

## **Transnational Seaborne Organised Crime: an Update**

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### **Introduction**

*The definition of Transnational Organised Crime (TOC) is given in Article 3 of the corresponding United Nations Convention (UNTOC, 2000):*

- (a) it is committed in more than one State;*
- (b) it is committed in one State but a substantial part of its preparation, planning, direction or control takes place in another State;*
- (c) it is committed in one State but involves an organized criminal group that engages in criminal activities in more than one State; or*
- (d) it is committed in one State but has substantial effects in another State.*

*Seaborne versions of TOC include but are not limited to the illicit transportation of commodities such as oil, ivory or fish, usually on ships under flags of convenience. As a rule of thumb, the ship is owned by a holding company with a phoney board of directors, which for reasons of 'financial expediency' is registered in an offshore tax haven. Thus, the criminals can disguise the provenance of their ill-gotten goods and middlemen can plead ignorance. As such, seaborne TOC may emerge in the form of:*

- 1. Piracy and Armed Robbery;*
- 2. Migrant Smuggling / Human Trafficking;*
- 3. Drug Trafficking;*
- 4. Weapons Trafficking / Smuggling;*
- 5. Illegal, Unregulated, Unreported Fishing (I.U.U.F.);*
- 6. Illegal Pollution of the Marine Environment / Illegal Waste Dumping ;*

*Interestingly though, the term may also refer to some rather arcane criminal activities like:*

- 7. Food Crime;*
- 8. Spurious Cargo Fraud Claims; and*
- 9. Poaching (of endangered elephants and rhinos);*

*or any combination of the above.*

*The fight against TSOC may turn extremely challenging, overwhelming national and supra-national organizations/agencies. This can be readily attributed to the many forms that seaborne criminality can assume. An alternative reasoning could lie with the fact that TSOC may also span both the maritime and the land domains of several nations at the same time; cases of continent-straddling crime-syndicates are not unheard of. As such, TSOC could potentially be the source of a host of jurisdictional issues that create 'second order' hurdles for crime busters.*

*Crime busting operations may also turn tricky when naval forces of various (not necessarily allied) nations (with most probably differing Rules of Engagement) are involved. In similar cases, the persecution of criminals can sometimes become politically (if not militarily) 'toxic'. In a different vein, naval forces with specific mandates to fight seaborne criminality in one of its forms may run into another. For instance, could a naval asset taking part in EUNAVFOR Operation Atalanta off the coast of Somalia be mandated to engage in an operation concerning smuggling of migrants?*

*The following analysis is an update on transnational seaborne criminality. It is also an effort to better understand it and at the same time benchmark its most salient features.*

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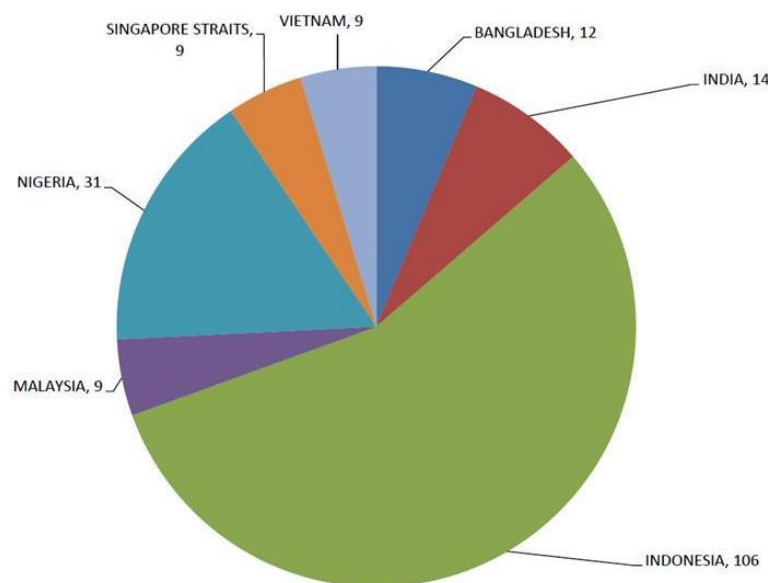
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## 1. Piracy and Armed Robbery

The crime of piracy (and armed robbery) remains at the very epicentre of international concern, although it is the epitome of a *'vortex issue'*; a term reserved for occurrences that make the headlines for a brief period of time and soon thereafter they die out. The fact is that the international community still pays a very high price for it. In two of its latest reports, the *One Earth Future* foundation puts the cost of East African piracy between \$5,7 and \$6,1 billion (One Earth Future Foundation, 2013 a) and the one of West Africa between \$750 million and \$1 billion (One Earth Future Foundation, 2013 b). Although there is no research on the costs of piracy on a global scale (including the Caribbean and the Straits of Malacca in South East Asia), one could safely assume a ten digit figure at best.

