecting international trade in certain species to controls⁶¹.

CITES, therefore, controls the international wildlife trade directly but only protects endangered species individually (Barret, 2003). It is important to highlight that many wildlife species in trade are not endangered, but the existence of an agreement to ensure the sustainability of the trade is important in order to safeguard these resources for the future⁶².

CITES is an international agreement to which parties adhere voluntarily. Contrary to many of the regulatory international environmental regimes in existence, CITES was one of the first environmental treaties to provide for sophisticated provisions on information gathering, reporting and international monitoring on its member countries from the outset (Cameron, 1996; Den Boer, Romsay and Rothwell 1998). Given that there is no universal model suitable for all countries, the convention produced a set of 'guidelines for legislation' containing a set of minimum domestic measures that all parties have to adhere to, such as the creation of at least one CITES Management Authority and a Scientific Authority and the prohibition of trade in certain species (Sand, 1999, 162; See also Den Boer, Romsay and Rothwell, 1998). Parties are also required to penalize trade in and possession of illegal wildlife and to confiscate specimens found in the illegal trade. All parties have a duty to enact and enforce the terms of the treaty by implementing certain national laws and providing periodic reports on enforcement measures and the wildlife trade in their respective countries (Sand, 1999). Albeit the convention is legally binding on its members, it does not take precedence over national laws. Rather, CITES set up an 'elaborate committee structure' with specific functions and commitments to be respected by each member country, which has to adopt its own domestic legislation to implement CITES at the national level and to take 'appropriate measures' to enforce its provisions⁶³.

As noted above, CITES only deals with certain species. The species that are covered by CITES are listed in three Appendices, with different levels of regulation according to the degree of protection they need (Bowman, Davies and Redgwell, 2010; Lanchberry, 1998; Isozaki, 2003). A principal feature of the convention is the creation of a permit system - that controls import and export of listed species. Once a species is listed under one of the CITES appendices, trade in that particular species becomes subject to the permits system, which is under the control of the national CITES Management and Scientific Authorities (Den Boer, Romsay and Rothwell, 1998 Isozaki, 2003;

⁶¹ All import, export, re-export and introduction from the sea of species covered by the Convention has to be authorized through a licensing system.

⁶² See generally CITES, 2017b.

⁶³ See generally CITES, 2017b. See also Sands, 2003; Cameron, 1996; Lanchberry, 1998.

Cameron, 1996; See also CITES, 2017b, Article VI-X). The permit for a listed specimen will only be issued if the relevant authorities are satisfied that the export will not be detrimental to the survival of the species, and if authorities are satisfied that the specimen was not obtained illegally. For certain species, an import certificate may also be required (Petsonk, 1990). The Management Authority is in charge of administering the licensing system and the Scientific Authority advises on the effects of the trade and on the status of species that is traded in each country (CITES, 2017b). CITES 'leaves it up to the designated MAs (...) to operate the system [at a national level] on behalf of the international community' and the secretariat plays a coordinating role between parties (Sand, 1999, 162; Den Boer, Romsay and Rothwell, 1998).

Adjustments of the appendices are done during the Conference of the Parties (CoP) meetings. The CoP is the highest decision making body concerned with the implementation of CITES: It was established as an 'autonomous body for decision-making and periodic treaty adjustment' (CITES, 2017b, Articles XI, XV; Cameron, 1996). It was during the first CoP (1976) that the institutional structure of CITES emerged – and was agreed upon – after the treaty's entry into force (Lanchberry, 1998; Sand, 1999). Meetings have, since then, been held every three years in order to monitor and review the implementation of the convention and to make recommendations for improving its effectiveness, including any changes or alterations to the appendices. Regular CoP are essential to the continued development and advancement of the regime as they monitor parties compliance, serve as a constant reminder to parties of their obligations and enable them to take 'appropriate action' (Cameron, 1996, 189). It is also during the CoP that any recommendations for enforcement and implementation of treaty provisions are made, together with a range of resolutions or policies that are decided by the parties (Hunter, Salzman and Zaelke, 2007; Hutton and Dickson, 2000).

It is worth highlighting that, even though recommendations are not *strictu sensu* considered legally binding, they have effectively shaped the regime and governments behavior 'in a manner hardly foreseeable at the time of its creation' (Sand, 1999,150).

With regards to the monitoring of the convention, parties are required to submit reports to the CITES secretariat which, in turn does reports on parties implementation and compliance with the convention. The convention also has a formal mandate for assistance by 'qualified NGOs' to monitor the illegal wildlife trade (Sand, 1999, 149).

Without a doubt, CITES stands out as the first major multilateral treaty to incorporate NGOs in an active way, and is clearly a landmark in this regard as NGOs play significant roles under CITES in monitoring (Raustiala, 1997b; Redgwell, 2010). NGOs have indeed been 'very active participants' in

the different meetings, and strong partners of the secretariat, who has regularly sought, for example, opinions of the IUCN environmental law center or the assistance of TRAFFIC to monitor the illegal wildlife trade (Raustiala, 1997a, 1997b; Lanchberry, 1998). With particular attention to the monitoring of parties implementation and compliance, the regime has greatly benefited from the participation of NGOs in the different meetings. Such organizations have been instrumental in tracking the wildlife trade, evaluating the progress of the regime and improving compliance with the provisions of the convention (Raustiala, 1997a; Redgwell, 2010). For example, by allowing NGOs to attend the CoP and informally present about CITES implementation, CITES has been successful in eliciting higher degrees of compliance than might otherwise have been the case (Cameron, 1996).

Arguably, cooperation with non state actors has provided the convention 'not only [with] a high degree of transparency, but also what is probably one of the best operational information sources available to any environmental treaty' (Sand, 1999, 165). This is due to the fact that there have been multiple and in depth surveys in major wildlife consumer countries and the trends and scope of the illegal wildlife trade, as well as targeted investigations of the trade in particular threatened species (Sand, 1999). It is important to highlight, however, that NGOs do not have access to all the sessions of the CoP and are not involved in the decision-making process. Member states continue to yield all the decision power, and have even developed what are called 'informal informals' where only states representative meet and discuss particular issues (Raustiala, 1997a, 773).

With regards to NGO participation, CITES is 'unusual for its time', as it provided an unprecedented new approach to cooperation between governments and NGOs through its NGO participation clause (Raustiala, 1997b, 547). This clause actually became a standard formula for subsequent international environmental treaties (Sand, 1999). It needs to be highlighted that during the CoP held in 2000, parties called for international organizations and NGOs to provide further technical support and assistance and to continue to assist with trainings: 'The Secretariat may seek assistance from 'suitable (...) nongovernmental international or national agencies and bodies technically qualified in protection, conservation, and management of wild fauna and flora'' (Raustiala, 1997a, 722-723; Sands, 2003, Redgwell, 2010). This is arguably a direct response from states calling for further assistance to effectively deal with international environmental problems.

3.7 Conclusion

As it has been discussed throughout this chapter, the subject, scope and source of international law has changed. International environmental law has emerged as a distinct field and a different – more flexible and dynamic – process, that makes broad use of soft law and framework arrangements and involves actors other than the state. This distinctiveness is already reflected in the actual terminology of international environmental law, which refers to ‘commitments’, ‘non-compliance’ and ‘consequences’ rather than ‘obligations’, ‘breach’ and ‘remedies’ or ‘sanctions’ (Koskenniemi, 1992, 123; Bodansky, Brunne and Hey, 2007, 24). The need to protect the environment has also generated a ‘new and intensified focus of transnational collaboration’ (Rosenau, 2000, 186) and has emphasized the need for collective action between states, regulatory regimes, and the different array of actors in order to effectively counter environmental problems.

Throughout this chapter we examined the essential roles of non state actors in international environmental affairs. It has been stressed that their participation is a key aspect to ensure compliance with the treaties, regulatory regimes and international obligations and to shape state behavior.

It has also been highlighted that the involvement of additional actors in international environmental law does not obscure the role of the state. States remain – and will continue to remain – the central body in international environmental law (Jordan et al, 2005; Wapner, 2005; McCormick, 1999). However, the state is no longer able to effectively deal with global environmental problems alone, and needs to involve additional players that will assist in resolving the problems (Bodansky, Brunnee and Hey, 2007). Such actors, as noted throughout this chapter, are able to fill in the regulatory gaps that states are unable to fulfill by offering expert advice and undertaking different roles and functions (Gunningham, 2009; McCormick, 1999; Michalowski and Bitten, 2005, Aas, 2007).

Non state actors have played a central role and remain highly influential in international environmental law (Sands, 2003). Their presence and participation at meetings and CoP, official negotiations and at different stages of the implementation process has become routine (Brown Weiss, 1993, 1999). It has been argued that this involvement is mutually beneficial, as non state actors are essential in raising awareness of issues at stake, ensuring environmental problems get tackled and providing the necessary impetus for the creation and realization of international environmental regimes (Hunter, Salzman and Zaelke, 2007). Non state actors also enable states to comply with their commitments and obligations under the treaties, and perform varied functions in implementation and review to ensure states comply with the treaty (Lanchberry, 1998). While in a

formal sense law making remains firmly in the hands of states, non state actors participate and provide input into the lawmaking process and help shape its outcome (see generally Bodansky, Brunnee and Hey, 2007), as highlighted by the CITES example.

One of the larger successes of international environmental law is perhaps its ability to find a way to accommodate the distinct interests of a wide variety of states and non state actors, who's participation in international environmental, albeit in different ways, is crucial if environmental problems are to be addressed with some measure of success (Bodansky, Brunnee and Hey, 2007).

As noted throughout this chapter, non state actors exercise a vast amount of influence on states to ensure they continue to adhere to international commitments and treaty obligations. International institutions, organizations and NGOs, however, are not simply transnational pressure groups. Rather, they are actors in their own right. The predominant way to think about them is as transnational interest groups that are able to successfully 'affect state policies and interstate behavior' (Wapner, 2005, 539).

To conclude, it has to be stressed that the process of interaction among the different non state actors is indeed a very complicated one (Brown Weiss, 1993). Only states – the primary subjects of international law – are entitled to enter into binding agreements, although most of these agreements have been reached at the initiative (formal or informal) of different non state actors (Sands, 2003; Anreiter, 1997). In reality states are the main actors in international environmental law. In practice, non state actors play a central role in virtually every aspect of it and hold multiple roles that they fulfill in close cooperation with governments (Sands, 2003).

In addition, non state actors seek to influence states by increasing public awareness and public pressure. Governments, at the same time, use non state actors to convey positions to the public. States, during the different venues and forums for discussion that are provided for them to express their views and to call for action, may use non state actors strengthen their expertise and to remain well informed about important issues. Non state actors will also use such venues to influence and work closely with governments to shape and influence their behavior.

At the same time, states provide, through the creation of regulatory regimes and intergovernmental organizations, the possibility to have a direct link with national governments. Such organizations are heavily relied upon to provide information and insights to non state actors that will be useful in influencing state behavior (Brown Weiss, 1993; Bowman, Davies and Redgwell, 2010).

Chapter 4: Combating transnational organized wildlife crime: the illegal wildlife trade, transnational policing and new structures of cooperation

4.1 Introduction

Earlier chapters highlighted that international environmental problems such as the illegal wildlife trade have resulted in the emergence of tailor-made procedures in international environmental law and the development of dynamic and flexible regulatory regimes aimed at enhancing cooperation to deal with environmental problems. They also explored the role of state and non-state actors and suggested the need to protect the environment has generated an intensified focus on transnational collaboration and emphasized the need for collective action.

This chapter will focus in more depth upon the specific elements of the illegal wildlife trade, transnational policing and the development of new structures of cooperation to combat it.

In an earlier publication (van Asch, 2007) I used a quote from Fijnaut and Paoli to describe the difficulties of international cooperation. The word *puzzle* has often been used for it by many, but is particularly relevant here:

‘Anyone wishing to put together a proper picture... is like someone who has to complete a jigsaw puzzle in which a large proportion of the pieces are missing or... (do) not... fit together’ (Fijnaut and Paoli, 2004, 258; in van Asch, 2007, 29)

In order to try to put together the different pieces of the *puzzle* that is international cooperation, the chapter has been divided into three sections⁶⁴:

- Section I will explore the illegal wildlife trade and in particular to what extent it is a serious transnational organized crime. It will also make some comparisons with other types of crime and explore key similarities and differences with other transnational crimes, with a focus on drugs and art crime.

⁶⁴ See footnote 1 in the Introduction for details on previously published work used in this thesis.

- Section II will focus on regulating the illegal wildlife trade, the globalization of crime and what it has meant for international police and law-enforcement cooperation. It will elaborate on the emergence of new structures of cooperation to enhance cooperation and coordination to combat the illegal wildlife trade.
- Section III will explore existing research on (illegal) networks and various available methods that can be used to evaluate them and measure their effectiveness.

The literature reviewed in this chapter provides a basis for the evaluation to be used in the following chapters of the thesis (see chapter 6, 7 and 8) to assess the effectiveness of two initiatives analysed throughout the fieldwork and will attempt to put the pieces of the *puzzle* together.

4.2 (Section I) The illegal wildlife trade - to what extent is it a serious transnational organized crime?

This section will explore the illegal wildlife trade and in particular to what extent it is a serious transnational organized crime. Firstly, it will explore the availability and reliability of data on wildlife crime and continue by considering what is meant by transnational organized crime and in particular how *organized* transnational crime is. It will then explore wildlife crime in further detail in Southeast Asia, including the drivers and modus operandi, smuggling routes and trafficking techniques to establish to what extent the illegal wildlife trade is a serious transnational organized crime. The section will conclude by comparing wildlife crime with other transnational crimes to explore the links between them.

4.2.1 The illegal wildlife trade

Worldwide there is a high – and growing – demand for wild plants and animals. While most of the trade is legal, there are considerable amounts of illegal trade taking place driven by a vast demand for protected species. The illegal wildlife trade is a product of the free market and is encouraged by the lucrative profits it generates (Hayman and Brack, 2002; TRAFFIC, 2008; Duffy 2010, 2016). Wildlife is often exceptionally valuable, with the price dependent on a number of variables including demand, rarity and the luxury of the item, as well as its fashion status and its real or perceived medical value. This precipitates a lucrative black market for opportunistic criminals and unscrupulous traders to exploit, irrespective of the damage that this causes to countries, their

ecosystems and the livelihoods of communities around the globe (Liddick, 2011, 43). One of the consequences of the illegal trade is that some species are pushed to the brink of extinction. This includes not only high-profile and highly threatened species such as tigers, elephants and rhinoceros, but also other smaller and less known animals and plants such as bears, pangolins, tortoises and turtles, orchids and rare wood species, to name a few. Such species have been subject to a drastic decline in their population (TRAFFIC, 2008, Broad et al., 2003).

The implications of the illegal trade, nonetheless, go far beyond the extinction of species and have far-reaching effects and implications at local and national levels as well as regionally or globally (TRAFFIC, 2008). The illegal trade also undermines national and international efforts to achieve sustainable development and poverty alleviation, and may include potentially severe environmental, economic and human impacts such as the collapse of ecosystems, the loss of revenue and the spread of diseases such as SARS or avian influenza (Karesh et al., 2005, 2007). Ultimately, the illicit market may create a culture of lawlessness that is closely linked with corruption and that leads to the erosion of state authority due to the constant undermining of national laws, international regulations and enforcement efforts (Liddick, 2011; Bowman, 1996; Hayman and Brack, 2002; TRAFFIC, 2008; World Bank, 2005; Global Initiative against Transnational Organized Crime, 2014).

Yet, to date, the illegal wildlife trade has not received the attention that is given by governments and academics to other transnational crimes such as drugs (South and Wyatt, 2011, 546). This chapter aims to highlight the illegal wildlife trade as a major transnational crime and will examine what is known about how the criminal networks behind the trade operate.

Availability and reliability of data

It is important to highlight that when one looks at data sources on the illegal wildlife trade, it is necessary, in some cases, to approach them with caution and a certain degree of scepticism. I have reached the below conclusions conducting interviews for the thesis and in previous and current work experience where I observed how easily statements can be made and/or taken out of context.

Firstly, the illegal wildlife trade as a transnational organized crime and within green criminology is a relatively recent topic (South and Wyatt, 2011, 546), particularly when compared to other transnational crimes such as drugs. As Elliot highlights, while other transnational organized crimes have been 'securitized' (i.e. highlighted as crucial crimes to tackle), transnational environmental crimes such as illicit trafficking in wildlife have generally been 'un(der)securitized' (Elliot, 2007, 2016)

and they are often 'not taken seriously within the broader policy and enforcement community' (Elliot, 2012, 87).

In addition, research on illicit wildlife trafficking is insufficient in terms of both quantity and quality (Schneider 2008, 275) and there is limited information available on illegal trade (Rosen and Smith 2010, 28). Where available, most research tends to focus on particular species rather than the criminological aspects of the trade. There is, for example a vast amount of research that has been conducted on the illegal trade in certain species or commodities from Country A to Country B. There is also significant information and official analysis available on, for example elephants, as there are specific projects and reporting mechanisms and requirements under CITES. Similar information however does not exist to date on the transnational criminal aspects of the illegal wildlife trade, which is a relatively recent issue of research.

One of the main problems is that primary data are often lacking and unavailable from the source (e.g. the countries and their respective government agencies). This has resulted in the majority of information available being generated to date by a broad range of international, intergovernmental and nongovernmental organizations. While generally such organizations are well respected⁶⁵, they are still influenced by particular interests or priorities and are consequently not always objective observers. Reporting may therefore present inconsistencies such as contrasting claims by different organizations. One of such claims is, for example, the way in which the illegal wildlife trade is portrayed as a transnational organized crime, where it is has sometimes been claimed that the illegal wildlife trade is a mafia-style crime and heavily linked with other transnational crimes such as drugs and arms, with little evidence to support the facts. Another source of data is the media, which has been known to trivialize the news to make larger profits and where information is often portrayed incomplete or in an inconsistent manner (e.g. the same case is reported differently by various sources). Such data are often used for reports (without verification) which are in turn used in further reports or publications.

Furthermore, wildlife crimes often occur in remote areas and are rarely discovered, and therefore not known or reported. Data on the actual volume of the illegal trade are therefore largely unknown and any analysis will show clear inconsistencies. As Hill (2005, 55) among others notes, figures are

⁶⁵ Good examples, amongst others, are IUCN, WWF or TRAFFIC, that have produced vast amounts of research on both the legal and the illegal wildlife trade. These organizations are globally respected for their research on the wildlife trade. A relatively 'new' important player in future research on the illegal wildlife trade is the United Nations Office on Drugs and Crime and their research on wildlife crime for the Transnational Organized Crime Threat Assessments (UNODC, 2010, 2013) and more recently, the World Wildlife Crime Report (UNODC, 2016).

based on what one is able to see, 'however, the ratio between failures and successes is unknown. Therefore, estimates can vary greatly'. When seizures are made, data are often not reported by countries, making any analysis of official statistics incomplete. In many cases there are clear differences between official statistics and other reports from the media or the NGO community.

In some extreme cases data inconsistencies may also result from statements made when data are insufficient or unavailable or when it is assumed that a particular claim is true when there is no substantive evidence. Once such a claim is made, the information often becomes commonly used by others without being able to trace the original source and to verify it. One example is the value of the illegal wildlife trade as a ten billion dollar business per year. This was supposedly given by Interpol sometime between 2008 and 2010. Interpol had, however, not actually made such a statement, and it was unclear where the original information had originated from. The result was that the value – correct or not – was used for years by a broad range of organizations and academics, until it became clear that the source of the information was uncertain and that further research needed to be conducted on the matter.

There is, however, some good (or better) news. The increasing profile of wildlife and environmental crimes over the last decade has generated a growth of related disciplines (green, conservation or environmental criminology) and interest from research institutions, as well as a growth in interest of the organizations that are 'tasked' with combating it (Wellsmith, 2011, 126). The limited knowledge of wildlife networks is also 'slowly growing' (Ayling, 2013, 59; see generally Elliott and Schaedla, 2016; Faure, De Smedt and Stas, 2016; Pink, 2010, 2013a,b, 2015; Pink and Lehane, 2011, 2015; Pink and Bartel, 2015 and others).

Crucial, perhaps more than one might think, is the development and publication of the first ever World Wildlife Crime Report (UNODC, 2016). The report, produced by UNODC with support from ICCWC 'takes stock of the present wildlife crime situation with a focus on illicit trafficking of specific protected species of wild fauna and flora, and provides a broad assessment of the nature and extent of the problem at the global level. It includes a quantitative market assessment and a series of in-depth illicit trade case studies' (UNODC, 2016, 9). The key reason why this report is particularly important to future research on wildlife crime is that it is based on official data provided by countries to CITES and the WCO⁶⁶, using a similar approach to the Annual World Drug Reports (UNODC). Another reason is that finally wildlife crime is getting sufficient attentions for countries to actively request it to be monitored much more closely.

⁶⁶ While the report (or future iterations) will not, for the reasons stated above, provide a full picture of the illegal wildlife trade, it will most certainly improve on the current one.

In addition, CITES Parties are now requested to submit (starting in 2017 and with the first reports due at the end of October 2017), official data on the illegal trade and have requested that these data continue to be analysed (CITES Notification 2016/007; see CITES, 2017b). This will generate future iterations and improve and expand the current knowledge base and information available.

4.2.2 Transnational Organized Crime

Transnational Organized Crime (TOC) has been labelled as a ‘new monster’ that can be defeated only through improved collaboration at the international level: a threat by the ‘armies of evil’ that demands increased and more effective international cooperation to enable authorities to ‘display the same ingenuity and innovation, organisational flexibility and cooperation that characterises the criminal organisations themselves’ (Woodiwiss, 2003, 21; Fijnaut and Paoli, 2004, 39; van Asch, 2007). Indeed, as Richards (1999, 3) highlights: ‘Where criminals and criminal organizations are limited only by their imagination, local and national law-enforcement agencies have always been limited to combating crime by the confines of the law and their particular geographic distribution’. The purpose of the thesis is not however to delve into discussions over the concept or definitions of transnational crime or transnational organized crime as there is a broad and ongoing discussion on this issue.

Wildlife crime is intrinsically transnational. However, whether it is committed by organizations (or not) and the levels of organization involved need to be discussed in further detail. Before exploring this *monster* further in relation to wildlife crime, a few points should nonetheless be clarified and a brief overview is needed to explore the overall concepts and understanding of TOC, as this will be relevant to later discussions.

The main agreement around a definition of organized and transnational organized crime is that agreeing on a definition is ‘problematic’ (Ponsaers, Shapland and Williams, 2008, 647) and that there is no consensus over a definition of either transnational organized crime or of organized crime (Ponsaers, Shapland and Williams, 2008; Madsen, 2009; Michael, 2008; Cockayne, 2007).

TOC is sometimes used as a synonym of international mafia-type organisations (Woodiwiss, 2003, 13). Fijnaut and Paoli (2004, 27) suggest TOC groups are ‘groups primarily focused on illegal profits systematically commit crime that adversely affect society and are capable of effectively shielding their activities, in particular by being willing to use ... violence or eliminate individuals by way of corruption’.

Cockayne (2007) suggests it is possible to outline some overlapping concepts of TOC as:

- A 'set of activities which may be undertaken by any actor or entity, whether economic or political, private or public' (2007, 1). These activities generate an informal economic system that meets demand by supplying illicit goods and services regardless of the actors conducting the illicit activities (Cockayne, 2007, 1-2; see also Nadelmann, 1990; Naylor, 1995; Serrano, 2002).
- 'A set of hierarchically-organized entities, conducting diverse commercial activities unified by their underlying business model—the protection racket ... [which] focuses on specific membership-based business “groups”—which may even be characterized as illicit “firms”—conceptually distinct from government and politics, and essentially concerned with conducting criminal activities. In this conception, TOC is any entity engaged in transnationally-organized criminal activity' (Cockayne, 2007, 2).

The main types of global or transnational criminal organizations include the traditional transnational criminal organizations (Sicilian and American mafia families, Russian mafia, Japanese Yakuza, Chinese triads and Colombian and Mexican drug cartels) and smaller but highly sophisticated groups or networks with certain criminal specialties that work like a business (Richards, 1999, 4-5). It should however be noted that not all transnational crime is committed by organizations, and not all organized crime is 'organized' (it can be, for example, disorganized crime, loosely organized, or a one-off illicit activity).

Richards (1999) suggests a number of characteristics that are shared by organized crime groups or criminal organizations, including among other: the ability to corrupt officials, discipline and confidentiality among its members, capacity to infiltrate organizations, motivation for power and wealth, sophistication of methods and techniques to obtain or smuggle goods, continuity in operations, a diversity in illicit activities, the 'bonding' of its members and mobility across borders. Overall, Dobovsek (2008, 681) notes that organized crime is a criminal enterprise which strives towards the 'acquisition' of larger profits, both in terms of power and financial profits.

Later sections will explore wildlife crime and the links to TOC, but for example, Pires and Moreto (2011) refer to transnational crime as anything from three or more loosely organized individuals to large and highly organized criminal networks and/or criminal organizations that are involved in some instances of the trade or control the illegal wildlife trade chain. The 'strive' for financial profits is also

one of the key features of transnational organized wildlife crime (Hayman and Brack, 2002; TRAFFIC, 2008; Duffy, 2010, 2016; UNODC, 2013).

For the purposes of this thesis, transnational organized crime will be defined as referred to by Article 2 of the UN Convention against Transnational Organized Crime (UNTOC), which refers to organized criminal groups as ‘a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offenses established ..., in order to obtain, directly or indirectly, a financial or other material benefit’ (UNODC, 2010, 1; see also UNTOC, 2000; McClean, 2007; Pink, 2013b).

It should also be noted that throughout the thesis, in addition to referring to TOC and transnational organized wildlife crime (see also other chapters of the thesis), I will be using interchangeably the terms ‘policing’ and ‘law-enforcement’ or ‘enforcement’. Unless indicated otherwise, when I use these terms I refer to government agencies (normally police and customs) that have the authority to investigate crime within their jurisdiction and have relevant associated powers (such as powers to seize and/or arrest, noting that these are often different in the different countries).

A local, international, transnational, global – or glocal – issue?

Organized crime has traditionally been viewed as a local or national issue and it is sometimes suggested that ‘responses must be predicated on the reality that even if they sometimes cross borders, they operate within particular local, social, political and economic contexts’ (Edwards and Gill, 2003, 4; Richards, 1999; Hill, 2005; van Asch, 2007).

Indeed, the debate is between those that emphasize (subscribing to a global pluralist theory) the need to combat TOC in an increasingly transnational dimension on the one hand, and on the other, that TOC is a local problem. Fijnaut and Paoli (2004, 248) argue that the most influential criminal groups are well integrated in a particular country and will remain ‘domestic’ and that ‘in focusing on the cross-border transnational aspects ... we remove the ... activity from the originating political, economic and social context within which it might be better understood or ... dealt with by law-enforcement’ (Beare, 2003, XXIII). Under this premise, TOC is not global or transnational, as these are ‘abstract fields devoid of relations’ (Fijnaut and Paoli, 2004, 39; Hobbs, 1998, 419). The transnational aspect refers to the transportation of goods or commodities but where the ‘crucial phases’ take place locally (van Asch, 2007).

However, over the past few decades, there has been a growing recognition that crime and criminal organizations have crossed jurisdictional boundaries (Richards, 1999, 3) and have moved and evolved into a global phenomenon (Chatterjee, 2005) that may include the transnational, regional or international. Hill (2005, 47) suggests that whatever their geographic scope, it is clearly no longer simply a local or domestic matter. Michael (2008) uses Hobbs' (1998) terminology (a glocal crime) and suggests that at any particular point in time a transnational criminal activity has a local dimension (e.g. provincial level within a nation) as well as a more international, transnational or global dimension (e.g. the source and end points for the goods or services): it is 'not simply "geographic", as there are many more logical domains from which transnational crime must be considered including the social, political and the economic' (Michael, 2008, 9).

The challenge for law-enforcement agencies is how to think of both the local and global i.e. the glocal (Michael, 2008, 20), as typically policing methods used to deal with local crime cannot cope adequately with international crime (Anderson, 1989, 189). Equally, international crime cannot usually be deal adequately with the same toolbox as local crimes. As I suggested in an earlier publication, the different types of crime (local, national, cross-border and international) should be fought first at their own level, and then bilaterally, transnationally or internationally as may be appropriate (van Asch, 2007). As Bowling (2009, 149) highlights, the world is becoming more economically, politically, technologically and socially interconnected and therefore all aspects of policing are gradually transforming in the local, national, regional, international and global spheres. It is therefore imperative that we explore the effectiveness of cooperation and collaboration across the different levels to combat transnational crime more effectively.

How organized is transnational crime?

There are a number of 'typologies' of TOC groups. Some forms of organized crime are organized while others are more disorganized in nature (Michael, 2008). Organized crime could include mafia-style organizations or a network of individuals. Nonetheless, all transnational crimes are not necessarily orchestrated by organized criminal groups (Hill, 2005, 48) and there are varying degrees and types of organization (see Section II for additional details in relation to wildlife crime).

Usually, organizations such as the Italian mafia do not generally expand outwards to avoid competition and tend to recede to their territories (Paoli, 2004, 263-302). The expansion of a criminal network such as the mafia would therefore not necessarily be a strategic choice, but might more likely be due to the migration of its members who then reunite and establish new international

links (Paoli, 2004). Conversely, 'business' style networks based on supply and demand will readily expand to new and emerging countries. These types of criminal networks are 'characterized by a large degree of fluidity and structural complexity' (Chatterjee, 2005, 9).

Perhaps a key difference was suggested by Galeotti (2005), which defined 'mafia associations as criminal enterprises wishing power. Their true goal is power ... they see money as a route to power' (in Dobovsek, 2008, 683). Gaspar (2008, 18) notes that internationally, 'organized crime is typically seen as being behind the running of illicit commodity trading routes and markets'. Criminal networks share a number of characteristics, but are more akin to business networks or models:

'these groups are now able to link up with criminal groups in other countries and establish international networks for the production, management, financing and distribution of their products and services... these networks have the ability not only to escape prosecution ... but also to infiltrate the law-enforcement, judicial and political systems' (Aas, 2007, 135).

What appears to be happening is that the 'traditional' view of a large and hierarchical Mafia (e.g. a criminal group made up of a single family) is changing to a view that organized crime is comprised of 'loosely federated networks' (Michael, 2008, 20). A large proportion of transnational crimes are being perpetrated by 'globally interspersed ever mutating interlocking networks of locally-based serious criminality' (Hobbs, 1998, 70; see also van Asch, 2007).

4.2.3 A serious transnational organized crime?

Drivers and modus operandi for the illegal wildlife trade

In Asia, the wildlife trade is an issue and concern of great importance, because the region contains one of the largest amounts of biodiversity and wild fauna and flora globally. It is also a region where the wildlife trade poses a disproportionately large threat to wild species because of overexploitation and illegal trade (Nijman, 2010, 1102).

The market for wildlife meat and products is driven by a high and rising demand (TRAFFIC, 2008, 61; Broad et al, 2003) and is motivated by functional reasons, mainly associated with the perceived health benefits of traditional medicine as well as other motivations such as displaying social status or honouring and respecting guests⁶⁷ (TRAFFIC, 2010a, 9). Wildlife is also consumed because of its

⁶⁷ Demand for protected species is motivated by a number of reasons, usually related to wealth, power, influence and status, particularly when the wildlife goods are considered non-essential or luxury items (van Asch 2013, 147–162).

perceived properties extending beyond nutrition, such as increased virility, luck or the ability to restore health or cure cancer (TRAFFIC, 2008, 62; Liddick, 2011, 46; Oswell, 2011; Hayman and Brack, 2002; Milliken and Shaw, 2012; van Asch, 2013, 147–162; UNODC, 2013; Broad et al, 2003). Much of the illegal trade is driven by age-old beliefs, cultural values and traditions concerning the medical properties of rare plants and animals. Believed to be expanding at a rate of 10% per annum (Liddick, 2011, 46), the traditional medicine market has attracted a considerable amount of illegal trade (Hayman and Brack, 2002; World Bank, 2005), as the species often used in the medicines are largely protected by CITES. While it has been scientifically proven that many of the traditional remedies do not possess the curative properties they are perceived to have, demand for wildlife for traditional medicine continues to thrive. Wildlife is also traded as pets, display materials and/or household decorative objects (TRAFFIC, 2008; UNODC, 2010, 2013). Demand has increased in recent years as a result of the ongoing process of globalization and the economic growth in developing countries across Asia. Population growth and increasing economic affluence and disposable income in previously economically-deprived communities have led to a rise in demand for exotic wildlife in consumer countries. This has enlarged the scale and extent of the international wildlife trade in developed, emerging and developing nations alike (Nijman, 2010, 1102; TRAFFIC, 2008, 6). Indeed, as the World Wildlife Crime report highlights, the illegal wildlife trade is a global phenomenon (UNODC, 2016).

The links between wealth, poverty and engagement in the wildlife trade are complex: people involved in the trade are not necessarily poor, and the poor who are involved usually do not drive the trade. In fact, studies suggest that wealth appears to be a stronger driver of illegal and unsustainable wildlife trade than poverty: as income increases, so does the demand for wildlife (World Bank, 2005, 4; TRAFFIC, 2008; Broad et al, 2003). This is particularly the case where wildlife products are considered non-essential or luxury goods (TRAFFIC, 2008, 62). Unsurprisingly, harvesters and suppliers are highly responsive to the market opportunities presented by the wildlife trade, displaying mobility between products, locations and markets in order to meet demand (TRAFFIC, 2008, XII). Harvesters are usually contacted by middlemen or paid to poach specific animals (Oswell, 2011). Studies suggest higher prices for wildlife products do not have a major influence on wildlife consumption (TRAFFIC, 2008, 61), albeit there is some evidence to suggest that it has contributed to a change in the profile of consumers. On the contrary, higher prices tend to stimulate the black market in wildlife, as traders respond to the lucrative opportunities that are generated by the demand for wildlife and the expanding consumer base (TRAFFIC, 2008, 61).

Improved communications and connectivity, road development, and accessibility to protected areas and wildlife markets have also had a major influence in the illegal trade (TRAFFIC, 2008, 63). Porous borders and weak enforcement along and across borders in the region, together with improved transport and communication links and advances in technology have led to a situation where wildlife traffickers move almost unimpeded across borders (World Bank, 2005). Furthermore, the creation of the ASEAN Economic Community (AEC) in 2015, has, unintentionally, facilitated the illegal movement of goods across borders (AEC, 2012; AEC Blueprint, 2012). This makes it even less complicated to move illegal wildlife between source and consumer countries (TRAFFIC, 2008, 6; UNODC, 2013). The problem has been made more challenging in places by unscrupulous elites and corrupt public officials who exploit all available natural resources with little regard for the sustainability of wild species, or the detrimental effects of the illegal wildlife trade to their country's economy, ecosystems and the livelihoods of rural communities (Liddick, 2011; see also van Asch, 2013; Shaw and Reitano, 2013).

The Illegal Wildlife Trade in Southeast Asia

Asia, and Southeast Asia in particular, is a hub for the consumption of wildlife and a key supplier of wildlife products to the region and the world. Countries in the region play one or more of three roles in the international wildlife trade: as a source of wildlife, conduit for the trade (transit or re-export) or consumer (World Bank, 2005, 3; UNODC, 2010, 2013). Trade is initiated in the source countries and is met by both legal and illegal means (TRAFFIC, 2008, IX), as exemplified by the number of illegal wildlife available at any given time in markets across the region. Cambodia, Lao PDR, Thailand and Vietnam were historically the main sources of wildlife in the region. As wildlife became scarce, Malaysia, Indonesia and Myanmar became the 'new' sources for wildlife (World Bank, 2005, 4). Thailand, together with Malaysia, Singapore and Vietnam, play major roles as regional and global conduits for the illegal wildlife trade in the region. China and Vietnam, are considered the main drivers of the illegal wildlife trade and are the largest consumers, particularly for products and ingredients for traditional medicine and as symbols of power and wealth (Liddick, 2011, 46; World Bank, 2005, 3; UNODC, 2013).

It is virtually impossible to put an exact figure on the extent of the trade, as seizures and official estimates depend upon official action, which varies between countries. As noted above, data are also insufficient or unavailable. It is clear, however, that the nature and structure of the trade can be extremely complex, as the relationships between all parties involved continues to change and evolve

in response to the availability of wildlife. Traders will rapidly adapt to changing circumstances to maintain their substantial income (World Bank, 2005, 3; UNODC, 2013). The trends and patterns of the trade are thus not static and tend to shift and evolve over time. Given that wildlife - unlike drugs – is a finite resource, as forests are emptied and wild populations decimated, traders move to other source areas or countries to meet demand (Hoare, 2007)⁶⁸.

Smuggling Routes and Trafficking Techniques

The illegal wildlife trade is best understood in categories, each with its own specific markets, smuggling methods and trafficking routes (TRAFFIC, 2008; Rosen and Smith, 2010; UNODC, 2010, 2013). These range from individual collectors dealing in small quantities of specific species to organized networks that will deal in larger shipments and quantities. In all cases, smuggling methods and routes will shift and adapt in order to avoid detection or make it more difficult. In most cases, traders will exploit weak wildlife law-enforcement and a general lack of knowledge as well as the low degree of importance given to the illegal wildlife trade in the region. When caught in possession of illegal wildlife, traders will attempt – often successfully – to bribe officials or convince them that their illegal shipment is legal. Even when traders or smugglers are caught, there are often no follow-up investigations, and even fewer prosecutions⁶⁹. To make matters worse, fines and other penalties are generally weak and do not deter smugglers as the benefits far outweigh the penalties and risks of being involved in the illegal trade (World Bank, 2005, 3; UNODC, 2013; van Asch, 2013; Shaw and Reitano, 2013, 15; Global Initiative against Transnational Organized Crime, 2014; Wyatt, 2016).

Illegal wildlife shipments are transported with relative ease by land, air or sea throughout the region. Routes and transport mechanisms range from the most simple and open smuggling cases where illegal wildlife is not even intentionally hidden, to complex smuggling mechanisms similar to those used for drugs and other illegal commodities. The more organized traders often use legal imports and exports as a cover for their illicit activities and will falsify certificates, mix protected species with legal shipments or look-alike species, and take advantage of porous borders, the lack of capacity of law-enforcement agencies and regulatory loopholes to smuggle wildlife with relative ease (Liddick, 2011, 43; Schneider, 2008; Wilson-Wilde, 2010b). The methods of concealment vary depending on

⁶⁸ Wildlife is considered a finite resource if harvested unsustainably. The unsustainable harvesting of wildlife will lead to the depletion of wildlife in a particular area unless populations are given sufficient time to recover.

⁶⁹ There are many reasons why there are very few investigations and even less prosecutions and convictions. Corruption is amongst them, but there is also a general lack of awareness of the illegal wildlife trade amongst enforcement officers as well as very weak national wildlife laws in most countries in Asia. In addition, there is a general lack of knowledge and concern from prosecutors for these crimes compared to other crimes.

the type, size and quantity of the species that need to be smuggled and the resourcefulness of the smugglers – smugglers have been caught squeezing birds into tubes and packing tiger cubs or smaller reptiles in luggage and suitcases, hidden in specifically designed items of clothing or in special concealed compartments in cars, vans and trucks. Species have even been reportedly transported using fake army or government plates, or ambulances (Liddick, 2011, 44-45). A curious example is bear bile smuggling in Vietnam, where illegal traders adapted to the boom in demand for bear bile and bear parts in the early 2000s by smuggling the animals in fake army vehicles, organizing fake funerals and using fake ambulances carrying bears dressed as patients (World Bank, 2005, 3). Laundering of wildlife also occurs when traffickers import commodities through intermediate destinations.

Wildlife crime, a serious transnational organized crime

As noted above, wildlife crime, however, affects all countries and impacts developed and developing countries alike (CITES, 2013a, 3; UNODC, 2016). In Southeast Asia, it is best understood in different categories. Most of the poaching from the wild is done by locals rather than professionals or organized criminal networks, albeit in some cases local poachers work ‘on demand’ and organized crime groups and professional poachers are involved (Pires and Moreto, 2011, 106; see also TRAFFIC, 2008; Duffy, 2010; Ayling, 2013; UNODC, 2013, 2016). After the initial act, one begins to see a greater degree of organization in all subsequent stages of the trade chain at the local, regional and international level. As is also the case with other illicit trade in a number of commodities ‘[f]or each illicit good, the actors involved in sourcing, transporting, protecting and vending ... will be different’ (Shaw and Reitano, 2013, 22).

The illegal wildlife trade can have global repercussions (UNODC, 2016) and trade chains are usually well established, with fixed market locations and managed by the same groups of people. The value of the commodity in the trade chain will increase dramatically at its final destination (Bean, 2008) and those at the source (e.g. poachers) will only receive a very small percentage of the profits. A further issue to highlight is that it is generally a specialized trade. As Schneider (2008) suggests:

‘The commodities that serve as the foundation for the illicit wildlife markets are markedly different ... By their nature, endangered species are indigenous plants and/or animals that are removed from their country of origin ... Obtaining the animals requires knowledge of habitat, tracking, hunting, and preserving the specimens... Harvesting [also requires] this specialized knowledge’ (2008, 288)

Research on the organization of the illegal wildlife trade and those involved (both individuals and organizations) is sparse and fragmented, particularly given the lack of detection and prosecution of wildlife crime. Some of the illegal trade is opportunistic. Most of it, however, involves networks of people (including friends, associates and family members) with links to markets or distribution centres either locally, nationally or internationally. These networks tend to display different levels of organization depending on the particular value and volume of the trade (Liddick, 2011; Duffy, 2010; Wright, 2011; Elliott, 2012; Wyatt, 2016). The term 'organized' as used here involves anything from three loosely organized individuals to large networks and/or criminal organizations that control some or all instances of the illegal wildlife trade (Pires and Moreto, 2011, 107; Wilson-Wilde, 2010a, 149). Unsurprisingly, large scale illegal trade in particularly valuable commodities appears often to be the most highly organized, and may be linked to large organized crime groups that make use of the latest technologies and have vast resources at their disposal (Hayman and Brack, 2002, 7; Ayling, 2013, 64; Wyatt, 2016). The trade in traditional medicine and the broader trafficking in wildlife exhibit moderate levels of organization (Liddick, 2011, 45). The least organized tends to be the trade driven by individual collectors and specialists seeking particular wildlife species. It needs to be noted that in some cases even the more loosely organized trade may involve relatively well organized networks (Hayman and Brack, 2002, 7). Overall, existing trade networks dealing with the legal wildlife trade are often used as a cover for illicit activities. Such networks are often managed or closely linked with specialized legal wildlife traders that have the necessary knowledge and expertise to exploit the regulatory weaknesses and trade routes in the region (Liddick, 2011, 48).

In general, the wildlife literature underlines the fact that growing wildlife demand in the region has resulted in fierce trade networks that are competing against one another for a slice of the illicit market as the availability of certain wildlife products evaporates (World Bank, 2005; TRAFFIC, 2008). Sellar (2007) highlights the common characteristics and arrangements of such organized networks⁷⁰. In many cases, the level of organization and influence that such networks display is enormous and may be as large as other criminal networks dealing in drugs or other illicit commodities. The noted increase in involvement of organized criminal groups was also echoed by participants of a ministerial meeting in March 2013 that 'acknowledged the serious nature of transnational organized wildlife and forest crime, and ... made reference to the disturbing escalation in the levels of poaching and illegal trade, and the increasing involvement of organized crime groups' (CITES, 2013a, 3).

⁷⁰ They include significant financial support, the capacity for detailed planning and the organization and management of shipments (often international in nature). In addition, organized groups have the capacity to create fake permits and certificates and are lured to the illicit trade by the lucrative profits that can be made. The organizations may also use, or threat to use, violence and may be heavily armed. For more information, see Sellar (2007).

It should be noted that the networks and actors involved in the illicit wildlife trade chain and the level and organizations of the networks are likely to be different from region to region (Wright, 2011; Ayling, 2013; Pires and Moreto, 2011). In general, however traffickers are generally rather flexible and effective, especially when set against 'some rather ineffective and outdated forms of interdiction' (Bean, 2008, 142).

Transnational Organized Crime and the Illegal Wildlife Trade: a Wildlife Mafia?

The illegal wildlife trade, however, is not believed to be led by the kind of organized criminal syndicates that one would associate with the 'mafia' (Sellar, 2013; Hayman and Brack, 2002; van Asch, 2013, 156). Such groups (e.g. the Chinese 'Triads' or the 'Yakuza') might be involved on occasion in the illegal wildlife trade but it is unclear at present how frequent their involvement is – and whether they are involved – as there is no substantive evidence that confirms the degree of their participation. In most cases, the illegal wildlife trade is 'organized in the sense that informal unity and reciprocity may be found rather than in the journalistic "mafia" sense' (Hayman and Brack, 2002, 7). Large transnational wildlife networks have established transit hubs and networks of couriers in different countries, have developed procedures for laundering profits and have managed to corrupt government and public officials to ensure they continue to operate with impunity (Liddick, 2011, 48; Sellar, 2007; Zimmerman, 2003).

Such criminal groups are lured into the illegal wildlife trade by the lucrative profits that can be made and, like their counterparts in other criminal activities, may be heavily armed and violent (Sellar, 2007). Sellar (2013) highlights further that:

Organized crime groups use sophisticated techniques and routes to smuggle their illegal goods ... Specially designed routes exploit ports by employing limited screening facilities and using several transit and transshipment points to conceal the true country of origin.

... Further, much of the wildlife contraband smuggled around the world is consigned to companies and addresses that either do not exist or serve purely for the period of transport. Front companies with elaborate false credentials conceal the illicit origin of animals, plants, and products. Senior and midlevel organized crime figures also minimize risk by recruiting couriers to transport illegally harvested contraband within countries or across international borders. Many different types of couriers prove effective. (Sellar, 2013, 33)

In reality, the lack of a single 'Mr. Big' is thought to make it more difficult for law enforcement to dismantle the illegal operations. In turn it will also be more damaging for the environment, as competing illegal networks will be more reckless in their operations to ensure maximum benefits,

independently of the harm caused: 'a single mafia-type organization might exercise more restraint on exploiting endangered animals than small competing enterprises' (Hayman and Brack, 2002, 7).

Two of the best known, highly organized criminal operations are the illegal rhino horn and ivory trades between Africa and Asia. Research shows that organized groups are in fact involved and that they use very imaginative and elaborate schemes to smuggle wildlife. Such groups have become increasingly sophisticated and make use of helicopters, night vision equipment and high calibre weapons with silencers to poach and are led by experienced mercenaries (CITES, 2012; UNTV/CITES, 2012)⁷¹. Other examples include exploiting the legal trophy hunting trade by sending 'working girls' from Thailand or Vietnam to South Africa to 'pose as hunters'. They then return to Vietnam with 'trophies' that rapidly disappear into the black market (Interpol, 2012; Ayling, 2013; Rademeyer, 2016). The media has also often reported the use of helicopters and high calibre machine guns in the poaching of elephant ivory and rhino horn, with Asia as a likely destination (Hogg and Stoddard, 2012; Tomlinson, 2012; Sinha, 2012; Smith, 2011). This highlights the involvement of highly organized and resourceful criminal groups with strong links to source and demand countries. It does not, however, demonstrate strong links with criminal syndicates like the mafia.

Known examples of highly organized illegal wildlife networks dealing in reptiles and other wildlife species in the region include the notorious trader from Malaysia known internationally as 'Anson Wong' and his alleged highly organized transnational smuggling operations (Christy, 2008, 2010, 2010b, 2012; TRAFFIC 2010b, 2010c; BBC, 2010; Wyatt, 2016; see also Rademeyer, 2016, for examples in Africa). At the other end of the spectrum, one finds local farmers and poachers who may not be necessarily involved in broader illegal wildlife trade networks and their operations. Local middlemen may also be going to the provinces to buy protected wildlife for traders.

4.2.4 Comparisons with other transnational organized crimes

A number of links between transnational crimes such as the illicit drugs trade and wildlife crime have been claimed, but not substantiated (Schneider, 2008, 288). Earlier sections of the chapter explored

⁷¹ The demand is thought to be 'fuelled by rumours of rhino horn being a cure for cancer, and being increasingly used in a manner akin to a recreational drug, such as 'rhino wine,' to improve male sexual performance, and to treat hangovers and other ill-effects of the over-consumption of food, drugs or alcohol' (see CITES, 2012). United Nations TV (UNTV) and the CITES Secretariat launched in June 2012 a documentary film 'Rhinos Under Threat'. The film shows the involvement of highly organized criminal organizations in the illegal trade in rhino horns from parks in South Africa and Swaziland, to Hanoi in Vietnam. It highlights the increase in trade in recent years and the brutality and impact of the killings on the local communities. The documentary investigates black markets in Hanoi, the demand for rhino horn in Asia and the measures taken by authorities to combat such crimes (see UNTV and CITES 2012). See also Rademeyer, 2016.

in detail how organized crime organizations are structured or operate (i.e. vertically , horizontally, as a business model, or unorganized). The next sections will briefly explore other crimes and some potential links with wildlife crime. It should be noted, however that this is by no means an exhaustive analysis of the different crimes. It intends only to provide a (sometimes very brief) overview so that it can be compared with wildlife crime. The questions explored are:

Are criminal organized groups dealing in arms, drugs or human trafficking involved in the illegal wildlife trade? Are organized wildlife networks involved in the trade of other illicit commodities? Worldwide there is anecdotal evidence of links between the illegal wildlife trade and other areas of crime and the involvement of organized criminal networks⁷². Nonetheless, the real extent of this 'link' is uncertain, as there is no solid evidence in the previous literature that allows for a comprehensive answer to these questions.

Drug trafficking

Tarrius (2003), analysing the nexus between legal and illegal markets in the informal economy, suggests that within the legal trade in the area there is an embedded illegal trade, which is often managed by 'mediators' (2003, 41). It is then conceivable that there are mediators of illegal trade along and across borders, for both, for example, drugs and illegal wildlife. It is helpful to consider first what is known about the organised drug trade and whether it is likely that there may be similarities which would mean that such organizations may also deal in illegal wildlife.

If we look specifically at how, for example, drug cartels are organized, Bean (2008) suggests that:

'[they] are best characterized as a federation of multiple independent groups that, when necessary, form multiple alliances. They are not centrally organized, although some cartel members are more powerful than others and offer leadership when required. The[y] ... function much like legitimate business, with [a number of] sections ... They tend to compartmentalize ... into production, transportation, distribution and money laundering... they rely on bribery, extortion and violence to achieve effective and efficient production and distribution.' (2008, 144-145)

Zaitch (2002) explores the Colombian cocaine 'firms' in the Netherlands. He suggests they are relatively small, informal and decentralized and will mutate based on specific needs. They do not follow the typical Mafiosi (vertical) structure and can form flexible, temporary 'partnerships'. Kinship

⁷² Such links are often based on examples from enforcement reports and cases made by a number of NGOs, the popular press and existing literature. See generally Hoare 2007; Liddick 2011; Duffy 2010; Christy 2008, Zimmerman 2003.

ties are still important and relatives are likely to be frequently involved, but they do not operate as a 'family business'.

Generally speaking, Bean (2008, 145) suggests that it is possible to distinguish between dealers, traffickers and cartel members⁷³, 'although sometimes they are one and the same'. The merchandise (cocaine) is normally smuggled in containers, by air, sea or using couriers and various sophisticated concealment methods are used (Bean, 2008, 145-148). In most cases, violence – or the threat of violence – will be part of the business (Zaitch, 2002).

Dealers and traffickers or others involved will easily switch commodities to maximize profits, and will move into for example smuggling of cigarettes or other illicit activities that are equally profitable, specially where 'the likely sentence if caught [is] much less severe' (Bean, 2008, 148).

Overall, a few instances of overlapping between the illegal wildlife trade and other forms of transnational organized crime have been observed. Drug trafficking organizations in Latin America, Asia, Russia and Europe have been found to be involved in the illegal wildlife trade. For example, Russian organized crime groups are believed to control much of the illicit caviar trade. Mexican drug lords have also been found in possession of endangered wildlife. Chinese Triads have also reportedly been linked to the illegal wildlife trade and/or wildlife trafficking. By contrast, in 1999, a report found that the involvement of major transnational organized crime groups in the Australian wildlife trade was minimal (Liddick, 2011, 42-49). Hayman and Brack (2002, 8) highlight that when the connection between organizations occurs, it often includes a combination of some or all of commodities in the illicit trade⁷⁴, parallel trafficking with other illicit commodities (e.g. drugs and small arms)⁷⁵, the use of both legal and illicit wildlife shipments to smuggle other illegal goods⁷⁶, and the laundering and use of funds from other illegal commodities to provide capital for the illegal wildlife trade⁷⁷.

⁷³ Cartel members will own the drugs, while traffickers will transport them and likely act as middlemen with local dealers that will sell the drugs of the cartel. Trafficking and traffickers may vary depending on the drugs smuggled, where they are produced and the local distribution mechanism (Bean, 2008, 141).

⁷⁴ Although it is rare to use endangered wildlife as mules for heroin or cocaine, a number of cases exist where wildlife and drug trafficking are combined and drugs are stuffed into animals to hide them from detection. See also Zimmerman (2003).

⁷⁵ In most cases wildlife is a secondary or opportunistic trade that makes use of shared smuggling routes and smuggling methods. 'Back loading' may also occur, where smugglers carry drugs to one destination and bring back wildlife to maximize the trip and to avoid returning empty handed.

⁷⁶ Drug smugglers have used dangerous wildlife (tigers, snakes, bears, crocodiles) to protect shipments or have been found hiding drugs in wildlife containers.

⁷⁷ In some cases wildlife products have been used as currency to 'barter' for drugs, or there is an exchange of drugs for wildlife as part of the laundering of the revenue from the illegal drug trade. As noted by Liddick

Arts and antiquities crime

The international illicit trade in antiquities is, perhaps, the most closely comparable crime to wildlife crime as it is a similar form of transnational crime (Brodie, Doole and Renfrew, 2001; Mackenzie, 2007) that is 'intimately linked with legal markets and the legal international art trade' (Ponsaers, Shapland and Williams, 2008, 647). As Ponsaers, Shapland and Williams (2008, 647) suggest, 'the informal and formal economies are not only intertwined, but ... may also, in terms of their structures, modes of operation and activities blur into each other in particular circumstances'.

Brodie (2003) notes that there are four characteristics of the antiquities trade which serve to distinguish it from other illicit trades (which appear to be relatable to wildlife): the importance of portals for laundering illicit material, demand is geographically and socially demarcated: 'antiquities collecting has traditionally been a rich person's pastime'⁷⁸ (Brodie, 2003, 187), the resource is limited and not renewable, and there will always be a demand for the unique piece.

The trade chain is also similar and is generally divided between source and market states. It will involve local finders, international dealers and destination markets (Mackenzie 2005, Brodie, Doole and Renfrew, 2001). Bowman (2008), Mackenzie (2005) and Tjihuis (2006) highlight that illicit antiquities are illegal for the reason that they have been illegally removed (i.e. looted, smuggled, or laundered). In many ways, in terms of the functioning of the illegal operation, those involved and corruptive influences, the smuggling of antiquities is similar to other forms of commodity illicit trafficking such as wildlife crime (Alder and Polk, 2005; Massy, 2008). Similarities include the fact that trading in antiquities is legal, that artefacts are sold at very high prices and that buyers are wealthy (Alder and Polk, 2002). Chiefly, 'it must be profitable' (Bowman, 2008, 227; see also Massy, 2008; Sultan, 1999).

As Sultan (1999, 809) argues, 'cooperation ... is imperative in order to track and recover stolen artwork'. In a similar way to what is faced by authorities trying to combat wildlife crime, antiquities crime is a specialized field where 'direct informal contact between specialists is paramount' (Block, 2011, 19), and where officers face similar obstacles. To combat it there is a need for a network forming through various meetings and training that 'form the foundation for a close-knit network of

(2011, 49): 'the USFWS says that loads of smuggled birds from Australia are exchanged for heroin in Bangkok, with the drugs flown back to Australia for resale'.

⁷⁸ As Bowman (2008) highlights, those conducting the initial crime (e.g. digging) 'like many who become entangled in transnational criminal activity, conduct illegal digging out of poverty, desperation, and lack of economically viable alternatives of livelihood (2008, 236).

specialists whose personal relations and mutual trust drive the cooperation' (Block, 2011, 20). This is also the case in wildlife for example where participants meet through various meetings of networks, the INTERPOL Wildlife Crime Working Group, or similar initiatives.

Identification challenges are also a significant challenge for the enforcement community in relation to antiquities and art and contacts with local experts (informal networks of artists, dealers, experts, museums or national institutions) are essential for any necessary follow up activity (Block, 2011). This is also the case with wildlife crime which needs to resort to CITES management and scientific authorities, local experts, zoo keepers and/or NGOs as appropriate.

Information sharing is also a problem: 'There also seems to be a lack of information flow on art crimes from the local to a national centralized level, which presents a major stumbling block in the fight against art thefts' (Block, 2011, 20).

There is a general lack of political will and public attention (Block, 2011; Charney, 2009), and priorities fluctuate:

'Activities related to policing art crime ... diverge significantly: in some, art crime receives very little attention; in others, highly specialized units are fully dedicated to its prevention and investigation. ... can thus be roughly categorized as those that give policing art crime a low priority, ... medium priority, and ... high priority.' (Block, 2011, 14)

Similarly to wildlife crime, even though there might be some capacity limitations as a legitimate reason not to follow up on every international case or enquiry, requests for a 'low priority crime [are] particularly unlikely to be allocated resources' (Block, 2011, 21). Lack of judicial awareness and involvement (or lack of involvement) of the judiciary, as well as the low priority afforded to the crime are also problems as the following example suggests:

'In one ... case, the magistrate did not see fencing stolen art as a serious matter and, despite ample evidence provided in an International Letter of Request (ILOR), allowed neither the arrest of the fencer nor a search of the fencer's premises, even though the exact same ILOR had convinced two other district magistrates to allow coercive measures against others involved in the same case.' (Block, 2011, 21)

Interestingly, Mackenzie (2005) highlights in his research interviews a number of cases where those who could be used to combat the illicit trade in arts (e.g. government officials) would not be interested in intervening as they are likely to be involved. Mackenzie's interviewees also highlight corruption with reference to the 'interest' of the police to be involved: 'Oh, they were very interested. They were arresting ..., confiscating the goods and then re-selling them. They get a low

salary' (2005, 259). There appear to be very similar issues with wildlife crime (see chapter 6 and 7), especially as the authorities involved in the interviews were also from Southeast Asia.

Potential differences from the wildlife trade are, as Mackenzie (2005, 251) notes, that individuals involved in the illicit markets may believe they are saving and preserving objects for future generations. One of the possible 'benefits' (if that is the right word) of the art trade, is that the valuable items need to be kept intact in order to keep their value. A statue (or a Picasso if speaking of art theft), for example, will be worthless if it is damaged. In addition, the detrimental effects of art looting are a direct loss of cultural heritage and cultural assets in the country of origin (Mackenzie, 2005). This can *potentially* be reversed through the return of the smuggled goods (albeit Mackenzie highlights this rarely happens). This is perhaps the opposite with wildlife crime⁷⁹, particularly for dead animals (e.g. ivory tusks, rhino horn, tiger parts, pangolins to name a few) where the crime is pushing the species closer and closer to extinction. In fact, as noted earlier, recent reports suggest a degree of financial speculation (i.e. the more endangered or extinct, the higher the profits) is driving some of the illicit wildlife trade (UNODC, 2016). In wildlife crime, poaching and illegal trade often results in the killing of the animal, albeit in some cases in seizures of live animals which can be returned (recent examples for example include iguanas to the Bahamas or eels to Spain).

Human trafficking

Art and antiquities crime and drug trafficking are the most obvious potential exemplars of other crimes which may be similar to wildlife crime. Feingold (2005) however, provides a detailed and comprehensive overview of human trafficking in Southeast Asia that merits a brief mention. He opens an article on human trafficking with a very relevant headline, where one could easily replace the words 'human trafficking' and 'people' with 'wildlife trafficking' and 'wildlife':

'Judging by news headlines, human trafficking is a recent phenomenon. In fact, the coerced movement of people across borders is as old as the laws of supply and demand. What is new is the volume of the traffic-and the realization that we have done little to stem the tide. We must look beyond our raw emotions if we are ever to stop those who trade in human lives' (2005, 26).

⁷⁹ A potential exception would be the illegal trade in live animals as pets or for zoos, but given that there is a legal and theoretically a (relatively) well regulated international trade (which is not the case for arts and antiquities) this would appear to be a bit farfetched.

He suggests that human trafficking is a big business, but that it involves 'mostly disorganized crime' between ad hoc groups in the region. While he suggests that networks used to exist (which have faded in importance, owing to changes in the structure of the sex industry (2005, 28)), organized crime groups being directly involved are rare: 'Japanese mafia, or yakuza, do control many of the venues in Japan where trafficked girls end up, but they are more likely to purchase people than transport them' (2005, 28).

Exploring the links in more detail

As seen above, there are some commonalities, differences and links between the various illicit trades. These are summarized below. Commonalities between the trades include:

1. The illegal market is intimately linked with legal markets and the legal international trade (particularly for arts/wildlife, but not necessarily for drugs)
2. The commodities are poached/stolen/produced illegally
3. The smuggling routes and techniques are similar
4. Goods are smuggled along a trade chain: from source (or producer) to a consumer market in rich or emerging economies, with varied distribution mechanisms that adapt to the market demands
5. They range from highly organized and criminal organizations to the loosely organized or disorganized
6. Criminals operate across 'disturbingly porous' borders (Schmidt, 2004, 98)
7. They are 'enterprise crimes'. In other words, they are 'conducted as a business would be conducted, meeting a demand with an illegal supply' (Wright, 2011, 337)
8. They undermine the authority and legitimacy of government and enforcement efforts
9. Commodities can be laundered into the legal trade (where such legal trade exists)
10. Combating them requires technical and specialized expertise that is 'often beyond the capacities of ordinary law-enforcement personnel who have not been specifically trained in this area' (Wright, 2011, 337)

11. They rely on bribery, corrupt practices and violence to conduct their business

One additional point, harder to agree with in terms of overall trends and patterns, due mainly to the limited and anecdotal evidence available (some examples were noted above) include:

12. Live animals can be used conceal drug shipments or as drug mules. For example, drug consignments can be secreted among live, venomous snakes or stuffed with cocaine or snails with heroin

There are two additional points that need further elaboration:

13. The organizations will deal in any commodity to maximize profit
14. Organized criminals involved seek control, power and wealth

However, there are differences between the trades. As highlighted above, it is believed by the enforcement and international agencies involved that (at least in Southeast Asia) organized groups dealing in wildlife will not generally be involved in other crimes such as drugs as this will radically increase their chances of being arrested, prosecuted and convicted, as well as the risk and fines involved. Conversely, organizations dealing in drugs, or border operators, will complement their illicit trades with any other profitable commodity, including wildlife. In addition, it appears that those involved in highly organized forms of organized wildlife crime are not necessarily seeking power (such as for example the concepts of power of the mafia noted earlier in this chapter). Rather the key dynamic of wildlife crime appears to be the generation of profit. While in some cases revolutionary or insurgent groups or political movements may finance parts of their activities with wildlife, there is little evidence that this is the case in Asia. It is potentially the case in Africa (as noted above) but as the recent World Wildlife Crime report (UNODC, 2016) indicates, this is a small proportion of their funding.

4.3 (Section II) Regulating the illegal wildlife trade

Transnational organized crime encompasses a multitude of forms and activities and combating it, particularly where there are well-established groups that operate transnationally, will therefore require frequent cooperation or collaboration at the international level (Dupont, 1999). Edwards (2003, 10) suggests that transnational strategies are necessary to respond to the threats of TOC, as they 'cannot be addressed by nation-states alone'. Bigo's 'bureaucracy beyond the state' and

Waever's 'securisation of Europe' also identify the need for policing within a 'wider field of political and cultural possibility' (Waever, 1996). Cooperation between states is therefore 'encouraged on pragmatic grounds to match the forms of cooperation between deviant groups across borders' (van Asch 2007, 22-23; Walker, 2003, 114).

Block (2008, 74) highlights that cooperation is needed with partners across borders and internationally to share intelligence, coordinate operations, secure evidence, and track down suspects to successfully tackle organized crime. Tackling organized crime is rarely short-term: 'It is much complicated, multifarious, on-going, and impossible to handle independently' (van Asch 2007, 12). As discussed in earlier chapters, there is a role for a broad range of organizations in the process. Cockayne (2007, 15) also suggests that effective responses require the strengthening of structures at multiple levels (e.g. society, state and international) against corruption and infiltration by transnational crime. Indeed, corruption is a particular issue that should be addressed. Madsen (2009, 21) uses an interesting analogy from human anatomy that is worth replicating here: 'if monetary funds of licit or illicit origin are like the bloodstream, then corruption would be the lymphatic system. Corruption is the lubricant, which allows the various mechanisms to operate smoothly.'

Taking the above into consideration, Section II will focus on regulating the illegal wildlife trade and on the increased commitment to tackle it at the global level. In particular it will explore the globalization of crime and what it has meant for international police and law-enforcement cooperation. In addition, it will elucidate upon the various levels of international police cooperation and how coordinated (or not) these may be, as well as what are the main requirements for effective cooperation based on existing literature on the operation of platforms for cooperation. The emergence of new structures of cooperation (in form of BLOs and ASEAN-WEN in the region) to enhance cooperation and coordination to combat the illegal wildlife trade as well as the role of such initiatives will also be explored.

4.3.1 The regulatory framework

As noted in earlier chapters (see chapter 3), the harvesting of natural resources is basic to every day human life (UNODC, 2013). Concern over the growing trade has led to some increased cooperation between states (Sand, 1999) and to a number of national and international laws and agreements to regulate the legal trade as well as to combat its illicit equivalent. The main international effort directed to the protection and control of the international wildlife trade, albeit not the only one, is the CITES Convention which provides varying degrees of protection to close to 35,000 species (see

chapter 3 for general details on CITES). As Duffy (2010, 76) suggests, CITES ‘provide[s] us with the definitions of what is legal, what is appropriate and what is sustainable ... [but] also tell[s] us what is illegal, what is criminal and what is illegitimate’.

Today, CITES continues to be perceived as one of the most widely accepted treaties in existence (Boer, Ramsay and Rothwell, 1998, 105; Zimmerman 2003), but it is worth noting that it can only be as good as the willingness of its parties to enforce it. It was designed as an instrument for cooperation and as a way to prevent international trade from causing the extinction of species by promoting trade controls by categorizing wildlife into three categories (set out in appendices) through a system of permits and certificates. Trade for commercial purposes in Appendix I species - those most endangered and close to extinction – is only permitted in exceptional circumstances. Trade in species listed in Appendix II should be controlled in order to avoid threatening their survival in the wild. Species in Appendix III are protected by legislation in at least one country (see chapter 3 for additional details on CITES, see also Lanchberry, 1998; Isozaki, 2003; Bowman, Davies and Redgwell, 2010; Wilson-Wilde, 2010a; Ayling, 2013; Duffy 2016; Stahl and De Meulenaer, 2017 and others).

The focus of this thesis will remain with CITES, and more specifically on the unlawful or illegal trade of CITES-listed wildlife, which is just one of the multiple threats to wildlife (Sand, 1999, 168; Boer, Ramsay and Rothwell, 1998, 105; van Asch, 2013, 151). While CITES is the main convention dealing with the international wildlife trade (Bowman, Davies and Redgwell, 2010, 651), other efforts such as the Convention on Biological Diversity (see CBD, 2017), the Convention on Migratory Species of Wild Animals (see CMS, 2017) and the Ramsar Convention on Wetlands (2017) should not be underestimated, as they remain highly important for the preservation of biodiversity. It must be highlighted that while the conventions may have different approaches to protect biodiversity (conservation, combating illegal trade, or habitat protection), the most effective response would incorporate elements of them all (Boer, Ramsay and Rothwell, 1998, 100-102).

At the 16th meeting of the Conference of the Parties to CITES (CoP16) held in Bangkok, Thailand in March 2013, the seriousness of wildlife crime was discussed and decisions adopted by CITES Parties highlighted the need to counter wildlife crime at the national, sub-regional, regional and global levels. This was not the first time the seriousness of the problem was stressed, but it provided a background for countries around the globe to rally behind what the CITES Secretary-General referred to as a ‘watershed moment’ for combating wildlife crime (Scanlon, 2013).

This 'watershed moment' was the culmination of a number of commitments and declarations made by members of the international community, through a series of pledges, resolutions and decisions or agreed documents on the need to take urgent action to combat the illegal wildlife trade.

It may be useful to first establish some basic definitions of what is considered as 'wildlife' and what constitutes wildlife 'crime', particularly an 'international crime', which is what is referred to when speaking of transnational organized wildlife crime.

Wildlife crime is 'no different from many other forms of illegal activities' (see ICCWC, 2017). It shares many of the characteristics of other transnational crimes. However, to a significant degree, wildlife crime has yet to be viewed, and accordingly responded to, as 'mainstream' crime (see ICCWC, 2017; see also Sellar, 2013). By wildlife we refer to all fauna (e.g. animals, including birds and fish) and flora (e.g. plants, but also timber and forest products). The term wildlife will be used throughout the chapter mainly to refer to protected species for which their international trade is regulated by CITES and protected by national legislation. 'Crime', will be referred to as 'acts committed contrary to national laws and regulations'. This would include:

'[I]llicit exploitation of natural resources, such as the poaching of an elephant, uprooting of a rare orchid, unauthorized logging of trees, or unlicensed netting of sturgeons[;] ... subsequent acts, such as the processing of fauna and flora into products, their transportation, offer for sale, sale, possession, etc[; and] ... the concealment and laundering of the financial benefits made out of these crimes' (Sellar, 2013).

Wildlife crimes will occur in the country of origin, in transiting countries, and/or in the country of destination. Any international movement of CITES-listed species without the appropriate documentations and permits also involves a violation of the CITES Convention.

Commitment to tackle the illegal wildlife trade

There have been a number of declarations and resolutions focused on the need to take urgent action to combat the illegal wildlife trade. Some examples over the past few years are given below.

In 2010, the INTERPOL General Assembly unanimously adopted a Resolution noting the seriousness of environmental crime and calling upon its Member Countries to assist INTERPOL in providing appropriate responses to address the problem of the illegal wildlife trade,⁸⁰ among other issues.

⁸⁰ See ICPO - INTERPOL, 2010.

The UN Commission on Crime Prevention and Criminal Justice (CCPCJ, known also as the UN Crime Commission; see CITES Secretariat, 2013f) adopted a Resolution on ‘Crime prevention and criminal justice responses against illicit trafficking in endangered species of wild fauna and flora’ during its meeting in April 2011 in Vienna. The Resolution expresses concern about the involvement of organized criminal groups in the trafficking of endangered species and recognizes the work being conducted at international level by the International Consortium on Combating Wildlife Crime (ICCWC).

The UN Conference on Sustainable Development, held in Rio de Janeiro, Brazil, in June 2012, through paragraph 203 of its outcome document, ‘The Future We Want’, recognized and emphasized the importance of effective international cooperation among international organizations in combating illicit trafficking in wildlife.⁸¹

In September 2012, the Asia-Pacific Economic Cooperation (APEC) Leaders Declaration 2012 noted the concern of APEC leaders over the increasing trafficking in protected species and made a commitment to take action to combat the illegal wildlife trade and to take ‘meaningful steps’ to counter the illegal wildlife trade.⁸²

At an event on wildlife trafficking and conservation in November 2012, Hillary Clinton, the US Secretary of State at the time, encouraged countries to continue to combat the illegal wildlife trade. The ‘Call for Action’ included increased diplomatic efforts, global outreach, strengthened and increased enforcement, and a concerted global response, as the magnitude of the threat requires a commensurate response at all levels – national, regional and global.⁸³

In November 2012, the Third Committee of the UN General Assembly adopted a resolution on ‘Strengthening the United Nations’ crime prevention and criminal justice programme, in particular its technical cooperation capacity’. The resolution expresses concern at the negative effects of transnational organized crime and the serious challenges and threats posed by illicit trade, including

⁸¹ See United Nations, 2012

⁸² ‘[We] are concerned by the escalating illicit trafficking in endangered and protected wildlife, including marine resources, and associated products, which has economic, social, security, and environmental consequences in our economies. We commit to strengthen our efforts to combat illegal trade in wildlife, timber, and associated products, to implement measures to ensure sustainable marine and forest ecosystems management, and to facilitate sustainable, open, and fair trade of non-timber forest products. We will take meaningful steps to promote sustainable management and conservation of wildlife populations while addressing both the illegal supply and demand for endangered and protected wildlife, through capacity building, cooperation, increased enforcement, and other mechanisms.’ See APEC, 2012

⁸³ Former Secretary Clinton highlighted that ‘over the past few years wildlife trafficking has become more organized, more lucrative, more widespread, and more dangerous than ever before ... it is also a national security issue, a public health issue, and an economic security issue’. For more information see US Department of State, 2012.

the trafficking in endangered and protected species of wild fauna and flora. It emphasizes the need to combat transnational crimes by strengthening international cooperation, capacity-building, criminal justice responses and law-enforcement efforts. It also highlights the need to develop comprehensive policies to combat transnational organized crime and corruption.⁸⁴

At a G8 Summit in the United Kingdom in June 2013, G8 Leaders recognized the need to combat the illegal wildlife trade as part of broader efforts to counter criminal trafficking and strengthen border security. In the final communiqué of the meeting, the Leaders agreed to ‘take action to tackle the illegal trafficking of protected or endangered species’⁸⁵ and highlighted the importance of combating the illegal wildlife trade and to treat it as seriously as other transnational organized crimes such as drug and human trafficking and corruption.

During the 16th meeting of the Conference of the Parties (CoP16) to CITES in March 2013, a large number of resolutions and decisions were adopted and revised recognizing the illegal wildlife trade as a serious transnational crime. CoP16 also saw ‘unprecedented levels of international cooperation in addressing the threats posed to wildlife, to people and to livelihoods through poaching and smuggling’. CITES’ Secretary-General highlighted the success of the conference in addressing a number of issues, including: ‘ensuring high-level political engagement; enhancing international cooperation; coordinating enforcement support at global, regional and national levels; deploying a wider-range of operational techniques and enhancing enforcement effectiveness; enacting CITES-implementing legislation; attracting further financing, and reducing demand for illicit goods’ (Scanlon, 2013).

At CoP16, CITES Parties adopted a strengthened Resolution Conf. 11.3 (Rev. CoP16) on compliance and enforcement, which reflected the request from CITES Member States (178 at that time)⁸⁶ to support a more coordinated approach to combating wildlife crime. The Resolution encourages closer communication, collaboration and cooperation between the Convention’s institutions, national enforcement agencies, and existing intergovernmental bodies that have a mandate from their Member States to engage in or support wildlife law-enforcement.⁸⁷

During a ministerial roundtable hosted by ICCWC alongside CITES CoP16, ministers and high-level government representatives reaffirmed their ‘strong commitment ... to combat transnational

⁸⁴ For more information, see United Nations General Assembly, 2012

⁸⁵ See paragraph 70 of the Lough Erne G8 (2013) Leaders’ Communique (2013), 7; see also CITES Secretariat, 2013b.

⁸⁶ CITES has 183 Member Countries (182 plus the European Union) as of February 2017. For more information, see CITES, 2017b.

⁸⁷ See CITES Secretariat, 2013c.

organized wildlife and forest crime’ and acknowledged the ‘escalating levels of poaching and illegal trade, and the increasing involvement of organized crime groups’.⁸⁸

In July 2013, an Executive Order on Combating Wildlife Trafficking was issued by President of the United States Barack Obama. The Executive Order addresses the domestic and international response to wildlife trafficking of the United States of America and highlights the need to treat wildlife crime as a seriously as other transnational crimes such as drugs and arms. It also highlights that illegal wildlife trade operations have expanded ‘beyond small-scale, opportunistic actions to coordinated slaughter commissioned by armed and organized criminal syndicates’.⁸⁹

In addition, the UN Crime Commission recommended a resolution on ‘Crime prevention and criminal justice responses to illicit trafficking in protected species of wild fauna and flora’, which recognizes wildlife crime as a serious transnational organized crime and ‘strongly encourages member States to take appropriate measures to prevent and combat illicit trafficking in wild fauna and flora, including the adoption of the necessary legislation for the prevention, investigation and prosecution of such trafficking’.⁹⁰ The resolution was adopted in July 2013 by the ECOSOC, which serves as the central United Nations forum for discussing international economic and social issues.

The above really increased the momentum, particularly at the international and global level, of efforts to combat wildlife crime. Since then, a number of milestones have also taken place. These include CCPCJ Resolution 23/1 on Strengthening a targeted crime prevention and criminal justice response to combat illicit trafficking in forest products, including timber (May 2014), Customs Co-operation Council, a Declaration from the Customs Co-operation Council on the illegal wildlife trade (June 2014), a United Nations Environment Assembly (UNEA) Resolution on Illegal trade in wildlife (June 2014) as well as regional statements and declarations (such as the London Conference Declaration in 2014, the Kasane Conference Statement in 2015, and the Hanoi Statement in 2016 among others) and regional strategies and action plans (such the development of regional action plans and strategies in Africa and Europe to combat the illegal wildlife trade).

Chief among them is the UN General Assembly resolution 69/314 on Tackling illicit trafficking in wildlife, adopted 30 July 2015, which urges Member States to take decisive steps to prevent, combat

⁸⁸ The report of the roundtable also highlights the broad-reaching impacts of the illegal wildlife trade on species, regional security, national economies, people and their livelihoods. During the meeting, many countries reaffirmed their strong commitment to fight ‘the organized crime groups that are behind transnational organized wildlife and forest crime’. See CITES Secretariat, 2013a, 3; see also CITES Secretariat, 2013d.

⁸⁹ For further details, see the White House, 2013; see also CITES Secretariat, 2013e.

⁹⁰ See United Nations Economic and Social Council, 2013.

and eradicate illegal trade in wildlife. This is the first resolution focusing specifically on wildlife crime adopted by the UN. Another important milestone was the adoption by the UN GA of a resolution proclaiming 3 March as World Wildlife Day across the world (resolution 68/205, adopted in December 2013) which aims to raise awareness about wildlife and wildlife crime.

Finally, CoP17 (Johannesburg, September-October 2016) marked a further 'major shift towards stronger protection for wild animals and plants from overexploitation and illegal trade'⁹¹ where governments adopted a suite of decisions and resolutions, including to strengthen efforts to combat wildlife crime (including illegal trade over the internet) and strategies to reduce demand for illegally traded species among other. In particular these included the further strengthening of Resolution 11.3 (now CITES Resolution Conf. 11.3 (Rev 17)), and the adoption of the first ever CITES resolution on countering the associated corruption linked to the illegal wildlife trade (see Resolution Conf. 17.6), which, as noted in other sections and will be further explored in chapter 7 and 8, is essential if one wants to counter the crime effectively (see also Global Initiative against Transnational Organized Crime, 2014). This is a particularly important step forward as 'environmental policies are often rendered ineffective by corruption. Thus, an understanding of policies which promote corruption and ways to control it is of some importance' (Damania, 2002, 421-422).

As stated by Scanlon 'wildlife crime has become a serious threat to the security, political stability, economy, natural resources and cultural heritage of many countries, and ... the extent of the response required is beyond the sole remit of environment or wildlife law-enforcement agencies, or of one country or region alone' (Scanlon, 2013). These above demonstrate that the international community increasingly recognizes wildlife crime as a serious transnational organized crime that requires a 'determined and coordinated response' (CITES, 2013, 3).

It needs to be noted that the above does not include a number of other statements and declarations and expressions of intent by countries, donors and international, intergovernmental and non-governmental organizations to combat the illegal wildlife trade at the regional level, such as the 2009 Manifesto on Combating Wildlife Crime in Asia,⁹² the 2009 Kathmandu Recommendations,⁹³ the 2010 Hua Hin Declaration on Tiger Conservation,⁹⁴ or the Ministerial Statement on ASEAN and the International Year of Forests in 2011⁹⁵ in Asia among others.

⁹¹ See CITES Secretariat, 2016

⁹² See Manifesto on Combating Wildlife Crime in Asia (ASEAN-WEN, 2009).

⁹³ See Kathmandu Recommendations (ASEAN-WEN, 2010)

⁹⁴ See Hua Hin Declaration on Tiger Conservation (ASEAN-WEN, 2010b)

⁹⁵ See Ministerial Statement (ASEAN-WEN, 2011)

It is clear, therefore, that international bodies and national governments have agreed on the need to treat wildlife crimes as serious crimes, that enforcement efforts should be coordinated at national, regional and global levels and that countries need to work together across the trade chain (e.g. among source, transit and destination countries). The above also highlights the need to use available techniques and methods that are used to combat other transnational organized crimes such as drugs trafficking in the fight against the illegal wildlife trade.

4.3.2 The Globalization of Crime and International Police Cooperation

Anderson (1989, 1995) and Nadelmann (1993) pioneered research in transnational policing and their work was followed by Benyon (1994), Bigo (1994, 1996, 2000), Sheptycki (1995, 1997, 2002), Deflem (2000, 2002), Bowling (2002, 2005, 2009, 2010), Newburn (2003), Fijnaut and Paoli (2004), Loader (2004), Maguer (2004), Block (2008, 2010), Brown (2008) and Guille (2008, 2010), among others, on various aspects of transnational, regional or cross-border policing. This thesis aims to expand the analysis of transnational policing to a specific commodity (wildlife) and to specific initiatives in Asia. Before proceeding further, it is however important to explore some concepts of international policing and the various levels and challenges of international policing cooperation⁹⁶.

Transnational policing is most frequently cited as ‘a’ or ‘the’ solution to organized crime (Bowling, 2009; Block, 2008). The growing realization of the threat posed by TOC has prompted governments to give higher priority to the ‘development of effective international mechanisms to meet the threat’ (McClellan, 2002, 3). This has resulted in the growth of bilateral, regional, multilateral and international agreements and arrangements to ‘pressurise states into passing legislation ... and to set up ... legal ... mechanisms to facilitate international exchanges of intelligence and to progress cases’ (Levi, 2007, 526). It also contributed to the creation of regional law-enforcement entities (such as Europol, Aseanopol) or initiatives (see later sections of this chapter) which range from ‘associations with an annual conference to those with much greater operational ambitions’ (Bowling, 2009, 154).

⁹⁶ A distinction should be made between policing cooperation and operational forms of policing. Policing cooperation includes how different enforcement agencies work together to tackle cross-border or international crimes as well as the various levels of cooperation that exist and how more effective cooperation can be attained, from the political level where decisions are made to the field level where criminals are arrested. Operational forms of policing are the actions taken by law enforcement officers in the field that may lead to a seizure, arrest, prosecution or conviction. Both are particularly important, but ultimately, law enforcement takes place in the field and should result in action on the ground (e.g. investigation, arrest and prosecution of those involved).

Globalisation and the blurring of the limits between the domestic and the global have increased the prominence of and need for international policing and may be accelerating the linkages between previously separate illicit markets and the increased mobility of criminals. This is generating a 'common internal security continuum encompassing all the member states and creating a great new challenge for law-enforcement agencies' (Elvins, 2003, 30; see also Heberton and Thomas, 1995, 160-161; Den Boer, 1994, 174; Edwards, 2003, 264; in van Asch, 2007, 8) and posing a threat to national and regional security.

Indeed, international policing institutions have been created to enhance cooperation as TOC 'cannot be satisfactorily dealt with either by traditional means or solely within a national framework' (Bowling, 2002, 1006; see also van Asch, 2007, 6).

International and transnational policing

Bowling (2009, 149) notes that the 'idea that contemporary policing requires collaboration across international boundaries has become accepted as a fact'. This is echoed by Hill (2005, 54, emphasis added) amongst others, who suggests that 'the globalization of crime *demands* a coordinated or transnational response'. Indeed, one of the key aims and objectives of international policing is to 'resolve the lack of co-ordination between national law-enforcement agencies, and reconcile divergent national interests and laws' (Anderson, 2002, 38; see also van Asch, 2007, 7-8).

International policing bodies, structures and forms of cooperation have largely arisen as a response to changes and developments throughout the world and 'proliferate in the international arena' (Newburn, 2003, 107). The development and progress of policies and cooperative practices has however been slow and intermittent because the field of police cooperation embraces a large number of extremely complex and varied issues that coexist in a complex and interconnected network (Benyon, 1994, 497-498): there are secret agreements, bilateral agreements (i.e. cross-border), formal structures, mechanisms, initiatives and networks, and informal networks all working to promote cross-national policing with neighbouring states or internationally. This includes for example, cooperation between French and Spanish police (Guille, 2010, 2010a) or German and French police (Maguer, 2004), regional police cooperative initiatives, networks and border mechanisms.⁹⁷ Some of these bodies or structures may have official recognition while others may

⁹⁷ Such as for example the Association of Southeast Asian Nations (ASEAN) Wildlife Enforcement Network (WEN) – or ASEAN-WEN – and the Border Liaison Office (BLO) Mechanism (see later sections of this chapter for additional details on both initiatives).

not, some will be recognised unofficially and others officially but may not be institutionalised (Bigo, 1994; van Asch, 2007).

I noted in the past that ‘a high level of effective cooperation is often difficult to achieve between forces operating in the same country, when there are more than one police forces, or even within the same force (van Asch 2007, 7; see also Benyon et al, 1994, 49). Measuring the effectiveness of international cooperation to combat transnational wildlife crime is therefore inherently challenging and, as Greener (2011, 239) suggests, local and political cultures and developments will impact on how international policing is conducted in practice. Transnational policing is thus a complex matter, involving a large number of different players with different structures and roles.

It should also be highlighted that there are a number of legitimate reasons why governments may choose not to follow up on each and every international inquiry or request they receive. The capacity of law-enforcement agencies (police and customs) to investigate and combat serious and organized crime is not infinite and requests from abroad compete with a number of national and local priorities that need to be allocated. And as, among others, Deflem (2002) and Block (2008) argue, ‘national interests remain paramount’ (Block, 2008, 81).

An international police force?

The politics of international policing are ‘complex’ (Greener 2011, 239) and particularly puzzling because the role and functions of the police are intimately connected to the sovereign identity of states (Deflem, 2000). However the ‘internationalisation’ of crime drives enforcement efforts beyond their national jurisdiction (van Asch 2007) and conventional methods of governance are no longer sufficient (Bruggeman, 2002; den Boer, 2002; Loader, 2002; Walker, 2002; Sheptycki, 2002a; Arnall and Wincott, 2002; Harlow, 2002). It is however essential to distinguish between global policing and the idea of a global or international police force (Bowling and Murphy, 2010). The idea of a globally police force, with officers with universal powers of arrest has often featured in movies and been explored by some (see for example Brown, 2008) as a solution to TOC and international and global problems. As Bowling (2009, 156-157; emphasis added) notes, ‘the *solution* [to transnational crimes] is to create a body unfettered by the constraints of national borders to respond to these problems. The main *obstacle* is national sovereignty’.

To date, there is no global police force or ‘supranational investigative body with executive powers’ and global policing authority (Greener, 2012, 183; Bowling, 2009; Brown, 2008a; Occhipinti, 2003).

Given the loss of political control over a potential international or global police force, as Bown (2008a, 5) highlights, 'it is hardly surprising that ... [it] has not found favour'. 'New' international policing is not therefore an international police force with executive policing powers that enforces state behaviour. Largely, the focus of transnational cooperative efforts is on exchanging information and building capacity (Occhipinti, 2003) through 'much more fluid and varied responses to specific issues' (Greener, 2012, 183). In fact, these may have a greater impact beyond the operational level of policing⁹⁸. They will explore 'reinforcing trends towards a rules-based international order through, amongst other things, an increased standardisation of ... behaviour' (Greener, 2012, 184) and are likely to create what Bowling (2010) refers to as new structures of cooperation that have important roles at various levels, not only strictu sensu on policing. This has happened at regional levels with the emergence of regional police forces (such as for example Europol, ASEANAPOL or AFRIPOL), as well as through the development of regional initiatives and bodies such as those examined in the thesis.

With the emergence of these regional structures and enforcement bodies, 'there now exists ... a powerful institutional motor driving the formation of stronger ties between ... police forces and a transnational police elite oriented to forging common solutions to common security problems' (Loader, 2004, 57; in van Asch 2007, 11). A core function of these should be, as Cockayne (2007, 18) highlights, geared towards 'developing operational capacity complementary to that which is found at lower levels of governance. Global control regimes are only as strong as their weakest link'.

4.3.3 Exploring the levels of international police cooperation

In general there is limited research on police cooperation and how different police agencies work together to investigate cross-border or international crimes and 'systematic evaluations of police cooperation are scarce' (Block, 2008, 74; see also Chatterton, 2001; Guille, 2010). Block (2010, 195) highlights that academic literature on police cooperation includes limited original research contributions regarding the practices of liaison officers (i.e. Nadelmann, 1993; Bigo, 1996, 2000; Block, 2007; Bailey, 2008; Fowler, 2008). Additional contributions on liaison officers usually build on Bigo's original work, that provides an extensive account of European police liaison officers (without going into details on their practices) or the work of Nadelmann (1993) that explores the practices of

⁹⁸ It should however be stressed that, unless such cooperation leads to action at the ground level by relevant enforcement agencies (e.g. actual investigations, arrests, *prosecutions* and/or convictions of the masterminds behind the illegal wildlife trade) these will, ultimately, have limited effect.

liaison officers (from a US perspective). If such research is limited for Europe, similar research in Asia is extremely rare (at least in English, French or Spanish).

Deflem (2002) sees professional autonomy as one of the conditions for successful police cooperation. Block (2008, 74) examines 'on the-ground empirical examples of police cooperation in Europe with the aim to further the understanding of its practicalities' and highlights, as Benyon et al. (1993) observed also, that direct and bilateral contacts between law-enforcement officers are the backbone of actual operational police cooperation. These findings are in line with other research on police cooperation to combat TOC (Den Boer and Spapens, 2002; Harfield, 2005).

In addition, Guille's broader research (2008, 2010) explores the 'European puzzle' of cooperation at bilateral (France-Spain and UK-France border areas) and multilateral (France, Luxembourg, Spain and the United Kingdom) level and how the available tools (in Europe bodies such as Europol or Eurojust) affect the work of law-enforcement in practice. Maguer (2004) explores cooperation along the Swiss-German border where German and Swiss agents are able to go from one country to the other and act around border areas as needed. This surpasses by far all previous examples of international police cooperation (see Maguer, 2004, 363-366; van Asch, 2007, 19).

In general, cooperation can take a variety of forms⁹⁹: cooperation and exchange of information and/or intelligence, joint or coordinated law-enforcement, or provision of training and building capacity. These activities take place at the bilateral and multilateral as well as at the local, regional and global levels (Anderson, 1989). There are however a varying amount of aspects that will affect cooperation such as the legal systems in place, as well as different cultures and languages, and differences between the way law-enforcement is organized and works in the various countries. Hence, police cooperation can be characterized as a 'dynamic and complex endeavor' (Block, 2008, 76). Success often depends on personal contacts among individuals that are part of informal cooperative networks, bilateral, multilateral or other agreements and arrangements (van Asch, 2007, 17-18 and 2015).

Block (2008, 2010) explores the practices of enforcement liaison officers (in Europe) and suggests liaison officers are a practical way to encourage cooperation as they provide support, can facilitate requests for information, evidence, interrogations, arrests and extraditions and have a role in

⁹⁹ Ultimately, however, the idea behind international law enforcement cooperation is to bring criminals to justice. In other words, offenders must be prosecuted at the national level (given that no international prosecution mechanism exists for TOC on wildlife, and that law enforcement agencies cannot do this themselves. This highlights the importance of the involvement of prosecutors in combating wildlife crime and transnational crime more generally.

operational police cooperation¹⁰⁰. His research highlights that liaison officers, despite the availability of multiple alternative options, represent the practical cooperation at the international level and is 'a significant strategy for transnational cooperation' (2010, 201; 2008, 79; see also Bigo, 2000, 70; Nadelmann 1993, 109). Bigo (2000, 79) argues that liaison officers are crucial for the development of police cooperation and Bowling suggests 'the liaison officer ... is the first point of contact for visiting police officers and those requesting information or assistance' (2009, 155). Indeed, authors generally agree that the efficiency of liaison officers will vary depending on their ability to build a strong network of contacts, and their professional autonomy and discretion, as well as their knowledge of the legal, organisational and cultural aspects of the jurisdictions where they are posted (Deflem, 2002; Bigo, 2000; Block, 2010; Bowling, 2009).

Levels of law-enforcement cooperation

The literature highlights that there are generally three levels of cooperation: the macro, meso, and micro levels. These levels are an indication of 'points along a continuum of the degree of political agreement required for the establishment of strategies for police cooperation' (Benyon et al, 1994, 50) and are interrelated and not necessarily mutually exclusive.

As I highlighted in the past:

The macro-level is that which entails constitutional and international legal agreements and the harmonization of national laws and regulations. It involves fundamental questions and major decisions to be taken by government ministers on 'high' policy issues. For example, the legal issues about police operational powers across borders, especially in relation to investigation, surveillance, arrest, detention or interrogation. Agreements on harmonization and collaboration in these areas must be made at the highest level as they involve issues of national sovereignty (van Asch, 2007, 9; see also Benyon, 1994, 503).

The meso-level is concerned with operational structures, practices and procedures of the police and other law-enforcement agencies within which operational policing occurs. Developments include the establishment of new organizations to enable police experts in particular fields to collaborate, or face-to-face contact between officers from different countries who share common professional interests in specific criminal investigations including linked information systems, common databases, and coordination of and access to information such as criminal intelligence. Unlike developments at the macro level, they do not require intergovernmental agreements (van Asch, 2007, 9-10).

¹⁰⁰ It is important to note however that liaison officers do not normally have powers to investigate in the jurisdiction where they are posted. Depending on their assigned tasks they will have a role that may also expand to coordinate joint operations or facilitate follow-up or at the tactical level advise on avenues for cooperation (Block 2010, 196).

At the micro-level, cooperation happens through bilateral informal contacts, which means that they tend to be “concerned with the investigation of specific offences and the prevention and control of particular forms of crime” (Benyon 1994, 502-503). This level provides a quick and cost-effective method of cooperation that bypasses the often timely official procedures (van Asch, 2007, 10).

Guille (2010) summarizes Benyon’s (1996) framework of cooperation as follows: ‘The micro-level mainly involves practitioners in the field at the ‘lower’ end, whilst the macro-level, located at the ‘top’ end, refers to the political level ... [and] the meso-level, which includes ... operational procedures and structures such as Europol, Schengen and networks of liaison officers’ (2010, 258-9). In addition, she notes that the various levels are ‘interrelated’ and may ‘overlap’ and that the meso-level is a ‘key stage in enabling interaction between the political aspects and the practitioners in the field’ (Guille, 2010, 259, 2010b).

Her research highlights that ‘the gap between policies/decisions agreed at the macro-level and the work undertaken in practice is very wide’ (Guille, 2010, 258) and that ‘the legal architecture and political considerations act in a sphere that does not usually meet the requirements necessary for smooth cooperation at the practical level’ (2010, 260). Guille (2010, 260) emphasizes, as also highlighted by Anderson et al. (1995), Ashworth (1998), Reiner (1997) and Sheptycki (2002b), that ‘there is a gap between central and political levels (macro-level) and the work of the officers in the field (micro-level)’ and stresses that ‘there has been an inaccurate assumption that the macro-level and the practitioners in the field have the same aims’ (2010, 260).

This view is shared by Block and others. Block (2010) in particular notes that practices (of liaison officers) are mostly governed by national and organisational ‘particulars’ but that they depend on the discretion of officers. He also states that ‘policy instruments are largely driven by a political rationality and little intended effect of these instruments can be detected’ (2010, 19) and emphasizes that the different levels do not necessarily interact: ‘policy-instruments regarding liaison officers have had little, if any, effect’ (2010, 207). A key point to take into consideration is that in spite of the myriad of multilateral arrangements available for international/transnational law-enforcement cooperation, informal bilateral cooperation remains the preferred method in criminal investigations (Guille, 2010, 27; Block, 2011, 19).

Uncoordinated layers?

Guille (2010) provides a number of examples of challenges that may have a negative influence on cooperation because they were envisaged at a different level. Three excerpts are copied below as they are particularly relevant:

'Agreements are signed at ministerial level and then progress to other ministries for implementation without involving any practitioners in the process, which explains the gap between the macro- and micro-levels, as the macro-level does not know how the process works in practice' (p.260).

'The coordination body is composed of representatives from the macro-level, which means that the culture is not police-based, but 'politically' driven, with a culture and impetus of the civil service and the government rather than operational policing.' (p.261).

'hierarchy here is being perceived as more important than relations with the operational world ... the negotiation level is unfortunately increasingly removed from practical needs' (p.261, see also Anderson et al, 1995).

A large number of agreements appear to have been developed at the macro-level and imposed from the top down, without allowing field officers to 'trust ... and therefore use them efficiently, as no communication link existed between the macro- and micro-levels. As a consequence, this enforced top-down situation often involves practitioners taking parallel paths of action' (Guille, 2010, 265; see also Sheptycki, 2002b; Guille, 2009, 2010b).

Guille suggests there is a gap between decisions made by 'rule-makers' and what needs to be done by officers in practice. Rule-makers do not necessarily understand the realities of police work in the field, but expect results when rules are imposed:

'There are clearly discrepancies between real needs at borders ... and national level interests. ... This situation may be due to the fact that, at the border, needs are more obvious and ... tangible. There are more specialised practitioners working at the border, ... [they] know each other, with better understanding of the needs required ... whereas central levels are seen as bureaucrats who do not understand real work in practice' (2010, 268-9).

Ashworth (1998, 79) suggests that law-enforcement cannot be expected to operate with 'their hands tied behind their backs' and it is broadly accepted that, despite the existence of problems at the macro-level, police officers will adapt in order to solve the problem (Anderson et al., 1995, Guille, 2010) as they cannot be expected to stay still (Sheptycki, 1997; Reiner, 1997; Holdaway, 1983). Work methods are therefore adapted into new structures of cooperation (Bowling, 2010) that are

developed with the aim of facilitating law-enforcement cooperation¹⁰¹. In some cases this prompts the development of bottom-up approaches that will bring the micro-level closer to the macro-level in order to align the requirements to the field (Gallagher, 1998; Maguer, 2004; Sheptycki, 2002b; Guille, 2010).

Macro and meso levels therefore need to take the micro-level into account. However, for that to happen, Guille (2010, 268) suggests that the macro-level needs to admit that it is far too political and to find a healthier 'balance' with the needs of the field. Indeed, at the European level, the identification of a gap between the political and operational spheres is not new (see den Anderson et al., 1995; Monar, 2001; den Boer, 2002; Bruggeman, 2002; Sheptycki, 2002a; Walker, 2002; Guille, 2010). Guille (2010, 263) for example, suggests that 'Europol is far too political' and that it should explore if it wants to be political or operational: 'an instrument of cooperation for police forces or whether it should represent the Member States along with their own political priorities'.

In addition, cooperation is also a question of priority. Countries have different priorities and will pay more or less attention depending on their interest (Harlow, 2002; Guille, 2010). What is more, within the national level, the different levels will have different priorities. Generally speaking, insufficient resources are given to officers in the field, especially at the border. In Europe, for example in the border between Spain and France, computers are sometimes outdated, networks frequently break down, and basic equipment is sometimes 'totally non-existent' (Guille, 2010, 265). This situation is, not surprisingly, much worse in developing countries.

Guille suggests that priority is often given in relation to the political image governments need to portray. For example: 'on the French-German border investment is needed to project a good image, [while] on the French-Spanish border minimum standards seemed sufficient as the image is conveyed through the high volume of work' (2010, 265). These new structures of cooperation, explored in following sections of this chapter and in later chapters of the thesis, can therefore play an important role to direct the attention and image of governments.

¹⁰¹ It should be none the less highlighted that a number of authors stress that instead of creating further mechanisms to promote cooperation, countries should learn to use those that already exist more effectively in their daily work (Mogini, 2001; Elsen, 2007; Guille, 2010b). Indeed, the development of a number of networks across the world seems to have taken place without taking into consideration existing platforms.

Requirements for effective cooperation

One can logically argue that effective international cooperation is based on good cooperation amongst the different law-enforcement officers within each country and with their counterparts in their neighbouring country. Enforcement agencies, however, are known for being reluctant to share information (Guille, 2008), and do not have a very long history of cooperation with one another. As Sellar often stressed at various events: everyone likes to cooperate, but no one likes to be coordinated. This is exemplified by the illegal wildlife trade where there are (or there should be) a number of agencies involved that are not necessarily used to working together. In fact, research on police cooperation in general indicates that enforcement agencies are as or more reluctant to share information within their national boundaries than internationally (Guille, 2008, 333). This is one important factor to keep in mind when talking broadly about international law-enforcement cooperation.

Keeping in mind that no cooperation process is perfect, the questions that remain are: 'What are the underlying characteristics that facilitate cooperation?' and 'What are the gaps that hinder cooperation?' In order to understand and answer such questions, first we have to examine the different types of cooperation. There are, in general terms, two main forms or types of cooperation: formal and informal cooperation. Both are facilitated through a number of bilateral, multilateral and informal arrangements, the former being the oldest form of cooperation (Anderson et al, 1995; Deflem, 2002; Bigo, 1994).

Guille (2008) suggests that transnational crime requires that governments implement methods that enable international and cross-border cooperation and that establish a legal basis for such cooperation. Efforts to sustain effective cooperation are, however, more generally based on levels of trust and interpersonal communication and relationships: 'personal and informal contacts and the goodwill of the people involved in the process are key elements in terms of trust and speed' (Guille, 2008, 333).

She argues that effective cooperation is only possible when trust is built amongst the law-enforcement officers who are supposed to work together and that cultural factors such as language barriers or different cultural and social practices and habits also create what we will call an 'invisible curtain' that should be taken into account (Guille, 2008). Political differences and different political regimes may also hinder effective cooperation if they generate mistrust amongst law-enforcement officers. A further point highlighted by Guille (2008) is the need for political will and support from the higher levels of government. Most law-enforcement officers work in a very structured and

hierarchical environment in which they will not (and cannot) proceed with a given task without approval from a senior officer. It needs to be noted that political will and support are not reducible only to commitment to take action, but also refer to the allocation of pertinent resources, equipment and staff.

The existing literature on the operation of platforms for cooperation and development of trust

Analysing police cooperation in Europe, Block (2008, 81) states that 'it can be argued that police cooperation to combat TOC is a dynamic and complex field of activities in which many different factors could cause success or failure'. He suggests crucial elements for success appear to be similar to existing practices of police cooperation: a common interest, knowledge of differences in legal systems and cultural understanding, professional autonomy and trusted personal contacts (see also Goldsmith and Harris, 2012; Guille, 2010).

It should be noted that inadequate communication and lack of information, different understanding over certain approaches as well as potential rivalry and jealousy between and within agencies, are important aspects which can hamper cooperation at the national level, let alone the international level. These differences are greater between law-enforcement agencies operating in diverse cultures and countries which may have particular traditions, different legal systems and organizational structures and different languages and communications methods (Benyon, 1994, 516-517; van Asch 2007, 17).

Zaelke, Kaniaru and Kružíková (2005b, 383) suggest that 'lack of meaningful enforcement and compliance has often been seen as one of the greatest weaknesses of international law, and international environmental law in particular, but new models of cooperation present great promise for effective international action'. Indeed, a number of initiatives and mechanisms (for example, what Bowling (2010) has called 'new structures of cooperation') provide a platform to enable the development of the above noted elements of international police cooperation and mitigate the potential challenges. Hills (2009, 313, emphasis added), for example, highlights that 'personal relations and networks are important *precisely* because of the strength of cultural differences'.

4.3.4 The emergence of new forms of cooperation

The road ahead

A wide range of actions to combat the illegal wildlife trade are underway. Efforts include the strengthening of legislative frameworks, increased enforcement and surveillance, increased coordination across multiple agencies on issues related to wildlife crime, awareness-raising to reduce demand, and a number of training and capacity building events for wildlife law enforcement officials, police, customs and prosecutors (CITES, 2013a, 3).

This has undoubtedly had a positive impact. Over the past few years, there have been a number of successful seizures and arrests of wildlife traffickers. This can be clearly seen by the recent efforts of, for example, countries identified at the 63rd meeting of the CITES Standing Committee and CoP16 as countries of primary concern for the illegal trade in ivory that were urged to develop national ivory action plans to counter trends in illegal trade. After the development and submission of the plans, there has been a clear increase in successful arrests and prosecutions in those countries.¹⁰²

However, while one would normally expect that the individual that is arrested for trade in or possession of illegal wildlife would be thoroughly investigated to examine if he/she is involved in broader illegal operations, in wildlife law-enforcement this is – or was – not historically the case. Individuals caught in possession of wildlife generally only receive a fine – in some cases they are also arrested – and the illegal goods they carried are seized. However, there is a lack of interest (but also capacity in many cases) to conduct in-depth investigations and to make use of special investigative techniques that are commonly used for other transnational crimes such as narcotics. This highlights a key deficiency: it is necessary to investigate the entire crime chain associated with the criminal networks behind the crimes and use all available techniques in the process to ensure criminals are brought to justice.

It is important to highlight that special investigative techniques and other useful tools such as anti-money laundering legislation, are often not mobilized for wildlife crime (see generally ICCWC website and CITES, 2013a, 4). CoP16 highlighted the need to use special techniques and other available resources such as intelligence driven operations, risk profiling, controlled deliveries, covert operations, forensics and the sharing of forensic evidence and the use of anti-money laundering and asset forfeiture legislation. This last point is particularly important, as tackling the financial flows of organized wildlife crime is essential given that controlling financial flows and seizing related assets is vital to successfully tackling organized crime in general and organized wildlife crime in particular

¹⁰² See for example BBC, 2013.

(Shaw and Reitano, 2013, 22). It needs to be noted that the use of special investigative techniques may not be essential to combat opportunistic illegal traders and un-organized and small-scale wildlife crime. These techniques are, however, crucial to finding the masterminds behind large-scale illegal wildlife trade and the organized criminal groups that may be involved.

With special attention to the judicial process, there seems to be a general lack of understanding and interest from the judiciary and prosecutors to tackle the illegal wildlife trade. There are many reasons why there are very few investigations and even less prosecutions and convictions. A key one is that national wildlife laws are weak in a number of countries. A further one is that, in many cases, there is no legislation that criminalizes wildlife crime. A recent resolution adopted by ECOSOC encourages countries to treat wildlife crime as a serious transnational organized crime. A serious crime, as defined by Article 2 of the UN Convention against Transnational Organized Crime is 'conduct constituting an offence punishable by a maximum deprivation of liberty of at least 4 years or a more serious penalty'. As Sellar (2013) notes, this causes 'considerable problems', as national legislation dealing with wildlife crime in some countries 'does not even constitute a crime, but only an administrative matter where a monetary penalty will be imposed'. Research in Africa actually indicates that a large number of countries in the region 'have an inadequate legal framework under which to investigate, prosecute and prevent organised criminal activities, money laundering and corruption' and that '[s]ome countries have no such legislation in place at all' (Shaw and Reitano, 2013, 19). Wildlife crime is therefore not generally treated as a serious crime.¹⁰³

This is exacerbated by the lack of knowledge and awareness of the scale of the problem and the perception of the seriousness and organization of wildlife crime amongst the judiciary and a large proportion of the enforcement community: they do not see wildlife crime as a serious transnational organized crime and there is a general lack of concern for these crimes compared to other crimes (World Bank, 2005). As Sellar (2013) highlights, 'people generally have not heard news sources focusing on a major Mafia figure incarcerated because of the controlling and smuggling of [wildlife]'. This is exemplified by the lack of known prosecutions of wildlife crime or wildlife criminals.

New forms of cooperation

As stated by Kofi Annan in the foreword of the UN Convention on Transnational Organized Crime (UNTOC), it is felt strongly by international actors that global responses must meet global challenges:

¹⁰³ This, however, is changing thanks to the increasing focus on the illegal wildlife trade by countries in recent years, as highlighted above.

'[i]f crime crosses borders, so must law enforcement. If the rule of law is undermined not only in one country, but in many, then those who defend it cannot limit themselves to purely national means' (UNTOC, 2000, III). Indeed, as many have commented, the international character of transnational organized crime makes it difficult to understand and effectively deal with such crimes at the national level only: since crime is global, purely national responses are inadequate (see Madsen, 2009; UNODC, 2010; Pink 2013b; van Asch, 2015). Thus, preventing transnational crime requires increased international law-enforcement efforts (Sheptycki, 2002, 113), as only this type of cooperation can have a 'real impact on the ability of international criminals to operate successfully' (UNTOC, 2000, III).

Recently, the strengthening of global enforcement networks has been attempted through improved communication systems and training and through the increased emphasis on collaboration to counter transnational wildlife crime. Major steps in fostering international cooperation to combat illicit wildlife trafficking are a result of the expansion of Interpol (it is becoming more and more interested in the illegal wildlife trade), and the development and ratification of international agreements such as the UNTOC and related resolutions¹⁰⁴. The UNTOC contains 'detailed provisions to support international cooperation in criminal matters (...) and provide for specific and innovative forms of cooperation that could be applied in the field of wildlife and forest crime' and that require parties to 'adopt appropriate measures aimed at promoting law enforcement cooperation' (UNODC, 2017). Similarly, efforts to protect endangered species and to tackle the international illicit trade could not have been possible without the creation and ratification of CITES or without the commitment expressed by countries to counter the illegal wildlife trade.

Such agreements and bodies can be seen to represent a major step forward and in the recognition of the seriousness of transnational crime and the need for international cooperation to effectively counter it. Bowling (2010) goes further by highlighting 'the emergence of new forms of policing that transcend the boundaries of the nation state' in the form of new structures of international policing and the growth of transnational assistance mechanisms and programs where a broad range of governmental, nongovernmental and intergovernmental organizations coexist and play active roles. These new forms of cooperation have taken the form of initiatives at the regional, sub-regional or global level and have emerged to assist countries to combat transnational crime by encouraging them to work together at the international, regional or sub-regional levels (Bowling 2010). This is particularly the case when the commodity that is illegally traded is protected species.

¹⁰⁴ See UNTOC Resolution 55/25 (2000), Resolution 2001/12, Resolution 2003/27, Resolution 16/1 (2007), Resolution 2008/25, and Resolution 2011/36 and UNODC, 2017.

As noted previously, high demand for protected species has created a lucrative black market that is exploited by unscrupulous traders and fiercely competitive organized networks. One of the main reasons for this is that the illegal wildlife trade generates very large profits with little risk of prosecution. As we have seen, there is evidence to suggest that, while organized groups are not necessarily always involved in the illegal wildlife trade, organized criminal groups displaying different levels of organization are becoming increasingly involved. This is particularly the case when highly lucrative goods such as rhino horns or elephant ivory are involved. It could be concluded therefore that it cannot be dealt with individually and requires a holistic and coordinated response.

Alongside a number of intergovernmental organizations there are a myriad of initiatives which are aiming to strengthen cooperation between countries in the fight against transnational wildlife crime. This section will examine the emergence of such new structures of cooperation, how the different initiatives may be of assistance to countries in the fight against transnational organized wildlife crime, how far they go, and how useful they might be.

New structures of cooperation in the region

CITES was conceived in an effort to regulate the international wildlife trade and to safeguard certain species from over-exploitation, and it has created the basis for cooperation amongst countries to regulate close to 35,000 species.¹⁰⁵ The growing need to protect endangered species has led to a 'new and intensified focus on transnational collaboration' (Rosenau, 2000, 186) and emphasized the need for increased collective actions at the national, sub-regional and regional level. However, a further problem, in addition to the challenges identified previously, is that countries are not historically used to working together to combat the illegal wildlife trade and there was therefore a general lack of cooperation and collaboration amongst countries.

This gap may have been filled by what Bowling (2010) refers to as 'new structures of cooperation', where a myriad of initiatives and mechanisms have emerged to facilitate and foster cooperation between countries and to assist them to fulfil their commitments under CITES. These new models have been hailed as having 'great promise for effective international action' (Pink, 2013, 19) and have materialised due to the lack of coordination amongst agencies and the inability of certain countries to fully enforce the legislation: '[a]n inability or less than optimal ability in one county is of

¹⁰⁵ For further details, see CITES, 2017.

great concern when considering an issue such as law-enforcement responses to transnational environmental crime[s]' (Pink, 2013a, 19) such as wildlife.

In Asia, the new initiatives have taken the form of the Border Liaison Office (BLO) Mechanism and the ASEAN Wildlife Enforcement Network (ASEAN-WEN), where a number of international, intergovernmental and nongovernmental organizations play a central and active role (UNODC, 2010b; ASEAN-WEN). These are two examples of mechanisms with the *potential* to effectively counter transnational crime and the illegal wildlife trade in Southeast Asia, though the purpose of this thesis is to see how effective they have been. These, however, are but two of a number of initiatives that have appeared in Asia and across the world with the same objective in mind.¹⁰⁶ A further initiative that should be highlighted at the global level is the recently developed International Consortium on Combating Wildlife Crime (ICCWC), which is briefly introduced below and explored in detail separately (see van Asch, 2016) as the current research does not aim to focus on ICCWC. It is hoped that the current research may make a number of points that ICCWC might take into consideration as it provides support to strengthen criminal justice systems and provide coordinated support at national, regional and international level to combat wildlife and forest crime.

The Border Liaison Office (BLO) Mechanism

A BLO is essentially a coordinating office for national law-enforcement agencies that encourages and facilitates enhanced cross-border cooperation. Located close to key border crossings or 'hot spots', offices are located on both sides of the border and act as a centralized clearing house for informal information exchange amongst law-enforcement officers in border areas, thus facilitating formal exchange of information amongst countries. The aims of the mechanism when it was established are: to foster cooperation along and across national borders between different national law-enforcement agency units working at the borders; to enable direct and real-time communication and information sharing as well as improved multilateral law-enforcement; to strengthen enforcement efforts at borders and prevent illicit trafficking; to conduct joint operations against transnational organized crime in the region, building trust and mutual understanding; and to promote the dissemination of changing trends and new developments in cross-border trafficking (see generally UNODC, 2010b, 2015).

¹⁰⁶ For more information see report of 1st Global meeting of the wildlife enforcement networks (ICCWC, 2013)

Counterparts meet on a regular basis both formally and informally to exchange intelligence and share information on latest trends and smuggling routes, and workshops are periodically held to disseminate the latest modus operandi of traffickers and the trafficking routes. The mechanism was developed in 1993 between Cambodia, China, Lao PDR, Myanmar, Thailand and Viet Nam, and aimed to enable cross-border cooperation efforts against the illegal narcotics trade. During the period 1999–2010, it was seen to contribute to strengthening cross-border cooperation on drug control, and to have increased the capacity of government law-enforcement, prosecution bodies, relevant institutions and civil society to prevent, investigate and prosecute cases of cross-border crimes. Prior to the establishment of the mechanism, little to no cross-border cooperation existed between neighbouring countries (see generally UNODC, 2010b, 2015).

The BLO programme is considered by participating countries and UNODC as a hallmark example¹⁰⁷ of multilateral law-enforcement cooperation, and has led to calls from participating states to expand the mandate of the BLO mechanism to other transnational organized crimes (TOC), which was realized in 2010 with the expansion of the mandate to include environmental crimes and the illegal wildlife trade, amongst other crimes, through the development of the UNODC PATROL (Partnership Against Transnational-crime through Regional Organized Law-enforcement) programme (see generally UNODC, 2010b, 2015).

The Association of Southeast Asian Nations Wildlife Enforcement Network (ASEAN-WEN)

ASEAN-WEN was born as a result of Objective Two of the ASEAN Regional Action Plan on Trade in Wild Fauna and Flora (2005–2010) (ASEAN Secretariat, 2005, Objective 2; see also ASEAN-WEN, 2017a,b). The development of the network was in response to a call from ASEAN Member States to cooperate on improved CITES implementation, including law-enforcement. This was followed by the ASEAN Regional Action Plan on Trade in Wild Fauna and Flora.¹⁰⁸

ASEAN-WEN was created with the objective to be a wildlife law-enforcement network that involved relevant enforcement agencies working to combat the illegal wildlife trade (police, customs and

¹⁰⁷ It is considered a hallmark example by UNODC, participating countries and practitioners involved, albeit no independent research has however been conducted as to its effectiveness.

¹⁰⁸ ASEAN-WEN falls under declaration no. 24 of the ASEAN Declaration on Environmental Sustainability, signed by the Heads of States and Governments of ASEAN in 2007 and is recognized under the ASEAN Charter's ASEAN Socio Cultural Community (ASCC) Blueprint 2009–2015. In 2011 ASEAN Member States extended the ASEAN Regional Action Plan on Trade in Wild Fauna and Flora (2005–2010). The new Regional Action Plan (2011–2015) aims to sustain earlier efforts and successes of ASEAN-WEN. See generally ASEAN-WEN, 2017b. See also ASEAN, 2007; ASEAN AEC, 2012.

environmental agencies) of all ASEAN countries.¹⁰⁹ It was established with the aim to enhance cooperation amongst enforcement agencies and increase the capacity of governments to counter the illegal wildlife trade. Through annual meetings and a comprehensive array of workshops and trainings, ASEAN-WEN is considered as increasing the capacity of and enhancing cooperation amongst law-enforcement agencies regionally and globally (ASEAN-WEN, 2017).

It provides a mechanism by which countries can share information and learn from each other's best practices, promotes the implementation of existing national wildlife laws and international agreements (such as CITES), and is said to have contributed to strengthening national laws¹¹⁰. The network operates at both the national level¹¹¹ and at the regional level¹¹² to counter the illegal trade in wildlife and to enhance cooperation. Efforts of the network are coordinated by the Program Coordination Unit (PCU), in close cooperation with all its Member States (ASEAN-WEN, 2017).

As part of the agreement to establish the network, ASEAN member countries agreed to allocate necessary financial and human resources, and to collaborate in cross-border cooperation and coordination to ensure the effective enforcement of legislation governing conservation, trade and sustainable use of wild fauna and flora. The development and nurturing of the network was made possible thanks to the support of the USAID funded ASEAN-WEN Support Program (2005–2010) and the ARREST Program (2010-2016). (see ARREST, 2016; see also Schaedla and Sinha, 2016).

At the time of writing the network is in the process of being merged with the ASEAN Experts Group on CITES (AEG CITES) and into an AEG CITES Wildlife Enforcement (ongoing, see ICCWC, 2016; see also Freeland Foundation, 2016).

¹⁰⁹ ASEAN countries are: Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Vietnam and Thailand.

¹¹⁰ Through, for example, a number of activities and projects under the Support Programme and ARREST and the development of ASEAN Handbook on Legal Cooperation to Combat Wildlife Crime (See ASEAN-WEN, 2016)

¹¹¹ At the national level, each country operates an inter-agency task force or a national WEN. All ASEAN countries except Singapore and Brunei have established a national WEN. It needs to be highlighted that while such countries may not have an official WEN, they all have national mechanisms for international and inter-agency cooperation.

¹¹² At the regional level, countries cooperate bilaterally and multilaterally by sharing information and conducting joint operations to counter the illegal wildlife trade.

The International Consortium on Combating Wildlife Crime (ICCWC)

As noted above, the focus of the thesis will remain on ASEAN-WEN and the BLOs. It is however useful to provide a brief introduction to ICCWC as it is in a unique position to provide coordinated support at the global level to ongoing efforts to combat wildlife crime.

Recognizing that a well-coordinated law-enforcement response is required to effectively combat transnational organized wildlife and forest crime, the CITES Secretariat, INTERPOL, the United Nations Office on Drugs and Crime (UNODC), the World Bank and the World Customs Organization (WCO) joined forces and agreed to work together to support national wildlife law-enforcement agencies and the sub-regional and regional networks mandated to combat the illegal wildlife trade. This resulted in the International Consortium on Combating Wildlife Crime (ICCWC, 2010; see generally ICCWC, 2017).

The mission of ICCWC is to ‘strengthen criminal justice systems and provide coordinated support at national, regional and international level to combat wildlife and forest crime’ to ensure that perpetrators of serious wildlife crimes are brought to justice through a ‘formidable and coordinated response’ (ICCWC, 2017) by working for, and with, frontline wildlife law-enforcement officers that are mandated to take action against the illegal wildlife trade.

United under ICCWC since the launch of the alliance in November 2010 (ICCWC, 2010), the five organizations have a ‘unique pool of thematically relevant technical and programming expertise, presenting the opportunity for a novel approach to the multi-faceted challenges posed by wildlife crime’ (ICCWC, 2017). Each organization intends to offer specialized expertise to support national enforcement agencies and sub-regional and regional networks, drawing upon its extensive experience in developing and delivering comprehensive training and capacity-building programmes for law-enforcement officers at the global level.

The influence and role of the initiatives

The new focus on combating transnational wildlife crime, as highlighted at CITES CoP16 and shown by the growing commitment of countries in recent years, has emphasized the need for increased transnational collaboration. One of the results of such increased efforts is the emergence of new structures of cooperation that are intended to facilitate and foster cooperation at the sub-regional, regional and global levels, as highlighted in the previous section. The aim of the thesis is to examine

the influence of the initiatives on the illegal trade and if they result in increased actions at all levels of the enforcement chain, from initial seizure to detailed investigations and, ultimately, prosecutions and convictions.

What is the potential for such effects?

As explained above, the BLO mechanism is a sub-regional programme developed to assist countries to cooperate and share intelligence along and across borders on cases of illicit trade.¹¹³ ASEAN-WEN is a regional initiative created to encourage countries to cooperate at the national, sub-regional and regional levels to counter the illegal wildlife trade in the region.¹¹⁴ The focus of the former is on cross-border cooperation (along and across borders), while the focus of the latter is to improve coordination at the national and regional levels.

Stopping illegal trade across borders is essential: in order to counter transnational wildlife crime, it is important to have effective border management. The problem is that, as highlighted throughout the paper, smugglers and illegal wildlife traders are often well equipped and largely resourceful, and enforcement officers face a number of challenges.

The BLO mechanism and related projects are intended to have the crucial role of strengthening the capacity of border officers to stop, detect and investigate cases of illegal trade. Since 2010, a number of training events have been held to improve, strengthen and expand the capacity of law-enforcement to prevent and investigate cases of cross-border crimes. In addition, the mechanism has aimed to build trust and promote informal cooperation amongst border officials, in order to lead to increased cross-border cooperation. This is probably the most crucial aspect of the initiative itself as it aims to increase cooperation and should, ideally, result in increased enforcement and further cooperation, and, in turn, lead to (ideally) more secure borders.

While secure borders can contribute to increased seizures or to a change in the trends or routes used by smugglers, they are only one part of the enforcement chain. A concerted effort at the national level and the involvement of all relevant institutions are required. There still appears to be a gap with the judiciary and prosecutors in the different countries, and the mechanism would benefit from stronger connections to other initiatives and efforts, particularly with the judiciary. This is not

¹¹³ The UNODC-led initiative brings together relevant national law enforcement agencies working along and across borders to encourage enhanced cross-border cooperation. It enables officers working close to key 'hot spots' on both sides of the national borders to exchange information (see generally UNODC, 2010b).

¹¹⁴ The Association of Southeast Asian Nations Wildlife Enforcement Network (ASEAN-WEN) is a wildlife law enforcement network involving relevant law enforcement agencies working on the illegal wildlife trade (police, customs and environmental agencies) of all ASEAN countries.

necessarily because of the initiative itself, but rather because the involvement of justice and prosecutors in wildlife crime, particularly in Asia, remains a challenge.

At the other end of the spectrum, ASEAN-WEN encourages more effective enforcement and increased engagement of countries at the national and regional level. The initiative is intended to contribute to the increased commitment in the region to combat the illegal wildlife trade. Elements of the capacity-building programme also include awareness raising for judges and prosecutors, which seems to be one of the crucial next steps to draw their attention to the magnitude of the problem.