According to the International Maritime Bureau (ICC IMB, 2014 a):

*A total of 264 incidents of piracy and armed robbery against ships have been reported to the International Maritime Bureau's Reporting Centre (PRC) in 2013 (Graph 1). This is an 11% decrease from 2012 figures of 297 and a massive 41% decrease from 2011 (445 incidents) when Somali piracy was at its peak. [...]*



**Graph 1: Pirate Attacks on Merchant Vessels (ICC IMB, 2014 a)**

There has been a very lively international debate and a host of credible reports on the proximate causes of maritime piracy. In one or another way they all converge to a set of causes that include (but are not limited to) the:

- a. Weak Rule of Law / Lawlessness;
- b. Weak governance / Corruption;

- c. User friendly geography;
- d. Destitution;
- e. Steady flow of merchant vessels

Careful study of the phenomenon in its previous occurrences throughout history renders obvious the fact, that piracy does not pop up randomly. Even more interestingly, once it comes to surface, it becomes a '*wicked problem*', meaning that it has neither a definitive nor an end-state solution; it features instead an ongoing and non-linear learning process that can lead both to improvement(s) and deterioration(s) of the situation (Coutroubis, Kiourktsoglou & Schwartz, 2012).

Within this conceptual framework of '*wickedness*', policy-makers and decision-makers at all levels (private, national, supranational) should take note and think both tactically and strategically. Tactics should address the short-term problem of containment (counter-piracy). Twenty years ago, in the case of east African piracy, Siad Barre's regime managed to pull it off in Somalia, using a nascent law-enforcing Coastguard. Ten years ago, in and around the Malacca Straits, Malaysia, the Philippines, Indonesia, Singapore and Thailand, produced the same successful results through cooperation based on Japan's monetary support. By the same token, since 2012, a mêlé of naval assets, armed security personnel onboard ships transiting the high risk area off and around East Africa, application of Best Management Practices by crews and vigilance from the side of local Somali communities', have managed to keep (with growing success) Somali seaborne criminality at bay.

Strategy should address the long-term problem of elimination (anti-piracy). In this case, the challenge is more intriguing and the solution admittedly involves prolonged exertion of soft power in terms of rising economic growth, enhanced grassroots' reconciliation (to address clan and/or political grievances), religious and political inclusiveness (to partially address rising jihadism present for example in north-east Nigeria and south Somalia) and in some cases like East Africa, gradual reduction of foreign military intervention (to address in this case national grievances).

Piracy is neither a new challenge, nor one that has ever been utterly eradicated. Throughout history, the phenomenon has simply moved from one area of the world's high seas to another, based on the solutions applied at any given time. In the 21st century as well, the international community is unlikely to fully eradicate piracy. Interestingly though, it can limit the problem

along with its impact(s), by studying and understanding its true nature and similarly, the nature of potential solutions.

## **2. Migrant Smuggling / Human Trafficking**

According to the homonymous protocol supplementing the United Nations Convention against TOC, '*Migrant Smuggling*' is the: '*procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident*', (UNTOC, 2000).

In the same convention, '*Human Trafficking*' is defined as: '*The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs*'.

Both the above types of Transnational Organized Crime represent big criminal businesses with annual turnovers that run as high as \$7 and \$32 billion correspondingly, involving more than six million victims in total (UNODC, 2010).

The origins of the largest and by far the most profitable route of '*Migrant Smuggling*' lie in Central and South America with the U.S. featuring as final destination. The transport modes in this case are mostly land-based (trucks/foot/rail, although it occasionally goes seaborne) and the trade is managed by crime syndicates like the Mexican Zetas, MS 13 and Linea 13. This is a \$6.6 billion criminal business a year which is currently on the decline. The second most profitable migrant smuggling route is the one that runs from West, North and East Africa with final destination north European countries like: Belgium, Denmark, France, Germany, the Netherlands, Sweden, the U.K. (in some cases Italy and Spain too). The transport mode on this trade route is land-based (foot/trucks) in the beginning and at end of the '*journey*', but for reasons of geography, it obviously goes at some point fully seaborne. The trade is managed mostly by Moroccans, Libyans and Turks with various nationalities spread out along the routes and the hubs. This is a \$150 million criminal business a year, which is currently on the decline with occasional spikes chiefly attributed to the Arab Spring and destitution along the Sahel and central Africa.