If one analyses both initiatives, one of the main differences between them is the focus. One focuses on the 'macro level' (i.e. the national and regional level) and the other focuses on the field or 'micro level' (Guille, 2010; Benyon, 1996). As explored in further detail in earlier sections in relation to other organised crimes, while both levels are essential, there seems to be a gap between the national and field levels, which Sheptycki (2002), Reiner (1997), Anderson et al. (1995) and Guille (2008, 2010) among others argue is one of the main challenges to effective cooperation. Guille also notes that, in many cases, broad cooperative agreements are signed without prior consultation at the field level. This poses a potential problem for effective cooperation, as political representatives at the macro level do not necessarily understand the operational requirements and needs at the field level. This does not allow field officers to trust the mechanism nor to use it efficiently (Guille, 2008) and it forces field officers to improvise which leads them to use their own informal mechanisms (Sheptycki, 2002).

Chapters 6 and 7 will explore the perceptions of participants involved in the initiatives explored above (ASEAN-WEN and the BLOs). Before proceeding further, it is however needed to explore how this initiatives can– or could potentially – be evaluated. As the following sections will highlight, this is not an easy task.

4.4 (Section III) Evaluating networks: mission impossible?

This section will explore existing research on (illegal) networks and various available methods that can be used to evaluate and measure their effectiveness. Firstly, the various forms and types of networks as well as the benefits and common challenges associated with networks will be elucidated upon. In particular it will explore what are the crucial elements of networks and how to

measure their effectiveness. The final section will explore ways to assess the development status of networks. These will be used in chapter 8 to evaluate the effectiveness of the initiatives to combat transnational organized wildlife crime¹¹⁵.

4.4.1 Various forms and types of networks

As discussed in earlier sections of this chapter, networks or ‘new forms or platforms for cooperation’ are developed because it is believed that a number of problems cannot be countered alone and require collective action or because the challenge is beyond the area of expertise of particular organizations and requires collaboration (see Parts I and II). Given the nature of emergent and rapidly developing challenges such as the illegal wildlife trade, law enforcement agencies have not surprisingly ‘encountered difficulty in identifying and establishing appropriate contacts and information sources’ (Farmer, 2007). White (2008) also suggests that:

‘environmental crime poses a number of challenges for effective policing. Such crimes may have local, regional and global dimensions. ... [and] may demand intensive cross-jurisdictional negotiation’ (2008, 197; see also Pink 2010, 42).

It is broadly recognized that ‘[e]nforcement networks typically spring up due to the inability of government officials in one country to enforce that country’s laws’ (Slaughter, 2004b, 395; Pink, 2010; Farmer, 2007) and in response to the need to ‘negotiate’ between jurisdictions. As a result, practitioners and policy makers look for assistance and this leads to the disparate establishment of various networks and initiatives. These incorporate different levels of members (local, sub-national, national, regional, and global) and are different in terms of formality (informal, semi-formal and formal) (Pink 2010, 2; Farmer, 2007). They vary in setup and operation (Farmer 2007, Fleming and Wood 2006, Pink 2010) and in the areas where they possess specific strengths for their members (Pink 2010). Indeed, Farmer (2007), Kaniaru (2002) and Pink (2010) among others suggest that the number of networks has grown considerably since the 1990s, but that the evaluation framework for these structures ‘needs greater attention’ (Williams, 2006, 260; Pink, 2010, 5)

Pink (2010) conducted an in depth historical, academic and theoretical review of available literature and suggests that research should focus on the justification for the development of networks and on

¹¹⁵ It should be noted that research by Pink (2010) as well as his related research with others (e.g. Lehane or Bartel, see below sections for details), is of particular significance here as it highlights the importance of interagency cooperation and of networks as regulatory frameworks. It is also intrinsically linked with networks to combat wildlife crime that are based on inter-agency (and not inter-individual cooperation) and which are the focus of this thesis. As it will be explored further below, his research with others (e.g. Lehane) has also provided the foundations to assessing networks of this type.

the benefits of networks. Initially, available information on networks has tended to include aspects associated with access to information, skills and knowledge (Rhodes 2006, Williams 2006, Scholz and Wang, 2006; Pink 2010), exploring for example aspects related to coordination and ownership (Rhodes, 2006), networks and cross-cutting frameworks (Williams 2006), and network effectiveness (Scholz and Wang, 2006; Pink, 2010). Networks have been found to have varied aims and objectives that are shaped by their membership, specific area of focus, and historical/cultural considerations, but taken together they 'perform certain common functions' (Slaughter, 2004b, 389). These common functions include 'expanding regulatory reach, building trust and establishing relationships ..., exchanging information, developing databases and best practices, and offering technical assistance and professional socialisation to members' (Pink, 2010, 7).

Commentators have highlighted a broad range of types of transnational networks. Zaelke, Kaniaru and Kružíková (2005b, 383) consider networks as global webs of transgovernmental networks. Networks can also be considered generally as 'as a form of cooperation involving governments or government officials operating without a formal treaty or international institution' (Pink, 2010, 6). Slaughter identifies three purposes for networks, or three types: in relation to information, enforcement and harmonisation (2004, 52-61; see also Pink and Bartel, 2015, 310). Isett *et al* (2011) suggest a typology of: policy networks, collaborative networks and governance networks (see also Pink and Bartel, 2015, 310). Milward and Provan (2006) suggest that networks form around implementation of services, dissemination of information, problem-solving and capacity-building (see also Pink and Bartel, 2015, 310). Popp *et al* (2013) refer to networks that are mandated as well as formal and/or informal and emergent networks (see also Pink and Bartel, 2015, 310).

Pink and Bartel (2015, 310) take this forward and 'consider three main forms of networks: geographically-based networks, discipline-based networks and commodity-based networks', as well as hybrids that have features of all three. They describe the different types of networks as follows:

- Commodity-based Networks: 'Examples of commodity-based networks are the Wildlife Enforcement Networks. Although having wildlife in common, enforcement in this area is multifaceted. It is concerned with the treatment, trade and movement of wildlife and wildlife products within jurisdictions, across regions and internationally' (Pink and Bartel, 2015, 310).
- Geographically-based Networks: these operate at specific areas (borders, airports, seaports, etc) and are more enforcement focused and operational in nature

- Discipline-based networks: targeted networks for specific practitioners by their specific areas and disciplines e.g. a prosecutors' network or similar.
- Hybrid Networks: established when the above types of networks are combined

This typology appears to be the most suitable and encompassing analysis to date on types of networks and is particularly relevant for the initiatives that are the focus of research. It also takes into account a number of challenges identified previously on various aspects needed and layers to be taken into account when combating wildlife crime, albeit further research should be conducted to explore links between these types of networks and the cooperative gaps that exist between law-enforcement at the different levels.

Benefits and common challenges associated with networks and their crucial elements

Zaelke, Kaniaru and Kružíková (2005a, 28) consider networks are more flexible and efficient than other structures for cooperation: 'networks can quickly disseminate and distil information, enhance enforcement cooperation, harmonize laws and regulations, and address common problems'. Raustiala (2002) suggests networks improve treaties, fill gaps where treaties are not present, and facilitate negotiations for future treaties.

In his thorough research on networks, Pink¹¹⁶ (2010) identified key benefits of networks:

¹¹⁶ Pink's (2010) initial research is a qualitative analysis of Environmental Enforcement Networks and established that networks can be informal, semi-formal, or formal and have a clear benefits and associated challenges. The empirical research explored broad areas to capitalize on the benefits of networks, including: involvement in the network (e.g. why agencies/people engage with networks); the value of such involvement (and how this can be identified and measured); the effectiveness of networks (Pink considers how networks operate and how they could operate more effectively, recognizes that 'little has been written in relation to measuring the effectiveness of networks' (2010,10) and considers the characteristics of effective partnerships); and, support available to members (i.e. what is required to support members).

His related research with Lehane (see Pink and Lehane, 2011, 2015) took this a step further to develop a *network evaluation matrix* that determines the development phase of networks and enables one to map their progression (see section below on assessing the development status of networks and Pink and Lehane 2011 and 2015 more broadly for additional details).

The development of the matrix focused chiefly on the Australasian Environmental Law Enforcement and Regulators network (AELERT). AELERT was founded in 2003 and is a professional network for environmental regulators in Australia and New Zealand. Current membership includes over 190 member agencies and more than 1000 member officers. AELERT aims to play an important role in securing a sustainable Australasia through the advancement of best practice environmental regulation. Its members work across local, state and federal government agencies to administer and implement environmental legislation. The network offers members a forum to: share and solve common issues; identify best practice and consistent approaches to environmental regulation; access a range of industry networking opportunities; and collaborate to exchange resources, information, knowledge and experience (information taken from AELERT website, see also AELERT

'three benefits described by the key informants ... were contacts, aspects relating to operational matters and better practices. Other benefits, listed alphabetically, included access to data/information, credibility and reputation, more level playing field, sharing experiences and information, partnering, and training.' (2010, 24).

He also identified the most significant challenges of networks:

'The three most significant challenges described ... were participation, resource imbalances and funding, and management of the network secretariat. Other challenges, listed alphabetically, included cliques, continuity of personnel, costs outweighs benefits, disconnect (between management and frontline staff), inconsistency, and opportunity costs' (Pink, 2010, 24).

Fleming and Wood (2006, 3) suggest networks can create conflicts at various levels and can be difficult to coordinate (see also Pink 2010, 11). It is also highlighted in the available literature that the effectiveness of networks can be constrained by a number of reasons, in particular:

'balanc[ing] cooperation and competition because organizational self-interest is still heavily engrained in the system despite the mantra of partnership working, and also to recognize that over collaboration can result in "groupthink" which stifles innovation, adaptability and learning' (Pink 2010, 12; see also Williams, 2006).

In addition, Fleming and Wood highlight that networks require resources and can often appear to be unaccountable for their actions. They can also generate conflicts 'between individual and organisational commitment; between local and national public expectations; between flexibility and rules; and between work goals and national regulators. They can be difficult to steer and they can mix with other governing structures like oil and water' (Fleming and Wood, 2006, 20; in Pink, 2010, 11).

Notwithstanding a number of challenges that arise, the benefits of networks appear to outweigh their challenges (Pink, 2010, 53). Key elements of networks include learning and capacity building and strengthening relationships between members to enable effective cooperation.

Pink and Bartel (2015) suggest agencies have specific short, medium, long term and ongoing needs. Short (and immediate) term capacity is required to carry out basic functions. Ongoing (and long term) needs are focused on improving practices. Learning may happen at a variety of levels and in different ways. Formal learning can be done through various training events or conferences, exchanges of information, mentorships and twinning programmes, or various activities at the national, regional or global level. Informal learning may happen by sharing experiences and understanding of various cultures and organizational standards between officers or network members (Pink and Bartel, 2015).

Annual Report: AELERT, 2015). The matrix has been recently tested in six other networks (see generally Pink and Lehane, 2016; and sections below for details).

The approach taken will also have a bearing on the effectiveness of the network:

'Bottom-up (or grass-roots) generation and maintenance of a network is necessary for member commitment, motivation and social capital. Top-down support is necessary for fostering cooperation, communication and transparency among network members; coordinating activities; analysing network strengths and weaknesses; and motivating prospective network members to be engaged in setting the agenda for the network' (Thorgren, Wincent and Ortqvist, 2009, 35; in Pink and Bartel, 2015, 321)

Trust is also one of the crucial elements and objectives of networks (and networking):

'By working together, organizations ... learn to understand and trust one another, as well as learn whom not to trust. This learning can be extremely important' (Milward and Provan, 2011, 417; in Pink and Bartel, 2015, 318).

As noted previously, a number of authors (see earlier sections) suggest that trust and personal relationships are key aspects for cooperation and that once they have been built, cooperation happens in a more coordinated matter. Pink (2010, 39) further stresses that 'it was the human aspects and more specifically the criticality of interrelationships between individuals which [are] fundamental to enhanced network benefits'.

Slaughter (2004a, 57) emphasizes that a network is dependent on the strengths and/or shortcomings of its individual members: 'a network ... is only as strong as its weakest link' (see also Pink, 2010, 6). Pink agrees with Rhodes' 'sour laws of networks' that suggests 'networks struggle to deal with problems associated with co-ordination, mixing government structures, and ownership' (Pink, 2010, 9; Rhodes, 2006). Pink (2010) suggests that suggests that networks:

- require a strong ongoing secretariat;
- require ongoing commitment and leadership (which frequently falls to an energised few);
- are reliant upon *ad hoc* resources from disparate sources (which tend to involve a disproportionate resource burden on some members); [emphasis in original]
- lack enforceable governance arrangements; and
- involve a transitory (and at times non-representative) membership drawn from a variety of government and non-government organisations (often with vastly competing interests).'

These common functions and 'laws' can be used to indicate the possible impact and effectiveness of the networks to be studied in the current research.

4.4.2 Measuring effectiveness

Similarly to research and data on the illegal wildlife trade, there is limited discussion on how to measure and evaluate networks. The word *puzzle* comes back to mind.

As a starting point, there seems to be agreement that assessing or evaluating networks is complicated (Pope and Lewis 2008, in Pink 2010). In particular for environmental or more specifically for wildlife enforcement networks, there are virtually no commonly used evaluation practices within the relevant organisations other than internal reports and project management reporting. (Pink and Bartel, 2015, 326). It is therefore rather difficult to measure the effectiveness of networks:

‘Despite sharing relatively common purposes ... networks are each unique. Part of this is because the circumstances vary under which they were established. A range of factors influence their development and ultimately determine their relative capability and potential maturity as a network’ (Pink and Lehane, 2011, 1).

It is broadly understood that there is no one formula or set of instructions for developing or a network. Similarly there is no one way of developing or creating a successful network. In fact, there are a number of ways to develop a network, and every network is dependent on its unique circumstances at the political, geographical and cultural level as well as in terms of the specific challenges it faces or has been developed to address (INECE, 2012; Pink 2010, 2015; Pink and Lehane 2011; Pink and Bartel, 2015; ICCWC, 2013, 2016). There are, however, ways to measure different aspects.

Provan and Milward’s (2001) evaluation criteria (focused on health systems) include reduced incidence of the problem, and increased perceptions by the broader public that the problem has been solved (i.e. customer satisfaction, which could be, for example, increased compliance with international commitments and obligations under CITES). As Pink and Bartel (2015) note, this may however be problematic as different groups have different perceptions. At the network level Provan and Milward recommend the following evaluation criteria: growth in membership; network governance arrangements and maintenance costs; range of services provided; integration and coordination of services and avoiding duplication of efforts; and commitment of members to the goals of the network (2001, 422; see also Pink and Bartel, 2015). Out of these, and as Pink and Bartel (2015, 327) stress, commitment from the agencies to which members of the network are affiliated to is ‘essential for the network to survive’.

Network effectiveness has also been defined as ‘the achievement of positive network level outcomes that cannot be attained by individual organisational participants acting alone’ (Popp et al 2013, 10; in Pink and Bartel 2015, 324). As Provan and others have observed:

Effectiveness is ...related to the concept of network learning ... the organisation learns from those organisations around them, and as they evolve, the network is more likely to evolve in ways that lead to network effectiveness. Without learning and evolution, the network may fail. (Provan, Fish and Sydow 2007; in Pink and Bartel 2015, 324)

Provan and Lemaire (2012, 643) consider there to be five characteristics of effective networks. These include involvement at multiple levels, the design and structure of the network, and appropriate governance for the network that ensures members can trust it, as well as the legitimacy and stability of the network. Popp and others also suggest a number of potential evaluation questions¹¹⁷ (2013, 68 in Pink and Bartel 2015, 325-326).

Assessing the development status of networks

Farmer (2007, 261) highlights successful networks require commitment by members, active secretariats, funding and deliverables based on the needs of its members. Pink and Lehane argue that there are five phases of development through which networks may transition and that mapping the transition or the phase in which the networks are ‘may assist and guide networks to reach their next level of maturity more effectively and efficiently’ (2011, 1). They see each phase as involving the network’s position on several themes and ‘postulate that the five major themes contain core criteria that should be used to assess Environmental Enforcement Networks’ (Pink and Lehane, 2011, 5). They suggest ‘the five major themes aim to recognise and attribute some value to the intangible benefits of Environmental Enforcement Networks’ (Pink and Lehane, 2011, 6). These themes are membership, finances, governance, support and deliverables.

¹¹⁷ These include: 1) Does the network have a clear vision and goals that are understood and supported by all members? 2) Is the governance structure a good fit for this network? 3) Is the network appropriately resourced to do its work? 4) Does the leadership style fit with what we know about effective network leadership? 5) Are important management tasks being attended to, and is the management focus evolving appropriately over time? 6) Is attention being paid to both the management of the network, and management in the network? 7) Does the network have both the internal and the external legitimacy it requires? 8) Is the network/relationship structure evolving as expected and contributing positively to the work of the network? 9) Is there an optimal mix of strong and weak ties among network members? 10) Are the linkages targeted and appropriate? 11) Is there trust among network members? 12) Are power differentials being recognised and addressed as appropriate? 13) Are there multiple levels of involvement? 14) Is there a balance of stability and flexibility? See Popp et al (2013, 68) and Pink and Bartel (2015, 325-326) for additional details.

- *Members*: involves issues such as the number and type of membership, their geographic distribution, levels of contribution to the network (in-kind, financial, advocacy, or leadership); and the value of the membership
- *Finances*: relates to funds to support the functions of the secretariat (usually staff) and for funds to undertake project activities (workshops, training events, conferences)
- *Governance* is an issue that requires to be revisited constantly and refers to ‘the balance between being over-prescriptive (so as to not fetter involvement or participation) and so relaxed that it leads to concerns about a lack of accountability’
- *Support*: support provided and/or received by members from the network and vice versa as well as from members to other network members bilaterally
- *Deliverables*: (outputs or tangible benefits to demonstrate the value of the networks) include manuals, training events, workshops or similar. Pink and Lehane (2011, 6) note however that ‘intangible benefits such as reputation, association and peer support, are generally unreported and unrecognized. Notwithstanding, they need to be recognized and factored into any assessment of maturity’

Pink (2015) also established that an agency’s engagement with and benefits from networks to national organizations can be measured across 5 different phases. The first includes ‘exposed but sub-conscious’ where those involved in the network are aware of the network, have started to attend related events, but have a limited understanding of the network. The second is ‘increasingly aware but not involved’, where representatives attend events but do not actively participate and engage. Their understanding remains basic and their involvement does not necessarily benefit their national agency. The third is where network participants are ‘aware and involved’, have a good understanding of the network and start to actively engage and create links between the network and their respective agencies, leading to greater coordination and increased (informal) exchange of information. The fourth phase is where representatives’ understanding is comprehensive and they are ‘acutely aware and deeply involved’ in the network by becoming involved and taking a key role in related activities. In such cases national agencies recognize the work and benefits of the networks as a core activity and promote coordination through the network. The fifth and final level is where network representatives are ‘researching networks’ (Pink 2015, 13-16). As we will see in latter chapters (see chapter 8), these could also be used as indicators to measure how effective the use of the network is for national agencies.

Networks however also need time, effort and resources toward their development, establishment, maintenance, ongoing development and evolution. Pink and Lehane (2011, 5) explore how to consider the levels of network maturity and measure effectiveness as levels of maturity through a network evaluation matrix. They suggest measurement should be by 'identifying and documenting a number of capabilities that span the five distinct levels of maturity'. All phases can be characterised as absent, emerging, fragile, maturing or well established (Pink and Lehane, 2011, 2-5; see Tables 4.1, 4.2 and 4.3 below).

The overall objective is then to reach 'maturity' i.e. to be well established:

'The Well Established level is the most advanced level in terms of network development. Within this level of maturity, the network reaches the saturation point for its membership, has a comprehensive support base, includes active contributions from across the network, and has a secure source of funding for network services. Deliverables ... are regular, tangible and of high standard. The deliverables in turn provide a catalyst for promoting the network, attracting new members, and marketing the network. This level tends to involve more aspects of review and continuous improvement'. (Pink and Lehane, 2011, 10)

To assess levels of maturity (which can also be associated with relative levels of effectiveness (e.g. more mature is more effective or has higher chances of being more effective), Pink and Lehane give numerical values to each sector to value the levels of maturity of the different aspects of the network. Accordingly, they allocate numerical values (or points) for various maturity levels scored towards the major themes or attributes of each level (0 - Absent, 1 - Emerging, 2 - Fragile, 3 - Maturing, and 4 - Well Established; see Pink and Lehane 2011, 12 and Tables 4.1, 4.2 and 4.3 below for details). Once these are calculated, a general score is allocated to determine the overall level of maturity of networks (0 = Absent, 1 – 7 = Emerging, 8 – 13 = Fragile, 14 – 17 = Maturing, and 18 – 20 = Well Established; see Pink and Lehane, 2011, 12): these 'can be added together to determine an *indicative* overall level of network maturity' (Pink and Lehane, 2011, 12; emphasis added).

The Matrix has been developed as a practical and comprehensive assessment tool to explore the development of networks and can be a useful and dynamic tool to evaluate the evolution of networks and how they may have an effect on efforts to address the issues they were designed to address, which can as noted above be associated with relative levels off effectiveness (but not on the outcome or impact of such efforts).¹¹⁸ As Pink and Lehane (2011, 12) note, the 'Matrix offers criteria and a process for both internal and external quality review' and 'enables an isolation and

¹¹⁸ As noted below and as will be further elucidated upon in Chapter 8, the Matrix is particularly useful as it enables researchers and organisations to assess the evolution of networks in terms of maturity, which in turn can be related to effectiveness, and theoretically to the effect they may have towards making an impact on the actual illegal wildlife trade. Measuring the actual outcome and impact of such efforts, as noted earlier, would however require additional data than were available in the current research.

categorisation of improvements as well as areas of shortfall ... [and] provides ... data for future review, management and evolution ... [as well as] an overall picture of the network's status':

'by determining the current phase of development ... able to map progression through future phases of development ... to reach their highest level of maturity more effectively and efficiently. Moreover, it provides a platform for ... self-assessment to direct network effort and strategic planning, and also allows for peer assessment by other networks or independent third parties.' (Pink and Lehane, 2011, 12)

Certainly, this tool 'provides a set of criteria and benchmark standards for independent evaluation' (Pink and Lehane 2011, 12) and could also be used by networks as a self-assessment tool so they can independently measure their respective levels of maturity and identify areas that require attention. What is more, it appears to be the most comprehensive tool available to measure the effectiveness of networks. A number of potential gaps should, nonetheless, be taken into consideration.

Firstly, the framework assumes that maturity is a synonym of effectiveness when it may not necessarily be the case. Maturity might not necessarily relate to activity or effective cooperation¹¹⁹. One could, however, assume that a more mature network would be more inclined to cooperate.

In addition, the applicability to and use of the matrix for other networks has been recommended but is unknown at this stage. It should be noted that Pink and Lehane's comprehensive Network Evaluation Matrix emerged from a specific experience of assessing an Australasian Environmental Enforcement network (AELERT, see footnote 116 for details and AELERT, 2015) and its applicability has been tested only in a small number of cases with other networks (this is also acknowledged by Pink and Lehane). Pink and Lehane (2015) conducted some subsequent research and tested the matrix with a random selection of six networks that were requested to conduct a self-assessment using the matrix to explore if the matrix was 'fit for purpose' (Pink and Lehane, 2015, 111). This research provided overall positive results and some suggestions to further improve the matrix. Based on the results, however, Pink and Lehane (2015, 117, emphasis in original) consider that 'at this point in time, it is considered that the (matrix) need not be changed. ... it is not a 'one size fits all *perfectly* model, rather ... a one size that fits all *adequately* model ... (that) has (a) more a general application. This should also be taken into consideration when exploring potential results. Indeed, it would be interesting to explore potential synergies and areas of collaboration and potentially tailor the matrix to regional and cross-border networks (see examples of multiple networks in existence in Faure, De Smedt and Stas, 2016).

¹¹⁹ For example, Interpol was established in 1923, but its use remains sometimes limited in certain spheres and other methods of cooperation are often sought among law enforcement officers that are considered more flexible and direct.

Perhaps more importantly, the matrix does not take into consideration the gaps that are highlighted in the literature on international policing and transnational cooperation about the potential gaps between the macro, meso and micro levels of cooperation. Finally, there are a number of key aspects such as trust or corruption that are essential for effective cooperation, and yet are difficult if not impossible to measure using this framework. There is no developed solution to this problem, but some potential ideas will be explored in chapter 8 based on perceptions from participants interviewed in the current research.

These issues should be taken into consideration in future revisions as the matrix evolves and adapts to other networks and mechanisms for cooperation. Indeed, much of this is acknowledged by Pink and Lehane, who suggest a 'dialogue' (2011, 13-14) to further enhance efforts and advance the matrix (see also Pink and Lehane, 2015).

Taking into account the different aspects identified above in relation to measuring effectiveness and assessing networks, I believe the matrix is a very useful tool to measure networks and intend to use it to analyse the initiatives being studied in the current research (see chapter 8). The Tables below (Tables 4.1, 4.2 and 4.3) are taken from Pink and Lehane as a guide to facilitate assessment using the matrix. Assessment in the current research will however also include a number of additional key aspects identified in earlier sections of this chapter. As Brown suggests that a balance is needed: 'The existence of the right political will, the appropriate legal framework and culture ... supported by a sufficient capacity, are each required ... [for] successful cooperation, but these enablers also have to achieve a balance' (Brown, 2008b, 39).

Table 4.1: Network Evaluation Matrix – Fragile Criteria (taken from Pink and Lehane, 2011)

Members	Finances	Governance	Support	Deliverables
Membership <ul style="list-style-type: none"> • Generally Increasing across significant actors within network sphere of influence 	Budget <ul style="list-style-type: none"> • Contributions are spasmodic and are made by small number of sources • Not sustainable 	Access <ul style="list-style-type: none"> • Central repository of information and communiqués to members • Limited open source access to network’s guiding documents 	Liaison <ul style="list-style-type: none"> • Emergent and Exploratory liaison with other networks undertaken • Information sought from other networks 	Events <ul style="list-style-type: none"> • Irregular events with Increasing frequency • Preliminary attempts to undertake cooperative exercises
Leadership <ul style="list-style-type: none"> • Wider range of key individuals / member agencies taking on leadership roles across network 	Contributions <ul style="list-style-type: none"> • Few core Member agencies / individuals providing in-kind support 	Review <ul style="list-style-type: none"> • Regular changing of operating rules, • Constitutional documents, etc. to fit circumstances 	Support base <ul style="list-style-type: none"> • Growing level of support base • Increasing numbers of interested individuals 	Outcomes <ul style="list-style-type: none"> • Low level coordination to Deliver outcomes • Members seeking benefits
Value <ul style="list-style-type: none"> • Tangible Benefits available for active members • Most members inactive / passive and question value of network • Low level Communications disseminated to members from core members 	Project funding <ul style="list-style-type: none"> • Very limited, if available • Sourced from lead member in project team 	Structures <ul style="list-style-type: none"> • Guiding Documentation developed reactively to situations. • Clear Aims and Objects set out for network 	Supporting functions <ul style="list-style-type: none"> • Central Support function to support membership and administrative tasks only 	Products <ul style="list-style-type: none"> • Infrequent Publications being developed and disseminated • Range of Network members contributing to publications

Table 4.2: Network Evaluation Matrix – Maturing Criteria (taken from Pink and Lehane, 2011)

Members	Finances	Governance	Support	Deliverables
<p>Membership</p> <ul style="list-style-type: none"> Expanded to reach critical / core number of potential members within relevant network area of operation 	<p>Budget</p> <ul style="list-style-type: none"> Sufficient funding for network to continue for short to medium term (2-3 years) 	<p>Access</p> <ul style="list-style-type: none"> Increasing access of members to network steering / guiding documents Open source access to limited network produced documents 	<p>Liaison</p> <ul style="list-style-type: none"> Interest by and liaison with other networks Capacity and Capability discussions to identify areas of commonality 	<p>Events</p> <ul style="list-style-type: none"> Held on semi regular basis Delivered across network Range of events relevant to all members Restricted range of members working conjointly
<p>Leadership</p> <ul style="list-style-type: none"> Critical mass of individuals / member agencies take on leadership roles Wide range of Membership not represented in leadership roles 	<p>Contributions</p> <ul style="list-style-type: none"> In-kind support provided by central member agencies / individuals 	<p>Review</p> <ul style="list-style-type: none"> Third Party review of constitutional documents and guidance considered 	<p>Support base</p> <ul style="list-style-type: none"> Widening support base across network sphere of influence 	<p>Outcomes</p> <ul style="list-style-type: none"> Member Agencies receiving identifiable benefits Individuals Professionally realise benefits
<p>Value</p> <ul style="list-style-type: none"> Leading Members displaying demonstrable benefits through active participation Level of inactive / passive members reducing Increasing Engagement and communication between members 	<p>Project funding</p> <ul style="list-style-type: none"> Project funding - increasing but ad hoc Project leaders are able to source limited funding to support project 	<p>Structures</p> <ul style="list-style-type: none"> Proactive Development of guiding documentation with consultation across membership Development of Operation and Strategic Plans to set direction of network 	<p>Supporting functions</p> <ul style="list-style-type: none"> Administrative tasks major part of function Low level of Coordination and project capacity 	<p>Products</p> <ul style="list-style-type: none"> Are of useable standard and considered as a step toward better practice across industry Contributions from those outside of network being included

Table 4.3: Network Evaluation Matrix – Well Established Criteria (taken from Pink and Lehane, 2011)

Members	Finances	Governance	Support	Deliverables
Membership <ul style="list-style-type: none"> • Maximum or near maximum of possible members within relevant operation of network coverage 	Budget <ul style="list-style-type: none"> • Secured on permanent basis • Sustainable arrangements 	Access <ul style="list-style-type: none"> • Open and transparent access to network steering papers across membership and support base • Foundational and guiding documents available as open source 	Liaison <ul style="list-style-type: none"> • Level of support from other networks seen through Interaction and joint Activities • Good working Relationships between networks 	Events <ul style="list-style-type: none"> • Held regularly and well attended • Coordinated centrally for delivery across membership • Members readily work collaboratively
Leadership <ul style="list-style-type: none"> • Large proportion of members taking leadership roles across network 	Contributions <ul style="list-style-type: none"> • High proportion of members contributing in-kind support to projects, events and initiatives 	Review <ul style="list-style-type: none"> • Governance Structures reviewed and consistent with better practice • Subject to External scrutiny and review 	Support base <ul style="list-style-type: none"> • Strong support and contribution base from practitioner and senior management alike 	Outcomes <ul style="list-style-type: none"> • Delivering Tangible benefits to members • Serve as attractor, drawing new members into network • Members overtly promoting the benefits of involvement
Value <ul style="list-style-type: none"> • Majority of Members realise benefits of membership attained through active participation • Open communication across members 	Project funding <ul style="list-style-type: none"> • Projects driven by / within network are readily funded • Projects undertaken by network bring in associated funding 	Structures <ul style="list-style-type: none"> • Robust written Governance structures in place • Membership Well represented on guiding body 	Supporting functions <ul style="list-style-type: none"> • Central function for coordinating network activities, project and events • Administrative tasks are a minor part of the function 	Products <ul style="list-style-type: none"> • High standard and considered better practice across industry • Subject to review and improvement process • Wide range of contributors to network publications

4.5 Conclusion

As highlighted throughout this chapter, endangered and protected species are in great demand. This has created a lucrative black market for traders and fiercely competitive and highly organized trade networks to exploit. While most of the illegal trade in wildlife is believed to be done by competing networks displaying different levels of organization depending on the volume and value of their trade, evidence suggests that sophisticated and highly organized criminal groups are increasingly involved in particular types of highly profitable commodities, such as rhino horn and elephant ivory. As highlighted at the ministerial roundtable held alongside CoP16, '[a]n imposing challenge lies ahead to combat the sophisticated criminal groups that are behind wildlife and forest crime, and to put an end to the alarming impacts that their activities are having on species, people and economies' (CITES Secretariat, 2013a).

The illegal wildlife trade in Southeast Asia is best understood as a market trade where criminal activities are structured around supply and demand (Hayman and Brack, 2002). Thus, it involves a collection of specialized groups that exhibit varying degrees of organization depending on the type of wildlife traded and the volume and value of their trade (Liddick, 2011). The chapter has highlighted that there exists anecdotal evidence linking the illegal wildlife trade to other areas of crime and organized criminal networks. It is therefore important to examine if the groups dealing in other illicit commodities are involved in the illegal wildlife trade, and if wildlife networks are involved in the trade of other illicit commodities.

Are criminal organized groups dealing in arms, drugs or human trafficking involved in the illegal wildlife trade? Taking into consideration the aforementioned overlapping characteristics of the different kinds of illicit trade, it can be argued that larger networks of organized crime are indeed involved in some way or another in the illegal wildlife trade. In such instances, their involvement is often as either a complementary trade or as part of their wider portfolio of illicit criminal activities where the illegal wildlife trade is merely a secondary or opportunistic trade (Duffy, 2010). In most cases the involvement is not of the larger organization itself, but rather of individuals within the criminal groups that have particular links to – or are participating in – different stages of the illegal wildlife trade chain (Pires and Moreto, 2011). Such individuals make use of their existing networks and supply chains to deal in wildlife (World Bank, 2005) and would be involved, if at all, in the high volume and value commodities such as ivory or rhino (Elliott 2012; van Asch 2013, 2015).

Are organized wildlife networks involved in the trade of other illicit commodities? It can be confirmed that wildlife is often moved along the same international trading routes as other illicit

commodities (Duffy, 2010) and that some individuals are linked with the illegal wildlife trade. There are not, however, clear signs that suggest that organized networks themselves are involved in trade in other commodities such as drugs (van Asch, 2013; Elliott, 2012). While some cases exist where organized networks dealing in illegal wildlife may be connected with other criminal syndicates and organizations (Christy, 2008), it is generally believed that specialized wildlife networks are rarely involved in other crimes. There are two reasons for this: firstly, the trade in wildlife is very specialized and requires specific knowledge and skills (such as species identification) without which the trade would not be possible. Secondly, and most importantly, most organized wildlife networks and traders tend to deal in illegal wildlife because there is a low risk involved and there are very high profit margins. Dealing in other commodities such as drugs would thus radically increase the risk of capture and prosecution (Duffy, 2010, 36). What is clear is that criminal organized networks dealing in wildlife often display similar levels of organization as their counterparts, that they have received very limited attention to date, and that they should be treated – and prosecuted – with the same vigour and determination as other transnational organized criminals.

The decisions and resolutions adopted at CoP16 demonstrated a clear recognition by countries to coordinate enforcement efforts; make better use of special investigative techniques used to combat other transnational crimes in the fight against the illegal wildlife trade; conduct in-depth investigations and ensure follow-up prosecutions; and target the masterminds behind those highly organized criminal groups that are involved in the illegal wildlife trade (Scanlon, 2013). A well-coordinated multi-disciplinary enforcement response is therefore necessary and countries need to continue to cooperate to effectively deal with transnational organized wildlife crime. As the CITES Secretariat (2013a) indicated, on-going efforts must be aligned, and countries need to continue to work together and cooperate to combat the illegal wildlife trade. CoP17 has further increased the momentum, with key amendments to a number of resolutions highlighting the need to combat transnational wildlife crime, and with the critical adoption of a resolution to combat corruption associated to wildlife crime. During the Conference of the Parties, CITES member states also emphasized the need to continue to strengthen efforts to combat wildlife crime (CITES Secretariat, 2016). There has also been broad support through a number of declarations, statements and decisions, most notably those of the UN General Assembly on combating illicit trafficking in wildlife crime.

Indeed, the need to protect endangered species has emphasized the need for collective action and continues to generate an ‘intensified focus of transnational collaboration’ (Rosenau, 2000, 186). As a result, a number of initiatives and enforcement mechanisms designed to foster cooperation

between countries and to counter the illegal wildlife trade – at both the national and international levels – have emerged. Such initiatives, as Raustiala (2002) suggests, involve network enhancing activities, filling gaps and facilitating negotiations amongst countries (see also Pink 2008, 2010, 2013). In particular, they aim to assist countries by encouraging them to work together to combat the lucrative black market that has emerged and the highly organized networks behind it. Bowling's (2010) new structures of cooperation have materialised in the region in the form of the BLO Mechanism and ASEAN-WEN, where a number of international, intergovernmental and nongovernmental organizations play a central and necessary role.

This raises the following questions: Are the networks being effective? Is the proliferation of initiatives actually strengthening international and cross-border law-enforcement cooperation? Are these initiatives generating the necessary commitment at governmental level to deal with the illegal wildlife trade? How are the initiatives working at the national level and are they encouraging increased – and more effective – wildlife enforcement? What is the role of the different actors involved? Are these networks complementary or are they competing against one another to the detriment of the initiatives' combined effectiveness? These are key questions for the research in this thesis and were explored during the interviews with practitioners involved in the research, with the results being considered in chapters 6, 7 and 8.

This list of questions can be summarised to form the overall question being explored in this thesis: how effective are these cooperative efforts in the fight against transnational organized wildlife crime? This chapter has explored some potential ways to measure the effectiveness of the initiatives based on the existing literature and tools available. These are key aspects to be taken into consideration when measuring the effectiveness of networks. Chapter 8 attempts to put the right pieces of the *puzzle* together.

Chapter 5: Research Methodology

5.1 Introduction

Bryman (2008) suggests there are six steps in qualitative research. For the purpose of this chapter, I have merged them into three broader sections or points:

- A. The question: (1) development of general research question and sub-questions
- B. The research: (2) selection of relevant sites/subjects to help answer the questions; (3) the collection and (4) interpretation of data; (5) the development of the conceptual and theoretical framework
- C. The answer: (6) writing up findings and conclusions

This chapter will focus on explaining how points A and B identified above were developed and the approach or strategy that was followed in order to do so. It will also examine any issues that should be taken into consideration when conducting research. This includes a brief overview of the main research methods available that were explored for possible use, the research questions, and what was done in order to answer them (i.e. what research methods were actually used and why). Aspects to be taken into consideration in order to be able to write the findings and conclusions as per point C above will also be addressed to determine how data should be analysed and interpreted as well as to ensure the reliability, validity and credibility of findings.

As Murray Thomas (2003, 225) notes, 'research methods commonly encompasses a diversity of procedures, including general approaches to data collection (historical, biographical, case study, and more), information-gathering techniques (content analysis, interviews, tests, and more), and ways of interpreting data (cause, comparison, prediction, and more)'. This chapter will explain what was done, why, and how.

5.2 Research questions

As noted previously, the aim of the research is to examine the influence of two initiatives on the illegal wildlife trade and cross-border cooperation, and to evaluate their effectiveness as platforms to combat transnational organized wildlife crime. The overall research question is:

- Are border and regional law-enforcement initiatives, such as the BLO mechanism and ASEAN-WEN, effective in combating transnational organized crime?

The broad dimension of the research question requires that one examines its different dimensions (or sub questions) in order to achieve a full understanding of the specificities and issues that will be analysed and discussed, and that will enable answering the question. The five sub-questions that emerge as a result of the different issues and aspects that have to be taken into consideration in order to answer the main question are:

- What are the patterns of the illegal wildlife trade? (and how organized is it really?)
- Who is tasked with countering transnational wildlife crime? (and what are the roles of the respective actors involved?)
- What are the policies/initiatives that have been developed as a response in Asia and how do they work?
- What is the law-enforcement response?
- Is cross-border/international cooperation effective? (and how can it be measured?)

In order to answer such questions, first it is important to explore the overall research design. The research design was done taking into consideration a central research question (above) and based on an inductive approach which aims to build theory and understanding based on facts by seeking to perceive how and why things happen. This is done taking into consideration that such results are complex to understand. The logical framework is based on analysing the available data to reach certain conclusions. In order to reach such conclusions it's important to seek to understand the different realities and to take into consideration that realities will be different for different groups or under different configurations (see generally Pierce, 2008; see also Clark and Dawson, 1999).

Figure 5.1: Phases of inductive research (developed based on Pierce, 2008)



Crucially, it is also important to establish the research *boundaries*. The research has not focused on examining what is actually happening at the cross-border level (or the field level). While it does aim to achieve an understanding of the actual situation in the field, what the research actually provides is an analysis of the perceptions of patterns, trends and issues, as opposed to the actual patterns of what is happening. Theoretically, the perceptions should be quite close to what is really happening, but it is not possible to confirm this with absolute certainty, as the subject matter is the illegal trade, and therefore not everything is known – or can be known – about it.

In addition, the focus of the research is on transnational crime. The thesis however focuses mainly on a specific form of transnational crime: the illegal wildlife trade. Within the illegal wildlife trade the focus is on certain species (as can be seen by the case studies in chapter 4 and 6). The species-specific nature of the case studies does not, however, limit the research to these species, but to all plant and animal species protected under CITES. This denotes a further boundary of the research: the focus on international trade of protected species at the cross-border and international (or regional) level and more precisely on the illegal trade in protected species between certain countries in Asia, and in particular Southeast Asia (focusing mainly on Cambodia, Thailand, Myanmar, Lao PDR and Viet Nam).

It also needs to be noted that albeit in recent years research, understanding, and general knowledge of the illegal wildlife trade have grown exponentially, the available knowledge and understanding of the illegal wildlife trade versus other forms of transnational crime such as drugs are very limited (see chapter 4 for details). It is only mainly in the last five years or so that wildlife crime and independent research on this issue have become a ‘hot topic’ for mainstream academia. Overall knowledge is therefore limited in understanding and constrains any type of analysis on this issue. This will only be changed when much more research is done on the subject matter and will probably take some years until we are able to have a much more complete understanding of the situation. It is worth noting however that progress has been made in particular with the recent (2016) World Wildlife Crime report (see chapter 4 for details). A further issue to note is that this research is based on the *perceptions* of participants (e.g. perceptions and not necessarily actualities) and the potentially limited, biased or organizational understanding that individuals interviewed had of the situation

during the research phase. Every effort has been made to understand the different biases or perspectives of the participants interviewed.

Moreover, the research aims to measure the effectiveness of international cooperative efforts to combat transnational crime. A key part of the thesis is therefore focused on effectiveness. But then again, what does effectiveness mean? How is it defined? How can it be evaluated? The answer is, naturally, debatable. As highlighted in the introductory chapter of the thesis, defining effectiveness is somewhat complicated and there are a multitude of interrelated issues that should be considered when examining it (see chapter 1). In addition, the thesis explores effectiveness of initiatives in a field that is severely under-researched and where information is rather limited both on the initiatives as well as on ways to measure their effectiveness. I have therefore not established one single definition of effectiveness and suggest that it has to be measured using a number of different and balanced measurements as there are a number of layers that should be taken into consideration. Different views and perceptions on effectiveness have therefore been explored throughout the different chapters (see chapter 2, 4, 7 and 8). In particular, known definitions of effectiveness and what 'effective cooperation' and 'effectiveness' means. The empirical research also relates to the perceptions of what effectiveness means to those involved: what do *they* think effectiveness means? How do *they believe* it be assessed in relation to the initiatives? How effective do *they* think the initiatives are? The third is based on levels of development or progress (or relative progress) of the initiatives over time, and in relation to the cultural attitudes in the region, as well as what they could or should be, and factors that might make it more or less effective. All three parts have been used to reach a definition of effectiveness that has been the one used to measure the effectiveness of the initiatives and to, ultimately, evaluate them in the final chapter of the thesis.

A further consideration is that the formulation of these questions was influenced by my previous experience working for these initiatives in Asia for a number of years. This is in relation to my knowledge of the initiatives and wildlife trade and also of those involved in the initiatives (at both government and IGO/NGO level). The background knowledge proved to be very useful in terms of understanding the illegal wildlife trade as well as the initiatives as little to no research existed on the matter when the research was initially developed (2010). While the analysis of wildlife crime is increasingly emerging, little research to date has been conducted on ASEAN-WEN and the BLO Mechanism (and their related projects) outside from those directly involved (e.g. United Nations, NGOs; see generally chapter 4). To my knowledge, no similar studies of the initiatives exist. It does not seem that there are studies on the initiative independently neither. Knowing many of the individuals involved in countering wildlife crime was also extremely beneficial as it provided a vast

amount of potential individuals or groups of people I could interview from the outset. This was possible because prior to starting the research I had worked with many of them while I was employed by the United Nations (UNODC and UNEP) and an NGO (TRAFFIC) that supported the program. While beneficial, this also created a potential conflict as people involved would also know me and could potentially feel obligated to participate. As it is noted in more detail in the ethics section, this was taken into consideration and it was made clear that the research was independent from my previous capacities and that participating in the research was voluntary.

5.3 Research methods

The aim of the research was, broadly speaking, to examine the impact of efforts to counter the illegal wildlife trade and increase cross-border and international cooperation, and to evaluate the effectiveness of two specific initiatives. As noted previously, the aim of evaluating the impact of the initiatives was revised into an exploration of how they could become more effective as platforms to combat transnational organized wildlife crime. In order to do so, a set of questions has been developed that delimit the boundaries of the research, as well as its aims and objectives. This includes definitions of effectiveness and discussions on how effectiveness can be evaluated.

Before examining in further detail the questions and how they have been addressed, it is necessary to provide some background on the main research methods that were explored for the research. As it will become clear throughout the chapter, the research requires the use of a variety of data collection techniques and a research design that is formed and developed based on access to information and that maximizes access to participants who could be involved in the research. This included exploring potential qualitative and quantitative methods (a mixed methods approach) that could be used in the research to maximize the amount of research data.

The following sections will briefly explore the underlying characteristics, differences and criticisms of the different research methods (qualitative, quantitative methods and mixed methods). It will then examine what specific methods were used for each question and why.

Quantitative and Qualitative Research

Bryman (1996, 2006, 2008) provides a comprehensive discussion on the nature of qualitative research and qualitative and quantitative methods. As Bergman (2008, 4) notes, ‘the focus on fundamental differences between qualitative and quantitative research methods (...) reached its zenith in the late 1980s and 1990s with the publication of an entire battery of influential texts’¹²⁰. Pierce (2008)¹²¹ highlights the strengths and weaknesses of the two main research methods. As Murray Thomas (2003, 1, emphasis in original) suggests, in general terms, the simplest way to distinguish between them ‘may be to say that qualitative methods involve a researcher describing *kinds* of characteristics of people and events without comparing events in terms of measurements or amounts. Quantitative methods, on the other hand, focus attention on measurements and *amounts* (more and less, larger and smaller, often and seldom, similar and different) of the characteristics displayed by the people and events that the researcher studies’.

Murray Thomas (2003, 1-2) has completed a comprehensive review of the definitions of qualitative and quantitative methods from a number of authors where ‘it is apparent that researchers are not all of the same mind’ in terms of the definition, and where ‘definitions become even more confusing when authors differ markedly in what they intend by the term method’. The following is a section on the definitions of qualitative and quantitative research taken directly from his book:

Qualitative research is multimethod in focus, involving an interpretive, naturalistic approach to its subject matter. This means that qualitative researchers study things in their natural settings, attempting to make sense of, or interpret phenomena in terms of the meanings people bring to them. Qualitative research involves the studied use and collection of a variety of empirical materials—case study, personal experience, introspective, life story, interview, observational, historical, interactional, and visual texts—that describe routine and problematic moments and meanings in people's lives.¹²² (Denzin and Lincoln cited in Murray Thomas, 2003, 2)

Qualitative researchers seek to make sense of personal stories and the ways in which they interact. ... Qualitative inquiry is an umbrella term for various philosophical orientations to interpretive research. For example, qualitative researchers might call their work ethnography, case study, phenomenology, educational criticism, ... human ethnology, ecological psychology, holistic ethnography, cognitive anthropology, ethnography of communication, symbolic interactionism, ... microethnography, ethnomethodology, postmodern

¹²⁰ Bergman (2008) highlights in particular Brewer and Hunter, 1989; Danziger, 1990; Denzin and Lincoln, 1994; 1998; Flick, 1998; Lincoln and Guba, 1985; Maykut and Morehouse, 1994; Reichhardt and Rallis, 1994; Silverman, 1993, 1997; 1999.

¹²¹ See Chapter 4 in Pierce (2008)

¹²² For more information see Denzin and Lincoln (1994).

*ethnography... [or] participatory research.*¹²³ (Glesne and Peshkin cited in Murray Thomas, 2003, 1)

*Quantitative research uses numbers and statistical methods. It tends to be based on numerical measurements of specific aspects of phenomena; it abstracts from particular instances to seek general description or to test causal hypotheses; it seeks measurements and analyses that are easily replicable by other researchers.*¹²⁴ (King, Keohane, and Verba, cited in Murray Thomas, 2003, 3-4))

*Quantitative researchers seek explanations and predictions that will generalize to other persons and places. Careful sampling strategies and experimental designs are aspects of quantitative methods aimed at produce generalizable results. In quantitative research, the researcher's role is to observe and measure, and care is taken to keep the researchers from "contaminating" the data through personal involvement with the research subjects. Researchers "objectivity" is of utmost concern.*¹²⁵ (Glesne and Peshkin cited in Murray Thomas, 2003, 6)

For Bryman (2006, 111), qualitative research is 'a research strategy whose emphasis on a relatively open-ended approach to the research process frequently produces surprises, changes of direction and new insights'. He argues, however, that 'quantitative research is by no means a mechanical application of neutral tools that result in no new insights. In quantitative data analysis, the imaginative application of techniques can result in new understandings'.

Both methods have historically been portrayed as 'mutually exclusive' approaches (Pierce, 2008, 41). Generally speaking, quantitative methodologies tend to be framed by advocates of the qualitative approach as 'a contest between innovative, socially responsible methods versus obstinately conservative and narrow-minded methods', or by advocates of a quantitative approach as 'precise, sophisticated techniques versus mere "common sense"' (Stewart and Shields cited in Pierce 2008, 23). As Pierce (2008, 23) notes: 'Arguably, the essential operational distinction between quantitative and qualitative research is whether the researcher is a neutral, objective observer studying a person as an object, or as an independent variable engaging subjectively the person as a subject or client'.

Both methods were explored to try to answer the research question using a primarily inductive approach. Mixed methods was initially of particular interest as the intention was to predominantly rely on qualitative data from interviews but use other possible and available sources of data to enhance the research and to contrast, compare and validate findings. It has therefore been suggested that a mixed methods strategy fits closely with the 'practical enquiry' that informs practice as it is also of particular interest to policy and policymakers (see generally Bryman, 2006; Wheeldon, 2010; Greene & Caracelli, 1997; Bergman 2008). Nonetheless, various options were

¹²³ For more information see Glesne and Peshkin (1992).

¹²⁴ For more information see King, Keohane and Verba (1994).

¹²⁵ For more information see Glesne and Peshkin (1992).

explored for the research, and due to a number of practicalities and to the limited availability of quantitative data, it was decided that the research should primarily focus on qualitative research with an emphasis on elite interviews with key actors involved at various levels. This will be further explored in later sections of this chapter.

Other considerations – Practical and Action Oriented Research

A further consideration is that the research is inherently linked with a practical and action oriented approach, given that one of the key aims of the research is to evaluate the effectiveness of the initiatives and to contribute to their enhancement. The research design has therefore been influenced by what is known as evaluation research. The reason why this type of research is important is because it is often used when policy-makers need to assess the effectiveness of initiatives or make 'informed decisions' about the future of particular initiatives (including potential extension or development of new ones) (Clarke and Dawson, 1999, 94). Evaluation research is applied research which aims to 'produce information about the implementation, operation and ultimate effectiveness of policies and programmes designed to bring about change' (Clarke and Dawson, 1999, 35).

The term 'evaluation' is used in a myriad of contexts, settings and circumstances and there is a broad range of definitions¹²⁶. Evaluation is primarily concerned with determining the merit, worth or value of an established policy or planned intervention (Clarke and Dawson, 1999). Overall, it is 'a form of applied social research, the primary purpose of which is not to discover new knowledge, ... but to study the effectiveness with which existing knowledge is used to inform and guide practical action'.

¹²⁶ See generally Clarke and Dawson, 1999. These include:

Program evaluation as the systematic collection of information about the activities, characteristics, and outcomes of programs for use by specific people to reduce uncertainties, improve effectiveness, and make decisions with regard to what those programs are doing and affecting (Patton as cited in Clarke and Dawson, 1999, 1-2).

Evaluation as a type of policy research, designed to help people make wise choices about future programming. Evaluation does not aim to replace decision makers' experience and judgement, but rather offers systematic evidence that informs experience and judgement. Evaluation strives for impartiality and fairness. At its best, it strives to represent the range of perspectives of those who have a stake in the program (Weiss, as quoted in Alkin, as cited in Clarke and Dawson, 1999, 1-2).

Evaluation is usually defined as the determination of the worth or value of something - in this case, of educational and social programs, policies, and personnel - judged according to appropriate criteria, with those criteria explicated and justified (House, Scriven as cited in Clarke and Dawson, 1999, 1-2).

Evaluation research is the systematic application of social research procedures for assessing the conceptualization, design, implementation, and utility of social intervention programs (Rossi and Freeman as cited in Clarke and Dawson, 1999, 1-2).

As Stufflebeam and Shinkfield (in Clarke and Dawson, 1999, 151) highlight, 'the most important purpose of evaluation is not to prove but to improve'. For Weiss (in Clarke and Dawson, 1999, 516), 'evaluation ... does not aim for "truth" or certainty [but] to help improve programming and policy making'. As Clarke and Dawson (1999, 1) highlight, 'it is this practical orientation that constitutes one of the major distinguishing features of evaluation'. Broadly speaking, Weiss (in Clarke and Dawson, 1999) describes it as 'an elastic word that stretches to cover judgements of many kinds' and 'involves judging the value, merit or worth of something'. It is an 'action oriented' form of inquiry (Clarke and Dawson, 1999, 2). The main difference with academic research is that one (research) is aimed at truth, while the other (evaluation), at action (Clarke and Dawson, 1999, 35).

In fact, the main distinction between evaluation research and other forms of social research is not the methods employed but *'the purpose to which the methods are put'* (Babbie cited in Clarke and Dawson, 1999, 2). The choice of methods in evaluation research is influenced by the context: *'There are no rigid rules that can be provided for making data collection and methods decisions in evaluation. The art of evaluation involves creating a design and gathering information that is appropriate for a specific situation and particular policymaking context'* (Patton cited in Clarke and Dawson, 1999, 64). The circumstances and purpose of the evaluation will therefore determine the choices in methods.

As Clarke and Dawson (1999) note, evaluation techniques have been applied throughout the criminal justice system¹²⁷. In most cases, evaluators have encountered practical, technical, conceptual and methodological problems¹²⁸. This can be avoided and minimized by having a sound methodological approach.

5.4 Answering the questions

As noted previously, once questions take shape, it is important to examine what it means to be asking those questions and how it is best to answer each specific question. This entails examining the broad dimension of the question, to then go further into the specificities or the little details of

¹²⁷ For example, there have been numerous studies covering the efficacy of community policing programmes (Bennett, 1992); the effectiveness of probation practice; the impact of community penalties (Mair, 1997); the performance of the Crown Prosecution Service (National Audit Office, 1989); the effect of crime prevention programmes (Pease, 1994); the impact of police-initiated attempts to reduce the levels of fear of crime (Bennett, 1991), and the implementation and effectiveness of policing strategies designed to combat specific types of crime, such as, domestic burglary (Stockdale and Gresham, 1995). See Maguire, Morgan and Reiner, 1994 for details.

¹²⁸ These are discussed in detail by Clarke and Dawson (1999)

each question. We will therefore provide further details on *what* it means to be asking such questions, *how* to answer the different questions (i.e. what methods and tools have been used) and *why* such methods have been used. Other considerations such as potential problems, questions and issues that emerge from the different questions will also be addressed as necessary. We will then examine the different stages that were followed to collect the information.

Sub-question 1.1: What are the patterns of the illegal wildlife trade?

In order to answer such question in depth desk research was conducted on the illegal wildlife trade. It is also essential to explore what experts and officers on the ground understand by the illegal wildlife trade and what their perceptions are of the illegal trade in relation to their office, organization or country. In addition it is important to discover how countries see the problem and what they intend to do about it (a major problem for us vs. there is no illegal trade in our country). This includes receiving the views of a broad range of people that are involved in the implementation and developing of policy designed to counter transnational crime. In order to do so, available academic literature as well as reports from a broad range of organizations and individuals on the illegal wildlife trade was consulted and experts were interviewed, as it is believed this is the most effective way to seek information from people on the ground. Those not available for interviews were sent a (qualitative) questionnaire with targeted questions that they would have been asked during the interview.

Sub-question 1.2: Who is tasked with countering transnational wildlife crime?

Answering this question was done following the same approach as question 1.1 above (i.e. desk research, interviews and data from questionnaires with interview questions for participants that were not available for an interview). Initially an analysis of international treaties applicable as well as a review of literature (e.g. international law, international environmental law and international environmental regimes) on the role of different bodies involved was conducted. The main aim of this question is to determine the main actors involved in countering transnational wildlife crime in countries in Southeast Asia. Which are the main organizations? This question is essential in order to determine what organizations are – or should be – involved in countering transnational wildlife crime and their role. It also enables further discussion on the need to work together to counter transnational crime and why it is beneficial to work together to counter it. This is particularly

important because the officers working at the border under the Border Liaison Office Mechanism are a combination of officers from different department, with different priorities and tasks. It is also important to know where they work from, and how. In order to answer the question, available academic literature as well as reports from a broad range of organizations and individuals was consulted and a broad range of experts from relevant organizations were interviewed. Data were also gathered through participation in a broad range of activities.

Sub-question 1.3: What are the policies/initiatives that have been developed as a response in Asia and how do they work?

Once the above questions have been addressed, it is necessary to examine the initiatives that have been developed and that are the focus of the research, as well as the perceptions of the initiatives from relevant experts. It is important to note that the initiatives have different approaches, but are potentially complementary (see chapters 4 and 7 for further details on the initiatives). The aim of the question is to examine what people think about the different initiatives and to provide a basis that will enable recommendations on how to enhance them based on the perceptions of those involved. The question also aims to clarify the roles of the different people involved in the initiatives and how the different officers work. In order to do so, the limited literature on the initiatives was consulted (mainly project proposals, websites and reports) and a broad range of experts from relevant organizations were interviewed.

Sub-question 1.4: What is the law-enforcement response?

Having examined the initiatives and the role of the different actors, it is necessary to examine the law-enforcement response as a result of the initiatives. Do the initiatives encourage effective cooperation at the national level? (I.e. within the different organizations working on the issue at the national level). Do the initiatives encourage effective cross-border or international/transnational cooperation? (I.e. across borders). For this purpose, the research relied on data from interviews with relevant experts as well as internal reports on the projects and initiatives. The possibility to conduct observations in the field was examined as a means to gather additional and unique information on what the law-enforcement response was in the field. It was, however, decided not to conduct observations on the border as it would have had considerable financial implications for the project and it would have been difficult to implement due to obvious barriers that would be very difficult to

address (such as language and multitude of locations) and others that could have been negotiated relatively more easily (such as access to border areas).

Sub-question 1.5: Is cross-border/international cooperation effective?

All of the above questions are intended to provide details and background on what the illegal trade is, how is it best to counter it, the initiatives that exist, and the resulting response. The next rational step is examining the effectiveness of the initiatives, if they encourage cross-border or international cooperation, and if as a result of the increased interactions efforts to counter transnational wildlife crime are more effective. In order to answer the question, participants involved in the different initiatives and relevant experts were asked to define effectiveness, and to assess the relative effectiveness of the initiatives. These are of course measures of people's perceptions, not of actual effectiveness outcomes (since their success in creating outcomes, such as the perceptions held by potential offenders, amounts trafficked or preserving species cannot be known with any accuracy). It will also enable an analysis of the efforts: is there thought to be increased cross-border cooperation? Is it thought to be more effective? This was indeed one of the issues discussed throughout the interviews. Effectiveness will be measured, as mentioned above, using a number of different and balanced measurements as there are a number of layers, views and perceptions on effectiveness that should be taken into consideration. (see also chapter 1, 2, 4, 7 and 8).

5.5 Methods in practice

Having examined *what* information was requested, we will now highlight in more detail the methods used: *how* that information was gathered.

The first phase included academic research (on international law, international environmental law, transnational policing, TOC, international politics/policy, international agreements, CITES) as well as background research on the selected initiatives/projects. This provided a sound understanding of the background problem and the different people or groups of people or organizations that are involved in the different initiatives. It has to be noted that outside of available literature and reports from the organizations involved in the different initiatives, other official data were not readily available as there has been little research to date on the initiatives. I did, however, manage to secure a number of reports and information that were only available internally due to my previous work experience

and connections. As noted above, when analysing data it is essential to explore the bias of the reports/documents. It is also important to note that these reports have their own methodology, which makes the analysis more complicated.

The second phase involved gathering information from a number of activities and events of the initiatives by means of attending different workshops, meetings and training events. In this phase I was merely benefitting from activities that were organized by a number of organizations and that I could attend as a researcher to either observe or actively participate in the meeting. In some cases this involved returning the favour with specific assistance such as moderating a discussion during a meeting or a similar task. In most cases I was given the opportunity to present my research or to have a discussion on particular issues. While I was involved in the process, I did not directly choose the participants or the location. I simply made use of an opportunity to gather additional information for the research when I was invited to participate in an event or informed that an activity was taking place. In all cases it was made clear that I was participating as an independent researcher. Specific events I participated in include: the 23rd Interpol Wildlife Crime Working Group, the 12th Asia Regional Partners Forum on Combating Environmental Crime (ARPEC) meeting, a UNEP Regional Enforcement Training, a UNODC PATROL Evaluation workshop and several PATROL Training events in Cambodia and Thailand between 2012 and 2013. Since then I have followed developments in the field and in relation to the initiatives involved and these data are included where relevant up to early 2017.

This phase also included exploring options to use quantitative data (questionnaires to border officers). In particular it included assisting UNODC to develop a structured questionnaire that was completed by border officers participating in various training events. It needs to be noted however that while I was involved in the initial development and implementation of the questionnaires, I did not have any 'decision power' over the final version and also did not participate in all the events where it was used. UNODC kindly provided these data to me after the events to explore if these could be used in the thesis. After receiving the data, however, it became clear that the questionnaires had been revised and adapted to various specific activities and therefore could not be used in the research as they did not provide sufficient baseline data on my specific topics of interest to enable an in depth analysis. It should be noted that it would be worth exploring the use of quantitative data in future research on cross-border cooperation efforts in Southeast Asia, as such research appears not to exist to date.

The second phase was done in conjunction with the third, which involved 'elite' interviews (see box below), as well as focus groups or questionnaires for the four different levels of personnel directly

involved in the initiatives (from field level to heads/regional representatives, in addition to representatives from relevant governmental, intergovernmental, and nongovernmental organizations and academics). The interviews aimed at a broad representation from the different levels to get a solid understanding of the overall state of affairs as understood through the eyes of the participants. By having four different levels, from top to bottom and vice versa, one can achieve a greater understanding of the situation, and manage biases and perspectives of participants more effectively. It was decided that it was necessary to conduct elite interviews to get a first-hand account from those directly involved in – or working with or for – the different initiatives. This was determined to be the most effective way to obtain information and perspectives from those involved.

Box 5.1: Interviewing and elite interviews

A qualitative interview is defined by Corbetta (2003, 264) as a ‘guided conversation’ which is: (1) ‘elicited by the interviewer’; where (2) a considerable number of participants are interviewed, (3) ‘selected on the basis of a data-gathering plan’. The interview has a (4) ‘cognitive objective’; is (5) ‘guided by the interviewer’, and is (6) ‘based on a flexible, non-standardized pattern of questioning’ where the interviewee will ‘structure his answer ... as [he/she] thinks fit’.

As Patton (in Corbetta, 2003, 265, emphasis in original) notes: ‘The purpose of qualitative interviewing is to understand how the subjects studied see the world, to learn *their* terminology and judgements, and to capture the complexities of *their* individual perceptions and experiences. ... The fundamental principle of qualitative interviewing is to provide a framework within which respondents can express *their own* understandings in their own terms’.

There are three types of interviews: structured, semi-structured and unstructured. These are all explained by Corbetta (2003) and others in detail, so the focus of this section will remain on semi-structured interviews as these are the ones that have been used. Semi-structured interviews generally speaking have a broad ‘outline’ of the issues or topics to be discussed. The order and wording is left to the interviewer's discretion, which ‘gives both the interviewer and the respondent ample freedom, while at the same time ensuring that all the relevant themes are dealt with and all the necessary information collected’ (Corbetta, 2003, 271). This is particularly important for the research conducted here in particular due to the limited availability of data and the need to explore as much information as possible from participants involved in the different initiatives. It also adjusts to the specific areas of expertise of the various interviewees and

maximizes the value of information received.

An issue to bear in mind is that 'Interviews with ... elites provide a major source of information ... but you must never assume that what you are told or hear is reliable and accurate' (Pierce, 2008, 85-86). As Pierce (2008, 86) highlights, 'You must always question (implicitly) the answers to your questions' as they will reflect interests, perspectives and positions, most probably of their organizations or the official position of their countries. In addition, the freedom or 'lack of standardization' is seen as 'both a strength and a weakness':

'Working under few constraints, the *interviewer* is able to pursue unforeseen leads and to work out and explore new hypotheses concerning the phenomenon under investigation, thereby going beyond the original formulation of the problem. Enjoying complete freedom of expression, the *respondent* is in a position to put forward his point of view using his own mental categories and his own language. The qualitative interview is therefore particularly suited to discovery and – as has already been said – *understanding*. At the same time, however, this lack of standardization makes both comparison and quantitative assessment of the phenomena studied problematic' (Corbetta, 2003, 283, emphasis in original).

The selection of participants for the interviews was done with the following criteria in mind:

- a) Involvement in activity/initiative
- b) Knowledge of activity/initiative
- c) Involvement in efforts to counter wildlife crime or transnational crime
- d) Knowledge of wildlife crime or transnational crime
- e) Position within the government/initiative/organization (seniority)
- f) Access to participant and availability/interest of participants to participate in the research
- g) Availability of funds to the researcher

The interviews were usually conducted on a one on one basis in the office of the person being interviewed. Some were facilitated by my participation in the different training events and meetings and a number of interviews involved traveling to selected countries. In some cases, participants

preferred to do a focus group, and invited additional staff to participate. I also conducted focus groups in several other events I participated and was invited to moderate discussions relevant to the research. The aim of such interviews was to explore the following issues with relevant experts:

- I. Efforts of different countries to counter illegal wildlife trade: is it enough? What are the loopholes/gaps? What more is needed?
- II. The need for international cooperation and the initiatives – is it necessary? Better to do it alone or through international cooperation? Are the initiatives what you would have hoped for?
- III. The effectiveness of initiatives and their limitations, needs and problems
- IV. Their experiences, lessons learnt and suggestions for improvement
- V. Exploring the actual links between different transnational crimes and the nature of wildlife crime
- VI. Exploring the views of ‘effectiveness’ the different participants interviewed have.

Participants whom I was not able to interview were sent an open question questionnaire which included targeted questions based on the above and their experience/role/position. This was done by email.

As it has been noted already at various stages throughout the chapter, the research is based on perceptions: the perceptions of the different individuals, groups of people and/or organizations that are involved in the projects or that have a sound understanding of either the initiatives or the subject matter.

Obviously, when a participant was an expert on wildlife issues but did not know about the initiatives, he/she was not asked in detail about the other issue, albeit general questions were indeed asked to see if he/she had heard of the initiatives, and if so their perceived opinion. In most cases, however, they would choose not to answer the question on the grounds that they did not have sufficient information and would prefer not to comment. The key issue to note is that it is the perceptions of the different sets of participants that are analysed, and that these are generally based on their particular priorities or interests, therefore they are not neutral. This is also the case with reports and most of the available materials that have been used: they relate to others’ perspectives and opinions and reflect particular interests, motivations and perspectives. Given this background,

participants from – or materials from – the United Nations are theoretically the more ‘neutral’ observers. They continue to have, nonetheless, a bias.

It should be highlighted that a possible approach to achieve a higher degree of certainty of what is actually happening versus the perceptions of what is happening would have required long observations at several border points and other potential ways to observe the reality of the field. This might have provided a clearer picture of what is actually happening. It was, however, not possible to do as part of the research. In addition, it should be noted that it would have been technically possible to gain additional perspectives on the dynamics and operation of the illegal wildlife trade and the modus operandi of transnational wildlife criminals by targeting a broader audience for the interviews. This could have included perpetrators of wildlife crimes, such as individuals arrested for poaching, smuggling, buying or selling wildlife, prosecuted criminals involved in the illegal wildlife trade, and/or legal or alleged illegal wildlife traders. Similar to the observations noted above, this would have provided additional information on the facilitating conditions of wildlife crime and sources of information to understand the *actual* modus operandi of the illegal trade in wildlife, versus the *perceptions* of officers and those involved in the initiatives. Due to the limited number of offenders arrested for wildlife crime in the region at the time, as well as the difficulty of gaining access to such individuals (and language barriers), this option was not explored further. It is also believed that such research would benefit from a more targeted and separate analysis focusing on for example, prosecuted offenders.

Similarly, open sources of data, such as court records of trials or prosecutions were extremely limited and it was therefore not a viable option to use open data sources to provide a baseline of wildlife crime before or after the initiatives. It should be noted that during the interviews conducted as part of the research, respondents were asked about likely perpetrators of wildlife crimes and on the availability of non-open source data. Most participants however did not seem to have much more additional material at the time, except for details on specific cases in which they had been directly involved. The countries and organisations were not able to provide quantifiable 'management information' on the extent of wildlife crime in specific areas, nor did it seem as though this was being collected at the time of the interviews.

Taking the above into consideration, it was decided the focus of the empirical data should remain primarily on the perceptions of those involved in the different initiatives. Every effort was made to capture the different layers of the individuals involved in the initiatives, as this would provide a more targeted analysis for the purposes of this research. This means that the analysis of the influence of

the networks being studied is necessarily a process evaluation, rather than being able to encompass effects on outcomes, or the impact of the initiatives.

5.6 The process

A work plan was prepared for the project, with a detailed and structured plan for the interviews and (qualitative) questionnaires. This included the details of the people and organizations I would target for interviews, how the interview would be conducted (usually in person although in some cases Skype was used), the status of the progress (e.g. planned for X date, completed on Y date, awaiting response, completed, etc.), and a time frame for contacting expected interviewees, expected time of interview and so forth. In all cases a 'plan B' was calculated in case the interview was postponed or cancelled, which in hindsight was an excellent idea given the number of times this actually happened.

All organizations (including government, intergovernmental and governmental organizations) involved in the different initiatives, as well as some members of academia were targeted and key individuals contacted¹²⁹. Given my previous work experience and personal contacts with many of them this was relatively easy and provided an excellent range of participants.

These formed the core baseline of participants of the research and were in many cases the 'gate keepers' that enabled initial access to information (Miller and Bell, 2012, 62). As gate keepers, they had the potential to influence or provide more or less access to training events, to additional people to interview, and to information that would be essential such as internal reports or project reports. In most cases they fully opened their doors and granted me an impressive level of access to information, suggested colleagues that could be interviewed, and indeed provided access to training events, meetings and conferences. A potential problem of gate keepers is that they can exercise their authority over others to accept to be interviewed and provide information and so potentially both create a slightly coercive situation and/or affect the results (Miller and Bell, 2012, 64). It is believed that this was not a problem at all. Rather, everyone seemed very interested to participate in the research. In any event, every effort was made to ensure participants interviewed were voluntarily participating in the research. In order to avoid any potential problems, most participants

¹²⁹ Participants involved included from government organizations, representatives from Intergovernmental Organizations (IGOs) and academic institutions as well as from Non-Governmental Organizations (NGOs) who were involved in the initiatives. Their involvement was explored based on the four different levels of personnel that were directly involved in the initiatives, including: law enforcement officers (field level/border staff); senior law enforcement officers (heads or provincial representatives); senior government representatives and network focal points; senior NGO, IGO, UN representatives and academics.

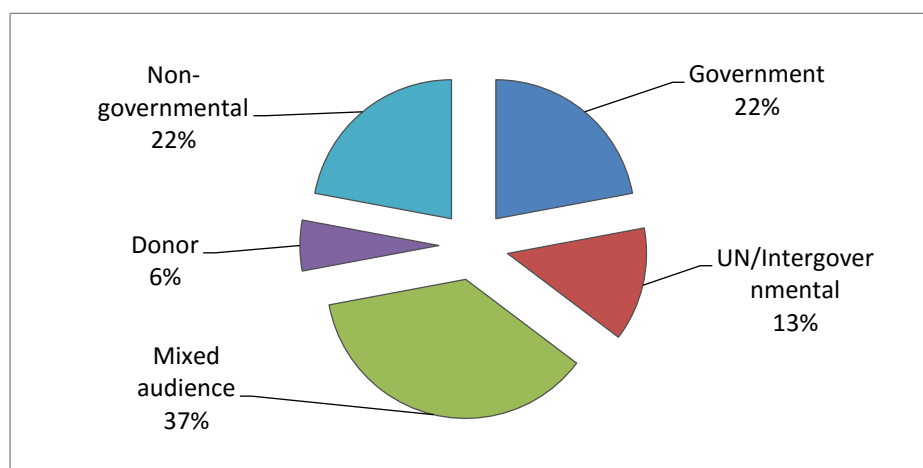
interviewed were contacted simultaneously to informally discuss the research and the potential to do an interview before any 'gate keeper' was formally contacted. This was facilitated by the personal contacts I had previously established with them. A further potential problem of gate keepers is that in some cases, they can make access to information difficult (Miller and Bell, 2012, 62). This only happened in one instance throughout the research, but it was mitigated as I was using multiple approaches and personal contacts at the same time. In fact, this particular gate keeper eventually agreed to participate in the research, was extremely welcoming, and provided very useful information. It is therefore not clear if the 'closed door' was intentional or – more likely – as a result of a very busy timetable.

Recommendations from participants interviewed and colleagues produced what is known as the snowballing effect. Snowballing (as applied to this research) is, in short, where a participant or organization recommends potential additional participants to participate in the research or actively encourage them to participate. This in turn, creates a snowballing effect with additional layers of recommendation and encouragement to others to participate and so on. The main advantages is that it provides potential access to additional participants and may facilitate the discovery of issues or aspects of the research that may have been overseen or that had not been envisaged initially. Its main disadvantage is that it may unbalance the responses from one particular group over another (see generally Atkinson and John Flint, 2001). Snowballing enabled me to interview additional people and to send questionnaires more broadly. I believe, however, that it did not drastically increase the amount of people actually interviewed or that responded to the (qualitative) questionnaire, as only 2 of the 'snowball' participants actually responded. Participating in official training events, meetings and workshops considerably increased the amount of information that could be gathered. It also provided me with the opportunity to interview experts who were only participating in the training, which had not been originally planned or envisaged.

All participants interviewed face-to-face signed a consent form and agreed to participate in the research. All participants were informed about the research and told they could refuse to participate (see section 9 below for further details). For Skype/email interviews and group discussions over three (3) people, it was assumed that participants voluntarily agreed to take part in the interview and that a signed consent form was therefore not necessary, though verbal consent was given. The return of the (qualitative) questionnaire was seen as voluntarily agreeing to participate in the project for the 3 people that actually responded to the questionnaire.

The original aim was to have a good representation from all organizations involved in the different initiatives. The chart below highlights the affiliation of the total of 68 participants interviewed.

Figure 5.1: Participants that participated in the research (focus group and & interviews)



Note: Mixed audience is generally as a result of a focus group or a group discussion during conferences/meetings where the participants were of at least two different affiliations.

The empirical research was conducted between March and October 2012 in Thailand, Viet Nam and Cambodia. In numbers (total number of interviews conducted, hours, people interviewed), the research included:

- Individual interviews: 34 people;
- Focus groups/group interviews: 6 groups;

Hence, total interviews/focus groups: 40.

- Total people interviewed (individual): 34 people;
- Total people interviewed (in groups): 34 people;

Hence grand total (participants): 68.

- All interviews recorded: over 50h 50m.

Overall, it seems that the percentages of participants is representative of their involvement in the different initiatives. The donor perspective is also important as it provides an interesting perspective. While it would have been ideal to have an equal percentage of government and UN/Intergovernmental representation, the results from the mixed audience are also important because they reflect discussions and several perspectives that are unique to group discussions and that would have not emerged in individual interviews. While the percentage of people from UN/Intergovernmental organizations seems low, the people interviewed were the key people

involved in the projects, and the data should therefore accurately reflect the perceptions of those interviewed and their respective organizations.

A potential gap is the low number of (qualitative) questionnaires that were received: a total of three (3). However, given that these were mostly as a result of snowballing and that they were not considered essential to the research (sending the questionnaires for completion via email was in fact part of 'plan C'), this should not negatively affect the research findings. A further gap is that I was not able to participate in all training needs assessments, training events and meetings that took place during the research period for purely practical reasons. In addition, not all countries involved in the initiatives were interviewed and/or part of the research. This was part of a strategic decision to focus on countries that played different roles in the regional trade (source, transit or destination) and where it would be possible to make arrangements to interview participants and participate in events. Thailand, Cambodia and Viet Nam were therefore chosen as the three countries which have played important but different roles in the illegal wildlife trade at the regional level. The first was believed to be at the time a transit country but also a hub for illegal trade. The second was thought to be mainly a transit country. The third was believed to be a transit country but also a major consumer country. A decision was also made to travel to these countries to ensure I could interview specific officials who were considered essential for the research.

As noted previously, it is important to keep in mind that the interview data contain certain biases. When analysing the data every effort was made to detect the bias of those who participated in the research, and indeed also to eliminate any possible bias that I might have because of my background and experiences with the initiatives. As Pierce (2008, 17) notes: 'you are unlikely to begin (...) with an open mind. Your choice of research topic, question and starting hypothesis will reflect deep-seated values and prejudices' One must 'realise that he is biased, and somehow or other he must manage to discover this bias' (Webb and Webb in Pierce, 2008, 18).

5.7 Analysis and interpretation of data

As Weiss (1998, 271). notes:

The aim of analysis is to convert a mass of raw data into a coherent account. Whether the data are quantitative or qualitative, the task is to sort, arrange, and process them and make sense of their configuration. The intent is to produce a reading that accurately represents the raw data and blends them into a meaningful account of events.

While there are different theories on how data can be analysed, these are not necessarily mutually exclusive. Overall, Bryman (2008, 369-370) argues that 'theory is supposed to be an outcome of an investigation rather than something that precedes it'. He stresses that it is 'something that emerges out of the collection and analysis of data' and 'the importance of allowing theoretical ideas to emerge out of one's data' (2008, 373).

A combination of the methods was explored to analyse the 'attractive nuisance' that the large amount of data collected throughout the research has become (Bryman, 2008, 538). This has been done with mainly an inductive approach to qualitative data (interviews and qualitative questionnaires). Inductive research has been defined as 'the inference from the particular to the general' (Honderich, 1995, 405-6). It aims to generate and enable the researcher to develop generalizable inferences from observations. In other words, observations produce theory (Pierce, 2008). This is congruent with the epistemological position of the research that stresses its interpretivist nature in gathering perceptions of the actors involved, rather than the researcher defining all the theoretical constructs before fieldwork.

In general terms, Bryman (2008) suggests qualitative data analysis involves broadly speaking the following steps: (1) reading material, (2) coding, (3) re-reading the material to generate remarks/observations, (4) reviewing the codes and (5) considering more general theoretical ideas in relation to the codes and data (i.e. categories). An issue to note before proceeding further is the alternate use of the terms code and theme in the literature: 'for some ... a theme is more or less the same as a code, whereas for others it transcends any one code and is built up out of groups of codes' (Bryman, 2008, 554). To ensure clarity, I will refer to both below but will only refer to 'themes' in other sections or chapters of the thesis.

The development of themes, subthemes and categories (e.g. thematic analysis) is indeed one of the most common approaches to qualitative data analysis. As Bryman (2008, 554) notes, 'Themes and subthemes are essentially recurring motifs in the text that are then applied to the data. The themes and subthemes are the product of a thorough reading and re-reading of the transcripts or field notes that make up the data'.

In addition the research has also been influenced by pragmatism, as it allows for initial explanations and hypotheses to emerge based on experience, expertise, and intuition (Wheeldon, 2010; Schurz, 2002). This is very much the case as I had prior knowledge, understanding and experience on cross-border cooperation and efforts to combat transnational crime, which have helped generate ideas and structure the analysis of data once the initial themes were developed. As Tomiyama et al. (in

Wheeldon, 2010, 88) state: ‘through an innovative combination of existing knowledge, one can both generate possible research solutions and at the same time attempt to integrate various theories and approaches’.¹³⁰

The thematic analysis of data was done by gathering together all information and data from all sources available (e.g. interviews, questionnaires and relevant reports or notes taken). This included transcripts and detailed notes and pads that had been used throughout the fieldwork. The various documents and interview recordings were read and analysed multiple times using initially NVivo, access to which was facilitated by the University. This provided an initial structure and thematic overview that was further refined through multiple reiterations of: reading, re-reading and analysing, while adding additional information and material gathered. At the same time it was important to take into account potential individual and organizational biases, which identified the need to group the interviewees by organization. The themes that emerged based on *perceptions* of those involved guided the resulting analysis (see chapter 6, 7 and 8 as well as the introduction to Part II of the thesis).

5.8 Reliability, validity and credibility

A further issue to take into account is the reliability, validity and credibility of the research. Two issues should be differentiated here. As Tashakkori and Teddlie (cited in Bergman, 2008) highlight, one needs to look at the ‘quality of data’ (e.g. data validity, reliability, stability, credibility) and quality of inference (e.g. internal validity, credibility of the conclusions, etc.).

With regards to the former, Pierce (2008) proposes evaluating available information by checking for validity (the extent to which a measure, indicator or method of data collection possesses the quality of being sound or true as far as can be judged) and reliability (the extent to which one can rely on the source of the data and, therefore, the data themselves (Jary and Jary in Pierce, 2008)). Reliable data are dependable, trustworthy, unflinching, sure, authentic, genuine, and reputable. Consistency is the main measure of reliability. So, in literary accounts, the reputation of the source is critical’ (Pierce, 2008, 83). Accuracy (accuracy is sensitivity to change - especially of detail, e.g. dates, numbers, persons present) and triangulation (*a* ‘means ... to secure effective corroboration’ by ‘seeking accounts from three or more perspectives’) are also important (Pierce, 2008, 86-90; See also generally Pierce, 2008). With regards to the validity/reliability and credibility of the findings,

¹³⁰ For more information see Tomiyamal et al., 2003; and Flick, 2007.

Bryman (2008) notes the overall reliability and validity criteria include external reliability (possible replication of the study), internal reliability (more than one observer/researcher produces more reliable results), internal validity (good match between observations and theoretical ideas developed) and external validity (can the findings be generalized?).

By following the above standards and corroborating between interview data, reports and questionnaires we can attempt to, insofar as possible, ensure the validity of the data itself and confidently examine the findings that emerge from the data.

Lincoln and Guba (in Bryman, 2008) propose alternative criteria for evaluating qualitative research based on the 'trustworthiness' of the research by examining its credibility (e.g. 'ensuring that research is carried out according to the canons of good practice and submitting research findings to the members of the social world who were studied for confirmation'), transferability (good description of research), dependability (good record keeping of all phases of the research process) and confirmability ('it should be apparent that he or she has not overtly allowed personal values or theoretical inclinations manifestly to sway the conduct of the research and findings') (Bryman, 2008, 377-378). In addition, they suggest criteria for authenticity related to 'fairness' (does it fairly represent views of participants), ontological authenticity (help arrive participants to a better understanding), educative authenticity (does it help appreciate better the perspectives of others), catalytic authenticity (has the research created impetus to engage or change circumstances) and tactical authenticity (has it encouraged action) (Bryman, 2008).

In order to provide recommendations to enhance cooperation between countries in the region to combat transnational crime, following the above trustworthiness criteria seems crucial. This is particularly important as in order for the conclusions to be taken seriously one has to ensure that good research practice is followed, the research process is well planned and described and the researcher is dependable and neutral in his analysis. This was done by keeping close track of all phases of the research and those involved and ensuring an objective analysis is conducted and taking into account potential personal biases as well as the biases of those interviewed. Wherever possible, the initial research findings were informally discussed with colleagues as well as individuals involved in the various initiatives or in efforts to combat wildlife crime more broadly. Feedback received in most cases was positive and highlighting a fair and objective analysis as well as a good explanation of the findings. Initial findings and sections of the thesis were also published in peer reviewed books (van Asch 2013, 2015). Ensuring the above, however does only enable the results to be credible. It is hoped that such results will show a fair picture of the situation and that it will encourage action and a change for the better, which will be encouraged by submitting the research

findings to a number of participants and shared with relevant organizations for confirmation and further discussion when the research findings are published.

5.9 Ethics and management of data

The research received ethical approval from the University of Sheffield, School of Law Ethics Review Board and all ethical rules and regulations have been strictly followed.

Key ethical considerations taken into account for the ethical approval included:

I. Gathering of data and identification of participants: all participants of training events to be approached by the organizations that will prepare the different training events or workshops. Most of the research will be conducted as part of and as an addition to the different training events and workshops. All contact for individual interviews should be done directly by the researcher.

II. Potential harms: the personal safety of researcher and participants are crucial and every effort was made to ensure no emotional harm could come to them as a result of the questions discussed or asked throughout the research. This also included ensuring physical safety during interviews by completing them in 'safe' environments (such as government offices, hotels, official meeting rooms or similar).

III. Consent, confidentiality and recording of interview data: participants to be provided with an information sheet that outlines the general details of the research and informs them that their participation is voluntary and that they may decline to answer questions or withdraw at any time. Participants to be asked their permission to record the interview and to sign a consent form.

IV. Data handling: The researcher is the custodian of all research data. All data will be treated as confidential, kept in a secure location and anonymized. Individual names will be omitted but reference might be made, if the interviewee has agreed to it, to the organization.

Throughout the research it was clearly noted that participation was voluntary and that participants were not forced to answer questions if they did not wish to. All interviews were organized directly by the researcher and consent forms were received from all interviewees prior to the interview, except

for those being interviewed in focus groups or over Skype. Participants were asked if the interview could be recorded and, in most cases, agreed. Where they did not agree, the interview was not recorded. As noted previously for those participating in focus groups or doing the interview via Skype it was assumed that they voluntarily agreed to take part in the interview and that a signed consent form was therefore not necessary. They all received an information sheet and were informed of the different sections of the information sheet, particularly voluntary participation, and that they could refuse to answer any question and could leave at any time.

A key issue to note here is that the interview questions and discussion points were carefully phrased in a diplomatic and non-confrontational manner to take into account the varying cultural sensitivities in the region, particularly in relation to 'losing face'. While it might seem simplistic, it was crucial that participants were able to speak freely without having to 'point a finger' or be put in a situation where either they – or their organization or country – would lose face or make someone else lose face because of what they said, suggested or did. This is crucial when conducting research in Asia and an issue that is often not taken into consideration.

All the information collected throughout the course of the research has been kept strictly confidential and handled with the utmost care and kept in a secure location throughout the research period. Data collected have been anonymized to ensure confidentiality and no one will be identified in any reports or publications. Participants were consulted to explore if the names of their respective organizations could be used and if their organizations could be acknowledged. When consent to do so was given, it was agreed the organization could be named, but that sensitive information would be anonymized regardless of any permissions given. This is particularly important taking into account cultural sensitivities in Asia and the possibility of people and/or organizations 'losing face'.

A further ethical consideration was the need to clarify the role of the researcher. Due to the fact that I had worked with many participants, I was seen in some members as a member of a particular organization (part of 'the team', of 'the family'). Every effort was made to distance myself from the previous role and to clarify that I was conducting independent research for the University of Sheffield. This was often repeated throughout the training events to ensure neutrality and that participants would speak more freely. A business card was made to give out to participants clearly highlighting my role and affiliation.

Participants were informed that the results of the research will be published as a PhD thesis when completed and that data collected may be used in future research undertaken by the researcher or by partner institutions in the development of new initiatives. In most cases participants were

interested to receive further details once the results of the research have been published and hoped that it would help improved their efforts.

Part II: Introduction to research findings

As indicated in previous chapters, and highlighted throughout the methodology chapter (see chapter 5), the aim of the research is to examine the influence of initiatives on the illegal wildlife trade and cross-border cooperation, and to evaluate their effectiveness as platforms to combat transnational organized wildlife crime. The overall research question is:

1. Are border and regional law-enforcement initiatives, such as the BLO mechanism and ASEAN-WEN, effective in combating transnational organized crime?

This broad research question is divided into a number of sub-questions that emerge as a result of the different issues and aspects that have to be taken into consideration in order to answer it. As explained in the methodology chapter, there are a variety of methods used to collect information on these questions. The key ones used in this case are detailed elite interviews and targeted questionnaires for participants who were not available to conduct interviews (see chapter 5 for more information). As noted earlier (see chapter 5), the following issues were explored:

- I. Efforts of different countries to counter illegal wildlife trade: are they enough? What are the loopholes/gaps? What more is needed?
- II. The need for international cooperation and the initiatives – are they necessary? Better to do them alone or through international cooperation? Are the initiatives what you would have hoped for?
- III. The effectiveness of initiatives and their limitations, needs and problems
- IV. Their experiences, lessons learnt and suggestions for improvement
- V. Exploring the actual links between other transnational crimes and the nature of wildlife crime
- VI. Exploring the views of ‘effectiveness’ the different participants interviewed will have.

Based on an in depth analysis of the elite interviews conducted a number of categories or themes were identified. A full analysis and discussion will follow in the final chapter (chapter 8) which will answer the main research questions above. Chapter 6 and 7 will focus on the research findings and

will analyse the main themes that appeared throughout the interviews and describe participants' perceptions and responses to the different questions discussed¹³¹. Due to the nature of the research, some of the themes are cross-cutting. The themes identified have been grouped under six core discussion topics as identified in the table below:

Table II.1: Core discussion topics and key themes identified

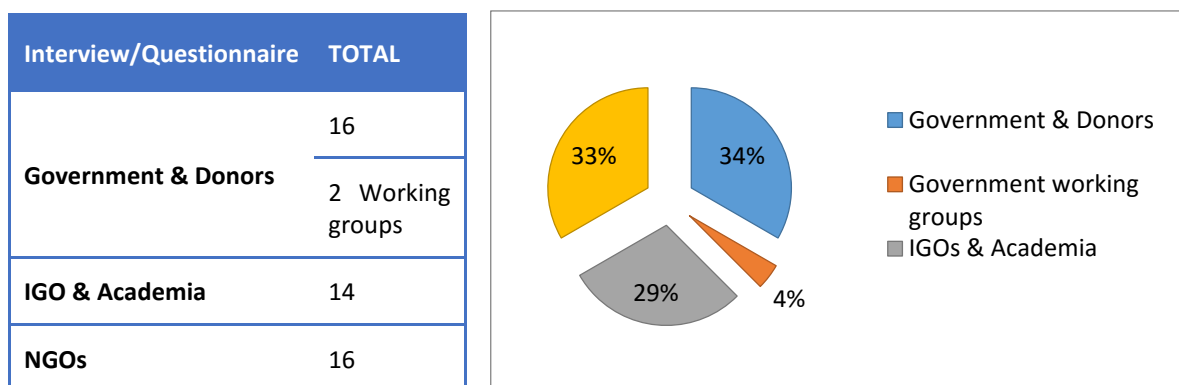
Core discussion points	Key themes identified	
Chapter 6: the illegal wildlife trade, transnational crime and international cooperation		
1. Illegal wildlife trade, networks and organized crime: how they operate	<ul style="list-style-type: none"> • Lack of research • Organization of illicit networks • Impact of illegal wildlife trade 	<ul style="list-style-type: none"> • Risk versus reward • Links between legal/illegal trade • Links with other crimes
2. Countering transnational wildlife crime and the need for international cooperation	<ul style="list-style-type: none"> • Need for cooperation • Challenges • Benefits of a network approach 	<ul style="list-style-type: none"> • Political will • Need for support • Types of cooperation • Need for a platform
3. International cooperation to combat wildlife crime: how and with whom	<ul style="list-style-type: none"> • Elements of cooperation • Levels of cooperation • Formality versus informality 	<ul style="list-style-type: none"> • Trust and relationships as pillars of cooperation
Chapter 7: the initiatives, their effectiveness and corruption		
4. The initiatives: a platform for cooperation to combat wildlife crime	<p>By network:</p> <ul style="list-style-type: none"> • How and why it was developed • Benefits and achievements • Successes and influence 	<ul style="list-style-type: none"> • Challenges, gaps and limitations • Ownership, sustainability and commitment • Role of different partners
5. Effectiveness and measuring effective cooperation	<ul style="list-style-type: none"> • Defining effectiveness • Difficulties in assessment • A balanced measurement • Layers of effectiveness <ul style="list-style-type: none"> ○ Political will ○ Awareness, sustainability and ownership ○ Communication and cooperation ○ Strength of initiative ○ Trust and relationships 	<p>... (continued)</p> <ul style="list-style-type: none"> ○ Enforcement cooperation and intelligence exchange ○ Seizures, arrests and/or prosecutions ○ Increase in wildlife population ○ Number of operational units/offices ○ A 'points' system • Assessment of the initiatives
6. Corruption and the illegal wildlife trade	<ul style="list-style-type: none"> • A major challenge • Involvement at all levels? • Addressing corruption 	<ul style="list-style-type: none"> • Lack of evidence • Examples

¹³¹ Due to the large amount of interviews conducted, the research findings have been divided into two chapters based on the themes identified.

The first three discussion points (Illegal wildlife trade, networks and organized crime: how they operate; Countering transnational wildlife crime and the need for international cooperation, and; International cooperation to combat wildlife crime: how and with whom) will be analysed in chapter 6 that focuses on the illegal wildlife trade, transnational crime and international cooperation. The last three (The initiatives: a platform for cooperation to combat wildlife crime; Effectiveness and measuring effective cooperation; and Corruption and the illegal wildlife trade) will be analysed in chapter 7 that focuses on the initiatives, their effectiveness and corruption.

For ease of discussion and analysis, the responses to each theme have been differentiated based on the respondents' 'group' or 'type'. The first group of respondents includes participants from government organizations who were involved in the research process (including group discussions and working groups with multiple government delegates, shown separately in the table below). The second includes representatives from Intergovernmental Organizations (IGOs) such as the United Nations and representatives from academic institutions. The third includes participants from Non-Governmental Organizations (NGOs) who were involved in the research. The distinction does not presuppose that responses are more or less important if they are from one group or another. Rather this division is aimed at showing the differences in understanding, approach and perspective of the different groups, and will be discussed further in the following table.

Table II.2: Total number of participants interviewed and percentage by group



It should be noted that during the interviews, not all participants were asked to answer the same questions and the focus of the discussions varied. Moreover, in general, intergovernmental organizations interviewed had more interaction and involvement with the BLO mechanism and therefore usually responded to questions related to it and often declined to comment on the other

network. Similarly, most nongovernmental organizations interviewed had much more interaction and involvement with ASEAN-WEN and therefore responded more generally to questions related to the regional initiative. This also applied to government representatives, who tended to respond to activities of one or the other depending on which initiative they were more involved with. Having a varying number of responses to one question or another from one group or another should therefore not (necessarily) be seen as a lack of knowledge or awareness from one of the groups to a particular question.

Table II.3: Interviews and participants pseudonyms

Interview/ Questionnaire ⁺	GOV/donor (Numbers CN)	IGO (+Academia) (Numbers TH)	NGO (alphabet letter)
1*	Working group of approx. 15 gov officials		
2		Neung	
3		Song	
4		Sam	
5		See	
6			A
7			B
8			C
9			D
10		Ha	
11 and 12**	Yi and Yao		
13			E
14		Hok	
15		Jet	
16			F
17			G
18			H
19			I
20			J
21 and 22*	Working groups of approx. 10 gov officials		
23	Er		
24		Peet	
25		Gao	
26		Sip	
27		Sipsee	
28		Yipsee	
29	San		
30			K
31 to 33**	Si, Wu and Liu		
34			L
35	Qi		
36	Ba		
37			M
38			N
39			O
40		Samsee	
41 to 44**	Jiu, Shi, Ershi and Sanshi		
45	Sishi		
46	Wushi		
Q1		Hasee	
Q2			P
Q3	Liushi		
TOTAL	16 + 2 working groups	14	16

⁺ In random order.

* Working group during a conference or meeting.

** Interviews conducted jointly.

Chapter 6: the illegal wildlife trade, transnational crime and international cooperation

6.1 Illegal wildlife trade, networks and organized crime: how they operate

Participants interviewed were asked about the illegal wildlife trade, their perceptions of the degree of organization of such illegal trade and how they thought organized criminal wildlife networks operate. The following themes were identified:

6.1.1 Lack of research

A common theme identified throughout the interviews was the lack of data and understanding of the dynamics of the illegal wildlife trade and the illicit trade chain. Interviewees also highlighted the need to know more about it and the potential criminal networks involved to combat it more effectively: *'If we know about middleman, the trader or collector, we can cut the connection'*¹³².

Most respondents noted that additional research on the illegal wildlife trade would be beneficial.

6.1.2 Organization of illicit networks

The government perspective:

Overall, participants from government noted that the illegal wildlife trade has varying degrees of organization:

Illegal wildlife networks work in a variety of ways. You have those grouped by virtue of a shared interest normally linked by a clandestine or sometimes overt organisation for example the illegal sharing of bird eggs or reptiles (Questionnaire received from Liushi)

¹³² Interview with Si, Wu and Liu

From evidence and some reports ..., I believe they have a network in more than one country ... because most of the [animal] kids we can see obviously that some tiger kids go from one country to the other, must have good network, good communication and be very effective (Interview with San)

In country, must be well organized, criminals well linked, have knowledge about each other's markets etc.... [we] never get big fish, only small fish, but need to understand linkages, ... control deliveries to discover routes (Interview with Qi)

The intergovernmental perspective:

Participants from intergovernmental organizations agreed that the illegal wildlife trade has varying degrees of organization, but also highlighted that in their view 'a lot of wildlife crime is controlled by few individuals'¹³³:

I think that pretty much everybody is connected, but random links and hard to generalize (Questionnaire received from Ha)

The seizures show the transnational nature of the crime and these usually requires some level of organization to arrange the supply chain [and] even though the traffickers are caught, the trade continues: this reveals that there are heads which continue recruiting people... My understanding is that there is a structure including poachers, middle men and the kingpins. Often only poachers are caught, not the kingpins ... [they are] not directly involved, they are behind the scenes, only through money transfers (Interview with Sipsee)

They vary in type and scale and by commodity. Evidence relating to Australia suggests that they are small scale and opportunistic, probably relating to the home aquarium-style market. The evidence for highly organised/sophisticated activity in Australia is slim at best, although I'm aware that the Australian Crime Commission does investigate wildlife trafficking. The types of wildlife often traded (at least in terms of what gets media coverage here) are eggs (especially from rare bird and reptile species), live birds, reptiles and amphibians (Questionnaire received from Hasee)

Participants also highlighted the use of sophisticated techniques, 'fake or front companies' and in some cases violence to ensure the illegal trade could continue unabated¹³⁴ and businesses:

Illegal trade in wildlife requires money ... it's expensive ... [requires] wildlife parts, transport, weapons, there must be some background financial support which covers the expenses (Interview with Sipsee)

The issue of corruption – further expanded upon in a later section – and the potential involvement of government representatives in illegal activities (e.g. illicit permitting and protection of zoos)¹³⁵, as well as government non-involvement (e.g. looking the other way, accepting or actively seeking bribes, particularly at specific border points in a number of countries) were also noted.

¹³³ Questionnaire received from Ha

¹³⁴ Interview with Sipsee

¹³⁵ Interview with Sipsee

The non-governmental perspective:

Respondents from NGOs agreed with the above and added that the networks have varying degrees of organization (from basic to very sophisticated networks, as much as drugs or other smuggling efforts)¹³⁶:

There is disorganized crime and organized, and then highly organized crime ... Many are opportunists ... the disorganized criminal ... a chance to make a quick buck. Most [illegal] trade is done by highly organized competing networks (Interview with F)

The organizations usually pay someone to take the risks, the people who do the smuggling, that will move the contraband and get paid without knowing much about it. In many cases these people are more dangerous than the police, because they are close to the flame (Interview with H)

[It is a] continuing criminal enterprise ... people work together and work in concert to ensure their safety, their profits and squash resistance to what they are doing. Most criminals will just want to avoid being recognized and making their money with the least amount of resistance (Interview with F)

Most participants highlighted that it is not well known how illegal wildlife trade networks are organised, but the fact that they are highly organised is evidenced by a number of factors, including:

- They are aware of loopholes in the law and take advantage of them: *'For example, they know that often penalties are low or enforcement is weak in some countries such as Lao PDR and thus will move goods through such countries'*¹³⁷
- They are often armed: rangers and officers are often shot and killed for trying to stop poachers
- They use sophisticated forgery of travel permits and documents to get the contraband across borders
- They know and take advantage of corrupt officials at border points
- They use sophisticated techniques to smuggle goods
- They have strong communication networks to coordinate shipments and are *'able to change trafficking routes if enforcement is beefed-up in a particular area'*¹³⁸

¹³⁶ Interview with H

¹³⁷ Questionnaire received from P

¹³⁸ Questionnaire received from P

An interviewee gave a specific example of a 'typical network'¹³⁹ and of how the illegal wildlife trade operates in a particular market:

At Chatuchak market, for example, it's a fascinating place, it's one living and breathing organized crime ... they all rely on one another, they protect themselves, they pay everyone, they are organized for self-protection ... the market itself is a criminal enterprise ... in front of your very eyes. From first-hand experience I can tell you that that's where people meet. You go and meet there and do some shopping ... and the people there have a lot of access. The sales themselves are not always on site, but they have the connections. There is no reason that it should be allowed to exist, but it's there and it's flourishing. The government should do something about it ... but they are not going to. We have tried to get some work done there, but nothing really happens. Someone has to take a hit every now and then ... but it's probably because they haven't paid their fees or something ... otherwise it's just business as usual. This is the same in a few other markets in the region. They could close them, but they are not. There is a lot of money and influence and there is not leadership to take it down (Interview with F)

A participant went into further detail and provided two examples of organized criminal networks dealing in wildlife crime (see box below). It was agreed the case studies could be used as examples highlighting some of the details of two networks specialized in trafficking wildlife internationally and in particular the highly organized nature of the illicit activities, which shows that wildlife crime can often be as sophisticated and organized as other transnational organized crimes and that in most cases traders deal only in illegal wildlife – and in some cases their networks are species specific.

*Box 6.1: Case study I – The Bangladesh connection (not its real name): organized wildlife crime from Bangladesh to Bangkok (and onwards to Southeast Asia, China and Europe)*¹⁴⁰

'There is a specialized [guy] in high value tortoises from India and South Asia. He is the perfect smuggler. He is very careful. Stays behind the scenes completely. Has [a] right hand ... person that is also very careful and protected. They pay public officials in source countries ... in India, Bangladesh, Madagascar, [they] bribe everyone to make sure the shipment gets on the plane. Their biggest fear is not getting arrested, but losing the commodities which are quite expensive ... They bribe everyone that can deal with the shipment. From the baggage handlers to security people. The method of transport, because the tortoises are high value and small is in checked baggage. They put 150 or so in a checked bag ... two or three shipments per week that gets (relatively) well paid. This will typically be based around 40 to 50,000USD per week, depending on what they are smuggling. Their runners never hear or see who the boss is. There will be a person in between, so now you are 3 people removed from the front guy.

The bags don't get checked. In destination, they will have people to pick up the bag from the belt or the plane directly, they pick up bag and do the delivery off-site. It's not the runner that takes the bag. He has nothing further to do with the bag, walks out of the plane and goes straight out. He will get instructions on where to go once they arrive but they are not involved at the other end. Then they will

¹³⁹ Interview with H

¹⁴⁰ Interview with H

get a phone call to tell them where to go to get paid. Someone will do it all for them, the tickets, the hotel, they don't know. The runner wouldn't know much. Even if they are caught they wouldn't have much information ... If the runners get caught, they get taken care of.

The person that takes the bags ... You don't know if it's the flight attendant, [the] customs guy, the baggage operators ... [it] can be anyone that has access to the bag. It often goes to a market in Bangkok where they will get sold. It is often pre-sold. People know there is a shipment coming. Then the traders deal with it and sell it or take it to other countries with methods that they find useful depending on where the contraband is going. Very often the people that are buying have paid someone at their airport to ensure safe package. It does cost some overheads to get it transported, but it is well worth it.

We have 3 different levels of well insulated people and then it goes into different networks that then potentially move it and resell it within their networks. Everywhere along the way people are paid not to do their job. You will never see the top guy. If you have to get paid, they blindfold you and you will be taken somewhere where his right hand guy would pay him'.

An interesting note was made with regards to the competition between different groups or networks for the illegal market: 'Sometimes there is conflicts between competing traders ... At the airport there are 4 or 5 different people that want to get the shipment ... and sometimes competitors will steal shipments from each other. One case a competitor had the shipment stolen by other traders. This trader was caught and beaten up so this would not happen again'.¹⁴¹

Box 6.2: Case study II¹⁴² – Anson Wong's alleged illegal wildlife network and 'business as usual' (at the time of the interviews)

Chapter 4 provides some general details of Anson Wong's dealings in illegal wildlife prior to his conviction. This case study reflects the views from a participant interviewed (albeit others noted similar concerns off the record) and suggests the illicit activities of his network continue:

'Anson Wong [was] a master in compromising governments. He is very organized, has a lot of money, is very smart and is fearless. He had a number of layers of protection and was organized so people would take the fall if they got caught. He only had problems when he didn't take care of some of the runners that he used that got caught [and] that rolled over on him ... and they had hard evidence, which provided information to assist with the investigation. He relied on the bribed officials to do his business ... He only got caught because he smuggled something himself and because the NGOs and media put a lot of pressure on the government to take action and the matter could not be dropped given the high media outrage'.

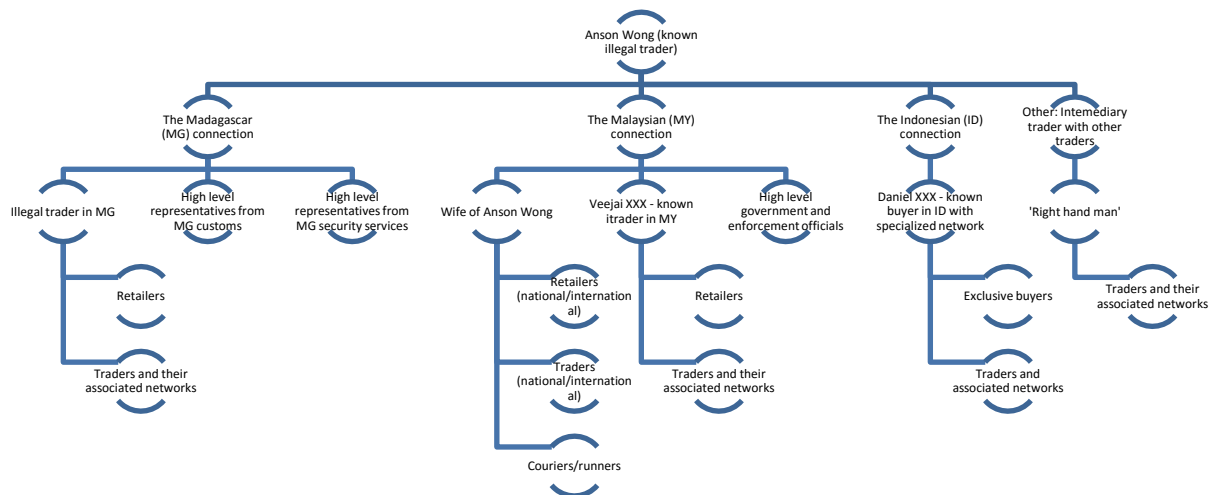
'While Anson Wong was arrested, his wife was running the show. Through their network, he did as much as possible to mitigate potential problems by corrupting officers. This is easy to do in the

¹⁴¹ Interview with H

¹⁴² Interview with H

country if you can provide enough money. Even though his network is well known, he continues to trade. He relied on ineptitude and malfeasance of officers and was untouchable. This would not occur in a legitimate and legal environment. If someone would investigate them in detail, they would be in jail’.

The alleged layers of the network as described during the interviews with the participant are as follows:



Source: H

If the information above is correct, it would suggest a significant lack of appropriate efforts from authorities to tackle the problem or, as noted in the previous chapter, that he might still be untouchable.

A further example of an illegal wildlife trade network is that of *the pangolin lady* (not its real name). This network allegedly specializes in the illicit trade of pangolins in Southeast Asia:

She is an illegal trader with a large network that is protected by her husband, a high ranking police officer in Thailand. If other officers try and investigate the case, they get ‘relocated’ to a different office and province. The network spans from Malaysia to the northeast of Thailand where the main headquarters are. Local people along the way gather pangolins and sell them to local traders that deal with the drivers. The drivers don’t know about the trader, they just drive from A to B and collect cargo along the way. Half way across they change vehicles and drivers. From HQ the pangolins are smuggled through Laos where village leaders are involved and facilitate border crossings, and then to the final destination: Viet Nam. (Interview with M)

As there was an on-going investigation at the time of the interview no locations or further details were provided.

In terms of networks, participants interviewed clearly highlighted that there are a number of networks 'out there' dealing in illegal wildlife trade in the region:

Anson Wong is not the biggest fish in the pond by far. Not many people know the specifics, only a limited amount of people know, but there are networks similar to his in Malaysia in at least Thailand, Myanmar, Indonesia, Philippines, China, South Africa, two in Madagascar, Bangladesh and India ... and 'there are many more. I know ten major traders. Out of those, 6 are really big and scary high level and very well organized ones that are often involved in very lucrative legal businesses (Interview with H)

For obvious reasons, further details cannot be given.

6.1.3 Impact of illegal wildlife trade

A number of interviewees highlighted the negative impact of the illegal wildlife trade to species, ecosystems and the economic survival of local communities, in particular to those communities that are dependent on wildlife to survive:

Impact of transnational crime, transnational wildlife crime in Africa ... and in general the impact on economic development in many countries where (wildlife) tourism is a strong contributor (Interview with Jiu, Shi, Ershi and Sanshi)

6.1.4 Risk versus reward

An issue that was highlighted was that 'once they [wildlife smugglers] find a method that works there is no reason not to repeat it'¹⁴³. In particular, the issue of low risk combined with high reward was highlighted by a number of interviewees:

Wildlife crime is attractive, because penalties are low (Interview with J)

[The] dynamics of illegal trade are the same. [The] difference is [that it is] less dangerous than other more serious crimes. [The] risk level [is] low because consequences of being caught are inconsequential. [There is] low awareness and [it is a] confusing subject to many officers (Interview with H)

¹⁴³ Interview with H

6.1.5 Links between legal/illegal trade

The links between legal and illegal trade as well as its international nature were also mentioned by various participants from the different groups. Participants also noted the legal trade is used to camouflage illegal species or as a front for illicit activities.

For example, during a joint interview with governmental officers (Interview with Si, Wu and Liu):

When legal traders cannot do sufficient legal trade, they turn to illegal

Wildlife is usually traded outside country, as receive higher prices for it than within country

Given the broad agreement on this point, this issue was generally discussed during initial interviews only. At a later stage the discussions during interviews focused more on potential links between the illegal trade and other transnational organized crimes.

6.1.6 Links with other crimes

The government perspective:

The links with other crimes, particularly the use of the same smuggling routes and techniques as for other crime types, were also commonly discussed:

I believe that wildlife trade is similar to drug trade because they have the mechanics to smuggling, how to do operations, concealment methods and everything; they have the same because international wild life criminals and drug traffickers learn from each other, how to avoid the control or the law enforcement ... sometimes people in remote area cross in empty roads, hide wildlife among other goods ... [They have] similar techniques, although wildlife [is] harder to conceal (Interview with Qi)

Yes inextricably linked. When you look at some of the trade routes particularly the East Asia ones they are linked to drugs routes, firearms and fake goods ... If you look at Africa some of the bloodshed is linked to the ongoing insurgency in the region ... Then look at the end user. Countries that have affluence or financial position of strength in the global community. Target these pinch points a significant amount of work would be done (Questionnaire received from Liushi)

The intergovernmental perspective:

The links with other crimes, particularly the use of the same smuggling routes and techniques as for other crime types, were also commonly discussed.

Goods change, but methods, routes and level of organization remain (Interview with Samsee)

There are rumours of links between drug and wildlife trade, but no official reports ... [I think] they are connected because of same route (Interview with Sip)

The criminals conduct the crimes ... whatever opportunity they see to make money they will try to do it ... so with the situation at the border they know the situation at the border ... the loopholes ... the weakness ... that allows the criminal to take the opportunity to make profit out of this ... whatever the goods they take through the border ... they will do it (Interview with See)

Participants from this group however noted a key difference with other crime types:

Great differences in combating crime, can't just apply same things, ... there many differences; when you interfere in wildlife crime, damage still already done ... that is why you should always try to prevent, you can't be reactive, but try to prevent in [the] first place, make sure it doesn't happen (Questionnaire received from Ha)

The non-governmental perspective:

The links, differences and similarities with other crimes, particularly the use of the same smuggling routes or 'operators' as other crime types, were discussed. Some participants suggested a link between the crimes. Others that it was possible but unlikely. Others noted it was rather a remote and coincidental case:

There are Mr and Ms Big, I think they are specializing in wildlife... I don't see evidence of too many of them being a mastermind involved in other crimes ... In general [there are always] criminal gangs that would do anything ... [they] try to make maximum profit by combining human trafficking, drugs and wildlife (Interview with N)

[It is] no different from other trafficking ... it's a contraband item. The need for secrecy and the protection of assets and income with least amount of risks is what all trafficking has in common. Those are identical with all crimes (Interview with F)

[The Illegal wildlife trade is a] very specialized trade, you would need certain degree of specialization to be involved, so [my] assumption is that other criminal networks dealing with for example drugs ... might become linked with wildlife trade at one certain point (Interview with G)

[I] don't know for sure if [it is] connected, [there is] not very strong evidence ... maybe [they] use same routes, [the] same checkpoints, border ... regardless of which illegal trade (Interview with L)

[It] depends where you look on wildlife trade chain ... there are often criminal brokers on border, involved in all kinds of serious organized crime ... but wildlife crime is high profit low risk, drug is high profit high risk, human trafficking is very different ... so [it] can be the same network, but not necessary (Questionnaire received from E)

I suspect that there are some links because there will be ... some bottlenecks if you like, something at some point will have to cross a sea or get from one airport to another and

therefore there's only a limited number of options ... but [there are] also vast differences in skills needed in different smuggling techniques, [so] it comes down to key geographies ... if there is only one checkpoint, a geographical bottleneck (Interview with G)

I know cases from region where people combine drug, human trafficking and wildlife ... [there is] some evidence on this (Interview with M)

There are obvious links with other organised crime. Wildlife products are often found in confiscated shipments containing arms and drugs (Questionnaire received from P)

In general, the involvement of wildlife criminals in other crimes was deemed by at least one participant as less likely as *'in wildlife it's a high profit and low risk environment and for that reason there are not a lot of dealers that will cross over for more dangerous crimes. Because you go from making serious money with very low risk ... you can jump from that to being executed or life in prison with drugs or arms trafficking ...'*¹⁴⁴. Conversely, other criminals would easily be tempted to trade in illegal wildlife, albeit mostly on an opportunistic basis, as *'penalties for drugs [are] much higher than for illegal wildlife ... and often both have [the] same value, so [it is] safer to trade [in] illegal wildlife'*¹⁴⁵. This highlights that wildlife can be a specialized crime that in many cases has only limited links to other illegal commodities such as drugs when wildlife is the main commodity that is being illegally traded. As explained in previous chapters, the case is different where illegal traders do not specialize in a particular commodity and exploit every opportunity to trade illegally through their existing networks.

One participant suggested that it is important to emphasize that organized wildlife traffickers and individuals facilitating illegal cross-border trade are criminals and should be treated as such, rather than focusing on the type of commodity they are illegally trading or smuggling:

[The] way to settle this issue is we need to show that crooks are crooks. The ones facilitating cross-border trade are doing other stuff too. Not necessarily Mr Big, but the people below in the wildlife crime syndicates, are doing other stuff too ... there is not much evidence, but there is evidence that those facilitating cross-border illegal trade are connected. Easy for them because they know a) people are not looking, b) easy to corrupt and c) even if you get caught the penalties are low. (Interview with O)

¹⁴⁴ Interview with F

¹⁴⁵ Interview with I

PERSPECTIVES ON THE ILLEGAL WILDLIFE TRADE, NETWORKS AND ORGANIZED CRIME

Participants interviewed were asked about the illegal wildlife trade, their perceptions of the degree of organization of such illegal trade and how they thought organized criminal wildlife networks operate.

Overall, government representatives highlighted the varying degrees of organization within the illegal wildlife trade and the existence of highly organized networks in some countries with good communication channels and the capacity to smuggle wildlife across borders with ease. They also noted the lack of understanding of the real scope of the illegal wildlife trade and the individuals involved. Pondering on the links between legal and illegal trade as well as the links with other crimes participants suggested that they have similar smuggling techniques and trade routes and that there is a convergence on key hotspots and border points where other commodities are traded.

IGO participants interviewed had a similar understanding, noted that there are varying degrees of organization based on the value and volume of the commodity traded illegally, and highlighted that most of the illegal trade is controlled by a few well-organized individuals. It was also suggested there is limited action that is being taken by governments to tackle wildlife crimes and do in depth investigations into the criminal organizations involved.

NGO representatives noted the varying degrees of organization of the illegal wildlife trade, from opportunistic and disorganized to highly organized groups with links to organized criminal networks. The lack of information on illegal networks was also stressed by participants who also emphasized the lack of penalties (or insufficient penalties) for wildlife crime offences. It was suggested in most cases networks trading in illegal wildlife tend to be specialized (in a particular species or subspecies) but that they are not necessarily involved in the smuggling of other illicit commodities such as drugs. An exception appears to be in cases where there are, for example, facilitators or smugglers that coordinate all illicit activity in a particular area. Examples of a number of illegal wildlife networks that were provided highlight the highly organized nature of some of these illicit networks and suggest that multiple groups of this nature exist.

Key similarities and differences in participants' responses:

In general there was broad agreement among participants interviewed on the need for additional research on wildlife crime. To a degree, there has been a large increase in research on the topic by a

number of academics, universities and institutions since 2010, most notably the recent UNODC World Wildlife Crime report.

There was also agreement on the lack of clarity and details on how the networks are organized, while acknowledging that in some cases they can be highly organized and sophisticated and that there are a relatively large number of unknown networks. Participants from IGOs and NGOs interviewed provided more detail and seemed to have more targeted knowledge than government representatives. This is because these are specialized agencies that are dealing with wildlife crime at the field and national level – as well as in other regions and countries. IGOs, while providing some details on networks, generally tended to reflect on more institutional and strategic issues, and in particular noted the potential of corrupt practices at possible source (e.g. zoos) or transit (e.g. border) areas. NGOs focused more on specific examples of networks, which highlights their understanding at the field level.

Similarly, there was broad agreement on the links between legal and illegal trade in wildlife and the use of the legal trade as a potential cover or smoking mirror for the illicit trade, as well as with regards to links to other transnational crimes (such as drugs or other). Government representatives were, in general, more reserved in their responses due to the lack of data and specialized agencies were able to provide additional detail. Specifically with regards to links with other crimes, there was broad agreement on the use of similar routes, trends and smuggling techniques, but contrasts with other crimes were noted as it was suggested wildlife crime is a specialized kind of illicit trade and that those involved will generally not necessarily be involved in other crimes. This is consistent with what was explored in chapter 4. The key link between different types of transnational crimes was particularly highlighted with regards to the use of border operators or of bottlenecks where everything and anything would be smuggled through, irrespective of the commodity. Only a small portion of participants, mostly from NGOs, disagreed with the general view and suggested stronger links between different transnational crimes. This was based on a number of examples and was perhaps suggested as it would help raise the profile of wildlife crime, secure additional funding for governments to combat it, and potentially also as it would raise the profile of their activities and generate potential future funding from alternative sources.

Overall, there was agreement on the need to treat wildlife criminals as a serious organized crime and on the need to focus on the hierarchy of the organizations to defeat them.

6.2 Countering transnational wildlife crime and the need for international cooperation

Participants interviewed were asked to discuss how to combat transnational wildlife crime, and whether or not it is possible or better to do this alone, or if international cooperation is needed to effectively combat it. The issue of whether or not a network is needed to defeat the criminal networks involved in the illegal wildlife trade was also discussed. The following themes were identified:

6.2.1 Need for cooperation

The government perspective:

Overall, participants from this group noted the difficulty of combating transnational crime alone and highlighted that cooperation and collaboration are essential to combat the illegal wildlife trade:

Having been immersed in the area of wildlife criminal investigation for the last 4 years it is obvious that it is a struggle. The only way to possibly combat or in my opinion minimise the impact of wildlife crime is to work in partnership. My mantra of communication, cooperation and collaboration ... [S]uccess [is] based on these three principles. You can't do it on your own (Questionnaire received from Liushi)

The lack of cooperation and a coordinated strategy was also noted:

There is little cooperation between donors and agencies providing aid. If you offer the countries resources or money they will take it whether they need it or not. There is always people trying to give them stuff. It's a very fragmented approach (Interview with Wushi)

More advanced and long term cooperation is needed ... government counterparts should be involved more from beginning ... it creates alignment, ownership, partnership and cooperation (working group of approx. 10 government officials)

The intergovernmental perspective:

Participants from this group agreed that cooperation and collaboration along and across borders are crucial to combat transnational crime and highlighted the differences between national and international cooperation. One interviewee explained this rather succinctly while deliberating on the benefits of – and requirements for - cooperation:

'Many minds are better than one'. 'It takes two to tango', 'many hands make things work'. The trick is to avoid 'too many cooks spoil the broth'. So, the real trick is ... to ensure we do

not just get cacophony, chaos and ineptitude. Obsessive over coordination often happens. It becomes an objectification of the concept of cooperation to such a degree that we don't cooperate with the world. We spend all our time fussing whether we are fully coordinated ... but how much are we actually solving the problem? Often the answer is not that much in that case ... need a targeted coordinated approach. To actually do it requires an active imagination. It's a management issue, it's a leadership issue (Interview with Gao)

A participant noted that transnational crimes make it necessary to work together and explained how crucial it is to cooperate from a Customs perspective:

You can get information ... [and] evidence ... to identify if the business is legal or illegal from different sources. For customs when they enforce law, they need the support from many agencies. When they want to arrest the criminals, they need support from the police and then they hand over the case to the prosecutors. And then finally when they go to court, some officers have to be the witness or defendants ... so all the enforcement chain requires them to work together ... agencies can't work alone ... that makes them work together (Interview with Song)

Later sections of this chapter will go into specific details on the different initiatives and their effectiveness in encouraging cooperation and countering transnational wildlife crime. It is however worth highlighting here a contribution from an interviewee who, reflecting on the BLO mechanism and the need for cross-border cooperation as well as the need to work together to combat transnational crime, highlighted the essence of cooperation:

The concept of the BLOs is a means to an end. The strategic priorities of (our organization) in terms of 'how' approaches, which is to be distinguished between the 'what' (the 'what' issues are things like counter terrorism, criminal justice, TOC, what we do). The 'how' is norms and conventions, building capacity. One of the crucial how's is promoting regional cooperation. The nature of what we are tackling is not something that can be dealt with by one country alone. It takes a network to deal with a network. Fortunately, much of the law-enforcement response to the 'what' issues, TOC, smuggling, is compartmentalized within national jurisdictions. That is something our opponents take advantage of. Border is a concept of sovereign states but are only viewed as a monitor obstacle that has to be overcome by our opponents (Interview with Gao)

In general, participants noted that that 'since 1999 the scale of development and quantity of cooperation has exponentially increased ... [and we have seen] a positive improvement in cross-border cooperation'¹⁴⁶.