*'Human Trafficking'* is even more lucrative than *'Migrant Smuggling'*. With underreporting (or even worse non-reporting at all) being an undeniable reality, the International Labour Organization estimates that 2,450,000 people are currently being exploited as victims of human trafficking. The total illicit profits produced on an annual basis by trafficked forced labourers were estimated at about US\$32 billion in 2005. The major trade route of human traffickers runs from the Balkans and the former Soviet Union to West and Central Europe and the number of its victims is close to 70,000 a year. This is annually a \$3 billion trade, managed by European, Balkan, Nigerian, North African, Turkish and Chinese crime syndicates.

With the maritime domain representing a highway for illicit trades of sorts, state authorities, law enforcement bodies and navies around the globe are currently after transnational crime syndicates involved both in *'Migrant Smuggling'* and *'Human Trafficking'*. For crime busters, the main challenges are detection, stretched national budgets and poor operational capabilities. Experience teaches, like in the case of East African piracy (EUNAVFOR, CTF 151), that the answer cannot be *'an one-man-show'* but rather an supra-nationally orchestrated group effort.

### **3. Drug Trafficking**

In its 2011 report on *'Illicit financial flows resulting from drug trafficking and other transnational organized crime'*, the United Nations Office on Drugs and Crime (UNODC, 2011) estimated that the proceeds from drug trafficking worldwide go annually as high as \$320 billion. They also represent 50% of the total proceeds from *'Transnational Organised Crime'*. The two major drug-commodities trafficked by criminal syndicates are heroin and cocaine.

At current levels, global heroin-trade flows amount annually to 430-450 tons. Worldwide, the biggest producer of heroin is Afghanistan (more than 380 tons), with Myanmar and the Lao People's Democratic Republic yields coming far behind with some 50 tons each. Heroin is trafficked worldwide via routes flowing into and through Pakistan, Iran and the Central Asian countries of Tajikistan, Uzbekistan and Turkmenistan towards their destinations in Europe, the Russian Federation and Asia. A less well known traderoad goes through Pakistan and Iran and then becomes seaborne to reach East Africa, with Europe always as the ultimate destination. This route is not a new one. Both Pakistan and Iran established long time ago maritime trade ties with East Africa. The catalyst though for this heroin trade to take off, came along from 1994 until 1995, when two different events took place: first, the fall of the apartheid regime in South Africa, which acted as a magnet for immigrants from the Horn of Africa (to S. Africa) and then, the growing importance of West Africa as a global hub for cocaine trafficking from the Latin America's Andes. The seaborne trade of heroin is conducted from the Makran Coast in Pakistan to East Africa with cargo dhows. The skiffs sail either along the coast of the Arabian Sea and the Gulf of Oman or they cut directly through the West Indian Ocean to reach Tanzania, Kenya or even Mozambique. The latter itinerary is considered safer than the former, mainly due to the risk of Somali pirates. Several nationalities are involved in the trade at its different stages, with Balochs to be mostly present at the beginning stages of the supply chain, followed by Pakistanis and Iranians in the middle and ending with Tanzanians, Kenyans, South Africans and even Nigerians at the late stages (UNODC, 2013).

Peru, Bolivia and Colombia are globally the major producers of cocaine. For the North American market, cocaine is typically transported from Colombia to Mexico or Central America by sea and then onwards by land to the United States and Canada. To Europe, cocaine is mostly trafficked by sea (to a lesser degree by air), often in container shipments.

Though the days of the big Colombian drug cartels are gone, international cocaine trafficking is better managed than most of the rest.

West Africa is a regional logistical cluster for cocaine shipments. The three main hubs of the cluster are:

- In the North, Guinea-Bissau, Guinea, Gambia, and Senegal;
- In the South, Nigeria, Benin, Togo and Ghana;
- In the East, Mali and Mauritania (with the latter serving mostly as a hub for air transport)

Containers are ideal for drug trafficking mainly because a very small percentage of them go through customs' checks. To mitigate the risk even more, traffickers mix sometimes cocaine with other dry bulk like dry cement. For all it matters though, from South America to West Africa the supply chain seems to be a very multi-faceted one. This can be readily attributed to reasons of risk mitigation as well as risk-perception. Traffickers strongly dislike time-consuming modes of transportation (container ships may take weeks to cross between ports), because they always want to minimize the time a cocaine shipment stays out of their custody.



#### 4. Weapons Trafficking / Smuggling

Trade flows of illicit firearms are a threat both to nations and individuals. Firearms are high margin tradable goods and as such, they are frequently trafficked illegally by armed groups and criminal syndicates. Interestingly, they are *'durable goods'*, unlike drugs, ivory and counterfeit food involved in food crime. In the last 40 years, organized crime ventured into more arcane and less *'established'* types of criminality. By the same token, it has become more transnational and multi-ethnic. Smuggling has mutated into the quintessential activity of criminal organizations, and trafficking in firearms is, together with drugs and trafficking in persons, one of the most lucrative of such criminal activities. The demand for illicit arms may come from two different types of consumers - those who need weapons for criminal purposes, and those who need them for political ones.

Arms trade for criminal purposes is being conducted mostly along Latin, Central and North America. A very promising market, featuring strong demand and robust growth, is the movement of weapons from the USA to Mexico. Due to a constitutional provision that asserts that the right to bear arms must be protected, the United States has the most heavily armed civilian population in the world, and so opportunities for abuse of the system and diversion by theft are plentiful. The whole picture becomes even more intriguing by taking into consideration the fact that most of the guns trafficked from the U.S. into Mexico are actually purchased legally and then transported clandestinely across the border.

The second source of demand for illicit weapons – stemming from political arenas around the world, comes both from state and non-state actors. In the former case, states that are under some kind of arms embargo try to tap the shadow-illicit market. This is not an easy task, since established weapons manufacturers are globally very tightly regulated, with their customers going through rigorous vetting and their logistical chains under close monitoring at all times. In the latter case, non-state actors creating demand for illicit arms trade are mostly insurgents that are practically unable to buy licit equipment in the global market. Arms trade for political purposes gives birth and supports mostly trade flows from Russia (*'legacy weapons'*) and the former Soviet Union satellite nations (particularly Ukraine) to combat zones in Africa. African armed groups of particular interest are the following:

- The non-state armed groups in northern Mali, including the various factions of Al Qaeda in the Islamic Maghreb (AQIM), the Mouvement national pour la libération de l'Azawad (MNLA), Ansar Dine, and the Mouvement pour l'unicité et le jihad en Afrique de l'Ouest (MUJAO);

- The secessionist groups in northern Niger, including Mouvement des Nigériens pour la Justice (MNJ), the Front for the Liberation of Air and Azaouak (FLAA), and the Front for the Liberation of Tamoust (FLT);
- Boko Harma in Nigeria;
- The Mouvement des forces démocratiques de Casamance (MFDC) in Senegal
- The *'third phase rebels'* of the Niger Delta in Nigeria
- Forces loyal to former Ivorian president Laurent Gbagbo (such as the Young Patriots), who are now refugees or hiding out in neighboring countries.

Due to weaknesses in the international system, arms trafficking can occur despite the best efforts of the source countries to prevent it. Because most of the illicit flow is coming from licit stocks, improving control of these stocks is essential. Most official stocks are out of proportion to local needs, so reducing their size would be advisable. The logic is that when the ratio of security forces to firearms approaches parity, personnel will be more likely to be held accountable when weapons go missing.

Arms trade bears many similarities to mainstream commodities trade and as such, illicit trafficking takes place under a veneer of legality manifested through the accompanying documentation. At some point, supply chains go seaborne and nowadays, arms (particularly small ones) are almost exclusively transported in containers. For national and supranational authorities, this multimodal nature of illicit tradeflows makes interdiction particularly challenging.

## 5. **Illegal, Unregulated, Unreported Fishing (I.U.U.F.)**

Illegal, unreported, unregulated (I.U.U.) or simply '*pirate*' fishing, as by its definition, develops beyond the authority of any state, with the ultimate aim to circumvent fishery quotas and laws. In their paper '*Estimates of illegal and unreported fish in seafood imports to the USA*', Ganapathiraju Pramod and al. write that pirate fishing '*distorts competition, harms honest fishermen, weakens coastal communities, promotes tax evasion, and is frequently associated with transnational crime such as narcotraffic and slavery at sea.*' The authors also claim that 20 to 32% of wild-caught seafood imported into the U.S. comes from illegal or '*pirate*' fishing (Ganapathiraju Pramod & al., 2014)

'*Pirate*' tuna from Thailand has the highest volume of illegal products, 32,000 to 50,000 metric tons, representing 25 to 40% of all U.S. tuna imports from that country. This is followed by pollack from China, salmon from China, and tuna from the Philippines, Vietnam, and Indonesia. Other trades involving octopus from India, snappers from Indonesia, crabs from Indonesia, and shrimp from Mexico, Indonesia, and Ecuador are on the rise. I.U.U.F. U.S. imports from Canada account in total for less than 10% annually. Following closely are imports of clams from Vietnam and toothfish from Chile (see Graph 2).