The non-governmental perspective:

Participants from this group also agreed that cooperation is crucial to combat transnational crime:

¹⁴⁶ Interview with See

There are a lot of factors. The only real way to overcome it is ensuring that there is connections between the parties that need to meet together ... regardless of their organization, CITES, police, customs ... they need to get together regularly and talk ... you won't overcome it otherwise (Interview with A)

In general it was suggested that one organization or country alone cannot deal with transnational wildlife crime:

This is because one organisation does not have all the necessary skills and resources required to combat wildlife crime. The elements that need to be tackled are numerous and complex. They range from stopping poaching, intercepting shipments, containing and managing crime scenes, catching and prosecuting criminals, strengthening laws, all the way to arresting consumers (Questionnaire received from P)

Interestingly, an interviewee noted: *'wildlife [in Cambodia] is generally for local consumption, a local use ... most of the trade is local, occasionally cross-border ... but there is no close cooperation of neighbouring countries, no need for it, [we have] not encountered cross-border issues so far ... [and are] not [a] big transit country'¹⁴⁷*. At the same time, he/she reflected on the need for national cooperation at the *national level*:

forestry administration is responsible ... if any official is involved in investigation or action, [they] work together with local police ... level of cooperation between local police, military police and national police exists (Interview with K)

Different forms of cooperation were discussed. Reflecting on the illegal wildlife trade as a transnational crime, the below essential aspects to 'properly'¹⁴⁸ counter wildlife crime were highlighted by a number of participants:

- National level inter-agency cooperation
- National level intra-agency cooperation
- International cooperation between relevant government agencies
- International cooperation between NGOs
- International cooperation between NGOs and relevant government agencies
- International cooperation between agencies such as Interpol, WCO etc

¹⁴⁷ Interview with K

¹⁴⁸ Questionnaire received from P

- And lastly cooperation between all of the above in a structured, productive and meaningful way

The need for a network approach was highlighted:

It is needed because of absence of cooperation ... [to] get countries to talk to each other so they know what they have in common and what would need to change, share resources – if you would share resources, everybody could save money, costs are spread ... [but I] don't know whether [it would be] more efficient or not (Interview with B)

It was created because it was quite clear that people around the region were fighting wildlife crime in a vacuum ... It was a natural progression to create a network to exchange information to combat wildlife crime. From our perspective we didn't feel that the CITES network alone could tackle this trade ... they don't carry badges or guns, and some of them frankly are looking the other way ... It's necessary to get customs and police to the table On top of that, you start to develop standards of performance between the countries. There is a bit of pressure to do better (Interview with O)

To share information about illegal wildlife trade, raise awareness; a union to bring the political people to get more involved (Interview with L)

6.2.2 Challenges

The government perspective:

The challenges of cooperation between agencies at both the national and international levels, were also noted. Overall, participants highlighted that support from their hierarchies and at the highest levels of government – or ‘high-level buy-in’¹⁴⁹ – was essential to counter the illegal trade and that without political will there can be limited action. Participants also stressed that international law-enforcement cooperation is not generally a priority:

Cooperation [at national level] is not seen as a priority within law-enforcement. International cooperation is even less of a priority (working group of approximately 15 government officials)

It is not given the necessary time and space in daily schedules ... Operational life is rather one action after another ... daily routines of seizures, carry out investigations and things like that ... I doubt there is enough time in enforcement agencies given to international law-enforcement and international cooperation ... I suspect this is a luxury for many organizations that we can't afford as we don't have the resources ... (working group of approximately 15 government officials)

¹⁴⁹ Interview with Sishi

If you go to your boss and say 'I want to sit down and write an eco-message¹⁵⁰ now and send it to X country', a lot of managers will say 'what are you on about? ... better get on with the next job' ... the focus will be on aspects that are the most important for the agency. It is like any form of life: we look after our own lives and our own families and house. What happens to the neighbours or to the village or town is a secondary sort of issue. We are so busy with ourselves that it is often hard to look at the rest (working group of approximately 15 government officials)

The intergovernmental perspective:

Participants agreed that cooperation is not as easy as it seems. In the words of one interviewee: *'cooperation is easier said than done'¹⁵¹:*

Cooperation is an issue that does not come naturally. Within organizations this does not happen. At country level and international level it is more difficult. This has to be overcome and it is very important and that is why we spend so much time on it (Interview with Gao)

I have worked with governments for some years. I have noticed it is very difficult to work with neighbouring agencies. Even within one ministry it is quite difficult to share information. Each unit or division wants to hold their own division or data. Maybe there is some competition ... for promotions ... anyways; cooperation is not that easy ... you think that people are so easily willing to share information with others? There are many barriers. You need to break the barriers, you need regulations, the networking, the pressure from supervisors to break the barriers ... so if interagency cooperation is complicated ... then cross-border is even more complicated. But each agency also faces big challenges. Whenever there is a case, a crime or a problem ... they need to tackle it and to sort it out. At this moment they often need assistance and help from someone else (Interview with Song)

A participant noted the challenges of cooperation and highlighted an important aspect to be taken into consideration: the need to recognize partners.

Essentially the problem is that agencies are not particularly encouraged to share information because they feel that what they share will be utilized by other agencies to conduct some operations and ... and no recognition will be given to the source of the information ... and that would be wrong. Recognition is necessary ... a professional relationship between enforcement agencies is a relationship in which the exchange of information is recognized ... is acknowledged ... in which agencies that receive information thank officially the other agency (source of information) ... in which there is a level of knowledge between people. Especially when you operate in the borders ... which are remote areas ... (Interview with Neung)

¹⁵⁰ An eco-message is a reporting system to report environmental and wildlife crimes to INTERPOL via a standardized procedure to assure the validity and reliability of data and information. The information is included in the INTERPOL database and allows for efficient cross-referencing of the data and facilitates its use for, among other things, criminal intelligence analysis. For more information see <http://www.interpol.int/Crime-areas/Environmental-crime/Ecomessage> and Annex 1 of CITES Resolution Conf. 11.3 (Rev. CoP16) on compliance and enforcement on <https://cites.org/eng/res/11/E-Res-11-03R16.pdf>

¹⁵¹ Interview with Song

The non-governmental perspective:

Interviewees also acknowledged that cooperation is not as easy as it seems ('organizations don't often work well together'¹⁵²) and that cooperation is essential. A number of participants from this group reflected on the activities conducted to date and some of the continuing challenges:

[The] level of training here given the circumstances is not bad, it is quite good; operations generally get run pretty well; most training official, but level at which things are done here is not low enough to reach immediate attention, but seems to be adequate at the moment to address approaching issues (Interview with K)

Regional level cooperation is hard to measure ... national priorities have an effect on it (Questionnaire received from E)

6.2.3 Benefits of a network approach

The government perspective:

Interviewees also stressed the benefits of a network approach (i.e. a network is better equipped to defeat a network) and highlighted that enforcement alone is not sufficient to combat wildlife trafficking effectively:

Yes, agree that network is needed to defeat network ... if [you] can build this, maybe [we] can contact each other on regional cases, cooperate and share information (Interview with San)

A network vs. a network is the appropriate way to fight organized crime ... [you need] multi-agency cooperation ... dealing with laws, justice etc., but also need to do something about consumer demand, enforcement alone cannot solve problem; should strengthen regulations or try to get rid of illegal trade altogether. A multi-pronged approach [is] needed: if customs officers don't have sufficient education, how should they differentiate a bird from an endangered bird or other animal? (Interview with Jiu, Shi, Ershi and Sanshi)

[You] need a good network approach to combat organized wildlife crime; [but the] problem is [the] consumer ... have to reduce demand first. No demand means no trade ... the more complicated it is to trade, the more expensive it becomes (Interview with Sishi)

The intergovernmental perspective:

Participants of this group agreed on the need and benefits of a network approach and highlighted that an organized response is essential¹⁵³: 'you need to be at least as organized as the criminals are to be able to counteract on the same level'¹⁵⁴:

¹⁵² Interview with F

The idea ... is to promote transnational organized justice to counter TOC (Interview with Gao)

There is no doubt that enforcement has to be multi-agency; [our organization] started an informal network ... to bring them together ... to share information and experiences”... [the] linkages between importing and exporting countries [is also] important. [You need] close collaboration ... [a] multi-pronged, multi-agency kind of approach. ... Organized crime is always very smart, one step ahead of enforcement agencies. [We need to work closely to] ensure that [we are] always ahead of smugglers (Interview with Peet)

Know what set objectives are – countries need to be organized, to do something about it, need to take collaborative action at a regional level, make a network, have a common platform; law enforcement (Interview with Samsee)

Lots of good work done ... the regional perspective is a good approach (Interview with Sip)

One interviewee highlighted the need to sort out the national issues first, in order to then be able to focus on the international and regional levels:

Good sign that some countries have national task force, shows willingness; every national taskforce has its own challenges, that only adds to the challenge of having one regional platform as challenges so different; important to identify and address most important challenges per country; learning from neighbours than from international level more important (Interview with Samsee)

6.2.4 Political will

The government perspective:

Participants from this group highlighted the importance of political will and identified this, as explained previously, as a major challenge to effective cooperation.

There was also broad agreement among government representatives of the need for political will and support. When speaking about how to encourage increased political will, one interviewee in particular highlighted that *‘the right form should be the General Assembly and the Security Council [of the United Nations] ... where cooperation originates ... and where the spirit of cooperation takes place. But if it is hard over there, then ...’*¹⁵⁵

The intergovernmental perspective:

¹⁵³ Interview with Gao

¹⁵⁴ Interview with Samsee

¹⁵⁵ Interview with working group of approximately 15 government officials

A key point stressed by participants was to have an interest in cooperation¹⁵⁶ and consensus to cooperate. The need for '*understanding, ... awareness and political will*'¹⁵⁷ was also underlined:

Firstly you need political will. This includes government organizations involved but also their leaders at the highest political levels to do their work and support the efforts. If they get leadership and policy and legal framework they can do a lot of things (Interview with See)

The starting point ... they should have the willingness to cooperate ... the consensus to cooperate. Maybe different countries share different views. The culture, the traditions ... like in wildlife before most common people think that wildlife is very delicious and nutritious and it's good for traditional medicine and they don't think it's a crime (Interview with Song)

If the countries believe that there is a common interest of issues in between them, if they understand very well that this is not an issue of for example [country A] can be also issue of [country B]. [...] But they have to know, they have to understand very well the reason of negotiation and the reason of talking with other countries. Understanding of [this] reason is key, [you] have to clarify ... specify ... that all of them are beneficiaries (Interview with Jet)

Participants also highlighted the importance of being supported by their hierarchy and by top levels of government and for this cooperation to be supported also at the international and regional level: '*meeting informally and through the network facilitates cooperation, but [the] whole region needs to participate at same level for spirit*'¹⁵⁸.

In particular, one participant suggested that *treaties and international agreements have an important role but that national interests prevail*:

networking, infrastructure, way of coordination and cooperation works very well because of international agreements obligations for countries; but the own national interest [is] paramount (Interview with Jet)

That is why it was also argued that cooperation is often driven by 'champions' who work at a particular ministry or organization, but that '*once they leave*'¹⁵⁹. They also suggested that global intergovernmental organizations should also make this a priority in order for their member states to put a higher priority on combating illegal wildlife trade:

Combating illegal wildlife trade should become priority of a country for change to happen. [For customs,] all policies and inputs come from [the world] customs organization, [you] have to go there and make it priority there (Interview with Jet)

The non-governmental perspective:

¹⁵⁶ Interview with Sipsee

¹⁵⁷ Interview with Song

¹⁵⁸ Interview with Sip

¹⁵⁹ Interview with Hok

Representatives from this group generally agreed with the perspectives outlined above from the other groups, but emphasized that *'[You] also need political support so that this goes somewhere'* (Interview with A).

6.2.5 Need for support

The governmental perspective:

Most government representatives interviewed highlighted the need for additional support both financial and technical from a number of partners was needed. In particular they highlighted the need and benefits of having a platform for cooperation and opportunities to meet their counterparts (see section 2.7 below for more details).

The intergovernmental perspective:

In order to enable cooperation, interviewees highlighted the need for internal and external support. It was highlighted that *'internal support from the governments is the most important'*¹⁶⁰ but that *'external support for capacity building, equipment and financial support was also important'*¹⁶¹.

You need training, capacity building etc. but if high level awareness and will doesn't exist, whatever you do on ground won't be effective ... [it is] like planting a tree without then watering it (Questionnaire received from Ha)

Until this institutional agreement that clarifies terms of collaboration and starting infrastructure resources are there, it will be quite difficult to have some meaningful, longstanding control over TOC (Interview with Hok)

Key needs identified were also discussed:

They certainly need skills ... a set of skills that at the moment is not there ... In terms of skills I am referring specifically to knowledge of the law ... to actually know what the law says ... and what is legal and what is illegal. In my opinion there is still some sort of grey area ... especially in complex issues such as the illegal wildlife trade where it is really hard to know what is legal and what is illegal. So ... border officers need first of all to acquire better knowledge on these issues from a legal standpoint. The need to ... trust each other (Interview with Neung)

Financing and willingness to actually share, to start, to take action is the basic precondition to cooperation (Interview with Samsee)

¹⁶⁰ Interview with See

¹⁶¹ Interview with See

Respondents highlighted the need to develop trust and relationships between law-enforcement organizations in order to cooperate effectively:

Whereas we can assume that most investigative powers are often with the police, it is a reality that most of the seizures at the border are made by customs ... combining these two sets of information is fundamental. ... In many of the countries in the region the jurisdiction between the international check points stays with the army ... and ... having an alliance of the law-enforcement agencies such as police and customs with the army is fundamental ... so ... trust and proper professional working relationship with other enforcement agencies is essential ... (Interview with Neung)

6.2.6 Types of cooperation

The governmental perspective:

Participants from this group highlighted the history and changes in the approaches and types of cooperation and suggested that *'cross-border cooperation began [a] long time ago, but only customs to customs, police to police ... [and] not talking to each other. Now [there have been] some change[s] but still a lot of police-police, custom-custom, depending on the area of jurisdiction'*¹⁶².

The intergovernmental perspective:

Representatives from this group suggested that cooperation is in today's world a synonym for survival and that one organization or country alone cannot deal with transnational wildlife crime:

[We] can't say that countries are isolated anymore, [we] have to talk to each other, closely work together ... we cannot survive without ... this cooperation with each other. It's a must and countries have understood very well that communication is essential (Interview with Jet)

Cooperation between domestic and international partners is critical ... as it cuts across borders. There are also insufficient resources in any single agency to adequately respond. Further, each agency brings with it a specific set of skills and capacities... that the whole [of the response] is greater than the sum of its parts. Finally, cooperative work fosters proactive rather than reactive responses.(Questionnaire received from Hasee)

It is such a multidimensional problem that it requires interventions from many different directions and levels. Many actors who can be each other's watchdogs and can put pressure on each other, many kinds of expertise is required which one organization alone cannot have (Interview with Sipsee)

Different forms of cooperation (e.g. national, cross-border and international) were discussed depending on the nature of the crime. One participant made an interesting summary:

¹⁶² Interview with Er

Fighting TOC, it requires a wide range of activities ... some are based at the border ... some are based in the capitals with the national authorities at the national level essentially fighting TOC requires prevention, protection, prosecution and a fair and just legal system. These four areas require a number of different activities starting from prevention in which there are important things that can be done such as offering opportunities to communities to ... to be more capable of not falling in the lure of quick returns ... quick monetary returns of illicit activities ... TOC is a huge area and prevention will vary according to which form of TOC we are talking about ... So it is a very huge issue. The area in which I am working is the area of cross-border cooperation ... I would say that international cooperation is a cross cutting issue for all the areas that I mentioned before ... prevention, protection, prosecution ... international cooperation at the border is particularly relevant. I can't tell in the least which are the most effective solutions and where cross-border cooperation stands, but I think ... I would assume it stands pretty high (Interview with Neung)

The non-governmental perspective:

Participants from this group emphasized the benefits of regional activities and suggested that regional training is an opportunity to talk to other agencies, discuss enforcement matters, policies with neighbouring countries, as well as for the development of capacity (Interview with J).

6.2.7 Need for a platform

The government perspective:

Overall, participants from this group noted that it was essential to have a strategic direction and high level support from the 'central government' to facilitate cooperation and collaboration to combat the illegal wildlife trade across borders¹⁶³:

The basic need ... is to have a shared strategic direction with compatible laws ... It is also important that unconcealed support is obtained from a Minister of State and Senior Police Officer. If the common goals are present and there is early collaboration intrinsically linked to the other two pillars of cooperation and communication then everything takes care of itself. Money will always be a factor but it is surprising what you can do on limited budgets in this area of work (Questionnaire received from Liushi)

Talking about big issues with countries ... at national level received a lot of support for capacity building and collaboration from international community to fight against transnational organized crime, but still country seems to be behind; political will and involvement is essential (Interview with Qi)

The initiatives in general were highlighted as a platform for cooperation to strengthen relationships and build trust and to avoid duplication of efforts:

¹⁶³ Interview with Yi and Yao

Personal relationships between agencies so can work and coordinate including informal discussions that officers can change their agencies mandates and missions – learn from each other, learn about each other’s role to work effectively – know who you are working with (Interview with Sishi)

Maybe part of that ... is to have an established communications protocol to ensure that the right people are being engaged and that not too many people, so not duplicating efforts (Interview with Jiu, Shi, Ershi and Sanshi)

Learn from others, but also do updates and knowledge sharing outside of that; but different countries work alone most of the time, cooperation happens once or twice a year during training (Interview with Ba)

The intergovernmental perspective:

In particular, they highlighted the need to know the different cultures and people in order to be able to cooperate: *‘if you know the people and culture it’s easier to cooperate ... for this it is important to also do awareness [and] to show [the officers/government] why it is important to cooperate’*¹⁶⁴.

The role of the United Nations and relevant conventions and organizations as a forum to bring countries together was emphasized:

The UN can be used to provide a platform for agencies to get together to discuss the ideas together and be a convening point to facilitate meetings and cooperation between the meetings ... There are many things the governments can’t do alone ... [governments] need assistance from the UN and international organizations, and other agencies to facilitate meetings (Interview with Song)

In fighting drugs, often complicated to make countries to cooperate – often not enough policy, enforcement, often do not care, or are not interested in having policies to control export often because of economic reasons; but important to bring these countries into position to cooperate more; all countries are like children sometimes, UN agencies are more like parents bringing children together (Interview with Jet)

The importance of networking alongside other activities to achieve cooperation was stressed. Participants noted the most basic need is an opportunity to sit down and talk about *‘the issues that need to be talked about’*¹⁶⁵, to have a platform for cooperation¹⁶⁶:

Meetings are designed to encourage cooperation. Technical training is different ... When it comes to cooperation, you cannot teach them ... you cannot give them instructions. You need them to personally agree and commit themselves (Interview with See)

You need a combination of approaches. Reliable contacts within country, established relationships through meetings so it comes to informal information sharing as well, [you]

¹⁶⁴ Interview with Song

¹⁶⁵ Interview with Sam

¹⁶⁶ Questionnaire received from Ha

need strong institutions ... We should be aiming for institutional relationships as people leave the organizations and then personal relationships are not sustainable (Questionnaire received from Ha)

The non-governmental perspective:

One participant from this group suggested that: ‘one of key needs for cooperation is regional recognition and financial support. Everything else e.g. political will and engagement will follow’¹⁶⁷. Overall, however, most participants suggested that it was essential to have – or ensure – strong leadership and engagement at the highest levels of government to combat the illegal wildlife trade and to ensure the networks enrich their activities:

We often focus too much down the food chain, the practitioners, the police officers, and so on. What is lacking is leadership ... I am seeing a total lack of leadership at the top at the agencies and the governments that host them to act (Interview with F)

First and foremost there needs to be a leader, or the top management or the head of the country or someone at the top who has the power to do something who will have to say ‘look, this has to be done’ (Interview with D)

The need to recognize the illegal wildlife trade as a serious transnational crime was also emphasized:

To have illegal wildlife trade recognized as a serious transnationalized crime ... [countries could] get more budget, more levels involved, training, capacity building, financial systems (Interview with N)

If illegal wildlife trade moves to the top of that list of priorities above various other cards of social evils, then they actually can do something about it. [It is] more about willingness than capacity, if sense of importance, will act according to agreements, perception cloak (Interview with C)

Participants also stressed the need for the platforms to align to the needs of the field:

When you are talking about these networks in the same way as we were talking about the macro sort of international level there has to be an alignment of goals – there has to be an alignment of goals between the people who chose to be part of any network and any sort of cooperative agreement ... [there has to] be people who care to implement [it] (Interview with B)

Politicians should feel pressure from constituents, that is when they do their job best (Interview with J)

One participant did an interesting analysis:

[We] don’t need new tools for communicating, the reality is that what is stopping them sharing information with each other ... I find [it] interesting ... [is] not a capacity building

¹⁶⁷ Interview with I

thing, although sometimes the budget line [is] missing, making things more complicated... the answer is partly political, [it] can be that country doesn't want to seem to criticize bordering countries or other countries (Questionnaire received from E)

PERSPECTIVES ON COUNTERING TRANSNATIONAL WILDLIFE CRIME AND THE NEED FOR INTERNATIONAL COOPERATION

Participants interviewed were asked to discuss how to combat transnational wildlife crime, and whether or not it was better or possible to do this alone, or if international cooperation was needed to effectively combat it. The issue of whether or not a network was needed to defeat the criminal networks involved in the illegal wildlife trade was also discussed.

Government participants suggested that cooperation and collaboration are essential to combat transnational organized crime and illegal wildlife trade and highlighted the need for cooperation and collaboration as well as political support and commitment from their hierarchies to combat it effectively. They noted the challenges of cooperation at national and international level and the need for increased political support, noting that cooperation in general is not seen as a priority. It was suggested that political will should be increased through diplomatic channels such as the UN General Assembly or relevant regional and global forums. Participants highlighted the benefits of a network approach and also emphasized that enforcement alone would not solve the problem of the illegal wildlife trade.

IGO representatives emphasized that cooperation is crucial to combat the illegal wildlife trade as one cannot combat transnational crime in isolation, but that 'it is not as easy as it seems'. The difficulties at the national level and between organizations were noted, as well as at the international level. It was suggested coordination at and between the different levels (e.g. national, border and international) was essential. In order to do this, political support, consensus and interest to cooperate at the government level is crucial. Participants also highlighted the benefits of a network approach and the benefits of a multi-agency and coordinated law-enforcement approach, and highlighted the need for additional support (financial and capacity) as well as integrity and the role of the UN and relevant international organizations and agreements to bring countries together.

NGO representatives agreed that cooperation is crucial to combat transnational organized crime and that one country alone cannot deal with such a problem and highlighted the importance of a coordinated multi-agency coordinated approach at the national and international level. In contrast one participant suggested the lack of international illegal trade in a particular country and that

cooperation was therefore not required in that particular country and therefore not an issue of national interest or significance. The importance of cooperating with NGOs as well as the role of NGOs in efforts to combat wildlife crime were noted, together with the need for increased political support and the need for additional training.

Key similarities and differences in participants' responses:

There was broad agreement from all groups that cooperation is essential – one group in particular highlighted the need for long term cooperation in a structured manner. The lack of cooperation was also emphasized, together with a general view that there is a fragmented approach to cooperation. In this regard all groups agreed that networks were the solution as only a network could defeat a network, and very few interviewees suggested otherwise. IGOs and NGOs tended to focus on the need to have a more efficient use of funds and the need to put mechanisms in place to evaluate the work of the networks (while at the same time acknowledging it is hard to measure and evaluate but that it should be done). A number of representatives from the NGO group saw networks as a way to enhance performance and increase political will.

Some representatives from the IGO group cautioned on 'obsessive coordination' and suggested the focus should be more practical aspects of cooperation because cooperation is not as easy as it seems (this latter point was agreed by most participants). In other words, we should talk less about coordination, and more about exploring its effects. This appears to be more of a strategic approach to cooperation than that of other groups. NGOs in general agreed with the other two groups and highlighted that one organization alone cannot achieve results when speaking about countering transnational wildlife crime. Participants from this group focused more on the lack of skills as wildlife is a specialized field that requires specialized support and capacity building.

Interestingly, one of the respondents noted there was no need to cooperate at the international level as the illegal wildlife trade was limited in their country. At the same time he/she stressed the need for national coordination.

The challenges, in particular the lack of political will - and the importance of it in order to be able to combat it effectively – were stressed by all groups, and the lack of priority accorded to wildlife crime at the national and regional level was also emphasized. All groups agreed that more priority should be given to wildlife crime and to combating wildlife crime at the national, regional and global level. Government representatives in general had a practical approach. Interviewees from this group often

expressed frustration that insufficient priority was allocated to this issue, but noted that if it is not a priority at the national level it is difficult to address. At the same time they also emphasized that they do what they can with the limited resources (both human and financial) available. At the other end of the spectrum, participants from specialized NGOs in particular actively complained about the lack of action and priority accorded to wildlife crime, while praising the efforts of some countries and officers to combating wildlife crime. IGO representatives had a more institutional approach, both understanding the limitations and highlighting the need for more action and priority, but also looking at potential solutions. Participants from this group highlighted in particular the importance of recognizing the work of agencies involved as well as the need to highlight to countries the benefits of increased cooperation and action in order to encourage them to allocate further priority and resources.

The need for internal and external support (technical and financial) and increased ownership over the initiatives and for cooperation was also highlighted. Governments again highlighted the need for financial and technical support. In general, IGO representatives focused more prominently on the need for governmental support and institutional backing and ownership over any activities or initiatives as a precursor to other support. They also particularly focused on the need to strengthen capacity at key points (border crossings) and on the need to develop trust. Participants from the NGO group highlighted the lack of skills and the importance of improving them and also acknowledged the importance of providing support to generate cooperation and ownership.

Exploring the different types of cooperation, IGOs focused on examples of how cooperation works traditionally (e.g. customs to customs, police to police, CITES authorities to CITES authorities) and explored various forms of cooperation and the importance of all the different levels of cooperation – and in particular the development of trust and relationships (ideally more at the institutional level but noting that in most cases it is based on trust of individuals). Other groups focused more on cooperation as a result of engagement (e.g. activities will create the opportunity to meet, exchange information and capacity development and will generate cooperation). The IGO approach was more strategic and reflected the institutional knowledge and strategic approach of intergovernmental organizations in general to support their member states while the NGO approach was more practical and focused on delivering activities to generate action.

All groups highlighted the need for and benefits of a platform to share information, experiences and to facilitate cooperation as well as to deliver activities. One crucial part of such platforms was to develop relationships and trust (in particular the IGOs emphasized on the need to develop institutional trust). The crucial aspect of sustainability and ownership and involvement of

government in the initiatives was also stressed. While this was acknowledged by most participants interviewed, one interviewee from the NGO group suggested that relationships and political will are generated by having sufficient funds to organize activities. In contrast, most participants highlighted the importance of political support over all other aspects. The role of the 'blue flag' was also noted in particular by IGOs as well as by a number of participants of other groups due to the capacity of UN organizations to generate political will and institutional support.

6.3 International cooperation to combat wildlife crime: how and with whom

Interviewees discussed different methods and types of cooperation and the basic need to cooperate effectively. The opportunities to meet, create relationships and develop trust among officers were common themes discussed, as well as different types (formal vs. informal) and forms (bilateral and multilateral) of cooperation. The following themes were identified:

6.3.1 Elements of cooperation

The government perspective:

The below statement from a participant interviewed outlines the key elements for cooperation (discussed in further detail below):

Policy makers need to agree to having cross country collaboration, [we] need to develop trust between officers, develop joint action plan including guidelines ... [develop] personal relationships. When people know each other, they trust. Having some kind of high level mandate to give [us] direction ... for further investigation after seizures, data collection etc. ... and the political will and backing (Interview with Jiu, Shi, Ershi and Sanshi)

Another government representative interviewed highlighted that:

All of the aspects [of communication] can contribute to a greater and more productive cooperation. With official meetings you have one official objective to understand an issue better, but because of [the] meeting you meet people, opening up informal channels. Informal meetings are essential ... meeting up for coffee with a neighbouring country BLO, workshops, trainings, seminars etc. ... they have two purposes, including contributing to the understanding of each other (Interview with Er)

The intergovernmental and non-governmental perspectives:

This was also echoed by participants of other groups, who also acknowledged the need for an institutional framework to work together (*'If government is going to be involved, then you need some structure'*¹⁶⁸) and the importance of working together.

6.3.2 Levels of cooperation

The government perspective:

Participants also highlighted other aspects to take into consideration to cooperate with neighbouring countries:

Two nations must work together, from central government down to local level ... [we] need to be clear about authorization [through a] bilateral agreement, MoU ... then you need a clear guidance from central to local level so [you] know to what extent can act without having to double-check with higher level all the time. Reporting to government is important ... but you also need human resources: right language, right skills ... and [you] need to have defined what cooperation means to them; you need resources, financial for equipment to get job done, for basic interaction, office and human resources (Interview with Er)

The intergovernmental perspective:

One participant noted networking should theoretically be easier at border areas: *'it is quite inevitable to get to know people, because probably there are not as many enforcement officers operating in a specific border area as you would find in an urban centre ...'* (Interview with Neung).

The non-governmental perspective:

Different levels of activity that are crucial for cooperation were highlighted: the opportunity to learn, the opportunity to meet your peers, and the opportunity to network as pillars that can later enable or facilitate cooperation and collaboration.

There are a few levels ... if we are looking at participants who don't really know much to begin with, then you create an awareness. And then you give them the chance to network, which is a very very big deal, especially within the country because as long as you network you keep in touch, you can work together and can achieve a lot while doing that. And another level I think is empowering the enforcement agencies ... talk about [the] issues (Interview with D)

Regular meetings ... are important, not necessarily the content of the meetings but more the coffee breaks, dinner times ... raise the profile of wildlife crime. The connections are crucial ...

¹⁶⁸ Interview with F

in meetings, [we] should facilitate these times in between, ... [as they] give these opportunities to participants to spend time together (Questionnaire received from E)

Participants also highlighted that cultural aspects in the region, and the willingness (or lack of) to cooperate also had to be taken into the equation:

The culture of the different countries has a lot to do with how the worker bees will react ... [You] need a strong call from government to tackle the illegal trade and cooperate in order for it to happen more effectively (Interview with F)

What drives the enforcement agencies is self enhancement, visibility, upper mobility on the part of the bosses. There is not that in western Europe or the US. Pride in catching the bad guys. That's not a motivating factor in many cases (Interview with F)

I think if they decide they want to do it, they have their ways of doing it and they would be able to do it. To ask them to do it the way we do it is going up the wrong pole. Training is great and all that, but you can't train people with no power in an institution that is not going to allow them to do their work (Interview with F)

6.3.3 Formality versus informality

The government perspective:

Overall, participants acknowledged that cooperation is sometimes challenging and requires time and the need for agreements (MOUs) to cooperate officially and noted that: *'when talking about cooperation we are talking about how and with whom to cooperate'*¹⁶⁹:

From my experience the government has ... there are policies that will be implemented and achieved for all the government agencies ... the government should make it clear that the agencies that there are common policies and that they have to work together ... this is often not clear (working group of approximately 15 government officials)

We had to know how to cooperate, this is important, if we don't know how to cooperate, we cannot do it ... the ability and attitude [are] essential, but also knowledge, culture, language ... are important. Countries need to know about [the] need to cooperate, need to know about differences and understand differences, if they understood then can cooperate ... [it's a] long process ... time needed ... but people have to want to listen and to learn, especially in remote areas. It changes slowly and gradually (Interview with Qi)

The different forms of cooperation (formal vs. informal) were also discussed. It was noted informal cooperation was the initial step to formal cooperation, as it was generally preferred and faster, but that it had to be based on formal rules and procedures:

¹⁶⁹ Interview with Qi

Most of the time we talk about communication we talk about formal setting. ... Most cooperation works on an informal basis ... but through a formal setting. People can get together in an informal setting. It is better rather than making it too formal ... The work is formal, but meeting on an informal setting is important to share ideas and information [because] formal cooperation can take 3 months ... informally it can be done in 1 month. (working group of approximately 15 government officials)

Often you don't go through official counterparts as it's very bureaucratic and not as efficient and effective as it could be. A recent example, we liaised directly with (USWF) not going through official counterpart and not going through INTERPOL ... the majority of cooperation is done (in my country) by investigators (Interview with Wushi)

[The informal way] only works up to a certain level ... there is a time and a place for informal cooperation and informal cooperation ... the difference between criminals and ourselves (enforcement agencies) is that we have discipline about the way in which we conduct ourselves ... and that is what gives us the advantage ... there is discipline, methods and systems and coordination in place (working group of approximately 15 government officials)

It was suggested that many countries worry excessively about using official channels and that more informal communication is needed¹⁷⁰ as informal settings are crucial to facilitate communication, but that *'there is a time and a place for both forms of cooperation ... and it is pretty clear what those times and places are ...'*¹⁷¹:

Formal cooperation is a must, but if you can pick up the phone and have the trust to call someone and discuss a particular issue ... this will facilitate further cooperation (Interview with Er)

Informal contact leads to formal cooperation and ... to the efficient outcome of operations (Interview with Qi)

Meetings ... facilitate informal cooperation and promote future cooperation ... Interagency cooperation ... involves different agencies with informal cooperation ... we involve all the agencies. The communication must be better strategically not only the policy level ... Often when the government changes the policy changes and we have to start again fresh the interagency communication process (working group of approximately 15 government officials)

It was however emphasized that any bilateral international cooperation requires a formal cooperation setting (usually MOU) and that *'more formalized and professional channels ... would be complemented by simple and informal mechanisms to ensure cooperation is mutually beneficial'*¹⁷²:

[My] agency can't divulge information without an MOU or an agreement to do it. They can do this bilaterally within the agreements, or do this through INTERPOL or Customs (Interview with Wushi)

¹⁷⁰ Interview with San

¹⁷¹ Working group of approximately 15 government officials

¹⁷² Interview with Yi and Yao

If we haven't got MoU in central government, we cannot go in the field. The legal framework is essential piece to implementation (Interview with Yi and Yao)

The intergovernmental perspective:

The different forms of cooperation (formal vs. informal) were discussed for the varying types of activities envisaged and from an institutional standpoint. It was suggested that there are different levels of cooperation and that approaches are more or less flexible depending on their level. For example, if it is at the political level it requires more formal methods of cooperation. At the operational level it ultimately requires formal cooperation between law-enforcement agencies but such cooperation is often facilitated informally. It was noted both approaches (formal and informal) are interlinked and essential to cooperation:

Our project stimulate[s] the interaction on a formal and informal basis ... both dimensions have to be taken care of ... because formal meetings are fundamental ... that's when decisions are made ... that's when official positions are clarified ... but at the same time it is through the informal meetings that actually joint operations are developed and real exchange of information is promoted ... so both elements will, and should, go hand in hand ... of course on our side it is much easier to work on the formal dimension of the interaction and we somehow have to hope that the informal dimension will come as a side effect (Interview with Neung)

They will work together better on an informal basis and develop relationships and trust ... and this should be reinforced by formal aspects (Interview with See)

The preferred method of communication is usually informal, circumventing bureaucracy, but with [sensitive] law-enforcement information might not be the best (Interview with Samsee)

It was also suggested that '*informal arrangements give flexibility when the countries can trust that each country do[es] its share*'¹⁷³ and that formality '*provides less flexibility but it is binding ..., meaning that the trust is replaced by obligation*'¹⁷⁴.

Overall, it was highlighted that informality is already formal:

Once the network is established you have your official contacts. Whenever some information arrives, you pick up a phone and call your friend. If you go to the official channels and ask the director to send a letter it will take a long time. I don't know whether to call it informal or formal ... the people are already the formal focal points, but because the contacts are friends they can deal with it ... If it's a friend, they will prioritize your request (Interview with Song)

The non-governmental perspective:

¹⁷³ Interview with Sipsee

¹⁷⁴ Interview with Sipsee

The different forms of cooperation were discussed. It was suggested that informal cooperation was in most cases preferred, but that it is a precursor to formal communication:

At the end of the day individual relationships should not take over ... [a] degree of formality is needed to safeguard cooperation, informality is the way to get by to receive information faster ... to get things done faster (Interview with G)

Obviously locally or nationally it is initially very informal, like we have a good working relationship generally, or well known to the local chiefs and various provinces that when we are there will just be some discussion generally about 'why didn't you tell me?' ... or 'why are you coming here first without ringing me?' formal is the last possible step; if would do it the other way round wouldn't be too effective (Interview with K)

6.3.4 Trust and relationships as pillars of cooperation

The governmental perspective:

Emphasis was put on the fact that all cooperation is based on trust and relationships and the important role of the different projects and initiatives to bring people together to foster cooperation was highlighted:

[You] need to have formal work structure, but personal relationships and informal relationships are very important to get the work done (Interview with Sishi)

First you have to build up trust and understanding with each other (Interview with Er)

They always request information from other agencies for importing/exporting countries ... the problem is that the other side does not always cooperate. The question is how to increase the level of cooperation between organizations (working group of approximately 15 government officials)

We generally don't get to meet the counterparts ... which leaves a gap ... If we get to know the people we only know them but if we want to understand them we have to meet them to understand them and hear on their issues ... Generally we don't understand the people or the issues We just know them superficially. There is a need to try to understand others better. Need to meet the people to cooperate with them more effectively ... Regional offices, UN agencies and projects/ initiatives can play a key role to make communication easier and faster ... (working group of approximately 15 government officials)

One participant noted a particular case with regards to intelligence exchange and trust:

It only happens when you know the other person ... [In the past,] I had an operation that involved a dealer of cocaine who was going to Colombia to arrange a shipment. Because I didn't have a person that I knew in Colombia and I had an ongoing operation, I did not share the information through official channels because it might have jeopardised the case. If there had been someone I knew and trusted I would have shared the information. This is one of the

benefits of the BLOs. They know each other and are more likely to exchange information (Interview with Wushi)

The intergovernmental perspective:

Participants from this group emphasized that *'you can train people, but you cannot force people to work together'*¹⁷⁵:

On the encouragement of informal cooperation there is not much that can be done ... you essentially hope that it happens ... you just have to wait for it to happen. At the end of the day it is also a matter of human interaction ... there might be border officers that like each other ... that speak the same language ... you can't force it ... on the formal side you can request them to cooperate but on the informal side we cannot (Interview with Neung)

One participant stressed the importance of knowing the counterparts and of being able to reach the appropriate person (and at the appropriate level):

You start with the unofficial approach ... for me it is more effective than the so called official approach ... because in the official approach, number one it is quite a short period of time. People come in under the protocol, or under a lot of preparation for the official functions ... but people try to present or try to act diplomatically, just to look nice ... to look OK. But you cannot get the real actions. Most of the time when they have these kinds of official arrangements most of the time the people involved are from far away ... from high ranking positions ... they come and they go ... they don't do anything in the operational level. For the unofficial interactions, normally are among those in the operational level ... They will be confirmed with the interactions they have ... the commitment, the respect, the honesty amongst each other ... and that are the ways they build trust amongst themselves. Once the unofficial interaction has been carried on for a while, people know more about each other ... after the repetition of the unofficial approach, then that will make the official agreements to be more effective and more practical (Interview with See)

Particular emphasis for effective cooperation was put on one key issue: *'the opportunity to meet face to face'*¹⁷⁶ and develop trust and relationships, as well as the need for an environment to cultivate them:

Of course training and capacity building is essential, but they need to have the proper communication channels and a level of trust and camaraderie between countries to cooperate (Interview with Sam)

First I think they should meet ... they should know each other ... build trust. And then they can start with further steps like share information or take joint enforcement operations Of course, the training or equipment are necessary to support the mechanism, but the important thing is that the two sides ... are willing to cooperate (Interview with Song)

In countries where probably the rule of law is ... considered to be stronger ... , there are also problems of trust between enforcement agencies. What can we do to improve the trust?

¹⁷⁵ Interview with See

¹⁷⁶ Interview with Sipsee

Well ... the first thing is to create an environment in which officers from each enforcement agencies get to know each other ... getting to know each other ... understanding that their areas of work are so similar ... and that cooperation will bring improved results ... rather than competition or less visibility (Interview with Neung)

The non-governmental perspective:

Similarly, participants from this group also placed emphasis on developing trust and relationships:

In reality it is all about personal relationships ... to meet and know each other's ... and an associated need, the need for consistency ... or constancy in the players ... dealing with some of these countries the faces are very familiar and when they are familiar among each other it all works better (Interview with A)

There's not much cooperation unless people know and trust each other and are happy to share information (Interview with L)

[My] impression ... is when they know each other personally, it's easier, more likely to share information. To support that you need a formal network ... meetings and conferences are important to establishing relationships. One of the basic needs is to use the opportunity to meet in the first place to develop trust. Actual cooperation happens or is facilitated by the informal relationships that are created (Interview with J)

The real value in trainings ... is putting them together in the same room, much more than skills conveyance ... although I will hate myself for saying this later, because the skills are really lacking as well (Interview with A)

In particular, the importance of finding the 'right' person to work with was stressed:

If you can find someone that has enough authority, power and ability to call in some favours and get things done that's the way to do it. We have found that person (they) will tell you what can and cannot be done, if it can be done, if you are stepping on too many toes (Interview with F)

In Asia it's about relationships. To get something done it is all about relationships. it is all about favours and calling in some favours ... it's a patronage system ... if you want to get something done it takes a number of transactions that are based on relationships, personality and favours. It's not that it's their job. What's the motivation? There is no motivation to do something unless they need to do it. It's how things work (Interview with F)

A participant also highlighted that:

[You] need to find the right person to provide information to ... someone that we can work with, trust and provide information that can provide good results ... but we are failing at it ... there is pressure to do seizures and arrests ... We make interdictions and arrests, but the person you catch is often a throw away. We are catching the grapes (Interview with F)

PERSPECTIVES ON INTERNATIONAL COOPERATION AND COMBATING WILDLIFE CRIME

Participants interviewed discussed different methods and types of cooperation and the basic needs for effective cooperation. The need to meet, create relationships and develop trust among officers was a common theme discussed, as well as different types (formal vs. informal) and forms (bilateral and multilateral) of cooperation.

Government representatives noted the importance of trust and personal relationships to combat wildlife crime: cooperation is based on trust and it requires time to build trust. It was stressed that official agreements are essential to facilitate cooperation but that communication and an interest to cooperate were indispensable. It was emphasized that the work of government officers is always formal and that cooperation is facilitated through an informal basis but through a formal setting. The important role of initiatives and institutions to provide a platform for cooperation was highlighted.

IGO participants highlighted that 'cooperation is easier said than done' but that it is essential to combat transnational organized crime. The importance of having official agreements and structures to facilitate cooperation was highlighted, and it was noted that trainings and meetings as part of the network approach were important as they were also a tool to encourage cooperation. Participants emphasized that depending on the level of cooperation different forms of cooperation were used - the government level will be more official, while it will be more flexible and informal at the border. Similarly, it was noted that informal cooperation already takes place within a formal framework and the importance of personal relationships and the opportunity to meet and develop trust were emphasized. The need to recognize successes was also suggested.

NGO representatives agreed that cooperation is not as easy as it seems and that one needs an institutional framework or platforms to work together. Such a platform provides the opportunity to learn and meet counterparts, develop trust and relationships. The importance of finding the right person to work with and the willingness to act of enforcement officers was also stressed

Key similarities and differences in participants responses:

There was broad agreement from all groups on the key elements of cooperation to combat wildlife crime, namely the need for:

- Political support;

- A mandate, agreement or institutional framework;
- Improved communication between relevant partners;
- Opportunities to meet and share experiences;
- Trust and relationships; and
- Increased human and financial resources, capacity and skills.

Interviewees from the IGO group in particular highlighted that it is easier to generate cooperation at specific border areas as its officers are in close proximity and have increased opportunities to develop trust and get to know one another. Governmental representatives focused on institutional aspects of cooperation (with a particular focus on the need for support from their hierarchy and a mandate to be able to cooperate) as well as practical aspects of cooperation (opportunities to meet, develop trust and relationship and the need for financial resources). Participants from the NGO group focused more on practical aspects and opportunities to generate cooperation.

There was broad agreement on discussions over formal or informal cooperation. It was broadly acknowledged that informal methods are preferred but that they are all within formal structures or mandates. Government representatives in particular noted the importance that policies and decisions that are taken at the policy level take into consideration the needs of the field, as this is not often the case. This crucial aspect is an issue that is identified in the literature (see chapter 4).

A key aspect emphasized (by all groups) was the importance of trust, that you cannot force trust to develop and the fact that *actual* cooperation is based on trust and relationships. The important role of the initiatives to encourage the development of trust and relationships through various activities and opportunities was stressed. As suggested above, IGO representatives focused also on the need to develop institutional cooperation so that cooperation is not halted when certain staff members are reassigned or moved to a different position.

It was suggested that the initiatives create and develop opportunities for cooperation but that cooperation often happens outside of the actual frameworks of the initiatives through the informal channels that have been created. All groups also agreed and noted the gaps between the policy and field levels, where the policy level designs the formal structure for cooperation and the field level improvises informally within the formal structure that has been agreed upon.

Chapter 7: the initiatives, their effectiveness and corruption

7.1 The initiatives: a platform for cooperation to combat wildlife crime

As explained in previous chapters, the need for increased collective actions has resulted in the emergence of a myriad of initiatives to facilitate cooperation. Among the various mechanisms and initiatives available worldwide, in Asia, they have taken the form of the Border Liaison Office (BLO) Mechanism and the ASEAN Wildlife Enforcement Network (ASEAN-WEN). The overall details and analysis of the two initiatives are provided in chapter 4. For easy reference, a brief summary is provided here as background for the analysis and discussion in the following sections¹⁷⁷.

The Border Liaison Office (BLO) Mechanism¹⁷⁸

A BLO is essentially a coordinating office for national law-enforcement agencies that encourages and facilitates enhanced cross-border cooperation. Located close to key border crossings or 'hot spots', offices are located on both sides of the border and act as a centralized clearing house for informal information exchange amongst law enforcement officers in border areas, thus facilitating formal exchange of information amongst countries. The aims of the mechanism are: to foster cooperation along and across national borders between different national law-enforcement agency units working at the borders; to enable direct and real-time communication and information sharing as well as improved multilateral law-enforcement; to strengthen enforcement efforts at the borders and prevent illicit trafficking; to conduct joint operations against transnational organized crime in the region, building trust and mutual understanding; and to promote the dissemination of changing trends and new developments in cross-border trafficking (see chapter 4 for more details).

¹⁷⁷ See footnote 1 in the Introduction for details on previously published worked used in this thesis.

¹⁷⁸ See generally United Nations Office on Drugs and Crime (UNODC), *Border Liaison Offices in Southeast Asia (1999–2009): Ten Years of Fighting Transnational Organized Crime* (UNODC Regional Centre for East Asia and the Pacific 2010).

The Association of Southeast Asian Nations Wildlife Enforcement Network (ASEAN-WEN)¹⁷⁹

ASEAN-WEN is a wildlife law-enforcement network involving relevant enforcement agencies working to combat the illegal wildlife trade (police, customs and environmental agencies) of all ASEAN countries. It aims to enhance cooperation amongst enforcement agencies and increase the capacity of governments to counter the illegal wildlife trade. Through annual meetings and a comprehensive array of workshops and trainings, ASEAN-WEN increases the capacity of and enhances cooperation amongst law-enforcement agencies regionally and globally. The network operates at both the national level and at the regional level to counter the illegal trade in wildlife and to enhance cooperation. Efforts of the network are coordinated by the Program Coordination Unit (PCU), in close cooperation with all its Member States and is supported by a coalition of NGOs under various support programmes or projects (see chapter 4 for more details).

The following sections will explore the views of participants interviewed on the different initiatives (ASEAN-WEN and BLOs) and their perceptions on how they worked as a platform for cooperation to combat transnational crime, and in particular wildlife crime. The chapter will first provide perspectives on ASEAN-WEN, then on the BLOs, and then compare views on each. Interviewees highlighted how the different initiatives work, their key objectives, and a number of successes, challenges and gaps of the initiatives. It is worth noting that a number of participants gave examples of how each of the initiatives work and what they have achieved in the different countries, particularly the development of national or border multiagency networks to increase cooperation at the national level. One participant graciously summarized the *main difference between the two*: ‘*the BLO works in border area only ... ASEAN-WEN at a different national, international [level]; they are all equally important*’¹⁸⁰.

7.1.1 Perceptions on ASEAN-WEN

7.1.1.1 How and why it was developed

The government perspective:

Participants gave examples of how the initiative works and was created and highlighted some changes since its creation:

¹⁷⁹ See generally ASEAN-Wildlife Enforcement Network (ASEAN-WEN), <http://www.asean-wen.org/> (accessed September 2013).

¹⁸⁰ Interview with Yi and Yao

The original aim of ASEAN-WEN was a network approach ... to have a network to fight against illegal ones (Interview with Yi and Yao)

In 2005 during the CITES COP, ASEAN-WEN was agreed to be set up ... [we] saw opportunity to cooperate with ASEAN countries dealing with these issues ... [and] wildlife crime is now priority ... in 2011 [they] decided to continue ... trying to tackle challenges at regional level, as at country level would not be sufficient ... from 2005 to 2011 there has been [a] shift, countries are more involved, [there is] increased interest, but in terms of commitment [it is] not yet sufficient (Interview with Jiu, Shi, Ershi and Sanshi)

My understanding is that ASEAN-WEN was created in the Asian peninsula to form a wildlife enforcement network aimed at targeting offenders and their networks whilst also forming a large role in the education of the partner agencies (Questionnaire received from Liushi)

ASEAN-WEN at regional level encouraged networking. Good cooperation is still an ideal, has not yet happened ... each agency has their own competence, have to maintain their role, but cooperation is better than ever before ASEAN ... can share information with police and [others], before ASEAN-WEN not (Interview with Sishi)

They also pondered on what it has achieved in the different countries, particularly the development of national multiagency networks to increase cooperation at the national level:

At regional level they have the annual ASEAN-WEN meetings, so there is a platform for them all to get together, and now all the countries are members, but I still feel that at regional level the PCU¹⁸¹ is struggling a little bit in terms of coordinating to be able to facilitate enhanced cooperation across countries and I am not entirely sure about what barriers are there. Maybe role isn't clear, member country might not back PCU financially or share information, not clear about added value of PCU in network, in some cases impression that too NGO-driven, so still some issue for ownership. [There is] demand by countries for network though, I see potential [but it is] hard for agencies to work together with countries at regional level (Interview with Jiu, Shi, Ershi and Sanshi)

National WEN have an interdisciplinary Steering Committee containing different ministries, chaired by Prime Minister; quarterly meetings, but also reactive mechanism should urgent issues come up; have workshops as well (Interview with Yi and Yao)

We had law before joining ASEAN-WEN, but competent authority [was] not clear, intentions often personal interests and reputation more important ... from time to time, authority of unit is upgraded, receives more competencies, lucky to have professional officers. Now we have ASEAN-WEN, in theory great, but in reality not much of cooperation or information sharing happening. [The] PCU is very bureaucratic and hard to approach (Interview with Si, Wu and Liu)

The intergovernmental perspective:

The initiative was highlighted as a platform for cooperation, to raise awareness, to strengthen relationships, to build trust and to avoid duplication of efforts:

¹⁸¹ Programme Coordination Unit (PCU). For additional details on the structure of ASEAN-WEN, see chapter 4

[A] good platform to discover different issues and to raise visibility of wildlife crime and make people aware of wildlife enforcement ... They work on 3 pillars: awareness, creating a platform for different agencies of different countries to cooperate ... and [an] opportunity to strengthen capacity and get countries to work together more closely. [It] created an opportunity for different enforcement agencies to sit down and discuss about wildlife law enforcement (Interview with Sam)

The non-governmental perspective:

The initiative was highlighted as a platform for cooperation, to raise awareness, build capacity, strengthen relationships, build trust and avoid duplication of efforts: *'[it has] built a little fire that will maybe grow'*.¹⁸²

People need to understand what the goal is ... we're not talking about people in different uniforms jumping in the same car and going after crooks together ... that's not realistic, at least in the near term ... it doesn't exist in almost any country ... here the idea is to create a committee that gets together, measure progress, bringing challenges to the table and reiterating who is doing what (Interview with O)

It is recognition that illegal wildlife trade should be on agenda, recognized as transnational crime; other than that already existing protocols within ASEAN contributing to agency cooperation in terms of compensating environmental crimes; need also to become priority area; increased budget needed, become nationally recognized crime, so budget for it (Interview with I)

An interviewee made an interesting reflection and highlighted the need to meet to get work done in the region:

You need offices who are aware of the crime problems and how they could combat it, they need the money to be able to do their job, ... they need the opportunity to learn best practice from others whether they are in their own country, different agencies or different countries and form personal networks which on the ground level really end up making the difference. Because you can have a multinational agreement, but if everybody doesn't talk to each other because they don't get on or assume major political or religious differences then the agreement stays as a paper agreement, as a tick box exercise (Interview with B)

It was also noted that it was all part of the strategy:

First [enforcement people] need authority, then they have to know how to use authority, then for international transnational crime they have to know their counterparts; they have to know how to deal on international investigations (Interview with N)

I think in the context of this region the very important thing that we are discovering over and over again is that people actually need to see each other face to face. It is not enough to say 'this is the email of the contact person of the institution/agency that you need to contact'. This isn't working because people are uncomfortable sharing information and linked to that

¹⁸² Interview with F

is corruption – you never know whom that person is giving your information to, whether he is corrupt. The more meetings you have face to face, the better it is (Interview with M)

7.1.1.2 Benefits and achievements

The government perspective:

Participants also highlighted the key benefits of the networks and initiatives, particularly strengthening - and sharing - knowledge and awareness (e.g. various forms of capacity building) and providing funding to support their efforts:

Cooperation with other ASEAN countries, help of countries not balanced due to economic reasons; human resources is one component, currently building it, need also financial assistance – government budget very small and hard to access, need outside financial support – government should cooperate more; initiative has strong support from government (Interview with Ba)

Especially in the beginning, funding assistance from outside ... it's important, when you want other countries to pay attention to the issues, to create [a] program, training, not only for officials to meet but also for building awareness, reach wider audience ... as we cannot do this with the national budget (Interview with Sishi)

Human resources not a problem, just equipment ... [we] need continuous funding to do operations, basic equipment to follow up, need to be able to contact people, to work closely with them ... [we] need informant network to catch criminals ... but transportation and equipment [are] missing. ... [J]oint training to enable contact and then share information when knowing whom to call, building up capacity of officers through training and workshops ... that's important. The government is providing human resources, but budget is cut every year ..., too small ... we must consider to fully equip, not like CIA unit but at least at some degree should have equipment, so can be dealt as enforcement network (Interview with Si, Wu and Liu)

The intergovernmental perspective:

Participants highlighted the key benefits of the networks and some of the main successes to date:

Before ASEAN-WEN, [we] had some cooperation, but at different levels, but now with ASEAN, cooperation is more effective, faster, e.g. have CITES Management Authority, have coordination, authorize some activity, higher level, can discuss with more people, more attention (Interview with Yipsee)

The response at the national level has been the establishment of the national inter-agency task forces and on the field level, more agencies dealing with illegal wildlife trade. More enforcement officials have been trained (Interview with Sipsee)

The non-governmental perspective:

Most participants gave examples of how the initiatives work and what they have achieved in the different countries, particularly on ASEAN-WEN

There was some cooperation before and some discussions between countries but the platform that the networks has created has developed a stronger way for countries to prioritize and work to combat wildlife crime (Interview with A)

People were still cooperating, all the countries in SEA are signatories to CITES, so some level of cooperation should have been going on; some countries are more involved than others, some might have the money but they won't allocate it ... it is also about allocation of resources (Interview with C)

Before ASEAN-WEN [there was] very little recognition and a big problem. Now [we have] a platform, ... mechanism, ... reason, ... excuse to meet up with each other. In many countries before the network was created [there was] no mandate, but now [we have a] platform to exchange ideas, not ad-hoc anymore, but more institutionalized (Interview with I)

[A]s far as enforcement goes, all the different provincial officers have the authority to seize, which changes the focus ... there is a lot more money in there. The regional approach [is] working very well ... [but] as far as WEN goes to country level, people are appointed as liaison person from ministry, ... nothing comes out directly from [the] national WEN. [It is] an effective information network, but not doing enforcement ... [I'm] only aware of annual meetings (Interview with K)

Interviewees also highlighted the development of national multiagency networks to increase cooperation at the national level.

Now national authorities are required to deliver on outputs ... one of [our] main goals was to create specialized task forces. These have legal basis ... the creation of special units within government to deal with wildlife crime. ASEAN-WEN is bridging facilitators to operate together ... [it is] very useful ... everything very open, [we] can share information, but [it] doesn't work everywhere; sometimes [it's] very neutral (Interview with I)

Reflecting on possible ways the networks could have developed differently, most interviewees tended to agree: *'[I] don't see practical way of that happening except for how it happened'*¹⁸³. One interviewee pondered on the changes in focus and support over the past few years:

[In the] second phase of ASEAN-WEN support program, the goal was to increase incarceration, enforcement of laws ... but how to encourage enforcers to do work, when person caught can leave jail with a small fine? [We] have to deal with money laundering, drugs, navy, military, parliamentarians, doctors ... first thought is only CITES and police ... but we learned a lot ... you discover that wildlife crime is just too big, too complicated. We found a lot of agencies to work with us to fill gaps, but continue training, supporting national task forces, and focus on the new items we think are important (Interview with I)

¹⁸³ Interview with M

7.1.1.3 Successes and influence

The government perspective:

When asked about the main successes of ASEAN-WEN, participants noted the initiative was ‘established’ and ‘useful’, but that ‘cooperation could be strengthened’¹⁸⁴:

The ASEAN-WEN network is already established in a useful way (Interview with Yi and Yao)

There is good work done by people on the ground ... [they] should receive more recognition (Interview with Jiu, Shi, Ershi and Sanshi)

Success is in the eye of the beholder. Yes, to some extent I do believe the network has been successful, however it could go further. Again, this needs appropriate political buy in and support from appropriate enforcement authorities (Questionnaire received from Liushi)

Participants however highlighted that the initiative had contributed to change the region’s attitudes to wildlife crime, and increased cooperation and capacity in the region as well as the number of seizures, arrests and prosecutions:

[As a result, we] ... recently signed several MoUs between countries within region to enhance cooperation (Interview with Yi and Yao)

It is working very well because before ASEAN-WEN they just worked separately, police and custom, but once they had opportunity to meet and talk then they have a contact detail of each other. I think it is better working, more benefits ... now that are connected, customs can pick up the phone and ask, for example, where to bring a wild animal to ... you also have the national WEN, the same mechanism, [an] official network, each agency identifies and official contact ... its more official, more effective, every agency can contact each other through [a] focal point, have improved communication ... lots of communication done unofficially, first informal contact, then later official documents, ... more comfortable like this (Interview with San)

Better with prosecution since ASEAN-WEN ... prosecutors and judge know better about wildlife crime now, so can give it more attention ... [the] attitude towards wildlife crime changed – before thought that wildlife is national resources, not a big problem – now know that it is not simple (Interview with San)

The intergovernmental perspective:

When asked about the main successes of the initiative, interviewees also reflected on its possible impact and the need for a thorough evaluation:

Successful? Like I already said, I think it’s only partially successful and the potential has not been used. I think that it has been quite successful of making seizures but less successful in

¹⁸⁴ Interview with Yi and Yao

preventing the crimes or tackling/addressing the causes of the crimes such as demand or poverty (Interview with Sipsee)

Sometimes you have to ask. Do governments want this to be done, or are they just opportunistic and they are happy that they can implement any activities they can get funds for. There has to be another step ... In many countries, there is sincerity in pushing this forward, but due to financial limitations there is not much they can do (Interview with Sam)

Without a strong strategic framework to guide and coordinate these things then any response is doomed to failure as it will remain ad hoc and reactive. Evaluation is also essential as it is through rigorous assessment that we understand what responses work, what don't work so well and why (Questionnaire received from Hasee)

Participants highlighted 'interest' and 'engagement' as crucial elements

Sometimes in developing countries, lack of information is a big issue ... also lack of equipment ... resources is a problem ... but [the] lack of interest is definitely key (Interview with Jet)

At regional level, communication has improved a lot, but still lot needs to be done; responsiveness and willingness to share information is also a challenge ... the level of responsiveness is diverse and very different, depends on many factors whether or not network might be taken into account at all (Interview with Samsee)

The non-governmental perspective:

Interviewees also highlighted the key benefits and some of the main successes to date of the initiative:

[It has] disrupted the day to day easy life of illegal traders (Interview with H)

[There is a] lot more cooperation, also more regions, more communication ... exchanges over email, phone calls etc ... now there is multiagency international cooperation; [It was] created to get agencies together to exchange information, ... for training ... but [the] concept of ASEAN-WEN [had] exchange of information as main objective (Interview with N)

[It has] developed good relationships with other regions and networks (Interview with F)

Addressing wildlife trade in early 2000s was a difficult thing to do, [a] lot has changed in last 12 years, in [a] positive sense. There was no information sharing earlier, probably because no info was collected. In 2005, when the project started, you could definitely say it increased international cooperation, but not necessarily because of ASEAN-WEN, it was another channel for communicating with other countries, organizations ... but has definitely generated more engagement in CITES and enhanced communication ... [It is] hard to say ASEAN-WEN's impact ... but I don't see it [only] as information exchange platform (Questionnaire received from E)

One of aims has been on cooperating, not only prosecutions – go after bigger fish, not the ones driving the truck; regional level cooperation now involves real crimes; now countries started to invest a bit more money as see advantage in going after big guys, but still not enough; have been helping with actual hands-on investigation, financial support on small

scale; different level of involvement, depending on the case, before came to them providing information, now people are more and more coming to us (Interview with M)

7.1.1.4 Challenges, gaps and limitations

The government perspective:

Participants interviewed were asked to note some of the main gaps and limitations of the initiative based on their experiences. This included the identification of loopholes and gaps, where additional efforts would be beneficial and what more was needed. Overall, participants from this group noted a number of challenges, but also noted that overall much progress has been made in the region to combat wildlife crime thanks in part to the efforts of the initiative. In general, interviewees highlighted some gaps in political support at the highest levels¹⁸⁵:

[We need] more leadership from the outset ... [I] would like to see more grassroots, let it grow more organically ... the ownership and commitment is very important (Interview with Jiu, Shi, Ershi and Sanshi)

The network needs someone who takes charge, someone to lead, otherwise it doesn't work. We need to ... meet regularly or occasionally, not only annual meetings ... [but] to discuss about actual events, best practices, etc... (Interview with San)

Would like to see more ownership of ASEAN-WEN chairs, not only attend annual meeting but also trainings and workshops; if ASEAN-WEN invited somewhere, they should be the ones to go – more leadership; don't see enough commitment yet (Interview with Jiu, Shi, Ershi and Sanshi)

The lack of cohesiveness as well as the need to increase the 'motivation' to combat wildlife crime in the region:

ASEAN-WEN should be more active, develop common position, increase voice at international level, whole region speak with one voice, become a community (Interview with Yi and Yao)

Some countries are more interested than others. Sadly difficulties lie at local and regional levels that prohibit meaningful direction or success. Given its position in the world and the many other prevailing issues wildlife crime is not seen as a significant issue in some parts of the network at an appropriate level of government (Questionnaire received from Liushi)

¹⁸⁵ Questionnaire received from Liushi

Participants also highlighted the lack of cooperation and communication and the need to improve cooperation between neighbouring countries¹⁸⁶, and identified a number of needs:

At national level high level political awareness has improved quite a bit ... but there are big gaps between members of national taskforces and police, they tend to not cooperate (Interview with Jiu, Shi, Ershi and Sanshi)

There is a big difference between talking during network meeting and [the] reality on the ground. The judiciary [is] often reluctant to cooperate ... [there is also] the situation with some influential people where you cannot act against illegal trade ... If the network between country and the [ASEAN-WEN] PCU was stronger, and then would be able to cooperate better. There is a need to be stronger links, we need less bureaucracy ... but the lack of financial resources, of cooperation; the gap is now widening (Interview with Si, Wu and Liu)

[We are] lacking policy coherence ... need to adjust common policies in ASEAN and establishing common working mechanisms as well. Sustainable financing mechanism to support is key, and [we should] look for opportunities to cooperate with other networks to strengthen cooperation (Interview with Yi and Yao)

It was also suggested that: *'[We need to] start from bottom-up, make every team member realize that they become member of the association; raise awareness. Start from ground, structure everything so people know each other ... monitoring can improve cooperation and understanding'¹⁸⁷.*

Participants also pondered about the awareness and knowledge gap and the need to meet more frequently and suggested that *'[We] need more knowledge about national legislations of other countries, because animal protection laws are not the same across the region'.¹⁸⁸*

It was noted that operational capacity of the initiative was sometimes not adequate:

My personal view [of ASEAN-WEN] is that a lot of lip service is given to actually carrying out enforcement which has given rise to scepticism of its ability to make an impact on the region. Another factor is [it] does not have law making powers or hold its members to account that is despite some of the excellent work undertaken by regular regional contributors (Questionnaire received from Liushi)

Overall it was emphasized that what was needed was time, but that without strong commitment this would not be possible:

You need to take time to get to people, to achieve [the] goal of the network, ASEAN-WEN is doing a good job, but [we] haven't reached [the] ultimate goal ... it will take more time ... [it is a] difficult issue (Interview with Sishi)

¹⁸⁶ Interview with Yi and Yao

¹⁸⁷ Interview with Si, Wu and Liu

¹⁸⁸ Interview with San

We need to evaluate past mistakes, look forward to [the] future ... and adjust based on lessons learned ... strengthen national level first and share knowledge to help other country build its networks (Interview with Sishi)

The intergovernmental perspective:

Participants interviewed were asked to note some of the main gaps and limitations of the initiative based on their experiences. This included the identification of loopholes and gaps, where additional efforts would be beneficial and what more was needed. Overall, participants from this group noted a number of challenges and highlighted the changing nature of combating the illegal wildlife trade, and the challenges faced. The following statement provides a good summary of the overall recommendation from participants:

Two things could have been done differently: first, bottom-up approach rather than top-down, to get every level in every country involved ... [and] second, the question of whether the right people are chosen ... people who can effectively do the job ... And [they should have] also ask for financial contributions from countries, then you 'force them' to show willingness from the beginning or you don't do it (Interview with Samsee)

Interviewees highlighted some gaps in political support and the need to get countries together and more involved in wildlife law-enforcement to combat wildlife crime in the region, as this happens 'more in some countries than other'¹⁸⁹.