On a global scale, I.U.U.F. trade annually goes to 26 million metric tons of fish, worth up to \$23.5 billion. In other words, every second, more than 1,800 pounds of wild-caught fish are stolen from the maritime domain. Interestingly, the U.S. State Department and the United Nations Office on Drugs and Crime report that many fishermen involved in illegal fishing are also active in other transnational crimes, including drug smuggling, human trafficking, and human rights abuses.

Scientists estimate that between 13 and 31% of all seafood catches around the world are illegal, worth \$10 billion to \$23.5 billion per year. This is not just a stonking statistic, but a clear and present danger to marine resources too. It is estimated that globally 85% of all fish stocks are stretched way beyond their limits, getting alarmingly close to extinction.

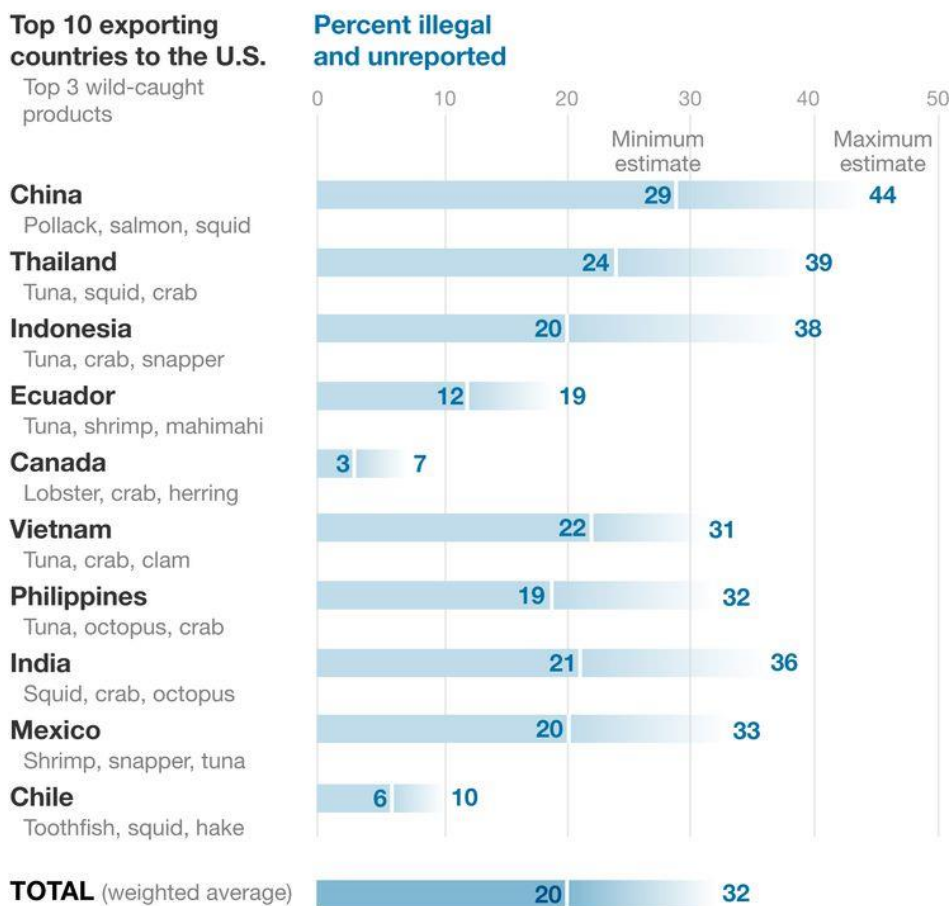
Since I.U.U.F. is the book-definition of a '*transnational*' crime, the answer to it cannot be one-dimensional, let alone an '*one-man-show*'. On the contrary, it presumes cooperation of state and private sectors, both across borderlines and coastal waters. An off-the-shelf solution is certification by an independent national or international body, which has strict chain-of-custody requirements that prohibit illegal fishing. The (private) retail sector can also use

hands-on procurement tactics (purchasers can travel directly to docks to pick up fish when it is brought in), before it gets into a system of distributors and processors.