Differences in the region in terms of financial capacity to do so were also highlighted: 'There is also financial differences between countries and how much they can put into it'¹⁹⁰:

Wealthier countries within the region should try to provide more resources so that other countries can get more involved. Should be sustainable. Donors have to assist but there also needs to be willingness by governments to allocate funds on these issues. They need to have a stake in this. If countries are not involved it will not happen. International organizations should fill the gaps at the beginning but if it is not taken over by governments it is not a big priority. Should not only rely on governments as in many cases governments don't have the resources. Should be a common effort (Interview with Sam)

Government not financially capable to support some countries' WENs. Lack of financial resources in some countries to work on wildlife crime (Interview with Sam)

One interviewee noted that '[I] can see benefits of a regional network and ASEAN-WEN ... [but we are] spending a lot of time trying to make countries cooperate in the way we want them to do it ... it

¹⁸⁹ Interview with Sam

¹⁹⁰ Interview with Sam

would be better to let them figure out what works best'¹⁹¹. Participants also highlighted the lack of cooperation and communication and challenges to cooperation:

A gap is the strength of the network, ... the bond between individual countries. They should have a close working relationship, a close bond ... strong coordination and more [actively] working together, communicating (Questionnaire received from Ha)

Gap might be also if the network don't share the information outside to other organizations such as the Interpol and becomes a closed "island" (Interview with Sipsee)

On paper it (ASEAN-WEN) is a great concept and it would work if not for all the obstacles that slow it down ... it's like slowing a Ferrari down to a scooter (Interview with Samsee)

Participants also emphasized that lack of capacity was an important challenge and the need for additional funds from both the donor community and countries:

Human capacity is the major challenge ... also bureaucracy and national interest ... which links to engagement and willingness of sharing information. Many just want to profit from the initiative without giving much away. There is a financial gap, the availability of funds is also an issue, but this should be approached without a political agenda, which is not really possible (Interview with Samsee)

It was suggested that the operational capacity of the initiative was sometimes not adequate or clear. The unclear reporting structure was also noted:

I'm not aware if there have been any joint investigations' (Interview with Sipsee)

[It is] not working too well, with a few exceptions where parties engage, cooperate with each other, some information about seizures; often national regulations don't allow delegates share information; official bilaterals are just for sharing general information rather than intelligence (Interview with Yipsee)

The word 'enforcement' in [ASEAN-WEN] is misleading: it would be better to call it wildlife crime network, or wildlife trade network ... enforcement would mean it actually enforces, but it is countries individually (Questionnaire received from Ha)

Overall it was noted that more preparation, resources and time was needed for the initiatives to become stronger:

[ASEAN-WEN is] successful in the sense that it has been established in every country even with lack of resources and the varying economic situation between countries. It is still a young network, it is innovative and the model has been now followed by other countries (Interview with Sipsee)

The non-governmental perspective:

¹⁹¹ Questionnaire received from Ha

One participant noted that international illegal trade was not very relevant to some of the countries and noted that the involvement of that particular country was therefore rather limited as a result:

Cross-border trading of wildlife is not a huge issue for this country, [it] doesn't occur a lot ... [it is] generally inside the country ... so [they have] low level of contact with ASEAN-WEN ... [this is] an indication that [it is] not [a] massive problem, but certainly a problem. We need closer cooperation, then more successes, but haven't seen anything so far ... don't even know about national networks, [they] are virtually non-existent. There is no incident ... at the border with any wildlife that would need cooperation. We would consider sharing information if somebody was caught at the border with relevant officials ... but the other side [is] not telling (Interview with K)

Another participant noted that:

I think ASEAN-WEN is an example of a bad paradigm presented to people without taking into account the local cultures. They tried to superimpose a structure over a group that wasn't ready for that ... it was prematurely done in my opinion ... and I say that because they took a structure that works in the west, and tried to superimpose it into a wide variety of cultures in ASEAN that in my opinion was not accepted by them. The idea is to share information, gather, focus it and distribute it (Interview with F)

Discussing the issue further, participants identified basic needs for the networks to enable cooperation along and across borders as follows: computer equipment, good access to the internet, dedicated staff, office space and equipment, budget to travel to meetings/workshops and to conduct daily work (petrol, etc), and often the ability to speak, read and write English or the language of the neighbouring country in the relevant border area.¹⁹² It was also highlighted that:

Some countries will need financial assistance, as it's not a level playing field ... [they] need substantial funding mechanisms, for the middle level as well ... it's important to note that most countries find it difficult to genuinely cooperate with each other (Interview with B)

Capacity building was also identified as an important aspect to be addressed¹⁹³, and it was emphasized it should be done in a targeted and strategic manner, taking into consideration local and cultural differences:

Capacity ... there is definitely a lack of capacity (Interview with F)

Capacity building is definitely needed, there are many passionate people who have no idea what they are doing ... basic knowledge is lacking. [We have to] train [the] right [and] passionate people continuously, not just once (Interview with D)

Meeting at workshops or meetings, talking with each other, meeting a few times for establishing good cooperation ... having predetermined focal points on all sides [You] need to constantly meet each other, not just once, constant changes of focal points make

¹⁹² Questionnaire received from P

¹⁹³ Interview with M

cooperation very hard and they should not change that often ... it is also important for people to understand cultural differences (Interview with L)

Participants also suggested that 'you cannot just do one training in one country, but need commitment to follow up too'¹⁹⁴. You need '*more professional and stronger hands to help combat illegal wildlife trade*'¹⁹⁵ and there are '*not enough people trained in the region*'¹⁹⁶

Now with ASEAN-WEN there is a standardized syllabus, awareness has been raised, knowledge sharing is encouraged, networking is encouraged ... but in reality doesn't always work too well, often [officers'] main job is different and [they] receive this task as 'forced focal point' ... only someone really passionate really cares that something happens (Interview with D)

They also highlighted the need for it to find its own identity:

[ASEAN-WEN] is just becoming aware of its potential ... needs to find its own identity, its own space to do that, a difficult balance, I would say, [it received] an awful lot of support to kick-start it, to say these are for example the things you could do and then almost like a teenager it needs to have time to think and go 'actually, that doesn't work for me' ... it needs to adapt to do things that make sense (Interview with B)

And the road ahead:

There has been more flow of information across border, but much less than we hoped for (Interview with O)

Overall we have a few wins but we are miserably unsuccessful. We have a huge amount of information, but we are the fly in the wall. More needs to be done to get the high level traffickers (Interview with F)

What you put on a powerpoint and what happens in the field is a totally different thing. Reporters, NGOs can watch out and make sure that what that they are reporting is true, and not bullshit (Interview with O)

Participants interviewed were asked to note some of the main gaps and limitations of the initiative based on their experiences. This included the identification of loopholes and gaps, where additional efforts would be beneficial and what more was needed. Overall, participants from this group highlighted that the main gaps include funding, high level political will and support, rampant corruption and the lack of action against this issue, the lack of capacity of the various enforcement agencies in the region, and the limited incentives for enforcement officers to cooperate and share information. The limited capacity of the PCU was also stressed: 'the PCU needs to be officially

¹⁹⁴ Interview with C

¹⁹⁵ Interview with O

¹⁹⁶ Interview with O

recognised and funded'¹⁹⁷. It was also suggested that '*task forces that work more with NGOs have more and better results*'¹⁹⁸.

It was noted that 'some countries are better equipped and capable than others and those that are, are generally better able to tackle the problem'¹⁹⁹. The lack of support – and the need of such support – from the highest levels of government was also highlighted:

We need to make people, ministers, cabinet in each country believe that it is their network ... we need to look at the political engagement and ownership of countries from the beginning, then the network can be useful, if [the] countries gives power to [the] network ... there is a lot of potential with [the] right political will and engagement of countries (Interview with L)

[Need to] streamline it in ASEAN. ASEAN puts things into pillars, you know, sociocultural or trade or security, and the illegal wildlife trade, which is currently under forestry, which is in social and culture ... you gotta make some links with other parts. My understanding working with some of this people is that this is very difficult ... you cross agencies and bureaucratic lines. To be specific, we need to link with SOMTC in ASEAN and ASEANPOL ... you need to cross-fertilize with people and create a communications shell (Interview with O)

Progress is definitely being made, but it's slow ... [the] challenge is to get the issue recognised at senior levels of government to help catalyse action and resources to the problem (Questionnaire received from P)

Interviewees also reflected on some of the challenges of the initiative, starting with ownership and commitment to sustain the network:

It's an attempt to recognize the problem and promote cooperation between entities that should be involved in countering wildlife crime in an effort to slow down the epidemic of wildlife smuggling and trade. It however didn't have much validity with the countries (Interview with F)

Genuine commitment, [the] sustainability of the network itself and trust between the participants ... it all comes down to commitment, [they need to] put resources and genuinely agree that they want to stop transnational crime, depends on priority (Interview with C)

[The] biggest issue is sustainability and institutionalization, each country is slightly different (Interview with N)

[Sometimes there is limited] commitment from governments ... [they] pass on commitment from one agency to others ... a basic requirement is top level commitment ... and the desire to want to do something. In Asian countries [we see a] struggle with losing face, [they] would rather not say they have problems, they are in denial ... 'It is a lot about saving face, which doesn't help anyone in the end (Interview with D)

The need for leadership or a 'champion' was stressed:

¹⁹⁷ Questionnaire received from P

¹⁹⁸ Interview with O

¹⁹⁹ Questionnaire received from P

You simply need leadership (Interview with F)

[You] need a champion within ASEAN to champion ASEAN-WEN. The countries also need to get their act together (Interview with O)

For ASEAN-WEN to be successful, countries need to take ownership of it (Interview with C)

Further strengthening could be achieved by focussing on increasing the level of political will, continued training of enforcement agencies, and strengthening the role and capacity of the PCU (Questionnaire received from P)

Participants interviewed raised concerns that in some cases authorities pose barriers to the development of networks: *'some authorities are involved in the illegal trade and want to make sure there is not much action'*²⁰⁰.

The need to 'give recognition to the officers'²⁰¹ was also noted:

Incentive alignment is incredibly important ... [a] high level priority. ... Looking at the real big picture ... are the people being rewarded for achieving? [there is] also the issue of pay ... if you are not paid well enough, you are bribed way easier ... [so] you have got to make sure that the incentive to do the right thing is strong enough (Interview with B)

The challenge is to make sure that the guys who work in these very often remote areas feel that they are part of some sort of network ... you train someone and then they get placed somewhere else, as [it is] not a desired job, so [there is] no continuity ... [the] job has no prestige, but more of a punishment ... [so you will] probably not [find] the brightest or the best working in border areas (Interview with C)

A lack of cooperation, communication and information sharing was commonly identified as a key challenge to effective cooperation:

In 2003 [we] brought people together and realized how little cooperation was happening (Interview with N)

At national level governments have created taskforces, don't think that agents are working closely enough ... in [a] lot of cases only set up, but might not be meeting or communicating at all ..., not working together at all (Interview with J)

[The] national WEN [is] very focused on national level ... information sharing between countries [is] very limited, and [a] lot of the information is seen to be confidential ... general information would be shared a bit, but not more ... at national level even within national network [there is] no real information sharing (Interview with L)

I feel for it to work, to be efficient, and to be successful, the ASEAN-WEN secretariat will need to be a lot lighter in maintaining relationships ... should have better communication. Talking to them, emailing them once a week ... If you maintain relationships you get the trust. ...

²⁰⁰ Interview with O

²⁰¹ Interview with O

Often just a simple [issue] need to be assisted to get things moving ... you need a central unit that is communicative, a strong secretariat (Interview with D)

Pointing fingers and blaming the problems on others was also highlighted as a key challenge:

Blaming countries puts a barrier to working together ... there is a tendency to be very guarded (Interview with A)

International cooperation remains a challenge particularly between enforcement agencies as many are reluctant to share sensitive information (Questionnaire received from P)

A weak or inappropriate coordinating body and focal points was also suggested to hinder efforts:

The down side of the network is the CITES focal points wanting to control it and they do it administratively (Interview with O)

The focal point is often not necessarily the best person (Interview with D)

Officers involved are not enforcement personnel, lead should be done by investigation agencies (Interview with N)

AWEN has been dominated by CITES. This is part of the problem because they are administrative bureaucrats and not enforcement officers. Sometimes they don't want to share the information with CITES authorities. But for enforcement you need police and customs. Need to connect more effectively with customs and police (Interview with O)

Sometimes there is lack of communication between the different agencies involved ... the administrative part and the law enforcement part (Interview with O)

[You] need active government officers running the secretariat making things happen ... to bridge to ASEANPOL and ASEAN ... Law-enforcement agencies should be leading. [I] would make stronger links with police and customs, on securing and institutionalizing law-enforcement involvement. But that was probably not possible 7 years ago! (Interview with O)

Cultural and language problems were also emphasized:

Cultural issues in the dialogue are an important gap ... but that's often a face issue ... (Interview with A)

Different languages could be an issue but also cultural differences ... for example, if you approached the wrong person some people will be silent instead of saying so, and implementation will fail (Interview with B)

A number of other challenges were identified, particularly the lack of enforcement coordination and engagement. The lack of appropriate penalties that fit the crimes was also noted:

As a public relations network, it (ASEAN-WEN) is very effective ... raises profile and public awareness ... [but] it's not really working as an enforcement network ... It's beating away at the problem ... but doesn't get you results. They have had some successes but it's not doing enough enforcement (Interview with F)

It (ASEAN-WEN) is a large network. Diverse. Unwieldy. ... [It] should focus on strengthening ties between enforcement officers and operations ... Keep it operational and simple (Interview with F)

ASEAN-WEN is doing great stuff with what they've got; often state controls communication channels and materials - could commit so much more in-kind; often people participate in meetings just to receive funding to participate and have a nice holiday instead of getting something out of it – often people selected according to rank, not according to who would benefit from training (Interview with J)

There are too many loopholes. If [the] 'kingpin' gets caught, [the] fine is not high enough, [the] punishment is not high enough... (Interview with I)

The lack of capacity of officers was also stressed as a major problem, together with the reduced operational capacity and the lack of action:

It often happens that some people just buy uniforms and work on border without any training. The police and customs usually gets training, the ministry less, it is more on the job (Interview with K)

There is lack of capacity to do in depth investigations. Sometimes they are dealing with a complex case for the first time ... [and] they don't know. They don't talk with the prosecutor because they feel they can't. It's a different agency or too senior officer, so (Interview with O)

Training is the way, on a regular basis, not necessarily by outside NGOs, but it is key is to get the skills you need and attitudes you need included in the agency curriculum, so that everybody within the agency gets trained (Interview with C)

We have been trying from the beginning that the ASEAN-WEN LEO the law-enforcement extension office should have more active role in actually coordinating enforcement operations; agencies might not want to share the sensitive intelligence, and that is understandable, but we would like to move to a point where the LEO is actually being more proactive in getting things off the ground; that's been quite slow (Interview with M)

There is clearly a lack of trained investigators with appropriate background to make an impact. Investigations should rely on governments. But they don't do so much, so NGOs do a lot of the ground work. NGOs quickly find out there are things you can and can't do. If this is done then they (governments) do it. If they trust you ... But you are enabling them ... they should be doing it (Interview with F)

A participant provided an example of a practical challenge with an operation related to the investigation of the illegal trade in tigers in the region:

I tried to buy some tigers in country X, we had it all lined up, I had to front 5000 USD to flash to these guys. My informant gave them a deposit of 3000USD. When we got down to the operational phase, we spoke to the government but they didn't want to get involved if there were any costs involved. All they needed to do is provide the car but they were not interested. The sellers then changed the timeframes and requested more money and the deal fall apart. And the tigers got sold to someone else. They would have got involved if it was all ready and then they would call the photographer for the picture in the papers. This is just one example,

I have had many cases that have gone well, but this is just an example of one of the challenges ... (Interview with F)

Similarly to other groups, participants highlighted that the situation is changing²⁰² and that the initiatives need more time to develop and fully reach their potential:

[You] need the network and the relationship to grow organically ... It is slow ... [you] can't force it. They need to get used to work together. They have been put together and the relationship has been rushed ... I think they bit up more that they can chew ... but you have to find the balance between what you can do and how much you can wait (Interview with F)

To build all that capacity will take a very long time (Interview with B)

In some countries things are already ongoing ... [we] need to let the countries lead the effort (Interview with O)

Time will change it (the situation) ... expectations are different ... it will get better slowly (Interview with F)

7.1.1.5 Ownership, sustainability and commitment

The government perspective:

The importance of ensuring the sustainability of the initiatives ('sustainability is still one of main issues and gaps'²⁰³) was also stressed:

Need government to put its resources behind their activities ... Once project funds run out, what happens? (Interview with Wushi)

The commitment of governments to resources essential, also [of] donor governments (Interview with Yi and Yao)

The intergovernmental perspective:

The importance of ensuring high level political support and that it remains a priority was stressed:

I think the main limitation is the lack of political will, no trust, no high political interest to engage in ASEAN-WEN and to make it more effective ... there is lack of courage ... There should be more coordination. I also suspect that the countries are still quite reluctant to share intelligence ... You need clear leadership (person) for the network ... more powers to the [ASEAN-WEN] PCU to take more initiative and encourage states to act ... they should have some balls ... They also have financial problems and in many cases delegations cannot participate to the meetings and workshops are not held unless they receive support (Interview with Sipsee)

²⁰² Interview with O

²⁰³ Interview with Jiu, Shi, Ershi and Sanshi

Sometimes the mechanism gets established, but then not used. The fact that it is there is a good thing, but ... there needs to be much more political will (Interview with Sam)

The legal status of ASEAN-WEN and the PCU has still not been clarified. Is it an international organization or what? (Interview with Sipsee)

Measures to ensure the sustainability of the initiatives as well as the need to improve the motivation and status of border officers were highlighted:

[I would suggest] making the financial contributions from states obligatory so that there could be fully functional and independent secretariat [for ASEAN-WEN] (Interview with Sipsee)

The non-governmental perspective:

The need to recognize wildlife crime as a serious wildlife crime and to ensure the ownership and sustainability of the initiatives was also stressed:

Everybody should contribute to funding ASEAN-WEN, not just one country (Interview with D)

Ownership and funding are essential ... the government put in some in-kind funding in beginning, but [it] needs long time for countries to see as [their] own initiative, to take ownership. It needs an 'enforcement mind-set' as there is lack of cooperation between different agencies at international level (Interview with M)

The thing is, member countries are often not aware of the network ... ASEAN-WEN should be operated by member states ... there is no high level political engagement, no buy-in. ... [The] minister of each country should be involved and aware, should have ownership of it ... get behind [the] idea and push it themselves (Interview with L)

The importance of trust and relationships to share information was also emphasized:

The concept of sharing valued information about smugglers with people they don't know ... they are out of their minds, they have no chance of working (Interview with F)

[A] main gap is that we really need some top level enforcement people ... so we need this [to be] recognized as an organized crime for [the] right funding ... more governments to contribute financially to strengthen [it] ..., secondment of officers ... from each of Asian countries ... people have to get to know each other (Interview with N)

7.1.1.6 Role of different partners

The intergovernmental perspective:

Participants highlighted the important role of Intergovernmental and nongovernmental organizations in this work: ‘to raise the profile for the reasons why they need to cooperate’²⁰⁴:

The non-governmental perspective:

The role of civil society organizations in combating wildlife crime when police are not able or willing to do investigations and to monitor and encourage cooperation was noted:

A few different NGOs here [are] involved ... working together with police to get information and then conduct the investigation ... its better than doing it separate from police. The authority and decision making rests with [the government organization] as they are legislated to be able to act; [we get] funding and salary paid, but no capacity to influence, rather suggestions ... and pointing in right direction, [putting some] light pressure, asking questions: why was someone not arrested, prosecuted, etc (Interview with K)

It is important to maintain security, but the issue is getting the balance right between secure information systems and the accessibility and not making it too ultra-secure. Wildlife crime needs to tie in with other crimes. In most countries have to develop own system, learn own lessons instead of learning from others, don't know reasons for sure, whether competition for resources, funding? (Interview with J)

There was a need to monitor cooperation, [we] will always need a strong, pushing-kind of NGO (Questionnaire received from E)

An interesting reflection: ‘If we really went after them we could really cause these smugglers a lot of grief ... we could present them with a speed bump that they might have to worry about’²⁰⁵. It was also noted that ‘the development of the network (ASEAN-WEN) has been very territorial’²⁰⁶.

7.1.2 Perceptions on the Border Liaison Office Mechanism

As noted at the start of the chapter, in general, intergovernmental organizations interviewed had more interaction and involvement with the BLO mechanism and therefore usually responded to questions related to it and often declined to comment on the other network. Similarly, most nongovernmental organizations interviewed had more interaction and involvement with ASEAN-WEN and therefore responded more generally to questions related to the regional initiative. This

²⁰⁴ Interview with Jet

²⁰⁵ Interview with F

²⁰⁶ Interview with F

difference is particularly relevant in this section as there were limited responses and discussions from NGO representatives on the BLO mechanism due to their limited involvement (at the time) in the BLO mechanism. Some of the comments on ASEAN-WEN are, nonetheless, relevant also to the BLO mechanism.

7.1.2.1 How and why it was developed

The government perspective:

Participants gave examples of how the initiative works and what they have achieved in the different countries. Some challenges were also mentioned.

In this country everyone knows about BLO, as high level government official is chief of BLO. There is country-wide awareness, meetings in provinces every month; people know about BLOs in border areas ... the concept is information sharing (Interview with Qi)

Key aspect of BLO ... is the informal exchange of information across the border between countries. Needs to be refined to formal ways of exchanging information if MOUs and similar are not already agreed upon (Interview with Wushi)

First time BLO [was] created because of lack of cooperation; at checkpoints where [a] lot of officers working on both sides, [they are] now cooperating, also sharing information, but still some obstacles. If officers know each other, they share information from day to day work, sometimes criminal [are] arrested because of illegal documents ... for example fake passport, then just discovering goods ... then customs officers from one country speak with immigration officer from other etc ... sometimes also mobile customs units, but mostly only on main roads, small roads [are] seldom watched (Interview with Qi)

The initiative was also highlighted as a platform to help develop a culture of cooperation:

I believe in the BLO mechanism, I support it a lot ... from my point of view, BLO is not only supporting cross-border cooperation, it is supporting international cooperation between related national agencies ... a multi-agency approach ... connections and work much more efficiently ... you create a culture of cooperation where everybody is happy to contribute. Some are more active than others... (Interview with Er)

The intergovernmental perspective:

One clarified the role of the mechanism:

There is a certain tendency (...) to look at the BLOs as some specialized units with super cops with a license to cross borders, arrest drug traffickers and do extreme operations. There is nothing more wrong than this interpretation (Interview with Neung)

One participant provided a detailed overview, its officers and the type of support that was provided:

The BLO mechanism is actually a platform to promote exchange of information ... it is really an opportunity ... a platform ... for enforcement agencies to exchange information along the border ... so different enforcement agencies within the same country ... and across the border... in which the same mechanism that exists on one side of the border is put in contact with the same mechanism at the other side of the border ... and that is essentially it. What normally happens is that ... governments identify a location that they consider particularly useful for the BLOs ... we check ... they provide the premises ... the human resources ... and we provide equipment, training and opportunities to talk ... to share ... and to get to know each other. We don't sponsor operations or direct interventions. These are the results of what the different BLOs decide to do ... Essentially we provide the platform ... and it is up to the government to choose what to do with them... (Interview with Neung)

The initiative was highlighted as a platform for cooperation, to raise awareness, strengthen relationships and build trust and to avoid duplication of efforts:

The concept of the BLO is a small cross-border and effective mechanism to cooperate. Unlike other very complicated international arrangements or concepts, [it] is a very good mechanism for the field officers because it adapts to the mechanisms of the field. In the real life we should have very practical, very easy, very handy mechanisms to do the work ... Before ... when they have intelligence they had to report it to the provincial level and then report to the national level and then the national level can exchange the information ... but then the criminals are already gone. So if you want effective enforcement at the border they need to exchange information directly (Interview with Song)

BLOs may have a role in triggering investigations and operations ... by the sheer fact that they promote sharing of information ... part of that information can be taken away by one of the members such as police, customs or border army and they can turn it into an investigation ... into an operation The investigation is carried out by the members of the BLOs ... which are law-enforcement agencies ... they do the investigations according to national law ... the BLO is not substituting the role of law-enforcement agencies ... it is just providing a platform for the exchange of information ... which can generate investigations and prosecutions ... (Interview with Neung)

The intention of ... the mechanism was meant purely to put together agencies and to get them to talk about the kinds of crimes ... in that specific border area ... understand what the trends are ... share the information ... and transfer the information across the border ... without going through the capitals ... without slowing down the process ... so people involved are not necessarily BLO officers with a BLO badge and a BLO uniform ... they are police officers ... Customs officers ... border army officers ... that are doing the job that they are normally used to do ... but now they are provided with an opportunity to share information... (Interview with Neung)

7.1.2.2 Benefits and achievements

Participants also highlighted the key benefits of the initiative, particularly strengthening - and sharing - knowledge and awareness (e.g. various forms of capacity building): *'Capacity building and trainings are important ... often border patrol does not have enough knowledge and skills to identify*

species, custom officers do not understand wildlife enforcement laws²⁰⁷. When asked about the main successes of the initiatives, a participant noted that '*[The BLO] mechanism working well, just need more time to catch up with environmental and wildlife crime*'²⁰⁸.

7.1.2.3 Successes and influence

The government perspective:

Participants highlighted that the initiative had contributed to change the region's attitudes and in particular the response to wildlife crime at the borders: '*[the] mechanism of BLO is a good concept on operational level, fast reaction, strong cooperation, strong network*'²⁰⁹.

The intergovernmental perspective:

Participants highlighted some successes to date:

In recent years there are some successful cases ... big cases ... of cross-border cooperation. I have heard many stories from (MR X) and the Chinese authorities at the border. How can they arrest a big trafficker at the border? It is difficult. They cannot enforce the law across the border, but if their counterparts in Myanmar are willing to cooperate ... they make things smoothly and easier ... The BLOs have facilitated this. Before you cannot imagine this. Before the criminal would be living and enjoying a happy life in the other country (Interview with Song)

Thailand is certainly a good case ... it is a case where without support, the counter narcotics bureau of Thailand has succeeded to generate funds to create BLOs on the borders of Laos and Cambodia ... it is an example in which the role of UNODC has been minimal ... and that is exactly how it should be ... And it is a case in which BLOs are still there. Thailand has sponsored a lot of meetings with their counterparts ... and it is certainly a good practice ... it shows the ownership of the country and shows an element of sustainability (Interview with Neung)

When asked about the successes of the initiatives, interviewees also reflected on the possible impact of the initiatives and the need for a thorough evaluation:

The exchange of information ... the communication ... the cooperation is promoted ... as side effect of the increase in the level of communication is that there can be joint investigations that can eventually lead to arrests, seizures ... many other things ... but the number of seizures and arrests are not an indicator of the success of the BLOs. A successful BLO actually is a BLO that manages to prevent crime ... so in an area of a good BLO probably there are no

²⁰⁷ Interview with Yi and Yao

²⁰⁸ Interview with Qi

²⁰⁹ Interview with Qi

arrests and many seizures because criminals know that the BLOs are effective and can prevent crime ... the arrests and seizures are an indicator of the problem, but not an indicator of the effectiveness (Interview with Neung)

The impact is uneven. First of all, we have been doing it for 12 years. There have been some success. If there wasn't success governments wouldn't be promoting it. But with the passage of years there has been an attrition in the number of effective BLOs. Depends on many things. Finance, level of leadership, national support. One of the biggest challenges is expanding the mandate and showing that the threat is from all cross-border crimes such as wildlife (Interview with Gao)

I cannot provide a conclusive answer for 2 reasons ... mainly because 10 years ago I don't know what was the level of cooperation ... secondly because it is hard to do a general statement of the BLOs even across southeast Asia ... because it is evident that out of the 70 or 80 pairs of BLOs in the region, a good part of them is not currently operational ... number of reasons for that such as lack of funding ... lack of attention from central authorities ... lack of support from UNODC ... a number of complicated reasons that show that the sustainability of the mechanism needs to be improved ... it still relies on external support and from support from the capitals ... So in certain areas the level of communication is not dramatically different from what it was before ... and if it is it is not because of the BLO mechanism ... in other areas instead the communication has improved because of the BLO mechanism ... in some BLOs it is clear that enforcement officers on the two sides of the border from the different agencies know each other and like each other and occasionally have coffee together (Interview with Neung)

Further pondering on the potential successes of the mechanism, one participant in particular noted that *'finding what is the attribution of the BLOs to the success of some operation is difficult or impossible. Nobody can tell exactly whether that piece of information was generated by a BLO ... whether it was generated formally or informally ... it is impossible and I would say that it is irrelevant'*²¹⁰.

Participants highlighted 'interest' and 'engagement' as crucial elements to ensure the mechanism works.

7.1.2.4 Challenges, gaps and limitations

The government perspective:

Participants interviewed were asked to note some of the main gaps and limitations of the BLOs based on their experiences. This included the identification of loopholes and gaps, where additional efforts would be beneficial and what more was needed. Overall, participants from this group highlighted a number of challenges, but also noted that overall much progress has been made in the

²¹⁰ Interview with Neung

region to combat wildlife crime thanks in part to the efforts of the initiative. In general a participant stated that *'cooperation ..., budgets ..., technical support ..., ... all needs to be improved ... it's not good enough yet. Need bit of balance, financial assistance, even stronger commitment of government, some local authorities ... [but need to] merge central with local level on possible budget and expenses'*²¹¹. In general, interviewees highlighted some gaps in political support at the highest levels²¹², the lack of cohesiveness as well as the need to increase the 'motivation' to combat wildlife crime in the region:

I don't see a will within Asia to stop wildlife crime. There are a number of very dedicated people, at every level that are trying to do it, but there are a number of issues that critically impact on their ability to interject wildlife traffickers, funding and training ... they are unprepared. There are people that buy their uniforms instead of earning them. The most rightest and motivated are not the ones going to the trainings. To give you an example there is a young officer here (at the training) that has been in the immigration department for one year, he has a bachelor's degree in administration, speaks excellent English, and he received a 2 weeks introductory training, he has no idea how to check passports, he's intelligent, alert, articulate, but he's not on the training ... while we have people that are clearly not up to the task on the training ... some of the people that are here are here because they want to be seen, not because they want to learn (Interview with Wushi)

[It is a] commitment issue. Sometimes meetings in certain country don't even happen if everything is paid for ... how to motivate? maybe with a special BLO badge, plaques or something. It doesn't pay more, but gives more morale [and] motivation to do better work' (Interview with Er)

Participants also highlighted that *'in general communication is key'*²¹³, suggested a lack of cooperation and communication and identified a number of needs:

There is a lack of authorization at lower level ... senior level meetings are needed so that the agreement and authorization is there (working group of approx. 10 government officials)

To me the people working at the BLOs are very dedicated and knowledgeable but they are hamstrung by regional issues, jealousy. It is also a fragmented response (working group of approx. 10 government officials)

It was noted that different agencies have different rules and that it is important to 'find ways to use the rules agencies have to get things done'²¹⁴. It was also suggested:

When cross-border events are happening, [we should] invite other countries as neutral observers helping building up cooperation (working group of approx. 10 government officials)

²¹¹ Interview with Er

²¹² Questionnaire received from Liushi

²¹³ Working group of approx. 10 government officials

²¹⁴ Interview with working group of approx. 10 government officials

Short, clear communication channels would be needed, currently have to use official, formal way, which takes much time (working group of approx. 10 government officials)

Participants also pondered about the awareness and knowledge gap and the need to meet more frequently:

Partnerships and cooperation with the BLO very effective ... PATROL²¹⁵ is all about cooperation.. [but] with more awareness and ownership, more engagement would be possible (working group of approx. 10 government officials)

We have to prioritize which gaps should be dealt with as a basis ... the lack of understanding is something to look at. National authorities should be met more frequently ... [but] also awareness raising crucial (Interview with Er)

Need [the] right people placed at BLO's ... they are often not well suited, not sufficient knowledge of international cooperation, the language, there is no targeted selection. There should be commitment, there is good training, but not too frequent transfers, because then the knowledge leaves as well and [the] training [is] in vein. It would be good for officers before transferred to BLO to have a basic training (working group of approx. 10 government officials)

Need more awareness of these crimes – customs officers often don't know about it, controlling goods is different from controlling humans, that is immigration (working group of approx. 10 government officials)

Funds and language barriers were also identified as 'a problem for cooperation and communication'²¹⁶:

We assigned ... [an] officer to combat, to track down the illegal wildlife with a team ... the team after the end of [the] month did a report ... the structure is there, but no funds to really implement or pursue (Interview with Ba)

Often have to join network without being ready to be part of community, to reap all benefits, government makes you do it but without financial support (Interview with Si, Wu and Liu)

The political will is there ... but [we have] financial and capacity gaps. The turnover of people [is] too quick. We need to know [the] culture of other people ... [and] only let those people work on border area who actually speak language of neighbouring country (Interview with Qi)

It was emphasized that the location and operational capacity of the initiatives was sometimes not adequate. The unclear reporting structure was also highlighted:

BLOs should be actually on a border ... maybe even having people in a no man's land in between, but [this is] not really feasible [all the time] ... the point is: on the border, with both

²¹⁵ Partnership Against Transnational-crime through Regional Organized Law-enforcement (PATROL) Project to strengthen capacity of the BLOs. See chapter 4 for additional details.

²¹⁶ Interview with working group of approx. 10 government officials

sides communicating with each other on regular basis (working group of approx. 10 government officials)

There is no [clear] reporting mechanism. Only for project activities, but not at the national level. The concept is good ... the critical issue is whether it continues to work without external funding. The government has done new BLOs but we don't know if they are operational or not. It is difficult to know and there is very limited data to answer the question. It needs to be operational. If it is not used by operational people on the ground it will never result on a successful operation on the ground (Interview with Wushi)

Overall it was noted that what was needed was time, but that without strong commitment this would not be possible:

[Wildlife trafficking], that's not something you can't solve over time, but until nations are prepared to change this ... to actively tackle the problem, the problem will not be solved. There is also corruption, and the issue that some governments won't even acknowledge there is a problem with illegal trade. We're at the beginning of what is a long process ... It should be a 25 year plan (Interview with Wushi)

The intergovernmental perspective:

Participants interviewed were asked to note some of the main gaps and limitations of the initiative based on their experiences. This included the identification of loopholes and gaps, where additional efforts would be beneficial and what more was needed. One particular challenge identified that should be highlighted was the expansion of the mandate of the BLOs to include environmental crime and wildlife trafficking:

The BLOs for drugs bring together different enforcement agencies ... there is a good multiagency approach to cooperation. The problem is that ... it is more difficult to identify an agency or a national authority with jurisdiction over TOC ... it is easier to find a single agency with jurisdiction over one problem ... there are many different organizations with many different divisions ... which creates some sort of confusion as there is usually not one single organization or agency dealing with all the different TOC ... with this cumbersome process of trying to get official endorsement for the project we opened a Pandora's box in which we found out that in most of the countries there is no single authority that is responsible for TOC at the border ... no single authority that is competent for issues that span from drug trafficking to human trafficking ... to smuggling of migrants, wildlife trafficking and timber trafficking ... response to these threats is scattered ... in different divisions and departments ... and there seems not to be one authority that has a general mandate ... no one wants to take responsibility for these things ... and this shows a tremendous weakness (Interview with Neung)

Overall, participants from this group emphasized a number of challenges and highlighted that 'in real life [we] need to adjust to what is happening in the field ... it is a learning process for us ... and for

them²¹⁷. This statement clearly summarizes the changing and evolving nature of combating the illegal wildlife trade, and the constant and evolving challenges faced.

Differences in the region in terms of financial capacity to do so were also explored:

Member countries have different levels of involvement and have different capacity. Some are more involved than others and some cooperate more than others (Interview with See)

Previous experience is that there is not sufficient funding for what we want to do in order to support countries. We ... and they (countries) ... need more funding (Interview with See)

Participants also highlighted the lack of cooperation and communication and challenges to cooperation. In particular an important gap was noted: *'[we] will have to start inviting other entities like INTERPOL, WCO²¹⁸ as contributing agencies given their expertise and national contacts²¹⁹.*

Communication level among and within developing countries is poor ... they need to understand [the] benefits and reasons for communicating (Interview with Jet)

More in-depth discussion about the exact terms of collaboration [are important] ... [we need] more clarification on implementation issues and modalities, that would have saved time (Interview with Hok)

The [BLO] mechanism was very successful to deal with drugs. When you want to include wildlife ... or other things ... the drugs people say NO, NO ... they are the drugs people, why do they have to deal with other people? Who will be the boss? It is hard to find the organization with overreaching powers for all the different crimes. Dealing with all the crimes in a similar manner is a very interesting concept, but they need a national committee that takes the lead to coordinate everything. But he is not the boss of everyone. He has to deal with everyone and encourage cooperation (Interview with Song)

Participants also stressed the lack of capacity as an important challenge and the need for additional funds from both the donor community and countries, even though it was suggested the problems should not be blamed exclusively on the lack of funding. In addition, it was suggested that the location and operational capacity of the initiatives was sometimes not adequate or clear and that there was an unclear reporting structure:

I would like to ensure that BLOs are not too far away from the border ... they should be closer to the actual border and closer to each other. The problem is that it is hard for governments to find premises and if it is too far away for the enforcement agencies they do not use it (Interview with Neung)

A gap in – and the need for – better monitoring and evaluation procedures for the mechanism²²⁰ was highlighted:

²¹⁷ Interview with See

²¹⁸ World Customs Organization (WCO)

²¹⁹ Interview with Hok

One gap that we tried to address recently ... with partial success ... is that there are no clear Standard Operating Procedures between BLOS ... they are there ... but they don't have any procedures on how often they should meet ... who should call for the meeting ... who should pay ... the difference between an operational meeting and a management meeting ... it is not clear whether the heads of office have to meet regularly with the officers ... whether they should meet transnationally These are areas that countries have asked UNODC not to prescribe or dictate to strictly because it is ultimately a bilateral decision (from the countries)... It is necessary to develop a monitoring and follow up mechanism to ensure that the BLOs continue to operate. If they don't, then they should be closed (Interview with Neung)

We have to monitor closely how national committee or steering committee is working, to avoid creating another layer of bureaucracy ... but there is a monitoring gap, still no reporting at field level (Interview with Hok)

The non-governmental perspective:

Participants interviewed that discussed the BLO mechanism highlighted in particular the difficulties with the expansion of the BLO mandate to include wildlife crimes as well as the lack of 'action' and political will to combat wildlife crime:

[The] initial BLO objective was easier, because the original objective was drug control, and almost everyone agrees now that it is bad, but illegal wildlife trade has been going on for many thousands of years. There is traditional usage... it's difficult to change ... [and] hard to get approval from countries (Interview with C)

[The] main gap in both the BLO and ASEAN-WEN is the will to act, the political vote (Interview with C)

7.1.2.5 Ownership, sustainability and commitment

The intergovernmental perspective:

The importance of ensuring high level political support and that it remains a priority was stressed:

Cooperation is not a major priority of governments. There are limited resources and staff that are provided ... [we] need more political support and allocation of financial and human resources (Interview with See)

Political support is critical. If the countries want to do it, they have to commit ... there needs to be much more support from the national level from the beginning ... start from the top and go down ... and the countries can revise their legislation to address the crimes ... you could also encourage the creation of a transboundary crime unit. If such organization was created it would be easier to find the lead agency (Interview with Song)

²²⁰ Interviews with Song and with See

Institutional in-house thinking doesn't come naturally, it takes a lot of effort ... continuous efforts working with senior management and others, they have the tendency of giving priority to global work, but [we] have to stress the importance of regional and national work and accept the differences (Interview with Hok)

Measures to ensure the sustainability of the initiatives as well as the need to improve the motivation and status of border officers were highlighted:

Need to request countries to commit human resources more strongly ... Working at the BLOs should be as recognition of the skills and experience of officers ... officers should have a certain level of seniority, experience and skills (Interview with Neung)

[They] rely on the intervention of international organizations to provide training and encourage cooperation ... Without the support from international organizations there is no interventions and no monitoring (Interview with See)

I noticed that some BLO offices already stopped functioning because of lacking of funding. Also when we did the training needs analysis we interviewed the border areas ... we noticed the staff are marginalized because it is a border area ... to work there it is kind of a punishment ... so they need continued financial support ... they need to meet regularly, to have meetings, they need support ... from international organizations and the governments should also support (Interview with Song)

Overall it was noted that *'the system itself is OK ... it has enough procedures in place to work effectively and measures are being taken to identify and solve the gaps in monitoring and evaluation²²¹.*

The non-governmental perspective:

As noted earlier due to the limited involvement of representatives from the NGO group in the BLO mechanism, participants from this group did not discuss a number of issues related to the BLOs. The issue of ownership, sustainability and government commitment were however discussed in detail by interviewees in relation to ASEAN-WEN (see section 4.1.5 above) and the findings of those discussions are also relevant here. They should, however, be considered in terms of their overall perceptions and thoughts on the importance of government ownership and commitment and of the sustainability of the initiative and not with regards to a specific initiative.

²²¹ Interview with Neung

7.1.2.6 Role of different partners

The intergovernmental perspective:

Interviewees also mentioned the important role of Intergovernmental and nongovernmental organizations in this work: *'to raise the profile for the reasons why they need to cooperate'*²²²:

Some BLOs work well, others just on paper ... we need to accept that and move on ... In [the] long run, [you] need political will ... government needs to see the need of putting specific resources into specific border areas ... in the meantime international entity could contribute so minimum controls can start in hotspots, once these are identified, all entities outside government need also to contribute ensure that minimum is done in terms of monitoring and control; in the meantime government can take time and adjust priorities if needed, resource allocation as appropriate ... there are different roles of different organizations to be played over time (Interview with Hok)

PERSPECTIVES ON THE INITIATIVES:

Participants were asked about the different initiatives (ASEAN-WEN and BLOs) and their perceptions on how they worked as a platform for cooperation to combat transnational crime, and in particular wildlife crime. Interviewees highlighted how the different initiatives work, their key objectives, and a number of their successes, challenges and gaps.

Key similarities and differences in participants' responses:

All groups highlighted the need for political support and for a platform for cooperation and that the initiatives were essential to strengthen collaboration and to build trust in the region. In general government participants stressed the need for political support and for a platform for cooperation and that the initiatives were essential to strengthen collaboration and to build trust in the region. IGO representatives agreed and suggested that strong support, willingness and mandate from governments were essential. This was also emphasized by most interviewees from the third group, albeit a limited number of NGO representatives highlighted that the most important aspect was the recognition of the problem and availability of financial support and that the rest will follow.

Government representatives in particular stressed that there was too much support being provided and that it was done in a fragmented manner and with sometimes limited consultation with

²²² Interview with Jet

governments. They argued strongly that they (i.e. governments) should be more involved in the strategic direction of the initiatives to increase ownership and investment in them. This is likely due to the fact that international aid is often unstructured as there are a myriad of organizations (both IGOs and NGOs) delivering activities and with similar mandates that are willing and able to provide support but that may not cooperate among themselves. This was stressed as a major challenge for governments which called for increased cooperation among agencies providing support and for the support to be provided in a more structured manner. It should be noted that since 2010 the number of coordinated efforts has risen considerably with, for example at the IGO level, the development of the International Consortium on Combating Wildlife Crime (ICWC) or a number of NGO consortiums that have been organized along large projects funded by major donors. Representatives from the IGO group and a most interviewees from the NGO group focused on the need for institutional support and ownership of the initiatives. In contrast, a limited number of NGO representatives highlighted that the most important aspects were the recognition of the problem and the availability of funds to deliver activities and that the rest will follow.

Perceptions on ASEAN-WEN

Government representatives agreed that the initiative increases the involvement and awareness of countries, encourages networking and promotes national level networks and a multi-agency approach. It was also suggested that in general there are insufficient resources at the national level to combat illegal wildlife trade and that the benefits included assistance from donors to develop programs, raise awareness, provide equipment and strengthen capacity. Successes include its 'establishment', that it is 'useful' (but could work better), and that it has contributed to raise the profile of wildlife crime in the region, increase interagency cooperation at national and International level, raise awareness, enhance capacities, increase cooperation and contribute to a number of seizures, arrests and prosecutions. It was emphasized that good progress had been made but there was not sufficient political support, strong leadership and interest as this was not seen as a priority in some countries. The limited operational role of the network was also raised by most participants, as it has limited operational involvement outside of targeted operations coordinated through the network²²³. The lack of ownership from some countries and the importance of the sustainability of the network were also stressed. Additional challenges included lack of capacity throughout the

²²³ For example operations such as Operation COBRA I, II and III. For details, see https://cites.org/eng/news/pr/2013/20130218_operation-cobra.php; https://cites.org/eng/news/sundry/2014/20140210_operation_cobra_ii.php and; https://cites.org/eng/news/pr/icwc_press_release_cobra_III

region, and of its coordinating unit, lack of cooperation and communication between countries, lack of cooperation with the judiciary and a lack of common ASEAN policy. Overall, it was agreed that the initiative needed more time and commitment from countries in the region to be more effective and in particular to enhance its operational capacity which was one of the main gaps identified. The need to evaluate the work delivered to date was also stressed.

IGO participants noted it is a platform for cooperation, to raise awareness, strengthen relationships and build capacity. It was developed as a network to combat illicit networks. Benefits included facilitating cooperation and a multi-agency approach at the national as well as international level and the increase of knowledge about the illegal wildlife trade and the capacity of officers throughout the region to combat it. It was suggested it has been partially successful but a number of participants questioned whether the governments were really interested in the initiative or whether it was just opportunistic because donors had made funds available for activities. In reference to the approach, it was suggested by a number of participants that if a bottom up approach rather than a top down approach had been used it might have helped ensure increased engagement from all levels of government both at the national policy level and at the national operational level. The lack of political support and financial contribution from countries to ensure its sustainability was stressed. The need for continued engagement as well as the need for a number of partners to continue to support it was stressed. It was also suggested the governments might have been more inclined to support the initiative if they had had more of a leading role in its development. A further comment was made with regards to the focal point of the network and it was suggested CITES authorities might not be the appropriate organizations to lead an enforcement network. Overall, it was noted that it is a young network with lots of potential – ‘a scooter with the potential to become a Ferrari’.

NGO representatives suggested it was an umbrella or platform to bring countries together, to raise awareness and build capacity as well as encourage cooperation and wildlife law enforcement. The importance of personal relationships was noted. While most participants acknowledged its relevance to increase cooperation in the region, one stressed that cooperation was not important in their country as there is limited international illegal trade in that particular country. Successes included that it has been developed and that it has enhanced interaction between countries, developed relationships and assisted governments in the implementation of CITES and in combating illegal wildlife trade. Additional successes included that it has been important to increase capacity in the region, raise the profile of the illegal wildlife trade and share information, as well as a way of providing financial assistance to relevant authorities. It was however noted that it is an effective information network but that it is not doing much on enforcement and that there is limited

information exchange. Challenges included the lack of government investment, genuine commitment and ownership of the initiative and sustainability. Additional gaps included a lack of funding, buy in, will and support at the highest level as well as corruption, inaction, lack of capacity and incentives to cooperate. It was suggested that national taskforces have been set up but that they are mostly inactive or inoperative in most countries and that in some cases the lead agency was often not appropriate and that enforcement agencies should be more active within the network. It was suggested by some participants that there was a strong initial push, and that it potentially developed too fast for countries. It was also emphasized that the development of the network has been 'territorial' but the important role of NGOs to combat illegal wildlife trade was highlighted. In some cases it was also suggested that there is a certain over-reliance on NGOs to provide support. Similarly to others, participants noted the network needs more time to become more effective.

Key similarities and differences in participants' responses:

The different groups had similar attitudes towards why ASEAN-WEN was created and its benefits as a regional platform.

Government representatives interviewed welcomed the initiative but were more reserved than other groups in their responses. They highlighted that it had contributed towards strengthening cooperation in the region but that there was still a long road ahead.

Participants agreed on role of ASEAN-WEN as a platform to develop policy, and to raise awareness and the profile of wildlife crime as a serious crime and encourage enforcement. Expectations from the NGO group however had shifted towards that of an enforcement platform, which was the expected next step (or initial objective for some) of the initiative. Some interviewees acknowledged however that it was potentially built at the wrong level (e.g. top down instead of bottom up, or policy level instead of practitioner level) or had inappropriate focal points (e.g. administrative focal points instead of enforcement officers) to be more operational.

The main successes of the networks that all groups agreed upon included that it has been established and that it is contributing to and has been useful in raising awareness and changing the attitudes in the region to wildlife crime. Government representatives highlighted an increase of cooperation between member countries and agencies as a result of the network. Interviewees from the IGO group were broadly supportive and suggested it was partly successful, in particular in terms of strengthening the regional approach and policy and increasing awareness about wildlife crime,

but were rather critical on its usefulness at the operational level. Participants from the NGO group praised the changes that happened in the region because of ASEAN-WEN, particularly highlighting policy and awareness as the other groups, but also the potential for enforcement that it had – but that had not yet been achieved. Overall the different groups had different perspectives, particularly representatives from the NGO group, as they had been more active in supporting the network.

There was also broad agreement on a number of challenges faced by the network. These included lack of interest, buy-in and ownership by some members over the initiative (some government representatives suggested their governments were not necessarily interested), the need for stronger government leadership and support, and the lack of operational capacity of the network. A number of IGO and NGO representatives questioned the approach and suggested a bottom-up approach that evolved naturally would have been more beneficial for practical enforcement purposes and for increasing the sustainability and government ownership of the initiative instead of an imposed structure (suggested by some representatives of IGO group) or the rushed development of the network (suggested by some participants from the of NGO group). Government representatives focused also on lack of capacity and coordination (with for example the judiciary), which were also challenges echoed by the other groups.

Within the group of NGOs, there was disagreement over the structure and development of the network. Some participants were very supportive, notably those that had been involved in its development, while others were very critical of it. While the reasons provided are indeed valid, it should also be stressed that the development of the ASEAN-WEN had had conflicts over the development, ownership and support the initiative received (as noted above) and therefore there are bound to be overly positive and negative perceptions to it from the different groups involved, which should be taken into account. In general a lot of focus by the NGO group was placed on the lack of capacity of government to take action, with some (perhaps idealistic) perspectives and requests that appeared not to take into consideration the challenges expressed by government representatives in terms of their limited capacity to take further action in relation to human and financial resources, but also political and hierarchical support. It should also be noted that NGO representatives interviewed were overall able to provide much more of a detailed account of the network and its activities as they had been much more involved in the practicalities and development of the network. They were nonetheless also very critical of its challenges.

The important role of supporting partners was also raised by both the group of IGO and NGO representatives. IGO representatives focused more prominently on making countries understand why they should cooperate; while interviewees from the NGO group sometimes (but not always)

suggested activities would make them cooperate and complained about their lack of cooperation. This reflects the different roles of the partners. On one side there is (theoretically) more strategic and long term and based on requests from member states and governments, a viewpoint held for example by UN organizations or international agreements or conventions. On the other, there is more targeted and specialized nongovernmental organizations, based on specific interests, agendas and priorities but with more capacity on the ground. There was, nonetheless, general agreement on the fact that the initiative has a lot of potential but that it requires a bit of time to reach it.

Perceptions on the Border Liaison Office Mechanism

Government representatives suggested there was good awareness of the mechanism at national level as high-level government officials were the heads of the offices. This created more awareness and ownership of the mechanism. Benefits included strengthened capacity and understanding of trends and patterns of illegal wildlife trade. It was also highlighted that it is a good mechanism as it is focused at the operational level. It was suggested good progress has been made but that a number of aspects need to be improved, including increased financial assistance and commitment from governments at national level. It was also noted that even though there are some extremely dedicated officers working at the border areas, there is a lot of self-interest in certain countries and within certain offices. The problem of corruption at certain border posts was highlighted and it was suggested that officers lack incentives to be more involved and engaged in activities to combat transnational crime at the border. In some cases participants noted a lack of cooperation and communication and highlighted the need to meet more frequently to develop trust and partnerships. Language and cultural barriers to cooperation and communication were emphasized and it was suggested the location and operational capacity of some of the offices were sometimes inadequate. The need for strong government commitment to ensure the mechanism was effective was highlighted as well as the need for more time to be more successful.

IGO representatives highlighted that it is a platform for cooperation and exchange of information and that it provides an opportunity to increase cooperation in the field and across borders, build trust and strengthen relationships as well as a platform to raise awareness about trends and transnational crime at border areas. Its successes included some successful cases of cooperation across borders as well as government ownership of the initiative as some countries had, for example, self-funded a number of offices. Challenges included the extension of the mandate to include other transnational crimes such as wildlife, and the needs for evaluation and to strengthen sustainability.

It was stressed that a thorough evaluation is needed and that enforcement operations are generally a side effect of cooperation through the mechanism and that it was therefore difficult to attribute them to the mechanism. It was noted some offices were active and operational while others were not (i.e. not operational or abandoned). Additional limitations were highlighted, including the constantly evolving nature of transnational organized wildlife crime, the need for increased political support and to ensure the sustainability of the mechanism, as well as the fact that cooperation was not generally a priority for governments. The lack of cooperation and communication as well as a number of challenges of cooperation within the country and internationally were emphasized and the importance of working with relevant international law-enforcement bodies such as Interpol and WCO was highlighted. Lack of capacity and funds to provide comprehensive support to the different countries were also stressed. The location of some offices far from border areas was noted as a challenge to effective cross-border cooperation. Overall it was suggested sufficient procedures were in place for the mechanism to work effectively and that measures are being identified to address known gaps.

As emphasized previously, there were limited responses and discussions from NGO representatives on the BLO mechanism due to their limited involvement (at the time) in the mechanism. The main issue discussed was related to the main challenges of the mechanism, which included the extension of the mandate of the BLOs to other transnational crimes and in particular wildlife crime, and cultural attitudes towards the use of wildlife (e.g. traditional and cultural use) in the region.

Key similarities and differences in participants' responses:

As noted above, it is difficult to fully explore key differences and similarities between the different groups in this case, as one of the groups had limited involvement in the BLO mechanism. The analysis will therefore mainly focus on differences between government and intergovernmental perspectives.

Government representatives focused primarily on the reasons behind the creation of the mechanism, and the practical approach of the BLO concept, whereas IGO interviewees reflected and provided generous details on the rationale behind the creation of the BLOs. This reflects the perspectives from the different groups, one more practical and concerned with the enforcement of the law along and across borders, the other with more of a technical and strategic approach with the objective of

assisting countries to develop mechanisms to facilitate cooperation and provide technical expertise²²⁴.

Both groups identified similar benefits of the mechanism. The key challenge identified by both groups was also the expansion of the mandate of the BLO mechanism to cover wildlife crimes, which was one of the issues also identified by NGO representatives that were able to provide some feedback on this issue during the interviews. An interesting fact to note is that the challenges with the expansion of the mandate were sometimes technical (e.g. awareness about wildlife crime or problems with species identification) but chiefly more about institutional challenges and the fact that there would be new agencies involved, which disturbed the 'balance' that had been established between the different offices involved, as now new agencies were added to the mix.

The main success, again agreed by both groups, was the ownership of the programme and that it helped develop trust, and facilitate cooperation and exchange of information between border officers. Government representatives also mentioned a number of successful cases, although interviewees from the IGO group noted that it was difficult to associate cases to specific actions of the BLOs. This reflects one of the other challenges identified by both groups, but more prominently by participants from IGOs, that there had been limited monitoring. In fact, IGO representatives had mostly a critical and analytical perspective over the successes and possible impact of the initiative and highlighted the need for more detailed monitoring mechanisms. It is also a key factor expressed by all groups in general in latter sections of this chapter, with regards to the difficulty in assessing the effectiveness of the initiatives due to the limited data available.

One interesting reflection with regards to the challenges of the network: everything needs to be strengthened. The intergovernmental perspective focused on a strategic multi-level approach (including capacity, opportunity to meet and strengthen relationships, delivery of activities and monitoring of actions and their potential impact) and reflected on potential risks and challenges (such as corruption or language barriers). Government representatives focused more prominently on the lack of political will to combat wildlife crime and practical issues such as language barriers and the need for more meetings and capacity building activities. Both groups also agreed on the fact that the actual location of the offices was sometimes problematic (e.g. not close enough to the border).

IGO representatives again focused chiefly on the importance of ownership and sustainability of the initiative²²⁵ and stressed engagement from countries as a crucial development of the initiative (e.g.

²²⁴ It is assumed from other sections of interviews with NGO representatives, that they would have practical information and technical skills that they would also be able to offer.

the office will only be supported if the government provides the premises and funds its staff). While acknowledging that it works better in some places more than others, and that it was unknown if some offices were operational, they praised the fact that for example the government of Thailand unilaterally funded and created a number of BLOs and funded their counterparts in a number of its neighbouring countries. This directly reflects the levels of interest and ownership from some countries involved in the initiative, with some countries showing good support for the network.

Similarly to what was emphasized in the case of ASEAN-WEN, the important role of supporting partners was acknowledged to support the development and capacity of the mechanism and the officers at the border area as well as to raise awareness on wildlife crime. Here there was also agreement that the mechanism needs a bit of time to adjust to the 'new' focus area of wildlife crime and awareness on the fact that it is a crime to smuggle, for example, tigers or pangolins across the border.

7.2. Effectiveness and measuring effective cooperation

Participants interviewed were asked about the effectiveness of the initiatives, including their views on what effectiveness means, and how it can be measured, as well as different types of effectiveness. Participants were also asked to assess or measure the effectiveness of the different specific initiatives based on their experiences and perceptions on the effectiveness of the different networks and initiatives to combat transnational organized wildlife crime.