As a hopeful message to the rest of the world, the United States Senate on April 3 took a strong stand in the global fight against illegal fishing by ratifying a treaty that will prevent illegally caught fish from entering the market through ports around the world. The treaty, called the *'Port State Measures Agreement'*, or PSMA, will also empower port officials to prohibit foreign vessels that are suspected of illegal activity from receiving port services and access. By cutting off market access for illegally caught fish, the treaty will erode the profit incentive that drives the activity.

### Illegal and unreported catches

In 2011, the U.S. imported about half a million metric tons of wild-caught seafood, worth \$3.7 billion, from these countries. About 20 to 32% of these imports were from illegal and unreported catches.



Graph 2: I.U.U.F U.S. annual Imports (Ganapathiraju Pramod & al., 2014)

## 6. **Illegal Pollution of the Marine Environment / Illegal Waste Dumping**

The 'Ndrangheta' is a Mafia-type criminal organization in Italy, centered in Calabria. Last year the total turnover of its criminal portfolio went up to as high as 53 billion euros (approximately 2,7% of Italy's GDP), with drug trafficking and illegal waste dumping its two main (and most profitable) business ventures. The former brought in some 24,2 billion euros and the latter an impressive 19,6 billion euros. Based on journalistic reports (Zeit Online, 2014), the turnover of the criminal ring easily exceeded the combined one of Deutsche Bank and McDonalds.

According to the Lieutenant B.S. Gullo (Gullo, 2011):

*'Each year, up to 810,000 tons of oily waste is intentionally and illegally dumped into the world's oceans by commercial vessels. As a consequence, seabird populations are reduced, the habitats for slow-moving shellfish such as clams, oysters, and mussels are poisoned, and fish, if not killed by the harmful toxins of the oil, lose the ability to reproduce, reproduce deformed offspring, or upon ingestion of the oil, create even more toxic substances. Separately, mammals, reptiles, and amphibians whose natural habitats are either in or close to coastal waters either suffocate to death from oil ingestion or die from eating wildlife previously poisoned by oily waste.'*

Illegal waste-dumping is big business and is loosely defined as the practice of shipping waste (household, industrial/nuclear, hospital, bio etc.) from one country to another. At its birth, the incentive for 'transnational' waste-dumping is of a regulatory nature, since not all countries have the same strict environmental laws or alternatively, not all jurisdictions enforce strict environmental laws with the same eagerness. As such, lax rules and regulations unavoidably create second order monetary incentives, with the latter reaching tantalising heights, in case of waste dumping on the high seas and/or oceans. Within the preconditions which facilitate illegal waste dumping, one has to include anaemic, or even worse, non-existing law enforcement bodies/agencies, like for instance coastguards in the case of coastal waters. Somalia features a well-known narrative. Indigenous populations living along Africa's longest coastline have emphatically protested for years over the alleged illegal dumping of highly toxic waste (coming from the West's economically developed nations) within Somalia's territorial waters and its economic zone. Bafflingly, repeated U.N. studies failed to produce evidence of similar practices, let alone a 'smoking gun' case.

Given the above, illegal waste-dumping on the high seas may very well be considered the very epitome of Transnational Seaborne Organised Crime. As an example, in a series of reports produced both by the Italian government and scientific researchers, the '*Ndrangheta*' criminal organisation supports its marine polluting business with a network of more than 60,000 operatives, spanning the globe in more than 30 countries. This is a case-study of overlapping national jurisdictions and crime busting bodies that must come together if they are to contain and eventually eliminate crime along with its practicing syndicates.

## 7. Food Crime

Food crime may include everything from adulterated (and in some cases deadly) olive oil and milk, to long-grain rice (sold as pricier Basmati), horsemeat, bootlegged alcohol, cheap beer and biscuits.

The '*syndicate*' nature of food crime is fairly straightforward. It is based on mainstream supply chain logistics and as such, it may involve numerous modes of transportation, including transportation by sea. What renders the trade(s) exceptional and at the same criminal, is the fact that the '*product(s)*' in circulation is not what the end customer thinks it is (in terms of quality, to say the least), but something significantly inferior to existing perceptions. As such, the trade yields exorbitantly fat profits, a practice that readily breaches existing laws and regulations. When the '*poor quality*' gets life threatening (as in many cases worldwide) the gravity of the crime obviously increases, usually in tandem with the profits. Given the spatially '*transcendental*' (in terms both of national jurisdictions and modes of transportation) nature of food crime, it becomes evident that law enforcement agencies have to exchange information and align their crime-busting efforts, if they are to rise to the numerous challenges posed worldwide by criminal syndicates.