In general, participants from the three different groups agreed that effectiveness should be measured 'based on a number of issues'²²⁵. These included political and awareness-related aspects of effectiveness, as well as discussions on effective cooperation and effective enforcement. Participants also noted the importance of monitoring and reflected on the effectiveness of the different initiatives based on their different perceptions. A considerable number of different themes were identified under the general heading of 'effectiveness', as set out below.

²²⁵ The issue of sustainability and ownership was also a key issue for NGO representatives interviewed with regards to ASEAN-WEN and it can be safely assumed that would be the same case here.

²²⁶ Interview with Er

7.2.1 Defining effectiveness

The governmental perspective:

Government representatives noted that it was difficult to define effectiveness as it could relate to various types of activities, some of which cannot be measured and agreed that effectiveness should include a number of indicators to provide a balanced assessment.

The intergovernmental perspective:

Overall, participants from this group suggested that there were multiple ways to define effective cooperation and in general suggested it should be defined as an activity which leads to a tangible and real reduction in wildlife crime as well as stressing the difficulty of measuring it:

Only thing we should be looking to do is to reduce amount of wildlife taken from its natural habitat. That should be the sole goal, [and] anything that doesn't do that is not going in the right direction. Seizures are not achieving [the] objective; ... if you have incredible awareness, but no reduction in wildlife crime, then you also haven't achieved the objective (Questionnaire received from Ha)

The non-governmental perspective:

Overall, participants from this group agreed that 'effectiveness' and 'effective cooperation' or 'effective enforcement' were interrelated and encompassed a number of issues:

An activity is an indicator of how much is going on, but not a measure of success. There is a continuum. There are a number of layers, it is like an onion ring. Ultimately the only way to know if it will be effective is if the species are saved ... but there are many layers that contribute to that (Interview with A)

How measure effectiveness? increasing detection, reduced availability of illegal stuff ... in an ideal world you have a baseline measure of crime rates of some sort, and can show an actual decrease in goods passing through the supply chain (Interview with G)

I would define effectiveness as dismantlement and disruption. Make it expensive and difficult. Act on information through a multiagency approach. How effective it will be? It will go up and down in how well different agencies will work with each other. It is however the best approach, as long as everyone understand their roles, and you minimize duplication (Interview with O)

Dismantling organized crime is effectiveness, taking the money people down, having high level prosecution and convictions, operations to shut it down ... you can look at successful cross-border investigations, how many times information is exchanged ... a very long list (Interview with J)

One interviewee had an interesting and encompassing concept of effectiveness:

We do a rather bad job of keeping in mind why we are doing things. It is really important to keep in mind that the whole reason to do this ... the bottom line ... is the need to make sure things stay in forests. Other bottom lines are raising the profile [of wildlife crime], increasing [political and law-enforcement officer's] engagement, and so on, but those are means to an end. Bottom line effectiveness is going to be species conservation. It's not going to be the number of interdictions or convictions, or fines, or slowing in the flow of illicit wildlife goods ... it's going to be things on the ground staying on the ground. In an approximate sense, yes, the interdictions are important, but just interdictions don't get you there ... you need to look at conviction rates, at penalties ... even beyond that is who is being penalised ... is it the little guys or the key players. Another level is the impact on national parks and protected areas. The final layer really is: do you have the wildlife there (Interview with A)

Effective cooperation was defined as:

An honest and transparent exchange of information towards a common goal, which could be interdiction or reducing illegal trade. For that you want ... transparency, [and have to] trust the people you work with (Interview with F)

A genuine, open sharing of relevant knowledge (Interview with G)

Effective cooperation has to be results, like increased level of prosecution, bigger sentences ... this is more likely to raise profile and more intense enforcement (Interview with C)

Participants were therefore pointing to several measures of effectiveness of quite different kinds – measures of prevention (so that wildlife levels stay constant), measures of outcomes of enforcement activity, and measures of awareness that this activity (i.e. the illegal wildlife trade) is a criminal activity and the importance of tackling it.

7.2.2 Difficulties in assessment

The government perspective:

Overall, participants from this group noted that effectiveness was difficult to assess in relation to separate aspects and that 'balancing is the key'²²⁷. In particular it was suggested that it was 'difficult to give any one reason, but that [effectiveness] could perhaps be better measured through a checklist of a number of issues, and with enhanced and improved monitoring.

The lack of data and the need for increased monitoring, assessments of effort, and to have more operational activities and training²²⁸ to be more effective were also highlighted.

The intergovernmental perspective:

²²⁷ Working group of approx. 10 government officials

²²⁸ Interview with working group of approx. 10 government officials

It was suggested it is difficult to measure the effectiveness of international cooperation:

the problem is so huge, [it is] difficult to quantify success. Number of successful seizures would be a good indicator, but if [we] analyse it at [an] entirely different level it means that many seizures equal to much illegal activity going on, maybe not the effective enforcement. The increase of number of endangered wildlife population could be a good measure, but difficult [to measure]. Increasing [the] number of level of prosecution also [could be] a measure (Interview with Peet)

It is [a] difficult question to answer. [There are d]ifferent levels and achievement indicators. You can measure in terms of meetings, number of successful cases extradited, the extent to which people have been arrested, but there is other issues like human rights ... if someone gets extradited and gets executed, is that a good thing? (Interview with Gao)

The lack of data, let alone any baseline from which to measure improvements (or declines), and the need for increased monitoring to assess the effectiveness of efforts were also highlighted:

There should be analysis and statistics available for the network to be able to discern the patterns and take effective countermeasures (Interview with Sipsee)

You should have exact figures [and] ... measurable activities, quantifiable. It is really difficult to measure them sometimes, but have to go that way ... [we] have to do that. [We] need a survey, have to send ground level people who can go to the field to talk about specific issues etc ... in this way find out where there is a problem. [We need a] combination between collecting real evidence that is linked to the means of country. It is very important to find out the root causes because usually we talk about the causes, but we don't talk about root causes. If you find [the] root causes of the problems ... then you find out more things, more facts, more evidences ... Then you see 'Oh, this part cannot be solved by training, you are wasting your time, and you are wasting your resources'. [We] need to analyse the problem to bring it to the right level, but first look at [the] ground level (Interview with Jet)

Governments previously used seizures and arrests as an indicator of a good result. During the workshop it was agreed that these are not necessarily measurements for success. The indicators developed [recently] are going to be implemented. The aim is to create a necessary common monitoring system for all BLOs to ensure consistency of the monitoring (Interview with Neung)

The non-governmental perspective:

The need for increased monitoring and data in order to assess the effectiveness of efforts were also stressed:

Every country focal point [should] produce a plan of action including plans of number of people to be trained, trainers of trainers, awareness campaigns etc., then at the end of the year you should see progress and can commit resources (Interview with D)

For a network to be effective I think we obviously need a plan that is agreed ... you need to find common ground or common ways to work together to achieve the objectives ... and you

need to measure your success, find out what went wrong and fix it if needed ... its part of adaptive management (Interview with D)

What you put on a powerpoint and what happens in the field is a totally different thing. Reporters, NGOs should watch out and make sure that what that they are reporting is true, and not bullshit (Interview with O)

7.2.3 A balanced measurement

The government perspective:

With regards to the BLO mechanism, representatives from a working group²²⁹ recommended the following process, which could also be (more or less) associated with ASEAN-WEN, as a process to facilitate effectiveness:

- i) International support: signing of MoU or similar bilateral/multilateral agreement;
- ii) National support: government should issue a specific decree for internal arrangements to support the network;
- iii) National coordination: government should set up a central steering committee;
- iv) Fundraising and sustainability: financial support should be clarified upfront, including how much does the partner organization have for support, how much does the government have to commit to ensure the sustainability of the initiative;
- v) Location: where should the office(s) be located;
- vi) Staff: what organizations and officers should be involved;
- vii) Operations: what is expected.

These suggestions of course concentrate upon building structures, rather than activity or outcomes. It was suggested that if the above process is followed strictly, a balance would be achieved: 'first we need the establishment ... with the realizing mandate, then forging relationship with the cross-

²²⁹ Working group of approx. 10 government officials

border aspect ... and then training at third place is good approach. [We need to] strengthen the setting, then [the] network, then [build] capacity ... have a good flow'²³⁰.

7.2.4 Layers of effectiveness

One intergovernmental interviewee did a particularly interesting summary of all the different elements that should be considered:

'In general it is effective if the cases [are] reduced The people's awareness is raised ... they know it is illegal ... the enforcement officers know how to handle and detect illegal shipments. Other indicators are markets ... if it is difficult to find wildlife in the market. And the reduction of the illegal trade across the borders. Also whether they have regular meetings, how many intelligence they actually exchange, whether they have arrested any criminals. That could be evidence for effective cooperation. It is important that the information is shared. If it is not shared then the mechanism is not used correctly' (Interview with Song)

The need to raise the profile of wildlife crime²³¹, increase political support and the importance of good leadership and ownership were also highlighted by participants from nongovernmental organizations as important factors related to the effectiveness of the initiatives:

Relationships and leadership are essential (Interview with F)

It is not going to be effective if [wildlife crime is] still not recognized as serious organized crime, if [the network is] run by CITES officials [and not law-enforcement officers], if [it is] not strengthened (Interview with N)

7.2.4.1 Political will

There was broad agreement from all groups on the importance of political will and support for efforts to be effective.

A government representative highlighted the need for political will:

Whether [or not] there is a will to address transnational wildlife crime is also a different matter. We cannot solely rely on external donors and agencies to do this if there is no follow up from countries. Until this catches up with policy, it might not be as effective as it can be (Interview with Wushi)

²³⁰ Working group of approx. 10 government officials

²³¹ Interview with A

In general, intergovernmental representatives noted that *'the network is only as strong as the individual countries ... if [the] majority [is] strong, then it will be more effective'*²³² and participants tended to agreed that *'there should be strong leadership'*²³³ for it to be effective and that *'members have to realize that they are in a group and need help from outside, support, lessons learned...'*²³⁴:

There must be commitment of the member states, shared and strong interest to engage to the common effort, the means and structure to share the information and to communicate, multi-agency approach at national level which do communicate between counterparts across borders, all states parties should be parties also to key treaties (CITES, UNTOC and UNCAC), countries must share best practices and learn from each other (Interview with Sipsee)

7.2.4.2 Awareness, sustainability and ownership

The governmental perspective:

Ownership, establishing national steering committees and sustained financing were highlighted as important factors related to effectiveness. Note that these are elements contributing towards effectiveness, or possibly indicators, rather than measuring effectiveness directly:

If there is ownership and a steering committee it really goes towards sustainability. The concept should be reflected into national policies, work plans and to organizations' fiscal years, ... fiscal plans. If the government has ownership, it should consider sharing financial support and reflect it in budget ... but often they don't want to put [it] into written report because [they] want to see more external funding coming into [the] country ... but it should be put into national policies and legislation (working group of approx. 10 government officials)

Some considered national ownership as one of the most important factors to ensure any initiatives or activities are effective:

You could look at increasing number of seizures, prosecutions ... but it is difficult to compare this because we do not have a baseline, but I look at what happened to the drug trafficking, therefore if each member country put wildlife crimes in their agenda and with formal structures to deal with it, like they have national taskforce, know what the taskforce will be doing and have resources to support that then I see that effective law enforcement including wildlife laws improves (Interview with Jiu, Shi, Ershi and Sanshi)

²³² Questionnaire received from Ha

²³³ Interview with Sipsee

²³⁴ Interview with Sip

7.2.4.3 Communication and cooperation

The intergovernmental perspective:

It was suggested an indicator of effective cooperation should be the interaction between enforcement officers²³⁵, and in particular that the effectiveness of such cooperation ‘goes up and down in terms of the quantity and quality of the cooperation. Staff rotation, political changes and other issues affect the relationship and effectiveness of the mechanism and of cooperation. It is a love and hate relationship ... but it is hard to say exactly how effective [it is] because there is no good recording mechanism in place. It is hard to keep track!’²³⁶.

In order to measure effective cooperation ‘you can put some of the funding to better network, through lunch or dinner type of interaction to foster cooperation and friendships’²³⁷. Strictu sensu, it was also noted that ‘meetings, telephone conversations etc ... are activities, not performance indicators for effective cooperation. Performance indicators are how many fake replicas could be discovered, increased numbers of criminals recognized or identified compared to last year, seizures, prosecutions, number of investigations ...’²³⁸.

The non-governmental perspective:

Participants agreed that ‘there are a few levels to effective cooperation’ and stressed the importance of effective cooperation and communication: ‘if we are looking at participants who don’t really know much to begin with, then you create awareness. And then you give them the chance to network, which is a very very big deal, especially within the country because as long as you network you keep in touch, you can work together and can achieve a lot while doing that’²³⁹.

7.2.4.4 Strength of initiative

Some participants highlighted the need to measure the strength of the initiative, or the level of development. While they had no specific way of measuring it, they nonetheless suggested it would be a way of measuring effectiveness.

²³⁵ Interview with See

²³⁶ Interview with See

²³⁷ Interview with Samsee

²³⁸ Interview with Jet

²³⁹ Interview with D

7.2.4.5 Trust and relationships

The governmental perspective:

Participants also stressed the importance of effective cooperation and communication: *'effectiveness is good cooperation; there is not really clear information ... good information and sharing of that ... I think it is maybe good to define international cooperation'*²⁴⁰. In particular, it was noted:

*'Trust is essential ... for almost everything! For cooperation, partnership, it's [an] important driving force ... but it's easier said than done. Trust is not [the] result of trainings or instructions, trust evolves in response to respect and working together ... if this is created, then cooperation, intelligence and information sharing will follow. Friendship is everything ... then difficult things can be implemented'*²⁴¹.

The intergovernmental perspective:

In particular it was noted that one of the indicators of effectiveness should be trust: *'[you have to] look at trust between both sides of the border and the involvement of the different law-enforcement agencies'*²⁴². How to measure trust? Respondents noted that *'it is impossible to have hard data on this ... one needs to observe how they perform and react to requests, how often they have meetings or take actions, and how the activities turn out ... the reliability of information shared, the quantity of information shared, etc ...'*²⁴³.

7.2.4.6 Enforcement cooperation and intelligence exchange

The non-governmental perspective:

How to measure effectiveness? *'You have to measure the usefulness of information exchanged ... it has to result in useful, timely, actionable information'*²⁴⁴. It was noted however that: *'cooperation is means to an end, not a measure of effectiveness ... number of meetings, bums in seats ... these are*

²⁴⁰ Interview with San

²⁴¹ Interview with working group of approx. 10 government officials

²⁴² Interview with See

²⁴³ Interview with See

²⁴⁴ Interview with G

not measures of effectiveness, they are measures or mechanisms that eventually take you to the point of being effective, but any attempt to measure them is understandable but also misguided'.²⁴⁵

It was also noted that information should be able to get around with minimum effort, in a natural way and that: *'information should ... lead to action from individual countries and sometimes lead to actions shared between countries if they've got a joint task force or whatever it's called. Then you have cooperation when you are implementing something. Effective cooperation is people who want to do a job, getting together, doing the job effectively. I think the idea of cooperation is the absence of barriers'²⁴⁶.*

You need intelligence on how the poaching network works to dismantle it and get the 'big fish'. The small poachers at the bottom can get replaced easily ... but you take out one or two key people and the network collapses. It all goes back to effective information sharing (Interview with G)

7.2.4.7 Seizures, arrests and/or prosecutions

The governmental perspective:

Participants considered the meaning of effective enforcement and whether enforcement was itself a measure of effectiveness of the kinds of structures such as ASEAN-WEN or the BLOs. Prosecutions were seen as important indicators, but seizures provoked a much more mixed reaction:

Effective enforcement ... [should be] investigation leading to high level prosecution and arrest, [but] often enforcement [officers are] targeting smaller players ... not sure if [the] network or countries themselves could do that, but [it] needs to be taken seriously (Interview with Jiu, Shi, Ershi and Sanshi)

Increased seizures, increased regional investigations are not necessarily [a] positive sign ... the question of measuring is very hard (Interview with Jiu, Shi, Ershi and Sanshi)

The intergovernmental perspective:

In relation to enforcement, similarly:

Arrests and seizures are the means to measure the problem but not suitable to assess the effectiveness of the initiatives (Interview with Neung)

It's important to ramp up prosecution levels ... to find evidence to take organized crime apart (Interview with Sip)

²⁴⁵ Interview with A

²⁴⁶ Interview with G

Not sure whether this is realistic or not, but [you] want to see how much of the activity is affecting the level of prosecution. It won't be immediate ... and it is very complicated to do so (Interview with Hok)

The nongovernmental perspective:

Participants also considered the meaning of and the possibilities of measuring effective enforcement:

Looking at number of seizures, you don't know whether there is more enforcement or more crime (Interview with M)

If you are not careful, seizures and arrest can become the success, when it is only part of the way towards success (Interview with A)

In wildlife crime, every time you have a seizure, the animal is already dead – need trade investigations, prevent wildlife crime from happening in order for it to be effective (Questionnaire received from E)

It was noted that 'seizures are indicator of activity but not necessarily a measure of successful activity'²⁴⁷. Effective enforcement should 'not only look at the number of people you catch, but also what they receive for the illegal wildlife trade and it should be taken away'²⁴⁸. The level and numbers of prosecution as measures of effectiveness were also noted, but it was however stressed that it was difficult to attribute that specifically to any of the initiatives²⁴⁹.

7.2.4.8 Increase in wildlife population

Both representatives from intergovernmental and nongovernmental organizations highlighted the need to measure an increase in wild populations:

If [you] start measuring, [you] would see an increase in seizures first ... but as a target you should fairly quickly see an increase in wildlife population, if it is effective (Questionnaire received from Ha)

We are having the discussion and trying to measure who is being arrested... but the only measure that counts from a wildlife standpoint is are you protecting the resources, the wildlife (Interview with A)

²⁴⁷ Interview with A

²⁴⁸ Interview with C

²⁴⁹ Interview with D

7.2.4.9 Number of operational units/offices

Representatives from intergovernmental organizations, with regards to the BLOs, suggested that the *'Indicators should also look at how many are operational and the work that is taking place (when it is done, if it is really done). Reports should be produced and agencies should share information and data across agencies and borders. This is difficult because of the lack of trust but if there is no cooperation and no exchange of information, then those particular BLOs are not effective'*²⁵⁰.

7.2.4.10 A 'points' system

One participant from the nongovernmental group had an interesting observation: *'We should give a value to the key people in the syndicates. The boss, the deputy, the accountant ... you know, the recruiter, the buyer, the seller ... the big boss should count more than a courier, and we should aim to remove all of those people ... We should also look at the amount of money that has been frozen or taken away from syndicates. How many points do you get?'*²⁵¹.

7.2.5 Assessment of the initiatives

The government perspective:

Participants also assessed the different initiatives, based on their experiences and expertise. Of the BLOs mechanism, it was suggested that:

The concept of BLOs is sound. Whether it can work [or it works] is another thing. We don't know what they do as there is a lack of data to monitor. They are starting to do this, but it is difficult to measure with data. I think there is potentially limited proactive engagement of government unless there is a specific activity planned. [It is v]ery difficult to report on an informal relationship. I am sure there is some level of relationship and activity ... a good informal relationship. Whether that is enough to result in a seizure or an investigation is unknown. Once data is available it will be easier to address this issue (Interview with Wushi)

They combat international wildlife crime in general, and the border zone and remote areas also benefits, it is already a sustainable concept with BLOs within the country ... it is not only a project, but has become the policy, the mechanism and agenda of government to fight against crime (Interview with Qi)

Of ASEAN-WEN, it was suggested that:

²⁵⁰ Interview with Neung

²⁵¹ Interview with O

I see that effective law enforcement including wildlife laws improves ... it is moving along that way, but not yet accomplished ... it is still far away (Interview with Jiu, Shi, Ershi and Sanshi)

[It is] effective in sharing information on what is happening in the region ... not really effective on operational level (Interview with Ba)

Awareness is OK, serious training has been organized, information about the network is wide spread ... but enforcement not so [much ... [there is] no real communication ... and law-enforcement should be lead[ing] (Interviews with San and Si, Wu and Liu)

The intergovernmental perspective:

Participants also assessed the different initiatives, based on their experiences and expertise. Of the BLOs mechanism, it was suggested that:

Some BLOs work well, others just on paper. We need to accept that and move on. The effectiveness of fighting transnational wildlife crime depends on the BLO (Interview with Hok)

Speaking about the impact and effectiveness of the BLOs [is difficult] ... I cannot provide a conclusive answer for two reasons ... mainly because 10 years ago I don't know what was the level of cooperation ... it was not recorded. Secondly because it is hard to do a general statement of the BLOs even across Southeast Asia ... because it is evident that out of the 70 or 80 pairs of BLOs in the region, a good part of them is not currently operational (Interview with Neung)

In general there is more awareness on the BLOs, more outreach, better perceptions ... a real day to day presence of BLOs and activities, they are doing joint patrols, doing meetings between countries and actors ... It is already effective and they are preventing crimes to happen because [of the] knowledge that [they are] around the corner (Interview with Hok)

The BLOs are an intelligence and communication centre ... and are for encouraging the exchange of information. By this standard they are currently not totally effective. There has been huge progress made to date but more needs to be done (Interview with Neung)

There is systematic cooperation framework from national level to the operational level. Cooperation is already in place. Yet, when you monitor it is clear that it is not implemented. Need more monitoring and cooperation (Interview with See)

May be little too early to assess outputs ... may be little too early for evaluation; but seeing from needs assessment training: lot of enthusiasm to see how coordination on ground is working; hoping that will get some encouraging results; it appears to be a cost effective initiative ... [and we are] building up on it (Interview with Peet)

One participant made an interesting reflection:

A BLO is effective if there is the software element and if it has the hardware element. The hardware element is staff, equipment and budget to sustain the BLOs. The software element is if it provides good multiagency cooperation along and across the border – noting that along and across the border are two different problems and should be two separate indicators for effectiveness. BLOs might work very well along the border but not cooperate

well across the border. An example of this is two of the more recently established BLOs where the staff is very active and interested to work together along the border (with their law-enforcement counterparts) but where there has been little to no cooperation across the border i.e. no international cooperation with BLO counterparts in the neighbouring country (Interview with Neung)

Of ASEAN-WEN, it was suggested that cooperation was better than without it, that it was partially successful but that it had not reached its potential, but that there was however limited exchange of information:

Effectiveness is country specific, but [there is] common interest now. Keeping in mind that [it is a] young network, [it is] effective and has a lot of potential (Interview with Sip)

I think it is working only satisfactorily, there is not enough trust, not high level participation. Still depending on outside pressure and support ... There have been increased amount of enforcement actions especially in terms of seizures and it has brought countries together. However, it is definitely not working in its whole potentiality which shows from the continued illegal trade. I also believe that the countries are not cooperating and sharing information as much as they should (Interview with See)

Information exchange only [happens] when [the] coordination [unit] initiated it, but not natural you need to get countries to talk to each other automatically, without reminder email. [A] voluntary, natural exchange (Interview with Samsee)

I am not sure how to answer this question but I see that ASEAN-WEN as such does not encourage much for effective cooperation. At national level, I see that it encourages cooperation in the sense that basically it requires the establishment of the national task force structure which ideally then communicate between themselves. I think the tools to encourage are limited but through the meetings and reports, bilateral meetings etc. It can encourage cooperation. In the field level, it is more difficult, except perhaps border areas where the cooperation can be physically more imminent (Interview with Sipsee)

The non-governmental perspective:

Participants also assessed the different initiatives, based on their experiences and expertise. Given the limited involvement of NGOs in the BLO mechanism, all respondents focused on ASEAN-WEN. It was suggested that:

There has been more flow of information across border, but much less than we hoped for ... The potential for improvement is great. You could take a program that is performing as a B or a B+, you could turn it into an A+. Need to professionalize and get backing from ASEAN (Interview with O)

It has definitely matured over the last few years, but don't know how effective [it has been] in decreasing illegal trade ... I don't think quite effective, there has been a lack of incarcerations, proper prosecutions, it was more about the initial glory. To improve it I would have an annual review or something, ... on what has happened to these cases where there have been seizures. And I would want regular updates on the stages at which these cases drop off the criminal justice system. This would not be difficult to do. I also would like to see

genuine efforts on crime prevention ... because seizures alone make the problem worse (Interview with G)

I don't think that we can argue that [it has had a] real impact, but moderately successfully increasing the profile of wildlife crime and cooperation, the small things, but not at a level where it could make a big impact on enforcement yet (Interview with J)

Reflecting on the successes of the initiative, it was emphasized that in time the initiative will become more effective and that the development and strengthening of the initiative requires time:

Initiatives such as this take time. It depends on what the success indicators are. If success indicators are to stop wildlife crime in the region then no, it has not been a success. However, if the indicator is improved levels of communication and cooperation and more high level political will accorded to the issue, then yes there has definitely been some success (Questionnaire received from P)

ASEAN-WEN has not been effective so far, as different level of commitment by different countries, some don't do anything at all ... [and] that has to be addressed by ASEAN-WEN or [the ASEAN] Secretariat. You need a really strong leader, [a] strict ASEAN-WEN chair with a vision, focused (Interview with D)

One participant in particular was very critical:

Disappointing to dysfunctional would be the two words I would think about. I think there has been insufficient government leadership and involvement (Interview with F)

In general, it was noted that *'now we have the umbrella ... the big picture, the framework ... now we need to do gaps analysis at lots of levels ... we realized that we are starting to get enforcement agencies involved ... but then we realized convictions were not happening ... so that was an additional level ... the next level is getting policy people more involved ... so that's the next layer out ... there are more layers along the chain that need to be addressed to make sure the link is solid'*²⁵². Participants also suggested that *'ASEAN-WEN and BLO mechanism are doing well, but should be better linked up'*²⁵³.

A further issue that was emphasized by interviewees, with direct correlation to the effectiveness of any and all activity designed to tackle illegal trade and in particular transnational organized wildlife crime was corruption. The next section will highlight the main challenges associated with corruption as well as the consequences it can have on the ground. This is particularly important as corruption appears to be one of the key issues to take into consideration and that hinders effective enforcement efforts and cooperation between organizations, networks and initiatives.

²⁵² Interview with A

²⁵³ Interview with N

PERSPECTIVES ON EFFECTIVENESS AND MEASURING EFFECTIVE COOPERATION

Participants interviewed were asked about the effectiveness of the initiatives, including their views on what effectiveness means, and how it can be measured, as well as different types of effectiveness. Participants were also asked to assess or measure the effectiveness of the different initiatives based on their experiences and perceptions on the effectiveness of the different networks and initiatives to combat transnational organized wildlife crime.

Government participants stressed it was difficult to assess and measure effectiveness and cooperation. It was suggested effectiveness could be measured by including aspects such as: official agreements, increased awareness and support for the work that is being conducted at the national level, coordination at the national level (e.g. good cooperation and communication as well as the development of trust), the sustainability and funding it receives at the national level, as well as issues such as location and the capacity of staff (activity measures). Finally, it should also be measured by its enforcement and operational capacity leading to successful detection, investigation and prosecution, and disruption of criminal networks, as well as wildlife levels (outcome measures). The lack of data and monitoring to be able to measure the effectiveness of the initiatives were also noted.

Of the BLOS, it was suggested that it is a sound concept that works to a higher or lesser degree in certain countries and border areas and that it is difficult to measure and report on its enforcement activities and the informal relationships that are created as a result. It was noted it is sustainable and part of the government policy of some of the countries in the region (e.g. Thailand) that have directly established a number of offices and funded them in neighbouring countries, which highlights that it is considered to be effective by a number of governments. Of ASEAN-WEN, it was noted that it is increasingly effective in sharing information, and increasing awareness and political will. However, it is 'not yet there' on enforcement. One of the reasons is that the lead agency is not generally an enforcement agency and that there might not be sufficient multiagency cooperation with enforcement agencies in the country.

IGO representatives noted effectiveness could be measured by a reduction in wildlife crime, but that it was ultimately difficult to measure. The importance of strong leadership and government commitment was stressed. Overall it was noted cooperation goes up and down in terms of quantity and quality and that it is different between different offices and countries. Noting it is difficult to measure, a mechanism would be considered to be effective if it can develop trust and collaboration between countries. Issues such as meetings, seizures, cases, prosecutions and convictions could also

be considered, but these were rather indicators of activity (as opposed to effectiveness). Moreover it was noted it is difficult to correlate any such seizures or prosecutions with any particular initiative.

Of the BLOs it was noted that they are exploring the possibility to develop indicators to measure the effectiveness of the initiative (not developed at the time of the fieldwork). It was suggested that it encourages effective cooperation and communication between relevant authorities at the border and that some offices work well, while others only work 'on paper'. It was suggested that to measure effectiveness one should look at the 'hardware' (e.g. staff, equipment, sustainability of the initiative) and also the 'software' element (e.g. whether there is good multi agency cooperation along as well as across borders - for example it might work well at national level but not across the border). Of ASEAN-WEN, most participants agreed that it was 'more or less' effective, but that this was country specific and that it is a growing network that has not reached its full potential. Overall it was suggested it had been effective as it had contributed to raising the profile of wildlife crime at the regional level in the sense that the number of seizures had increased, and coordination and cooperation had increased. It was however emphasized there was limited enforcement and exchange of intelligence.

NGO representatives highlighted there are a number of issues to take into consideration to measure effectiveness, including levels of activity, detection of crimes and increases in seizures, prosecutions and convictions, suggesting that ultimately effectiveness would relate to the dismantling and disruption of criminal networks. It was suggested other indicators could be the use of a multiagency approach as well as an increasing profile for and attention to wildlife crime at the national and regional levels. It was noted the actual exchange of information and measuring the usefulness of such information should also be considered. The need for monitoring and data to assess the effectiveness of the initiatives was emphasized. Of ASEAN-WEN, it was highlighted that it had been relatively effective, particularly in raising awareness and attention to the issue and encouraging coordination, but that it is still in its infancy and has a lot of potential. It was suggested however it was difficult to say how effective it has been in combating wildlife crime. It has had some successes and been involved in operations but it is difficult to establish if the enforcement actions are as a result of the network. The difficulties with institutional support were emphasized as a challenge. Some rated it as 'disappointing to dysfunctional' due to the lack of government ownership of the process. Overall it was however suggested that it is a good umbrella for cooperation that needs to further evolve and become more effective.

Key similarities and differences in participants' responses:

In general, all groups agreed on the difficulty of defining and measuring effectiveness. Governments focused on the need to balance a number of indicators and various levels to measure efforts, but provided limited details as to how. Intergovernmental and nongovernmental representatives focused more actively on the need to have specific indicators and detailed monitoring as well as data to measure efforts. IGOs produced more of a strategic and long term approach to ensure sufficient data can be collected and analysed and that the appropriate indicators are explored and taken into account. NGOs, while agreeing with the other groups, had a more practical approach and focused on measuring commitments and actions

There was broad agreement on the need to measure effectiveness through various layers and a broad range of potential indicators. Interestingly all groups highlighted the importance of ultimately measuring the outcomes of actions (i.e. more wildlife in the wild as a result of activities), with NGOs promoting the measurement of more immediate successes and with some interesting propositions (such as a points system) that could potentially be used to rank countries, raise awareness or profile their successes.

While providing a self-assessment on the initiatives, governments did practical assessments: for the BLOs the support for the mechanism and its sustainability were key components of its effectiveness. For ASEAN-WEN, it was the changes it has generated in the region and its policy and political level engagement (but not its operational capacity). IGOs focused more on the need to strengthen monitoring to assess the initiatives, and had a critical review of both the BLOs (effective in some more than others) and of ASEAN-WEN's operational aspects and capacity. At the same time they saw the benefits and improvements of both on cross-border cooperation through building trust and capacity at key border areas (for the BLOs) and contributing to raise the profile of wildlife crime and other policy aspects in the region (for ASEAN-WEN). NGOs were somewhat in agreement with different components and assessments but focused more on the changes and successes since the creation of ASEAN-WEN and its potential, likely due to their strong engagement in its development. It should be noted that even within the NGO perspectives there were differing views (some overly positive and others overly negative), likely due to the fact that its development was, in participants words, 'very territorial'.

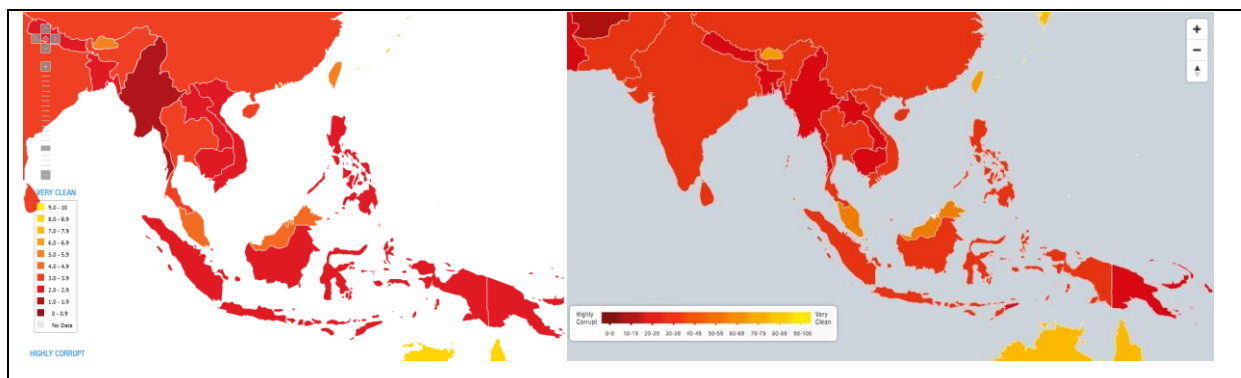
In all cases however the groups acknowledged that the initiatives were still in the initial stages of development and on the way to reach their potential.

7.3 Corruption and the illegal wildlife trade

Corruption in the illegal trade is an issue that was continually highlighted by interviewees as one of the major problems in effectively countering transnational wildlife crime.

When speaking about corruption, it is always useful to use the Transparency International's Corruption Perception Index²⁵⁴ as a baseline to identify the perceived levels of corruption in countries. The Index is developed based on expert opinion and measures the perceived levels of public sector corruption worldwide.

Figure 7.1: Corruption Perception Index of 2010 (left) and 2015 (right) for countries in Southeast Asia



Source of Maps: Transparency International - Dark red indicates a highly corrupt public sector. Lighter red and orange indicates corruption among public institutions and employees is common. Yellow indicates countries are perceived as cleaner, but are not perfect²⁵⁵.

The above is a useful indicator that can be used as a baseline for the following discussion. In particular it is important to note that most countries in Southeast Asia and in particular those included in the research are perceived to be countries where corruption is common.

Before exploring participants' perceptions on this crucial matter, however, it should be stressed that the issue of corruption is no longer 'the elephant in the room' in the wildlife arena. In 2017 (subsequent to the fieldwork reported in this thesis), the Conference of the Parties to CITES unanimously adopted Resolution Conf. 17.6 on *Prohibiting, preventing, detecting and countering corruption, which facilitates activities conducted in violation of the Convention*, which acknowledges the dangers of corruption and calls for CITES Parties, i.e. 183 member states (182 plus the European

²⁵⁴ <http://www.transparency.org/research/cpi/overview>

²⁵⁵ 2010 data available on <http://www.transparency.org/cpi2010/results>. 2015 data available on <http://www.transparency.org/cpi2015>

Union at the time of writing) to adopt measures to address corruption related to wildlife crime. This is, by all accounts, a monumental step in the recognition of the problem of corruption in the illegal wildlife trade and will help shape future responses.

As part of the discussions during the fieldwork, participants were asked to reflect on the scourge of corruption on the illegal wildlife trade. This question was optional and was only discussed if participants were willing to do so. Interviewees were asked if they were aware of any instances of corruption but were not directly asked to provide specific examples. Overall, all interviewees of the different categories identified corruption as a major problem and highlighted the need to tackle it in order to be more successful in combating wildlife crime. Some participants however, were eager to provide the examples to ensure this important issue is addressed²⁵⁶. The below themes were identified around the issue of corruption:

7.3.1 A major challenge

The government perspective:

Most government representatives noted corruption posed a challenge in tackling the illegal wildlife trade. In most cases however, they were not directly asked to answer specific questions about corruption to ensure they were not put in a difficult or culturally inappropriate position. The matter was discussed with participants who raised the issue of corruption at some point during the interview and on a case by case basis and where appropriate.

Overall, most interviewees who wished to discuss this issue, highlighted that it was a serious problem that needed to be addressed:

I heard some stories in the news ... [it] obviously happens a lot ... corruption is everywhere, but often no proof (Interview with Jiu, Shi, Ershi and Sanshi)

The answer to this question is simple: YES corruption does exist and it undermines a significant amount of the work being undertaken. Am I aware of many examples ... but cannot comment further (Questionnaire received from Liushi)

²⁵⁶ It should be noted that while virtually all participants highlighted the issue of corruption and were aware of instances of corruption, only a small proportion had or were willing to provide examples of corrupt activities or practices. Three participants agreed to provide examples that could be used in the thesis while a similar number of examples were provided by others in confidence. It should be noted that one interviewee in particular that had been involved in the investigation of wildlife crimes in the region for a number of years had a long list of examples, some of which are in the following sections (and others that were not recorded at his/her request as they cannot be made public).

Some of participants in [the] network are taking advantage of [their] position and following corrupt activities (Interview with Jiu, Shi, Ershi and Sanshi)

It should also be noted that in some cases responses were provided off the record and can therefore not be included here. Their perspectives are, however, reflected in this chapter.

The intergovernmental perspective:

Overall, most interviewees who wished to discuss this issue, highlighted that corruption was a fundamental pillar that had to be addressed and that not enough emphasis has been placed on this issue at the time:

Yes, there is corruption everywhere (Interview with Song)

It certainly damages the fight against crime. It undermines the rule of law, the justice system, trust. In some cases this is a cultural element that has to be taken into consideration (Interview with Gao)

Corruption is an important impediment to enforcement ... needs to be effectively addressed; but we need to be clear about what kind of corruption [we are] talking about. Experience in region has been that enforcement agencies are proactive ... environmental crime is still not considered as major revenue, still not [a] priority ... corruption levels have not really influenced environmental crime issues in large way, but slowly becoming major area of focus (Interview with Peet)

The need to address the underlying causes of corruption was also stressed:

It needs a holistic approach ... [We are] concerned that a lot of money is going to combating crime, but not to combating corruption ... but if you remove the human element, corruption can be reduced ... for example by developing an electronic system instead of [relying] human interaction (Questionnaire received from Ha)

Particular areas susceptible to corruption were highlighted:

the borders are unfortunately still an area that due to the remoteness ... due to a number of reasons ... is still extremely susceptible to corruption ... and corruption remains the main and fundamental cancer at the border (Interview with Neung)

The non-governmental perspective:

Overall, most interviewees who wished to discuss this issue, highlighted that '*corruption is probably the biggest challenges to effective wildlife trade enforcement. You can build capacity, raise awareness, but as long as you have corruption, the laws won't be enforced. [It is] incredibly wide spread, scary*'²⁵⁷. Participants agreed on the need to tackle it in order to combat wildlife crime and

²⁵⁷ Interview with J

agreed with the other groups that not enough emphasis had been placed on this issue at the time. In particular it was noted that corruption is ‘the status quo’:

We have corruption in wildlife but that's not the real problem. The real problem is the whole country has a longstanding culture and that's how they keep order here. It's not great but it's the way it works. Corruption ... is often the same as the status quo ... it's the way the society functions. Trying to change the ship around takes a strong effort ... It is basically institutionalized. The problem is that you get used to it (Interview with F)

Corruption was highlighted as a ‘huge’ and ‘major’ problem:

90% of the things wouldn't happen if people would be doing their job properly (Interview with M)

At one end people who are neither doing anything wrong ... but not whistleblowing, on the other end you have people actively turning a blind eye and people who say yes please ... [there are] various degrees ... this is because of the lack of incentives and low wages (Interview with B)

Corruption is a major concern in addressing and combating wildlife crime, and something that is incredibly difficult to tackle head-on. The problem is that wildlife crime is highly lucrative and with the chances of being caught and seriously reprimanded are low. Furthermore, wildlife crime is largely not considered a serious offence in Asia compared to other crimes, and therefore corruption in relation to wildlife crime is often overlooked or just not accorded a high priority (Questionnaire received from P)

Different types of corruption were noted:

Yes, corruption is a huge factor impacting the fight against illegal wildlife trade. You have different levels of corruption ... you have from people on the ground who just get a small fee to allow a truck to carry illegal wildlife parts to pass; you have levels from that to the top – senior management person who maybe gets paid from the different wildlife traders in the country to just look the other way when they make shipments. [Some] border patrols are not even shy about it ... [I] don't see any effective way to deal with it ... it is obvious that it exists, but nobody does anything about it (Interview with D)

Corruption is a big problem, with a lot of people involved trying to prevent it ..., others actively in bribing ... [there's] big involvement in forestry products, also wildlife, but to a lesser extent ... we have to be secretive about operations, because if local authorities are alerted, by the time we get there, nothing is left. Local authorities are only contacted after evidence is secured ... we have good close relationships with some, but with others it's more problematic ... officials receive low salaries, and supplement it with bribes. The local NGO team usually seizes more than the whole country! (Interview with K)

The need to address the underlying causes of corruption was also stressed:

Tackling the problem head-on is difficult, a couple of ways to address the problem include raising the profile of wildlife crime as a serious issue and getting more high level political will to address the problem. Also, in my view where there is a demand, there will always be a

supply so long-term education programs are essential so that people are aware of the consequences of buying illegal wildlife (Questionnaire received from P)

7.3.2 Involvement at all levels?

The non-governmental perspective:

Interestingly, some participants noted that it was more of a 'lack of action' issue, rather than corruption itself. The potential involvement of authorities in the illegal trade was also suggested:

A lot of times what we perceive as corruption is not corruption. You know, I just don't think most officers are giving this issue the time of day ... I mean I can only imagine, if I am busy, I can't imagine how top cops and customs officers are ... I just think they are too busy. Corruption in general in the region, we have learned that it is just endemic. The issues are pretty much the same across the board. (Interview with O)

You see ... in (country X) for example, very often the people at high levels are not interested in combating [it] and very often they are involved in the [illegal] trade (Interview with F)

Corruption is everywhere ... [I] do not have evidence, but receive some information and police not always willing to act upon it; but never sure if it is corruption or not – when opportunity is there they may not do it, but not sure whether corruption or unwillingness; lack of good people – if do job well, i.e. without being corrupt, might be moved to other department or get into other trouble; bad guys more powerful (Interview with L)

Nonetheless participants also noted: *'there is hope. There are lots of very good officers and they are increasingly frustrated. There are also lots of people willing to help'*²⁵⁸.

7.3.3 Addressing corruption

The intergovernmental perspective:

Multiagency cooperation was also highlighted as a means to reduce the likelihood of corruption:

It is a very difficult and sensitive question to answer ... the approach that we are using to encourage ... to mitigate corruption is to bring them into the open ... in the way to try to make them work as a team ... through the transparency approach as a team and amongst themselves and with their counterparts across the borders. Standard Operational Procedures is one of the major things to try to mitigate the opportunity for some officers to get the benefits unofficially ... Once we can promote clearer cooperation procedures, that is one way to mitigate corruption (Interview with See)

²⁵⁸ Interview with F

Working together might also create that kind of discipline which may be an anti-corruption incentive ... theoretically if someone in uniform has the opportunity or is exposed to an opportunity of corruption ... might be less encouraged if he or she knows that a person with a different uniform is sitting close to him or her ... and could not judge positively what they are doing ... so this kind of interaction could actually have beneficial effects ... not only in the area of cooperation but also in the level of integrity of a certain border area ... (Interview with Neung)

7.3.4 Lack of evidence

The intergovernmental perspective:

The lack of 'hard' evidence was also one of the issues noted:

[I] heard of some cases, but no evidence (Interview with Yipsee)

A lot of rumours, only one country where [we] know for sure, but [it is a] common problem. The more development, the less chances for corruption ... all harder factors of life can make you corrupt; business is mostly light, corruption is mostly bribing (Interview with Sip)

The non-governmental perspective:

The lack of 'hard' evidence as well the potential punishments for not 'looking the other way' were other issues noted.

There are national corruption laws, but it is hard to get evidence; corruption is an issue in wildlife trade; in CITES model law it is included, also bribery ... national authorities should incorporate into national laws, but not everyone has incorporated that. There is money, bribery involved in obtaining permits ... in [country A], there are some allegations, public documents; one government did some counter-steps, but not sure about the effectiveness, as documents not publicly available (Interview with I)

7.3.5 Examples

All examples were provided by NGO representatives and are explored in further detail below. A specific example was given:

I know someone that had a son that wanted to be a policeman in country [X]. He applied and takes the test ... and did great ... and they offered him the job. He got it and they said you start next week. Then someone from the duty post he had been assigned came to his house and asked for a fee for him to start his job. If they don't pay then he can't get the job. So he refused and couldn't get in (Interview with H)

The following box contains case studies on corruption in the illegal wildlife trade highlighted by a number of participants which clearly indicate the devastating effect of corruption on efforts to regulate and control international wildlife trade and counter transnational organized wildlife crime.

Box 7.1: Case studies: corruption in the illegal wildlife trade

A number of interviewees gave specific examples of corruption and how it is used by criminal wildlife networks to conduct their business:

'It's a problem all across Asia ... we would have 90% less problems than have now ... it is a problem at all levels. For example [I know this] female trader who has lot of influence and protection of higher police in [country A] ... people were able to get guy immediately below her, [but] then the officer investigating her got transferred and couldn't catch her ... then she moved ... from country A to country B, got to country C in a truck, moved up to [the] Northern part of country, then ended up via country D in country E. She has a good network ... she is organizing, people under her don't know what other people are doing ... she also smuggled [tiger] cubs with fake parents, [a] DNA test revealed truth ... she had local people collecting tigers, changing cars ... it's unknown how they cross borders, but usually [through] some village, including bribing, to avoid the official checkpoint' (Interview with M)

'I can give you a couple of examples. ... In [country A] there is a legitimate businessman of mixed [X] and [Y] nationality, an ex-gangster from China, that is heavily involved in shipping wildlife, ivory, rhino horn, tiger parts and shipping it from Southeast Asia to China ... I posed as a rhino horn seller and can tell you first hand that they have told me that a number of officials at the airport are dirty. He said when he ships something officials at both ends, to ensure the load, are paid' (Interview with F)

'In another case, one of the deputy ministers of [country X] was directly involved ... very sociable, the people get together and are friendly ... it's all about making some money. There is also a government official that has a lot of power in the decision making on what is going where ... and he was moved back to a very critical position at the airport in (country X) where he has a direct control of what is happening at the airport. He was found doing it before, moved and after a few years he went back to the same position. These are examples of issues I see quite frequently' (Interview with F)

'we followed a bag (containing turtles) from Bangladesh ... we had the flight number, no name. We gave the information to customs and police to follow the load but they didn't find it because it got picked up before the (baggage) belt. There was a leak and now they will change the route as [they] is now aware that the route is being watched ... You don't know if it's the flight attendant, the customs guy, the baggage operators ... [it] can be anyone that has access to the bag (Interview with H)

PERSPECTIVES ON CORRUPTION AND THE ILLEGAL WILDLIFE TRADE

Corruption in the illegal trade is an issue that continues to be highlighted as one of the major problems to effectively counter transnational wildlife crime. As part of the discussions, participants were asked to reflect on the issue of corruption and the illegal wildlife trade. Overall, corruption was identified as a major problem and participants stressed the need to tackle it to be more successful in combating wildlife crime.

Government participants acknowledged the serious problem and that it undermines efforts and activities to come to wildlife crime. IGO's emphasized that corruption was a fundamental issue that should be addressed. They also suggested that corrupt practices are embedded in the region and difficult to address. Multi-agency cooperation was seen as a way to increase transparency and mitigate corruption. The lack of hard evidence of corrupt individuals was also noted. The NGOs highlighted that corruption was the biggest challenge in the region, not only for combating wildlife crime, but in general, as it was part of the institutional culture of corruption within the region. This was highlighted through a number of detailed examples and case studies as well as by others that were provided in confidence and that cannot be mentioned here. They also stressed the different levels of corruption that exist across the trade chain and the strong impact on the illegal wildlife trade and any efforts to combat it. The potential involvement of authorities in corrupt activities was also suggested however it was also stressed that there are lots of good officers out there and that, in some cases, the issue is exaggerated.

Key similarities and differences in participants responses:

There was broad agreement on the need to combat corruption and that it is a major issue and challenge that needs to be addressed, as well as about the lack of evidence of corrupt practices and activities even though these may be 'common'.

Government representatives had a direct but reserved approach to corruption, mainly due to the limited known cases, but acknowledged the potential involvement of officers in corrupt activities, particularly at border crossings or airports. Intergovernmental representatives, perhaps due to the fact that they are specialized agencies but also 'neutral', tended to reflect practically on the need to address corruption and various strategies that could be put in place to do so. For example, by promoting multi-agency cooperation as a way to reduce or mitigate opportunities for corruption. It

should be noted that government and intergovernmental representatives did in some cases allegedly have specific examples but were not in a position to provide any details.

In contrast, nongovernmental representatives, while agreeing overall with the other groups, were in some cases more vociferous and inclined to provide practical examples as they are potentially more involved in the field level and therefore more aware of potential cases of corruption. NGOs also have, as national, regional and global watchdogs, the responsibility to raise awareness about crucial issues such as corruption. It should be highlighted that at the same person that provided the examples also highlighted that there are very committed officers that are trying to do their jobs. It is a question of finding the 'right' one.

Chapter 8: The effectiveness of international cooperation to combat transnational organized wildlife crime

8.1 Introduction

After a number of years *exploring the effectiveness of international cooperation to combat transnational organized wildlife crime*, one of my first conclusions is that both *exploring* and *measuring* effectiveness are part of a difficult *puzzle*. The thesis aims to contribute some additional pieces to the puzzle by exploring some lessons from initiatives in Asia to combat transnational wildlife crime so that eventually a better understanding can be reached²⁵⁹. It provides a snapshot of how two particular initiatives operated at a specific time (2010-2013) and place (Southeast Asia) based chiefly on the perceptions of those involved²⁶⁰.

The research has explored the international framework within which the illegal wildlife trade is combated, as well as the role of state and non-state actors (see chapters 2 and 3). It has examined the illegal wildlife trade as a transnational organized crime and highlighted the emergence of new structures or initiatives that have been developed to facilitate cooperation and coordination that have been developed in Asia to combat the illegal wildlife trade: the ASEAN Wildlife Enforcement Network (ASEAN-WEN) and the Border Liaison Office (BLO) mechanism (see chapter 4). The ensuing chapters explained the research methodology (see chapter 5) and explored a number of common themes identified based on perceptions of participants involved in the initiatives that were interviewed during the fieldwork (see chapters 6 and 7). This chapter will aim to put the pieces of the puzzle together and examine, based on lessons learned from initiatives in Asia, the influence of the initiatives on the illegal wildlife trade and cross-border cooperation. It will also aim to evaluate their effectiveness as platforms to combat transnational organized wildlife crime.

Availability of data, information, and access to participants, as elucidated upon in earlier chapters (see chapter 5), delimited the boundaries of the research, which explores the illegal wildlife trade in the region and the importance of initiatives and networks to combat illegal wildlife trade. The

²⁵⁹ See footnote 1 in the Introduction for details on previously published work used in this thesis.

²⁶⁰ Since 2013, I continued to follow developments in the field and in relation to the organisations involved and these data are included where relevant up to the timing of writing in early 2017.

research was not able to measure the actual outcome or impact of their efforts on the ground as such data is not currently available (see chapters 4-7)²⁶¹, but attempts to evaluate and measure their effectiveness, based on perceptions, and identify ways to strengthen both the effectiveness of efforts to combat wildlife crime as well as the way one could analyse or measure the effectiveness of networks.

Evidently, the research does not provide the ultimate and final answer to combating transnational organized wildlife crime nor a way to assess the effectiveness of all efforts, networks and initiatives. It is hoped that it will however help generate a number of additional research studies or questions that can benefit from the available data included here, and perhaps focus on those areas that were not possible to address in this piece, such as exploring the possibilities and desirability of using more targeted outcome evaluation research strategies (e.g. Pawson and Tilley, 1997) or specific research based on specific criminal networks involved, markets or border crossings.

The research does, nonetheless, provide an in-depth analysis of two existing efforts in Asia and, in doing so, attempts to measure their effectiveness and identify ways to strengthen both the effectiveness of efforts and the way one could analyse or measure their effectiveness. This is indeed something that is necessary, lacking and that requires significant attention, as has been highlighted in earlier chapters (see in particular chapter 4).

This is not only needed in Asia, but across the world as a myriad of similar initiatives exist worldwide²⁶² and, as highlighted throughout the thesis, research of this kind is limited or non-existent. I believe the findings could in fact be generalized to other regions and networks taking into account the different levels of development, and the structure, setup and aims and objectives of other initiatives as well as regional considerations and cultural aspects. Regardless of the regional or global reach, the findings will hopefully address a number of gaps, both in knowledge and

²⁶¹ There are possible ways to measure the outcome of enforcement and crime prevention policies as well as the dynamics and operation of the illegal wildlife trade and modus operandi of traffickers in contemporary criminology by, for example, conducting observations at border crossings, markets or specific (illicit) trading points or gathering data from criminals involved or that have been prosecuted for wildlife crimes. Due to the nature of the research and the limited availability of data on the illegal wildlife trade or of access offenders, it was not possible to explore this further as part of the research as it would have required a totally different type of research, or more likely a number of different pieces of research on the subject (see Chapter 5).

²⁶² Similar networks, albeit developed and structured in different ways, exist and are at different levels of development in Africa [Central Africa WEN, Horn of Africa WEN (HAWEN), Indian Ocean Forum on Maritime Crime (IOFMC), Lusaka Agreement Task Force (LATF), Southern Africa Ivory and Rhino Security Group, Southern Africa WEN], the Americas [Central America WEN (ROAVIS in Spanish), South America WEN, North America Wildlife Enforcement Group (NAWEG), Caribbean WEN], Asia [China National Inter-agencies CITES Enforcement Coordination Group (NICECG), South Asia WEN (SA-WEN), CITES Experts Group for West Asia] and in Europe (European Commission Enforcement Working Group). See reports of the 1st and 2nd Global meeting of the Wildlife Enforcement Networks (ICWC 2013 and 2016) for additional details.

understanding – but also help strengthen existing initiatives and provide practical guidance and direction to shape future efforts to combat transnational wildlife crime.

The chapter will return to the key research question: are border and regional law enforcement initiatives, such as the BLO mechanism and ASEAN-WEN, effective in combating transnational organized wildlife crime? To answer the question, the diverse dimensions (or sub questions) explored in earlier chapters will be reflected upon. Firstly, this will include exploring the challenges of cooperation and the various actors involved in combating wildlife crime. This will be followed by some considerations on wildlife crime as a serious transnational organized crime and combating it through platforms for cooperation. The chapter will then explore and endeavour to measure the effectiveness of the different initiatives examined and conclude with an overall assessment of the effectiveness of the initiatives to combat transnational organized wildlife crime. Given the pervasive role of corruption in the illegal wildlife trade, some reflections on this important matter will be included. The thesis will conclude with some thoughts for future research and engagement for the broader research community as well as practitioners or organizations involved in similar efforts.

8.2 Everyone likes to cooperate but no one wants to be coordinated

Initial chapters of the thesis highlighted the emergence of tailor-made procedures in international environmental law and the development of dynamic and flexible regulatory regimes aimed at enhancing cooperation to deal with environmental problems such as, for example, the illegal wildlife trade. It was suggested that dealing with international environmental problems is essentially political in nature and heavily linked to securing international cooperation at a global level taking into account the different priorities of states. In this cooperative puzzle, states remain the key decision makers and retain control. However, it is vital that they cooperate with the international community (or international society, see chapters 2 and 3) to effectively deal with international environmental problems, as states can no longer effectively deal with global problems alone. This has motivated the involvement of additional players that, in a complementary and mutually beneficial manner, are able to fill in the gaps that states are unable to address alone. The participation of additional actors is essential to assist states and to ensure compliance with international obligations and conventions such as CITES and to ‘shape’ state behaviour (see chapter 2 and 3).

Indeed, the famous phrase (*everyone likes to cooperate but no one wants to be coordinated*) has been said by many, and they are not wrong. As earlier chapters suggest, there appears to be consensus on the need to work together to combat transnational crime. This is not only suggested by a number of authors (see chapters 2-4), but also echoed by participants interviewed where there was broad agreement from all groups that cooperation is essential (see chapter 6 and 7).

As explored in detail in chapter 6, there was broad agreement from participants interviewed on the key elements of cooperation to combat wildlife crime, namely the need for: political support; a mandate, agreement or institutional framework; improved communication between relevant partners; opportunities to meet and share experiences; trust and relationships; and for increased human and financial resources, capacity and skills.

In principle, everyone wants to cooperate. How this is done is, however, somewhat more complicated. As identified in the literature cooperation is challenging and there are a number of issues to take into consideration, including the levels and type of cooperation (e.g. political or operational), the basic elements that facilitate cooperation (e.g. trust and relationships) and the crucial elements of cooperation (e.g. high-level political support and commitment from governments).

This was also reflected by participants interviewed, who also acknowledged that cooperation is not as easy as it seems at the national level, let alone at the international level. It is also not generally seen as a priority by countries and political elites, and often done in a fragmented manner.

Government representatives interviewed focused on practical aspects of cooperation (e.g. opportunities to meet, develop trust/relationships and the need for financial resources) and institutional aspects of cooperation (with a focus on the required mandate and hierarchical support to be able to cooperate). Interviewees from the IGO group highlighted that cooperation at specific border areas is easier to generate as its officers have increased opportunities to get to know each other and develop trust. NGO representatives focused more on practical aspects of cooperation as well as on creating opportunities to encourage cooperation.

There was broad agreement over discussions on formal or informal cooperation. It was acknowledged informal methods are preferred but that they need to be enclosed within formal structures or mandates. The importance that policies and decisions taken at the policy level take into consideration the needs of the field was also stressed by participants, as this is not often the case. This crucial aspect is also identified in the literature (see chapter 4 and 6).

All groups emphasized the importance of trust. As noted in chapter 6, *actual* cooperation is based on trust and relationships and trust cannot be developed forcefully. An important role for the initiatives was seen as a platform to encourage the development of trust and relationships. As suggested in chapter 6, interviewees from the IGO group in particular focused also on the need to develop institutional cooperation so that efforts do not end if staff members are reassigned. This is summarized well by the following quotes from Sishi, See and A, as set out in chapter 6:

[You] need to have formal work structure, but personal relationships and informal relationships are very important to get the work done (Interview with Sishi)

You can train people, but you cannot force people to work together (Interview with See)

In reality it is all about personal relationships ... to meet and know each other's ... and an associated need, the need for consistency ... or constancy in the players ... dealing with some of these countries the faces are very familiar and when they are familiar among each other it all works better (Interview with A)

The importance of cooperating with a number of partners was also highlighted during the interviews, as having several partners can contribute to efforts to combat wildlife crime in a number of ways (coordinating, supporting or building capacity or providing technical and financial support) and encourage the development and strengthening of political support.

An interesting reflection that can be taken from both the literature review as well as the interviews conducted is the role and responsibilities of the different players involved. Indeed, states, IGOs and NGOs have all different and very distinct roles in the development, shaping and implementation of international agreements and related efforts. States for example have the responsibility to negotiate, accept, ratify and implement treaties, while other actors will also play active roles in the different stages of the process that leads to the negotiation, ratification and implementation of treaties. However, chapters 6 and 7 suggest there are limited differences between what the various actors do in reality and that their roles and levels of involvement are somewhat blurred. The negotiating process of treaties and agreements for approving or rejecting certain resolutions is one example where certain organisations play a considerable role in the lobbying of decision makers and are able to sometimes impose their specific interests. While the roles of the actors involved are indeed blurred in many cases, it is important to nonetheless ensure that distinctions in their roles are preserved. States continue to be the only decision makers and efforts will fail unless mandates and responsibilities of the different actors is respected.

8.3 Transnational wildlife crime: a serious organized crime

Closing the data gap

Earlier chapters suggested there is limited academic research on the illegal wildlife trade and the organization of the criminal networks involved (see chapter 4). This affects the overall knowledge one may have of the real threat and, in turn, the capacity to counter and respond to the crime effectively. The combination of porous borders with limited data does not enable one to provide a comprehensive picture of the illegal wildlife trade, although the overall dynamics are easier to understand and specific border spots are relatively well known as hot spots for illegal trade, such as border crossings between country A and B, or key markets in country C. General trends, trade routes and smuggling routes are known for a number of illicit trades (usually those with a higher profile such as ivory, rhino horns, tiger parts, etc.) and are being increasingly explored for a number of additional species (such as pangolin). More targeted research is however required on the overall trends, organisation and involvement of organized groups and data collection should be enhanced. This was also reflected by participants interviewed who in general agreed on the lack of data and understanding of the dynamics of the illicit trade and the need for additional research on wildlife crime.

As noted in earlier chapters the lack of data on the illegal wildlife trade is a problem that is slowly being addressed (see chapter 4). The increasing profile of wildlife and environmental crimes over the last decade has generated a growth in related disciplines and interest from research institutions, as well as a growth in interest of the organizations that are 'tasked' with combating it (Wellsmith, 2011, 126). The limited knowledge of wildlife networks is also 'slowly growing' (Ayling, 2013, 59; see also Pink, 2010, 2013; Pink and Lehane, 2011; Pink and Bartel, 2015 and chapter 4). A critical development is the publication of the first ever World Wildlife Crime Report (UNODC, 2016). The report, produced by UNODC with support from ICCWC 'takes stock of the present wildlife crime situation with a focus on illicit trafficking of specific protected species of wild fauna and flora, and provides a broad assessment of the nature and extent of the problem at the global level. It includes a quantitative market assessment and a series of in-depth illicit trade case studies' (UNODC, 2016, 9). The key reason why this report is particularly important is that it is based on official data provided by countries using a similar approach to the UNODC Annual World Drug Reports. Another reason is that wildlife crime is finally getting sufficient attention for countries to actively request it to be monitored much more closely (see chapter 4).