Food crime is estimated to be worth over \$49 billion annually. In the West, it is thought as a phenomenon present mostly in countries like India and China but its occurrence is on the rise in Europe and the U.S. too. The British Food Standards Agency (FSA) estimates that the turnover of food crime syndicates in the U.K. may run as high as 10% of all monies spent for food. This is an astonishing number and may very well be close to £7 billion annually (STS, 2014).

Often, crooks involved in food crime may have '*migrated*' from more mundane illegal activities like drug dealing, extortion and racketeering. The rationale behind such a '*strategic business decision*' may be easily understood given that law enforcement and jurisprudence worldwide have both well adapted to traditional and mainstream crimes, but have failed until now to respond to more arcane fraud-schemes. For the perpetrators, food crime is by and large safer. Penalties for hawking counterfeit biscuits are considerably lighter than those for smuggling drugs or guns and additionally, biscuits can be very easily (and cheaply) transported in a container. In the U.K., if there are no fears about safety, a conviction of six months in jail is fairly likely for crimes involving food. Moreover, the proportion of Britons reporting having taken drugs in the past year dropped from 11% in 1996 to 8% in 2012. Not everyone is a junkie, but everyone buys food and drink. Stagnant wages and unusually high

inflation since the financial crisis have increased people's hunger for bargains. Evidently, food crime is not only safer, it's also more lucrative. The criminal '*Risk vs Reward*' balance is tipped in favour of the latter.



## **8. Spurious Cargo Fraud Claims**

A spurious cargo fraud claim is not a seaborne crime per se, but it lies at the very epicentre of the millennia old shipping business.

The nature of the criminal practice can be more easily understood, first, through the definition of a bill of lading:

*"Bill of lading" means a document which evidences a contract of carriage by sea and the taking over or loading of the goods by the carrier, and by which the carrier undertakes to deliver the goods against surrender of the document. A provision in the document that the goods are to be delivered to the order of a named person, or to order, or to bearer, constitutes such an undertaking. (United Nations Convention on the Carriage of Goods by Sea, 1978)*

The person named in a bill of lading, (or alternatively the endorsee, since any such security is both tradable and transferable) can initiate legal proceedings against the ship owner, if the latter fails to deliver the cargo at agreed time and place (port). Spurious cargo fraud involves a vessel that trades regularly into a specific area and a claim lodged against the shipowner for failing to deliver a consignment of (usually) crude oil. The claimant alleges that his cargo (which had been loaded onto the vessel), was never delivered to the designated discharge port and as a direct consequence, he obtains from a local court a warrant of arrest against the vessel named in the claim. The fraud in this case lies with the fact that the specific consignment has never existed, thus the claim against the shipowner is a fraudulent one.

Such a criminal practice always puts the shipowner in a dilemma. He is reluctant to risk taking the ship into the jurisdiction where the warrant was issued for fear she will be arrested. At the same time, he is obliged to enter the region under the terms of the vessel's current charter party. Such frauds have been identified mainly in West Africa and have historically involved crude oil. Nevertheless, the geographical span of the latest incidents proves without any doubt that spurious cargo frauds can happen all over the planet.

Another disturbing feature of the criminal practice is that courts of law around the world are presented with forged documents of 'apparently' rock-solid authenticity, a fact that greatly limits the options available to the shipowner.