In addition, CITES Parties are now requested to submit (starting in 2017 and with the first reports due at the end of October 2017), official data on the illegal trade and have requested that these data continue to be analysed through annual reports on illegal wildlife trade²⁶³. This will generate future iterations and improve and expand the current knowledge base and information available.

The illegal wildlife trade, a serious transnational organised crime

The illegal wildlife trade has created a lucrative black market for traders and fiercely competitive and highly organized (legal, illegal and criminal) networks to exploit. While most of the illegal trade in wildlife is believed to be done by competing networks displaying different levels of organization depending on the volume and value of their trade, evidence suggests that sophisticated and highly organized criminal groups are increasingly involved in particular types of highly profitable commodities.²⁶⁴

This was also pointed out by participants interviewed who agreed on the lack of clarity and details on how illicit wildlife networks are organized, the varying degrees of their organisation and that there are a relatively large number of unknown networks (see chapter 6). The comment that F sets out in chapter 6 reflects the overall consensus:

There is disorganized crime and organized, and then highly organized crime ... Many are opportunists ... the disorganized criminal ... a chance to make a quick buck. Most [illegal] trade is done by highly organized competing networks (Interview with F)

Two important questions arise: Are criminal organized groups dealing in arms, drugs or human trafficking involved in the illegal wildlife trade? Are organized wildlife networks involved in the trade of other illicit commodities?

As the analysis of wildlife crime with other transnational crimes such as drugs and art highlighted (see chapter 4), there are a number of commonalities, differences and links between the various illicit trades. As highlighted in chapter 4, commonalities between the trades include:

1. The illegal market is intimately linked with legal markets and the legal international trade (particularly for arts/wildlife, but not necessarily for drugs)
2. The commodities are poached/stolen/produced illegally

²⁶³ See CITES Notification 2016/007; CITES Res. Conf. 11.3 Paragraph 14.

²⁶⁴ See chapter 4 for additional details. See also footnote 1 for details on previous published work.

3. The smuggling routes and techniques are similar
4. Goods are smuggled along a trade chain: from source (or producer) to a consumer market in rich or emerging economies, with varied distribution mechanisms that adapt to the market demands
5. They range from highly organized and criminal organizations to the loosely organized or disorganized
6. Criminals operate across 'disturbingly porous' borders (Schmidt, 2004, 98)
7. They are 'enterprise crimes'. In other words, they are 'conducted as a business would be conducted, meeting a demand with an illegal supply' (Wright, 2011, 337)
8. They undermine the authority and legitimacy of government and enforcement efforts
9. Commodities can be laundered into the legal trade (where such legal trade exists)
10. Combating them requires technical and specialized expertise that is 'often beyond the capacities of ordinary law-enforcement personnel who have not been specifically trained in this area' (Wright, 2011, 337)
11. They rely on bribery, corrupt practices and violence to conduct their business

One additional point, harder to prove as general in terms of overall trends and patterns, due mainly to the limited and anecdotal evidence available is that live animals can be used conceal drug shipments or as drug mules (see chapter 4).

There are two additional points that need further elaboration:

12. The organizations will deal in any commodity to maximize profit
13. Organized criminals involved seek control, power and wealth

For the last two last points, it is believed however, by the enforcement and international agencies involved that (at least in Southeast Asia) that organized groups involved in wildlife crime will not generally be involved in other crimes. This would radically increase the risk and fines involved as well as their chances of being arrested, prosecuted and convicted. Conversely, criminal organizations dealing in drugs, and in particular illicit border operators, are likely to wish to complement their illicit trades with any additional commodity that increases their profits. This would indeed include wildlife.

In addition, it appears those involved in transnational organized wildlife crime are not necessarily seeking power, whereas those involved in the drugs trade may be (such as for example the mafia, see chapter 4 for additional details). Rather the main objective of wildlife crime is profits. Moreover, while in some cases rebel militia or other revolutionary or insurgent groups may finance some of their activities with profits from illicit wildlife trade, there is limited evidence for this in Asia (it is potentially in Africa as noted in chapter 4) and would in any event only be a small proportion of their funding (UNODC, 2016).

These points were also highlighted by participants interviewed who, somewhat similarly, overall agreed on the use of legal trade as a potential cover or smoking mirror for illicit trade. Government representatives were, in general, more reserved in their responses due to the lack of data and specialized agencies were able to provide additional detail. Specifically concerning links with other crimes, there was broad agreement on the use of similar routes, trends and smuggling techniques, but contrasts with other crimes were noted as it was suggested wildlife crime is a specialized kind of illicit trade and that those involved will generally not necessarily be involved in other crimes.

The key link identified by interviewees between different types of transnational crimes was particularly highlighted with regards to the use of border operators or of bottlenecks where everything and anything would be smuggled through, irrespective of the commodity. Only a small portion of participants, mostly from NGOs, disagreed with the general view and suggested stronger links between different transnational crimes.

In relation to the first question (are criminal organized groups dealing in arms, drugs or human trafficking involved in the illegal wildlife trade?), one can therefore conclude that, larger organized crime networks are indeed involved in illicit wildlife trafficking as part of their wider portfolio of criminal activities (i.e. the illegal wildlife trade is a secondary or opportunistic trade) or as a complementary illicit activity (see chapter 4 and 6; see also Duffy, 2010). In most cases, involvement will not be by the organization, but by individuals within criminal groups that may participate or have established links at different stages of the illegal wildlife trade chain (see chapter 4 and 6; see also Pires and Moreto, 2011). Individuals involved may make use their existing illicit trade chains or networks to deal in wildlife (see chapter 4 and 6; see also World Bank, 2005) and may be involved, if at all, in high volume/value commodities such as illicit ivory or rhino horn (see chapter 4 and 6; see also Elliott, 2012; van Asch, 2013, 2015).

Regarding the second question identified above (are organized wildlife networks involved in the trade of other illicit commodities?), it can be confirmed that wildlife is frequently moved along

similar international trading routes to other illicit commodities (see chapter 4 and 6; see also Duffy, 2010) and that a number of individuals operate and deal with a number of illicit commodities including wildlife. In Asia and Southeast Asia in particular, there are not, however, clear signs to suggest organized networks dealing in wildlife are involved in illicit trade in other commodities (see chapter 4 and 6; see also van Asch, 2013; Elliott, 2012). As elaborated in earlier chapters, while some examples exist where illicit wildlife networks may be connected to other criminal syndicates and organizations, specialized wildlife networks are rarely involved in other crimes (see chapter 4 and 6). This is largely because the trade in wildlife is specialized and entails specific skills and knowledge without which the trade would not be possible. In addition, and more importantly, the illegal wildlife trade is a low risk and high profit activity and dealing in other commodities such as drugs would significantly increase the risk of capture and prosecution (see chapter 4 and 6; see also Duffy, 2010).

As both empirical research and the available literature show, wildlife crime includes loosely organized or opportunistic crimes. There are however, a growing number of complex and highly organized criminal networks involved in the illegal wildlife trade (see chapter 6 case study I: The Bangladesh connection, and II: Anson Wong's alleged illegal wildlife network and 'business as usual' as well as other examples of pangolin networks or the illicit market operations provided), but there is – or seems to be – limited knowledge about them. This is highlighted by a quote from H, as set out in chapter 6:

Not many people know the specifics, only a limited amount of people know, but there are networks similar to (Anson Wong's) in Malaysia in at least Thailand, Myanmar, Indonesia, Philippines, China, South Africa, two in Madagascar, Bangladesh and India ... and there are many more. I know ten major traders. Out of those, 6 are really big and scary high level and very well organized ones that are often involved in very lucrative legal businesses (Interview with H)

One can only hope that the reason behind the lack of knowledge about them is because they are being investigated, but the issue remains: they exist, we know relatively little about them, and something should be done about it. What we do know both from the available literature and interviewee responses is that criminal organized networks dealing in wildlife often display similar levels of organization as their counterparts in other serious crimes, that they have received very limited attention to date, and that they should be treated – and prosecuted – with the same vigour and determination as other transnational organized criminals. Wildlife syndicates will tend to specialize on illegal trade in one or more species and not generally mix with other crimes, but they can be as organized and layered as the most sophisticated criminal network could be, and that they are highly profitable enterprises.

Broadly speaking, the illegal wildlife trade is quite similar to other crimes that focus on smuggling goods and commodities through trade chains (either locally or internationally). The crime is committed locally and then smuggled internationally and the commodity goes from a source country (a producer country for drugs) to a consumer country – with more or less steps along the trade chain. A network of criminality therefore exists at different stages of the chain, and in particular, at border points where it might be controlled by border operators or mediators whose role is to smuggle multiple commodities across borders. Combating wildlife crime therefore should be done using similar tools and methods as those that are used for other crimes such as drugs (e.g. intelligence driven operations, risk profiling, controlled deliveries, covert operations, forensics, and asset forfeiture to name a few) and treated seriously by the judiciary and prosecutors. Similarly to other crimes lower in the priority list such as art trafficking, the main difference is that the priority given to combating it is relatively low and this reduces considerably the probability of success to combat it as the enforcement community is not provided with adequate human and financial resources to deal with it and as a result have limited capacity.

In general, it is more difficult to control illicit wildlife trade crossing borders - particularly porous borders - than for higher profile crimes due to the lower priority awarded to it. Limited knowledge and awareness of the crimes and the difficulties associated with its identification often makes it easier to smuggle wildlife across borders. This highlights the important role of knowledgeable and proactive border officers in combating wildlife crime in the region. It should be noted that combating wildlife crime is becoming a higher priority in certain countries and at key border crossings, particularly airports, seaports and key hotspots or border crossings that are known illegal trade hubs and (relatively) well monitored (see chapter 4 and 6). Nonetheless, more needs to be done at the borders, as border areas and key hotspots are more susceptible to bribery and corruption, a key problem hindering efforts to combat wildlife crime (see chapter 7). A further issue to highlight is the lack of appropriate punishment for the crime as the illegal wildlife trade tends to be a low priority and receive low punishments while it can be a highly lucrative enterprise. This is starting to change, with UNGA Resolutions encouraging countries to treat wildlife crime as a serious crime. As noted in earlier chapters (see chapter 4), however, legislation in many countries still does not criminalize wildlife crime and does not punish it as a serious crime under the UNTOC convention (i.e. 4 years imprisonment).

Measures adopted at CITES CoP16 by Parties demonstrated a clear recognition to, as explained by Scanlon (2013; see also chapter 4) coordinate enforcement and make use of special investigative techniques and in-depth investigations to target the masterminds behind the illicit trade and to

ensure follow-up prosecutions. Effective and coordinated multi-disciplinary responses are therefore essential to deal with transnational organized wildlife crime (CITES Secretariat, 2013). CITES CoP17 has created some additional momentum and CITES member states re-emphasized the need to continue to strengthen efforts to combat wildlife crime, with key amendments to a number of resolutions and, for example, the adoption of a resolution to combat corruption associated to wildlife crime (CITES Secretariat, 2016). There has also been broad support through a number of declarations, statements and decisions, most notably those of the UN General Assembly on combating illicit trafficking in wildlife crime (see chapter 4). Efforts should continue to ensure these decisions and resolutions are implemented and that criminals involved in wildlife trafficking are prosecuted using all available tools.

8.4 Combating transnational organized wildlife crime through platforms for cooperation

Combating transnational organized wildlife crime has emphasized the need for collective transnational collaboration. As a result, a number of initiatives and mechanisms designed at both the national and international levels have emerged to strengthen cooperation between countries and to combat illicit wildlife trafficking. As noted in chapter 4, Bowling's (2010) new structures of cooperation have materialised in Southeast Asia in the form of ASEAN-WEN and the BLO Mechanism among others, where a number of international, intergovernmental and nongovernmental actors play a central and necessary role.

This was also reflected by interviewees (see chapter 6 and 7), who highlighted that the initiatives were important to enhance cooperation in the region and to build trust. This was emphasized by most respondents, albeit a limited number of NGO representatives highlighted, as stated in chapter 7, that the most important feature was the recognition of the problem and the availability of financial support and that the rest will follow.

Government representatives involved highlighted the fact that support was provided in a fragmented manner, with sometimes limited consultation, and that there was too much of it. They argued strongly that in order to increase ownership and investment in the initiatives, governments

should be more involved in the strategic direction and design. They also suggested support should be provided in a more structured and coordinated manner.²⁶⁵

There is often, however, a lack of cooperation in regional cooperative bodies or platforms. Traditional types of cooperation (customs to customs, police to police (i.e. national agency in one country contacts its sister agency in another)) have moved towards multiagency and targeted cooperation efforts and have generated a growth of networks and initiatives as new structures or platforms to facilitate international cooperation.

Platforms have emerged in a myriad of forms and ways to provide their members with opportunities to meet, develop trust and relationships, avoid duplication of efforts, provide capacity building, raise awareness and overcome cultural differences and challenges. They have also emerged to provide a concerted response to transnational crimes such as the illegal wildlife trade and to close loopholes or gaps. A key role for a platform for cooperation is to facilitate the development of relationships and trust, as without trust the likelihood of exchanging sensitive information is much less likely. At the operational level, networks have emerged as a way to generate a network of informal contacts that facilitates the development of relationships and trust and that is followed by formal enforcement cooperation structures and appropriate channels at the appropriate time.

As we saw in chapter 4, the literature identifies various types of platforms for cooperation. These are broadly grouped based on their level and aims and objectives – and they do not necessarily work well together (Guille, 2010; Block, 2010, 2011; and others; see chapter 4 for details) as they have competing priorities. Overall, a platform for cooperation is essential and needed to raise awareness of problematic issues (in this case the illegal wildlife trade), renew commitment to tackle it, and/or facilitate different types of cooperation. Such platforms, however, need financial support (external donors, but also internal from their member states) and champions or leaders that provide a clear and strategic approach to the initiative. In the following sections I summarise interviewees' perceptions on the two key initiatives investigated in this study, ASEAN-WEN and the BLO Mechanism and the key similarities and differences identified (see chapters 6 and 7).

²⁶⁵ It should be noted that since 2010 the number of coordinated efforts has risen considerably with, for example at the IGO level, the development of the International Consortium on Combating Wildlife Crime (ICWC) or a number of NGO consortiums organized alongside large projects funded by major donors.

Participants' perceptions on ASEAN-WEN:

Overall the initiative was welcomed and it was highlighted that it had contributed towards strengthening cooperation in the region but that there was still a long road ahead. Participants agreed that the network was a platform to raise awareness and the profile of wildlife crime as a serious crime, develop policy and encourage enforcement actions. Expectations from some groups however had shifted more towards enforcement. Some interviewees recognised however that it was potentially developed at the wrong level (e.g. policy level instead of practitioner level) or had inappropriate focal points (e.g. administrative instead of enforcement officers).

The main successes of the networks included its establishment and contribution to changing attitudes in the region towards wildlife crime as well as the increase in cooperation between member countries and agencies. Interviewees from the IGO group suggested it was partly successful were broadly supportive, but were rather critical on its usefulness at the operational level. Representatives from the NGO group praised its contribution to the change perceptions and responses in the region, but also its enforcement potential that (while noting it had not yet been achieved).

The main challenges faced by the network included lack of interest, buy-in and ownership by some of its member states (some government representatives suggested their administrations were not necessarily interested), the need for increased leadership and support from governments, and the operational limitations of the network. A number of IGO and NGO representatives suggested a bottom-up approach might have been more practical and would have increased government ownership over the initiative instead of an imposed structure or rushed development. The lack of capacity and coordination with for example the judiciary was also noted.

Within the group of NGOs, some participants were very supportive, notably those involved in its development, while others were very critical of it. There was, nonetheless, general agreement by the different groups that the initiative has unrealized potential (see chapter 7 for additional details).

Participants perceptions on the Border Liaison Office Mechanism

Overall, the main challenge identified was the expansion of the mandate to include wildlife crimes. These challenges were sometimes technical (e.g. awareness or species identification) but mainly

institutional as new agencies were involved (e.g. wildlife agencies had not been involved in the past), which disturbed the established 'balance'.

The main success included ownership over the concept and that it facilitated cooperation and the exchange of information, while generating trust between border officers. Government representatives highlighted some successful cases, although IGO representatives suggested it was difficult to associate them to specific BLO actions. An additional challenge identified (more prominently by IGO interviewees), was the limited monitoring and difficulty assessing the effectiveness of the initiatives due to the limited data available.

It was suggested all aspects of the mechanism should be strengthened. Intergovernmental representatives focused on a strategic multi-level approach (e.g. strengthening capacity, opportunity to meet and develop trust and monitoring of actions and their potential consequences among others) and reflected on potential risks and challenges (e.g. language barriers or corruption). The government perspective focused on the lack of political and practical issues such as language barriers and the need for additional opportunities to meet as well as of capacity building activities. Both groups agreed that the location of the offices was sometimes not close enough to the border.

IGO representatives highlighted primarily the importance of ownership and sustainability²⁶⁶ and stressed that the office is only supported if governments commit from its inception by providing the premises and funding its staff. While acknowledging that it was unknown if some offices were operational or not and that the mechanism works better in some places more than in others, they praised commitments by governments that had unilaterally funded and created a number of BLOs or funded their counterparts in neighbouring countries.

Similarly to what was emphasized in the case of ASEAN-WEN, there was also broad agreement that the mechanism needed time to adjust to the 'new' focus area (e.g. wildlife crime) and increased awareness that smuggling tigers, pangolins or other protected wildlife across the border is a crime (see chapter 7 for additional details).

²⁶⁶ The issue of sustainability and ownership was also a key issue for NGO representatives interviewed with regards to ASEAN-WEN and it can be safely assumed that would be the same case here.

An overcrowded platform?

The role of supporting partners to networks should also be highlighted. The importance of IGOs and NGOs in supporting ASEAN-WEN and BLO mechanism has been paramount. NGOs and IGOs can be a source of pressure to regulators to encourage them to act and can also facilitate and do investigations. NGOs for example have been and are conducting investigations either in close cooperation with the government (or just giving the results to a trusted government officer) or independently and then providing the results of the investigation officially to the government so they can follow up and conduct their own investigations. It needs to be noted that the fact that many enforcement efforts have been supported or guided by NGOs in a number of countries in Asia is due to the real or perceived limited capacity of the government to conduct investigations or to encourage further action at the government level. While this has positive results, and in many countries is essential, as the government is not able or interested – or some of its officers may be involved in the illegal trade - there are certain dangers as NGOs might not be aware of ongoing investigations that might be taking place and might end up destroying an ongoing investigation.

While this was essential in the past as there was a lesser degree – or an absence – of international cooperation, today regional and international enforcement agencies have stepped up their game considerably. The result is that there tends to be duplication of efforts and a fair amount of institutional competition between international organizations and NGOs to assist member states in operations. A necessary step is for these agencies to learn how to work better together – this has already started to happen in a number of cases. An additional danger is that governments may become reliant (and lazy) because it is all done for them. It should however be noted that government agencies have limited funds and multiple priorities and therefore generally welcome assistance.

The large number of players involved in the different initiatives, however, makes it more challenging to cooperate. This is due to the different priorities or perspectives of different players involved. Governments (theoretically) know and act based on what is happening at national level and their national priorities. IGOs have the international perspective and expertise and are (theoretically) aware of the extent different countries are engaging in best practices in their specific areas of expertise. NGOs have (theoretically) targeted expertise, but are biased and have their own specific agendas. In addition they may not know the real extent of government activities, particularly when they relate to enforcement actions, which are covert by nature.

The different types of organizations involved will also have different types of knowledge or perceptions of knowledge. Government perspectives focus their actions on national policies and priorities. International organizations tend to work for member states (particularly UN organizations or in relation to conventions such as CITES) and therefore are governed by member states. NGO perspectives and priorities will vary and are different based on the area of chosen focus and will be biased or have specific agendas. They will also tend to think there is much more limited capacity and action than there is in reality, whereas experience working with government shows that countries are indeed rather capable and independent when they wish to be (i.e. if they have a reason, for example a specific CITES decision or resolution). It should be noted however that IGOs and NGOs have important and essential roles helping to shape agreements, networks and activities.

8.5 Measuring the effectiveness of networks in support of international cooperation

As noted earlier, it is broadly understood that there is no one formula or set of instructions for developing a network. Similarly, there is no one way of developing or creating a successful or effective network: there are a number of ways. Every network is dependent on its unique circumstances at the political, geographical and cultural level as well as in terms of the specific challenges it faces or has been developed to address (see generally INECE, 2012; 2nd Global meeting WENS, 2016; Pink, 2010, 2015; Pink and Lehane, 2011; Pink and Bartel, 2015 among others).

Participants interviewed were asked about the effectiveness of the initiatives, including their views on what effectiveness means, how it can be measured, as well as different types of effectiveness (see chapter 7). In general, the different groups agreed that it was difficult to define and measure effectiveness. Governments suggested it was necessary to balance a number of indicators and levels, but provided limited details as to how. The other two groups focused on the need for data, indicators and monitoring at both a strategic/long-term level (IGO group) but also at the practical level (e.g. measuring commitments and actions) (NGO group).

Interviewees generally agreed on the need to measure effectiveness through a broad range of potential indicators that would include various layers and the importance of measuring the outcomes of activities (i.e. more wildlife in the wild as a result of activities), with NGOs making some interesting suggestions (e.g. a points system) that could potentially be used to rank countries as well as encouraging to measure immediate successes.

As highlighted in chapter 4, there are different layers of effectiveness: subnational, national, cross-border, regional and international. All need to be measured differently. It is important to look at the type of network and the objectives of the networks (informational, enforcement or harmonization?) as well as whether it is commodity based, geographically based or discipline based (or a hybrid), at the status of the network in terms of development (fragile, well established or somewhere along the way) and the levels of agency engagement, as this will also help measure the ownership over the initiative. In general, they operate at different levels.

To achieve the 'balance' suggested above, a mixture of indicators is therefore needed as many potential indicators are unmeasurable (for example, the real extent of illegal trade) or very difficult to measure (trust and informal cooperation) in the region, and should also include political support/willingness. These are as important – or more in the case of wildlife crime, which used to be a low priority – to raise the profile and encourage action.

Type and focus of the initiatives (informational, enforcement or harmonization and commodity, geographic or discipline-based)

This section will explore the differences between networks based on the types and focus (see chapter 4), based on the categorizations of Slaughter (2004, 52-61) that identifies three purposes or three types for networks: in relation to information, enforcement and harmonisation – or hybrids with elements of a number of them. Pink and Bartel (2015, 310) consider three main forms of networks: geographically-based networks, discipline-based networks and commodity-based networks, as well as hybrids that have features of all three.

Using Slaughter's (2004) typology, in general, it appears that ASEAN-WEN is more of an informational network with more focus on policy, awareness raising and coordination (but with the objective of being an enforcement network) and the BLOs are more of an enforcement network focused on information exchange. The initiatives are however also hybrids with elements of both.

ASEAN-WEN is also a commodity-based network, with a focus on combating illegal wildlife trade at the regional level. As it was created at a higher political level, and given that the focal points are more policy makers than enforcement officers, it works more as an information network. Since its creation, it has helped shape the response to wildlife crime in the region and the profile of wildlife crime in the region. At the same time, it attempts, through targeted activities and operations, to do

enforcement – but it does not normally focus on enforcement *per se*, even though its name might suggest otherwise.

The BLO mechanism on the other hand, is a geographically-based initiative, with a focus on combating transnational crime across the border. Its focus is on facilitating enforcement cooperation and information exchange. The problem is that there are limited data to measure how effectively that is done as such information is not collected routinely.

Measuring agency engagement with the initiative

As noted earlier, Pink (2015, 13-16) established that an agency's engagement with and benefits from networks to national organizations can be measured across five different phases: 'exposed but sub-conscious', 'increasingly aware but not involved', 'aware and involved', 'acutely aware and deeply involved' and 'researching networks'²⁶⁷. These could also be used as indicators to measure how effective the use of the network is for national agencies.

Based on interview data and information obtained at the time of the interviews, both would be in phase 3, with Thailand for ASEAN-WEN as host country and the national BLO coordinators in the different countries for their agency. Interview data however suggest neither initiative would necessarily be in the 'acutely aware and involved' phase (see chapter 7). The BLOs probably have higher interaction and information exchange at the national level, but it is more likely mostly bilateral or across the border. In contrast, ASEAN-WEN will have national focal points whose staff will go to meetings, etc., but it is unclear if/how much of the benefits of the participation of an officer in the network will be pushed to the frontline. This is likely to be a result of the challenges and differences between the operational and policy foci of the bodies, which are in some cases difficult to tackle as noted previously.

²⁶⁷ The first includes 'exposed but sub-conscious' where those involved in the network are aware of the network, have started to attend related events, but have a limited understanding of the network. The second is 'increasingly aware but not involved', where representatives attend events but do not actively participate and engage. Their understanding remains basic and their involvement does not necessarily benefit their national agency. The third is where network participants are 'aware and involved', have a good understanding of the network and start to actively engage and create a links between the network and their respective agencies, leading to greater coordination and increased (informal) exchange of information. The fourth phase is where representatives understanding is comprehensive and they are 'acutely aware and deeply involved' in the network by becoming involved and taking a key role and in related activities. In such cases, national agencies recognize the work and benefits of the networks as a core activity and promote coordination through the network. The fifth and final level is where network representatives are 'researching networks' (Pink 2015, 13-16). For additional details see chapter 4.

Exploring other (measurable?) indicators

Other useful indicators of effectiveness that could be used are how networks support their member states to implement international commitments. For example, how are ASEAN-WEN or the BLOs helping their countries to implement CITES decisions and resolutions? It is difficult to know overall how well they are doing this because they seem to be independent with their own agenda and priorities – some of which, one would hope, link to national and international obligations. These initiatives should however align their mandates and activities more closely to support countries to implement key resolutions and decisions under CITES as well as other international obligations. They are supposedly engaged (or mentioned) in specific CITES resolutions and decisions but it is difficult to assess if this is a political imperative of countries or whether it really has an impact and an important role in assisting their member states.

Activities and successes can be measured but doing or participating in activities is not necessarily a measure of success. It should be noted that seizures are also not necessarily an indicator of success as ultimately, disrupting networks, the flow of illicit goods in the region and the availability of illegal products should be the indicator to follow. Again, it is difficult to measure this and establish direct links to the initiatives as it would be difficult to know if specific results are based on specific activities of the network or not (except in very particular instances and operations). Other crucial aspects, virtually impossible to measure, are the levels of informal coordination and communication between participants and the sharing of information and intelligence between officers as data are not available, and they are dependent on trust, which is equally difficult to measure.

One could also not measure, at least in the short term, the effectiveness of initiatives based on their enforcement results (e.g. arrests and prosecutions). However, the nature of enforcement is by itself covert and therefore more is happening in reality than is or may be reported. An operation that will achieve considerable results will be likely to take a long time (even years) and not have any immediate results. Does that mean it is unsuccessful or ineffective during the investigation but suddenly effective when the investigation ends successfully? (and if it ends successfully, which might not be the case). Overall, except for targeted operations or activities, the link is difficult to establish as there is insufficient information available to know if seizures are the result of efforts from the network or initiative, a result of a successful independent investigation or a random coincidence.

Other aspects that should be used to measure the effectiveness of networks could include increasing the political profile and awareness about wildlife crime or the (increased) involvement of

prosecutors and the judiciary. These are important gaps in the current response and, as highlighted in earlier chapters (see chapters 4, 6 and 7), critical issues for successful enforcement. Sustainability and lack of funds are also commonly identified as a challenge. One of the most important aspects identified throughout the research is the importance of political support and national ownership as well as the sustainability of the networks or initiatives. These factors could be used to measure governmental interest and involvement as in most cases without governmental support and buy in over a specific initiative, no unlimited amount of funds will be able to achieve long term sustainable results.

Finally, one additional aspect to take into consideration is that networks are as good as their individual partners and, at the time of the interviews, a number of the national networks that had been allegedly developed were 'ghosts' that existed only on paper. Recent information received²⁶⁸ would suggest they might be more active but the lack of coordination at the national level continues to be an urgent need that should be addressed. It is therefore crucial to address efforts to strengthen national (multiagency) responses before an effective international response can be expected.

Participants' perceptions on the key effectiveness indicators of the initiatives:

Participants were asked to assess or measure how they saw the effectiveness of the different initiatives based on their experiences and perceptions on the effectiveness of the different networks and initiatives to combat transnational organized wildlife crime.

While providing a self-assessment on the initiatives, governments did practical assessments: for the BLOs the support for the mechanism and its sustainability were key components of its effectiveness.

For ASEAN-WEN, it was the changes it has generated in the region and its policy and political level engagement (but not its operational capacity).

IGOs focused more on the need to strengthen monitoring to assess the initiatives, and had a critical review of both the BLOs (effective in some more than in other borders) and of ASEAN-WEN's operational aspects and capacity. At the same time they saw the benefits and improvements of both cross-border cooperation through building trust and capacity at key border areas (for the BLOs) and

²⁶⁸ Personal communication from previous interviewees.

contributing to raise the profile of wildlife crime and other policy aspects in the region (for ASEAN-WEN).

NGOs were somewhat in agreement with different components and assessments but focused more on the changes and successes since the creation of ASEAN-WEN and its potential, likely due to their strong engagement in its development. It should be noted that even within the NGO perspectives there were differing views (some overly positive and others overly negative), likely due to the fact that its development was, in participants words, 'very territorial'.

In all cases however the groups acknowledged that the initiatives were still in the initial stages of development and on the way to reach their potential. The indicator here should therefore perhaps become relative effectiveness over time.

The network evaluation matrix

Pink and Lehane's (2011) network evaluation matrix explores how to consider the levels of network maturity and measure their effectiveness by 'identifying and documenting a number of capabilities that span the five distinct levels of maturity' (Pink and Lehane, 2011, 2-5; see Tables 4.1, 4.2 and 4.3 and chapter 4). The overall objective is then to reach 'maturity' i.e. to be well established. To assess maturity, Pink and Lehane (2011) gave numerical values to each sector from their fieldwork to value the levels of maturity of the different aspects of the network. Accordingly, they allocated numerical values (or points) for various maturity levels scored towards the major themes or attributes of each level²⁶⁹. Once these were calculated, a general score was allocated to determine the overall level of maturity of networks²⁷⁰: these 'can be added together to determine an *indicative* overall level of network maturity' (Pink and Lehane, 2011, 12; emphasis added).

As highlighted in chapter 4, the results obtained using the matrix presume that a more mature network will be more effective. While there are a number of additional concerns that should be taken into consideration (see discussion in chapter 4 for details), the matrix is one of the best (and only) tools currently available to measure or evaluate networks similar to ASEAN-WEN and the BLO mechanism and has therefore been used as an additional indicator to measure their effectiveness.

²⁶⁹ Scores of levels towards the major themes or attributes of each level: 0 - Absent, 1 - Emerging, 2 - Fragile, 3 - Maturing, and 4 - Well Established; see Pink and Lehane 2011, 12 and Tables 4.1, 4.2 and 4.3 for details

²⁷⁰ General score to determine the overall level of maturity of networks: 0 = Absent, 1 – 7 = Emerging, 8 – 13 = Fragile, 14 – 17 = Maturing, and 18 – 20 = Well Established; see Pink and Lehane, 2011, 12

The Table below is an assessment of the two initiatives based on participants' perceptions as well as the available literature and has been conducted using Pink and Lehane's (2011) grading system and criteria for the different levels of maturity as described in chapter 4 (see also Tables 4.1, 4.2 and 4.3), which seek to evaluate networks':

- Members (membership, leadership and value added);
- Finances (budget, internal/external contributions and funding);
- Governance (access to and review of relevant materials and structures);
- Support (Liaison with others, support base and functions), and;
- Deliverables (events, outcomes achieved and products delivered).

The assessment conducted using the criteria identified by Pink and Lehane shows that **ASEAN-WEN** is bordering between *fragile* and *maturing* with a score of between 11 and 14:

- Members (assessed between *fragile* i.e. 2 and *maturing* i.e. 3): all ASEAN countries are already part of the network and have designated focal points. There are a number of agencies providing support but generally a lack of proactive leadership and clear benefits for proactively engaged members. Challenges include most notably the involvement of the appropriate agencies at the different levels, and in particular the limited involvement of enforcement officers.
- Finances (assessed as *fragile* i.e. 2): while contributions have been considerable, funding relies primarily on external sources and there is a general lack of government ownership and investment in the initiative, with the exception of Thailand that hosts the PCU. It should be noted however that most countries cover some or all of their costs of participating in annual meetings.
- Governance (assessed as *maturing* i.e. 3): there is a good amount of information available through the website and partners involved on the network but there is limited or inexistent third party review of efforts and the initiative overall. The initiative over-relies on NGO partners and agencies of supporting projects to conduct its business.
- Support (2/3): ASEAN-WEN has effectively liaised with other networks and has established a good support base, however there is limited coordination without external support (NGOs)

as well as limited coordination at the national level and with other initiatives in the different countries.

- Deliverables (2/3): there are a number of deliverables, including annual meetings, activities of partner agencies. These are generally however led by key partners to the network and not the network itself and are subject to external funds and external donors. Some operational activities take place (e.g. regional operations) subject to external support.

The assessment of the **BLO mechanism** using the criteria identified by Pink and Lehane is *fragile* with a score between 10 and 13, but very close to *maturing* (1 point away):

- Members (2/3): all relevant agencies appear to be involved now that a number of new and different agencies are now involved with the extension of the mandate to cover environmental crimes (and in particular wildlife crimes). There are limited data to assess if there is information exchange. Indications are that this exists but that it limited. Some interviewees however stressed they have very good cooperation and exchange of information.
- Finances (2/3): the mechanism has strong support from governments. There are however limited projects and financial contributions to support continued activity and limited information on what actually happens outside of the specific projects.
- Governance (2): there is limited access to information and data/reports on the initiative other than those of UNODC, and memoranda of understanding between the participating countries, so it is difficult to assess this. Similarly, there is limited third party review. The development of standard operating procedures has however initiated a more comprehensive review process that was previously available. It should be noted here that a number of reports might be available in local languages that I might have overlooked.
- Support (2): informal enforcement cooperation is difficult to measure. Interview data indicate that there are increasing exchanges of information between officers, but wildlife crime is a relatively new area for the BLOs. The real extent of cooperation is unknown, but anticipated to be moderated among the BLOs along and across the border, and limited with other initiatives.
- Deliverables (2): events are subject to external funding which at the time of the interviews was very limited for wildlife crime. When funding is available, however a large amount of

training is provided. There are also no publications or reports developed outside of those produced by UNODC.

Table 8.1: Assessment of level of network development for ASEAN-WEN and the BLO mechanism using the Pink and Lehane (2011) evaluation matrix

<i>Initiative</i>	<i>Members</i>	<i>Finances</i>	<i>Governance</i>	<i>Support</i>	<i>Deliverables</i>	<i>Total</i>
ASEAN-WEN	2/3	2	3	2/3	2/3	11-14
BLO mechanism	2/3	2/3	2	2	2	10-13

As the network evaluation matrix has not been tested to date other than for AELERT and a small limited number of cases (see chapter 4 and Pink and Lehane, 2015), it would be interesting to see how Pink and Lehane measure the above initiatives and how the initiatives measure themselves or how these are measured by the various supporting partners. An educated *guess* is that the results would likely be towards the lower end (e.g. 11) or similar if measured by Pink and Lehane (as they have conducted a number of tests using the matrix; see chapter 4 for details) and higher than the assessment provided here (e.g. >14) by the initiatives (as they would likely measure themselves more subjectively). It should be noted that in some cases the results could be in between two categories and I have therefore provided a range of numbers (e.g. 2/3) that gives a more realistic range and allows for errors or misconceptions. I have also taken a ‘hard’ approach and, where information is limited, given a lower score than might be the case in reality (for example for the BLO assessment of governance and support, given the limited information it is assessed as ‘2’ when it could also be a ‘2/3’). I therefore believe the result provided above is a good reflection of networks at the time of the interviews.

It should be noted that the matrix does not directly measure enforcement efforts or the effectiveness of enforcement efforts. There are various differences between the networks but one of the key ones is that one is more oriented towards enforcement actions while the other is more of a policy body. It is therefore difficult to only use this assessment. One of the key reasons for this is that one network is more focused at the regional and policy level and the other is a geographically based network. ASEAN-WEN relates more to the realities of the political level noted previously (policy, awareness, coordination and some enforcement) and the BLO mechanism responds to operational/enforcement aspects (trust, knowing counterpart and informal cooperation within formal setting).

It is likely that, if the same analysis was conducted based on similar interviews and fieldwork conducted today, both initiatives would potentially increase their rating. In particular, the current BLOs assessment is conditioned by the limited information that was available during the fieldwork period about what officers actually do. This has somewhat changed or is being addressed at the time of writing, and would move it into the *maturing* criteria. For ASEAN-WEN, it is likely it would improve slightly, but it would probably remain as a *maturing* network in coming years. Much depends on the ongoing integration with the ASEAN experts group on CITES, which should, theoretically, further strengthen the network and close key gaps.

Where does corruption fit in?

Corruption is an issue that has been highlighted as one of the major problems to effectively counter transnational wildlife crime and participants stressed the need to tackle it to be more successful in combating wildlife crime (see chapter 7 for details and examples). Nonetheless participants also noted, as was said in chapter 7: *'there is hope. There are lots of very good officers and they are increasingly frustrated. There are also lots of people willing to help'* (Interview with F).

Theoretically, promoting multi-agency cooperation can be seen as a way to reduce or mitigate opportunities for corruption. As explained by See in chapter 7, one of the more promising initiatives was to use this cooperation to create more transparency:

It is a very difficult and sensitive question to answer ... the approach that we are using to encourage ... to mitigate corruption is to bring them into the open ... in the way to try to make them work as a team ... through the transparency approach as a team and amongst themselves and with their counterparts across the borders ... to try to mitigate the opportunity for some officers to get the benefits unofficially ... Once we can promote clearer cooperation procedures, that is one way to mitigate corruption (Interview with See)

It would however make sense to add corruption (or anti-corruption efforts) as an indicator of the effectiveness of efforts as limited progress will be achieved without tackling the corruption associated with the illegal wildlife trade.

As highlighted in chapter 7, corruption is no longer 'the elephant in the room' in the wildlife arena. In 2017 (subsequent to the fieldwork reported in this thesis), the Conference of the Parties to CITES unanimously adopted Resolution Conf. 17.6 on *Prohibiting, preventing, detecting and countering corruption, which facilitates activities conducted in violation of the Convention*, which acknowledges the dangers of corruption and calls for CITES Parties, i.e. 183 member states (182 plus the European

Union at the time of writing) to adopt measures to address corruption related to wildlife crime, including specifically recommending that regional and sub-regional networks include anti-corruption efforts into their activities. This is, by all accounts, a monumental step in the recognition of the problem of corruption in the illegal wildlife trade and will help shape future responses. However, it will still need to be put into effective operation.

8.6 Concluding remarks

As noted above, there are different layers of effectiveness: subnational (e.g. provincial), national, cross-border, regional and international. All should be measured as they are important to evaluate the effectiveness of networks and in particular of the initiatives explored here.

I have suggested a mixture of indicators is needed and attempted to measure the effectiveness of the different initiatives by type (informational, enforcement or harmonization), focus (commodity based, geographically based or discipline based - or a hybrid), development (fragile, well established or on the way) and levels of agency engagement. I will now evaluate their effectiveness based on the different (applicable) layers noted above and trying to take into account other aspects that are more difficult to measure – or unmeasurable – such as trust, generation of informal cooperation (or perceived informal cooperation), increase in political will and coordination and overall regional support. These last will be judged through participants' views.

This is explored as a way to gauge the influence of the activities in the different levels and can be related to their overall effectiveness.

The table below provides an overview. It starts with a summary of the various ways that could be used to evaluate network effectiveness that have been highlighted in earlier sections and continues with an evaluation of the potential influence of the initiatives at the different levels or layers of effectiveness based on the various levels of cooperation and challenges identified by participants interviewed as explored in earlier chapters (see in particular chapters 4, 6 and 7).

Table 8.2: Evaluating ASEAN-WEN and the BLO mechanism, a multi-pronged approach

	ASEAN-WEN	BLOs	Rationale
Type of initiative and level	<ul style="list-style-type: none"> Informational (hybrid with enforcement) working at political/regional level 	<ul style="list-style-type: none"> Enforcement at ground level 	<ul style="list-style-type: none"> Identification based on key purposes of networks identified by Slaughter (2004) and Pink and Bartel (2015). See above and chapter 4.
Focus	<ul style="list-style-type: none"> Commodity based (wildlife) 	<ul style="list-style-type: none"> Geographical (cross-border – combating illicit trade in wildlife and other crimes across borders) 	<ul style="list-style-type: none"> Type of network based on Pink and Bartel’s (2015) network categorisation. See above and chapter 4.
Agency engagement	<ul style="list-style-type: none"> Aware and involved (more at political/policy level) 	<ul style="list-style-type: none"> Aware and involved (more at practical/ground level) 	<ul style="list-style-type: none"> Identification based on Pink’s (2015) five phases of agency involvement and engagement with networks, which relates to the levels of activity and therefore effectiveness. See above and chapter 4.
Network evaluation matrix	<ul style="list-style-type: none"> Border between fragile and maturity (score of 11-14) 	<ul style="list-style-type: none"> Fragile (score of 10-13) but close to maturity (14) 	<ul style="list-style-type: none"> Identification based on Pink and Lehanne’s (2011) matrix criteria and interviews conducted. See above and chapter 4.
Influence at subnational (provincial) level	<ul style="list-style-type: none"> Limited known impact 	<ul style="list-style-type: none"> Increased awareness of transnational crime and in particular wildlife crime Increased involvement of the enforcement community in efforts to combat wildlife crime at provincial and border levels 	<ul style="list-style-type: none"> Identification based on layers of effectiveness identified above, available literature and perceptions of participants interviewed. See above and chapters 4, 6 and 7.

	ASEAN-WEN	BLOs	Rationale
Influence at national level	<ul style="list-style-type: none"> • Strengthening multiagency cooperation through the creation of national networks or multiagency task forces. However, in some cases these are established only ‘on paper’ or not operational or actively used • Measurable increase in seizures in the different countries since the network was established (particularly in recent years), but difficult to establish if this is a result of network activities, of better monitoring generated by the network, or simple coincidence. 	<ul style="list-style-type: none"> • Increase awareness and importance of combating wildlife crime at national level 	<ul style="list-style-type: none"> • Identification based on layers of effectiveness identified above, available literature and perceptions of participants interviewed. See above and chapters 4, 6 and 7.
Influence at cross-border level	<ul style="list-style-type: none"> • Limited influence except during targeted operations/activities. 	<ul style="list-style-type: none"> • Strengthening multiagency cooperation along and across borders • Increase coordination, informal information and intelligence exchange and cooperation along and across borders • Contributing to development of trust among officers at border areas 	<ul style="list-style-type: none"> • Identification based on layers of effectiveness identified above, available literature and perceptions of participants interviewed. See above and chapters 4, 6 and 7.
Influence at regional level	<ul style="list-style-type: none"> • Increased coordination of activities and exchange of information • Raised awareness and political will/coordination to combat wildlife crime • Contributing to development of networks at regional level and to link enforcement officers of different countries 	<ul style="list-style-type: none"> • Unclear if informal exchange of information from border offices has contributed to regional efforts 	<ul style="list-style-type: none"> • Identification based on layers of effectiveness identified above, available literature and perceptions of participants interviewed. See above and chapters 4, 6 and 7.
Influence at international level	<ul style="list-style-type: none"> • Increased awareness of networks and important role of networks to combat wildlife crime 	<ul style="list-style-type: none"> • Limited influence 	<ul style="list-style-type: none"> • Identification based on layers of effectiveness identified above and based on available data and perceptions of participants interviewed. See also chapter 4.

Are border and regional law-enforcement initiatives, such as the BLO mechanism and ASEAN-WEN, effective in combating transnational organized wildlife crime?

Overall, each initiative is more effective than the other based on their respective network type and focus areas and have more limited influence in other spheres. One cannot however be expected to rank them against one another, as they are different creatures in nature and operate at different levels.

ASEAN-WEN has clearly more of an influence at the regional and policy level and a more limited influence on enforcement, albeit the network has been involved in a number of successful operations. Its role however is more suited towards coordination, cooperation, and the political and policy spheres. One of its benefits is that it is in a position to provide guidance and strategic direction to its member states. Conversely, the BLOs have had little influence at regional and international level as their focus is more operational and limited to specific geographic locations. The overall trend, however, is clearly that both initiatives have had a positive influence and resulted in increased attention and focus given to combating wildlife crime, and cooperation to bring the criminals involved to justice.

In terms of enforcement, the BLO mechanism is more oriented towards facilitating effective enforcement across borders as direct contacts between police are the backbone of police cooperation. They also encourage trust and informal cooperation (at least theoretically, because there are limited data to suggest there is active sharing of information other than the perceptions of officers interviewed and a few success cases). Conversely, ASEAN-WEN may be far too political to be an effective operational body.

It is, however, worth highlighting that the overall objective of ASEAN-WEN is to facilitate enforcement cooperation in the region. It is not a regional enforcement body with powers of investigation, seizure or arrest. Rather, it provides a platform with the aim of facilitating cooperation that can – and ideally should – generate cooperation between its enforcement officers. It also plays an important role in facilitating increased collaboration and coordination by promoting cohesion in the activities of their member states. Their involvement tends to be through facilitating cooperation or encouraging their members to participate in specific enforcement operations/activities. In reality, they are providing an essential platform to facilitate and encourage enforcement cooperation, but they have limited involvement in enforcement *per se*. Actual enforcement happens in the field and is conducted by enforcement officers, and can be facilitated or encouraged by other levels. Moreover, ASEAN-WEN is currently led by CITES Management Authorities, which are political and regulatory

bodies and in most cases, not enforcement bodies. If within the network there is good coordination and cooperation at the national level between management and enforcement authorities there will undoubtedly be some form of enforcement cooperation, but to date intelligence exchange through the network has been limited. Instead, what the network has facilitated is that enforcement agencies make contacts with their counterparts and develop relationships with them, which is also an essential aspect to encourage international cooperation between different countries. If the network wanted to be more operationally focused, it should change its focus and focal points, and be led by enforcement officers.

A question that Guille (2010, 263) asked about Europol appears to be very relevant and valid for ASEAN-WEN. She suggested 'Europol is far too political' and that it should explore whether it wanted to be a political or an operational body: 'an instrument of cooperation for police forces or whether it should represent the Member States along with their own political priorities'. ASEAN-WEN member states should probably ask themselves the same question. Should it be an operational body or should it focus at the political level and use existing regional enforcement bodies for operational activities? The way it was conceived envisaged an operational role for the network, but this has had a very limited effect to date outside of operations coordinated by supporting partners and NGOs. It is therefore more of a political body in reality and should perhaps focus more on strengthening its links with existing regional enforcement bodies. In order to promote more effective enforcement cooperation, ASEAN-WEN might be linked more closely with regional bodies such as ASEANAPOL, the INTERPOL Regional Bureaus or the WCO RILO network, which can serve as practical operational platforms for enforcement activities and, at the global level, with the INTERPOL Wildlife Crime Working Group. The problem is that the network itself appears to be somewhat pushed into an operational capacity by supporting agencies and donors and has not had the time, at the time of the interviews, to adapt and decide what it wants to be²⁷¹, nor any real independent analysis and assessment of what it can, should and could do.

Major gaps for both initiatives appear to be sustainability and accountability as well as the lack of alignment with ongoing processes. Concerning ASEAN-WEN, while it has generated a vast momentum, has been included in countless declarations, and is often mentioned as the example to follow, it has failed at the time of the interviews to generate the necessary government ownership

²⁷¹ This is now being address with the integration of ASEAN-WEN into the ASEAN Experts Group on CITES and Wildlife Enforcement, which will help address a number of the limitations of the network, in terms of ownership and its strategic direction. It will also associate it more closely with the ASEAN Senior Officers Meetings on Transnational Crime (SOMTC), which will ensure efforts to combat wildlife crime are included in the agenda of countries as part of their agenda to combat transnational crimes. The issue of whether it should be involved or not in enforcement directly should however also be addressed.

that the network requires to be sustainable and not reliant on external funds and assistance. At the time of the interviews, only one country (the host country to the PCU) had provided funds for the coordination office and very limited secondments had been assigned by member countries. While a number of attempts were made to secure sustainability, these were not successful, partly as a result of the overreliance on donor and NGO support. While such support was necessary and indeed essential to contribute to the development of the network, it was all too much and done too quickly without allowing for sufficient time for governments to develop and commit more vigorously to it²⁷². This is still the case, but most recent developments indicate ASEAN-WEN is being integrated into the ASEAN Experts Group on CITES and Wildlife Enforcement (under development at the time of writing) which will (theoretically) give it a stronger institutional backing from governments in the region and contribute towards addressing its major sustainability gaps (if it does not result in its disbanding). The BLO mechanism is slightly different, as the supporting project had limited funds for activities and was much smaller in scale. The result was that there was increased government ownership of the process, but much more limited engagement and activity overall. As noted earlier, some offices were also not used or abandoned which is also a problem to take into account.

Chiefly, the initiatives are not linked among themselves and, noting the challenges with different levels of cooperation as described in chapter 4, they should be. The BLOs in particular should attempt to establish links at the national level with the national WENs (or equivalent structures) and their respective focal points (where they exist) and could serve as an operational border branch for the network. An interesting case is that of Cambodia, the only country at the time that had an operational national task force for the network (Wildlife Rapid Response Team supported by NGO partners), albeit the members of the taskforce had limited involvement with the network as noted in their interviews (see chapter 7). This type of operational structure at the national level could be encouraged and serve as an example for others, noting that it is (or was at the time) fully coordinated and funded by an NGO – and therefore has similar sustainability problems as those emphasized above. A further problem is that in some cases the offices in the field that could (theoretically) be part of the networks were not aware about the networks themselves or that they were part of an initiative as there was often insufficient cooperation and information at the national level. This highlights the point noted above that a network is only as strong as its individual member states. In particular for ASEAN-WEN, it should be used more prominently as a platform to

²⁷² While it was 'too much' and 'too quick', it should also be emphasized that the opposite option (too little and too slowly) was probably not a real option at the time. ASEAN-WEN was a key development in the regional and significantly contributed to efforts to increase the attention and focus to wildlife crime in the region. If this had not been pushed as it was, the likely result was that much less attention would be given to wildlife crime today.

communicate relevant issues to its member states and monitors progress, to further align the regional response and assist their member states to implement activities or decisions taken by relevant international processes (e.g. CITES decisions and resolutions).

Some final thoughts

Overall, by all assessments both initiatives have different degrees of effectiveness and each is more effective on their specific areas of focus and relatively ineffective for other purposes. The initiatives have increased cooperation both at the borders and at the regional level of relevant stakeholders to raise the profile of wildlife crime, as well as the need to combat it. That by itself makes them relatively effective as this is an area that needed urgent attention at the time and indeed continues to require it.

As ASEAN-WEN stands, it is more of a wildlife network than a wildlife *enforcement* network, but it is a useful and constructive platform that may provide the countries in the region with increased possibilities to cooperate, or at a bare minimum, a regional platform to discuss issues. The BLOs are more of an operationally focused mechanism to facilitate cooperation and promote enforcement.

Focusing efforts at the border level and at the national and regional levels are both essential. Emphasis should, however, be placed on closing the gap between the national and the field levels. They should, probably, not attempt to work outside their levels and link with one another to benefit from their respective strengths. By working together and creating a platform for cooperation, be at a higher political level or on the ground, organizations and individuals learn to understand the issues, the different organizations involved, and who they should trust (or not). This is facilitated through conferences, training events, operations, activities and a range of other actions that both initiatives have been involved in and will accelerate the rate of learning of officers involved as well as improve the overall response.

I have argued that even if they are not as effective as intended they have an important role to play at their respective levels though not necessarily at other levels. They should also explore how to work together by identifying and agreeing who might be better placed to deliver certain activities, and how to avoid duplication and channel resources and financial support more effectively to align their efforts, each within its specific area of focus (e.g. regional and political versus field and

operational). Increased cooperation amongst them would undoubtedly result in increased actions at all levels of the enforcement chain²⁷³.

Finally, It should be noted that, while the research focuses primarily on enforcement or law enforcement efforts to combat wildlife crime and on networks, an issue to keep in mind is that responding to organized crime in a 'traditional way', i.e. treating it as a criminal justice or security issue requiring strengthened cross-border and domestic law-enforcement, border control, and intelligence-gathering capacity (Shaw and Reitano, 2013, 21) is not the ultimate solution to the effective countering of transnational organized crime in general, and the illegal wildlife trade in particular. As a paper reviewing the evolution of transnational organized crime in Africa, published by the Institute for Security Studies, highlights:

It is clear from the story of organised crime's evolution across the continent that fighting this phenomenon can no longer be understood in terms of curbing the illicit trade in counterfeit goods, drugs, weapons and people – if that were not challenge enough. Given the almost continent-wide interdependence of organised crime and corruption at the highest levels, and the degree of social entrenchment and identity it has within communities, addressing organised crime ... also involve[s] preventing and reversing the criminalisation of governments and providing sustainable economic alternatives for its citizens (Shaw and Reitano, 2013, 21).

Given that wildlife crime is rapidly consuming the world's wildlife and bringing certain species one step closer to extinction, a swift law enforcement response is imperative to (attempt to) address or reduce the problem in the short and medium term. Combating the illegal wildlife trade will however not be fully successful without taking into consideration other strategies that complement law enforcement efforts. These complementary strategies might include thinking about educational and developmental crime prevention, as well as potential situational crime prevention strategies or programmes, for example, against opportunistic poachers²⁷⁴. In order to put in place effective educational, developmental and situational measures, it is necessary to know more about wildlife

²⁷³ Increased engagement with judges and prosecutors, however, needs to continue. A further step that should be taken is ensuring that countries are equipped with the appropriate tools and that they use modern investigative techniques such as those used to counter other transnational crimes, to combat the illegal wildlife trade. This is essential to move beyond seizures and ensure follow-up investigations and prosecutions, especially targeted at the masterminds behind the illegal wildlife trade, when organized groups or larger organized criminal networks are involved. This is particularly important when larger organized criminal groups are involved (see generally chapter 4)

²⁷⁴ As Challender and MacMillan (2014) note, Illegal trade is more than an enforcement problem. Homel (2005, 2) suggests, 'Developmental prevention involves the organized provision of resources in some fashion ... to forestall the later development of crime or other problems'. Pires and Clarke (2012, 125) note that '[a] better understanding of the illegal trade in parrots might considerably assist thinking about prevention because, consistent with the crime-specific premises of situational crime prevention (Clarke, 1980), the measures needed for dealing with opportunistic poaching are likely to be different from those for organized poaching.' See also Pires, 2012; Levi and Maguire, 2004.

crime itself and about those who engage in it, so that both measures can be targeted and also outcomes can be measured. Currently, there is insufficient knowledge about the populations of targeted wildlife to be able clearly to measure outcomes of the mix of strategies selected. With regards to the initiatives, the fragility or maturity of the networks could be an indicator of how able they are to assist with – or facilitate – preventive strategies.

8.7 Ideas for future engagement

Lastly, I would like to suggest some potential ideas for future engagement and academic research as well as some *pracademic* thoughts on a potential strategy to strengthen regional efforts to combat wildlife crime.

As highlighted throughout the thesis, there is insufficient research on the illegal wildlife trade, and in particular on the levels of organization of criminal networks involved and the links between different transnational crimes explored in this thesis. While this is starting to change, additional research on this issue would be extremely beneficial and should be conducted.

Similar research on the initiatives studied here would contribute to their further development and should be considered. Additional research on other existing networks would greatly contribute to being able to analyse the effectiveness of similar efforts to combat wildlife crime across the globe and would be extremely beneficial to both academia and a broad range of governments and organizations worldwide.

Moreover, research exploring the operational versus policy nexus, and in particular on networks, could be extremely beneficial as there are growing efforts and funds devoted to combating wildlife crime and to networks. Research could be conducted on how to close the gap between policy and enforcement levels as the empirical research conducted here and a number of authors have indicated these areas do not necessarily work well together. International practices (regional bodies/networks) are increasingly geared towards bridging this gap and making regional networks more and more operational, particularly through regional enforcement bodies such as those provided by INTERPOL or WCO but also the growing operational approach by regional enforcement bodies such as Europol.

The thesis provides a detailed assessment of the perceptions of those involved in efforts to combat wildlife crime. A more specific exploration of the dynamics and operation of the illegal wildlife trade

and the modus operandi of transnational wildlife criminals would be very valuable, as well as an exploration of weak points or vulnerabilities in the 'commissioning' of the crimes (e.g. Edwards, 2016) to research the importance of crime 'promoters' in the criminal chain and weak points in trafficking in order to be able to better understand the criminal dynamics and be able to anticipate and provide a more targeted response. Such research could be conducted, for example, by conducting separate and specific research focused on observations of border areas or wildlife markets, or through interviewing perpetrators of wildlife crimes which was not possible to do as part of this thesis (see chapter 5). In time, additional records and information (e.g. court records, annual illegal trade reports submitted to CITES, additional World Wildlife Crime reports etc.) will be available and will also facilitate this task considerably. In particular, such information could enable more research into organized crime or the organization of transnational organized wildlife crime from different analytical perspectives or 'an argument over what constitutes the substantial relations of connection that are 'contingently-necessary' for the commission of serious crimes' (Edwards and Levi, 2008, 383). It could also allow for a more holistic evaluation of the initiatives or regulatory organizations more closely linked to *how* the phenomenon of transnational wildlife crime is organized by understanding the specific context of wildlife crime in particular countries or regions (see Edwards and Sheptycki, 2009). In addition, as noted in the section above, the thesis focuses primarily on enforcement and law enforcement responses to combat wildlife crime. Similar research exploring alternative or preventive responses to organized crime (e.g. Levi and Maguire, 2004; Challender and MacMillan, 2014; Pires and Clarke, 2012) and potentially the role of networks in alternative responses would be an interesting research project.

As noted in earlier sections (see 8.1 above), it was not possible to undertake an outcome evaluation and to measure the impact of the initiatives in this thesis. The possibilities and desirability of targeted outcome evaluation research strategies (e.g. Pawson and Tilley, 1997, 2004) could however be explored in the future involving a more detailed analysis of the specific mechanisms and context of particular border areas or hotspots for illicit trafficking of wildlife. Understanding the specific context and mechanisms of illicit trade at key border areas would be extremely useful and beneficial to better understand how the efforts under specific activities or initiatives may have a direct effect on the illegal trade. As Pawson and Tilley (2004, 2) state, instead of asking 'what works?' or '[d]oes this program work?', one should examine '[w]hat works for whom in what circumstances and in what respects, and how?' (2004, 2). While this was not possible, for reasons noted in earlier chapters (see Chapter 5), it might be worth pursuing separately. It should be noted however that conducting such research for wildlife crime at the regional context might bring a number of additional challenges, as the mechanism and context for the illicit wildlife trade will vary from

species to species and from one location to another. For example, it will likely be significantly different depending on whether the illicit trade involves tiger parts, rhino horn, pangolin scales, ivory, turtles or lizards, and from one location to another as the trade routes would be different for each species (see chapter 4) and constantly evolve and shift to adapt to increased law enforcement response or awareness in a particular border point or in a particular species. It might be useful to focus for example on a small number of BLO offices instead of the over 70 offices that exist (UNODC, 2015), or on specific airports or seaports for major known trans- or inter-continental trafficking routes.

Finally, Pink and Lehane suggest a 'dialogue' (2011, 13-14) to further enhance efforts to measure the effectiveness of networks and regional efforts based on their evaluation matrix. A targeted approach to enhance regional law-enforcement efforts and conduct regional reviews and analysis of efforts and networks to combat transnational (wildlife) crime is essential to guide future efforts and initiatives. It might be worth exploring how to further develop the network evaluation matrix into a *framework to measure the effectiveness of networks* at regional level. This could be done based on the network evaluation matrix taking into account the findings of this thesis. Assuming such a tool can be developed, research could be conducted on how to develop a comprehensive regional or global strategy to strengthen networks and cooperation at the regional and global level. This could form a basis to analyse regional efforts and provide specific and targeted recommendations for strengthening networks at the regional level in all regions but examining all the relevant levels upon which the efforts of the various players involved (governments, IGOs, NGOs, and donors) could be focused. It should include:

1. National level analysis of the (multiagency) response and capacity with a focus on strengthening monitoring and increasing cooperation with relevant players and identifying capacity building gaps and needs²⁷⁵;
2. Development of targeted national strategies to address the needs identified during the national analysis/assessment.
3. Regional level assessment²⁷⁶ of networks, initiatives or platforms, in particular ensuring links between its member countries and with relevant enforcement bodies, partners, organizations and individuals in the different countries, as well as exploring support that might be available

²⁷⁵ Among others, existing tools such as the ICCWC wildlife and forest crime analytic toolkit or the ICCWC indicator framework for combating wildlife crime could be used here as part of the assessment.

²⁷⁶ Using the proposed framework to measure the effectiveness of networks that could be developed.

4. Recommendations on strategic needs at the different levels taking into account the different layers identified during the research and implementation of targeted capacity building programmes to strengthen networks
5. Development of targeted regional strategies to address the needs identified.
6. Revision of the proposed framework to measure the effectiveness of networks.

As noted in earlier sections, the initiatives should be more closely linked to international processes (e.g. assist their member states to implement CITES decisions and resolutions or commitments under for example international declarations) and be used as a platform to assist their member states to implement relevant resolutions and decisions. Recent developments indicate that this has already started to change as seen in the recent CITES CoP17 and in particular the 2nd global meeting of the wildlife enforcement networks (ICCWC, 2016) where networks from across the world explored potential steps to increase cooperation and coordination. In particular, the potential development of guidelines for the development of new networks and strengthening of existing networks and the next steps identified during the meeting might provide a much needed advice and guidance on what to do (or not to do) when establishing or strengthening networks. This would also inevitably contribute towards their effectiveness and facilitate further understanding of networks. All role players involved with networks (networks themselves, supporting partners (government, IGOs, NGOs, donor agencies and academia) should actively participate in this process. The assessment should however ensure it takes into consideration the differences between the different levels of international cooperation (see chapter 4 and above) and the findings of this thesis.

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