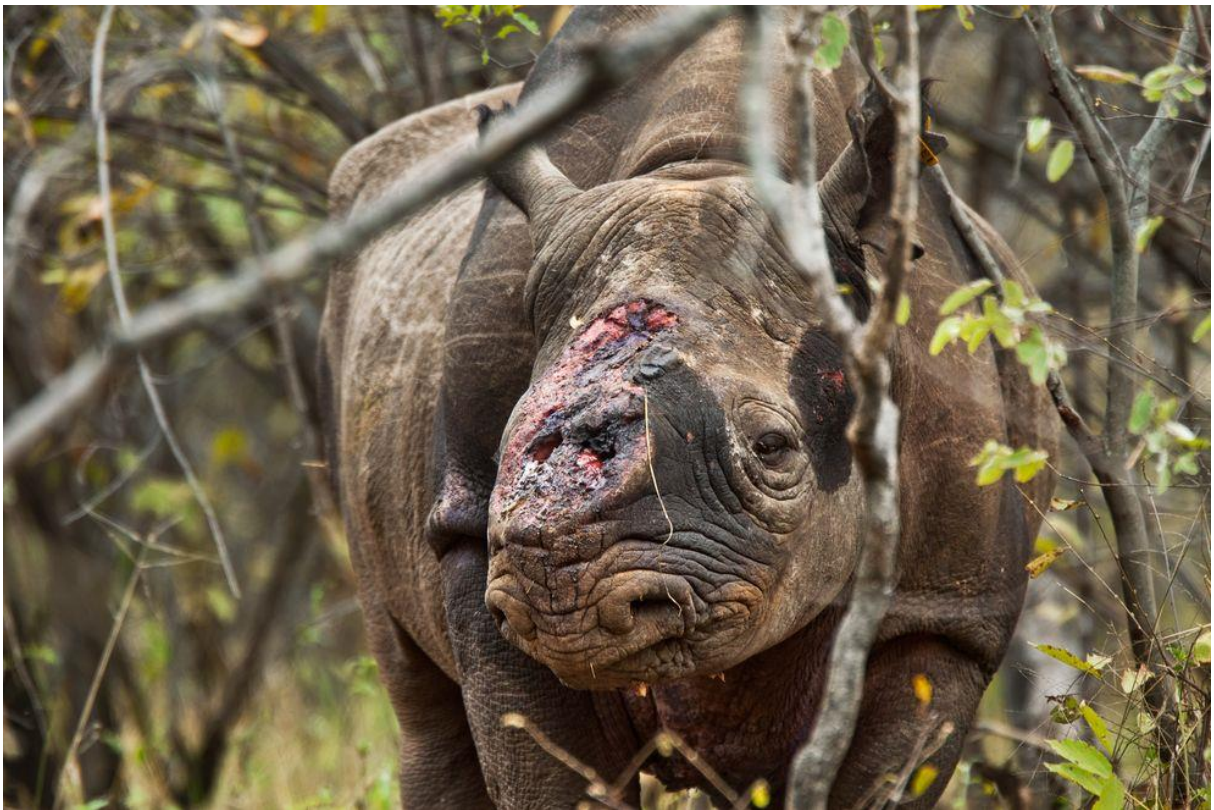
The ICC International Maritime Bureau (IMB) recently reported an incident which involved a vessel that traded regularly in the Arabian Gulf, and a claim that was lodged against the

shipowner to recover over \$50 million, the full value of a consignment of oil (ICC IMB, 2014 b). The claimant alleged that the cargo of oil it owned had been loaded onto the vessel in Russia but was never delivered to the designated discharge port in the Arabian Gulf.

Spurious cargo fraud raises the profile of transnational organised crime, since it involves a service (transportation of goods) and not tangible products. It also renders crime-busting exceptionally demanding, given the highly international character of shipping. Last but not least, law enforcement bodies are dragged into uncharted territory, since they are up against criminal ventures that leverage specialized knowledge of shipping and trade.

## 9. Poaching (of endangered elephants and rhinos)

The market, according to America's Congressional Research Service, is worth as much as \$19 billion annually (Congressional Research Service, 2013). Ivory, rhino horn and other illicit *'products'* of poaching are really valuable commodities. A kilogram of rhino horn can easily fetch on the street up to \$50,000, comfortably beating bullion and cocaine. To add insult to the provocation, get caught in the U.S. with a kilogram of cocaine and you risk 40 years of incarceration. Based on recent sentences, rhino-horn trafficking can land you with anything between 10 to 20 months in prison. To put it even more plainly: *'Commodities such as rhino horn offer criminals two benefits rarely found together: high prices and low risk'*, (Economist I, 2014). This is not the end of the story though. Regrettably, it can get times worse...



**Photo 1: Game scouts found this black rhino bull wandering Zimbabwe's Savé Valley Conservancy after poachers shot it several times and hacked off both its horns. Veterinarians had to euthanize the animal. (National Geographic Daily News, 2014)**

The nexus between wildlife trade and illegal drugs, as well as arms smuggling, is nothing new in organized crime. The new twist in this longstanding saga is, that law enforcement (in the U.S. and worldwide) was only recently able to obtain *'smoking gun'* evidence that it really exists. *"Operation Crash has documented how individuals involved in other non-wildlife-related crimes have branched out into wildlife crimes [...]. This is a very disturbing trend,*

*because wildlife crimes have now changed from a crime of opportunity to one of organized crime [...]. Operation Crash has led to the arrest and conviction of an illegal firearms dealer [...], and now the arrest of a convicted felon who helped distribute drugs for a Colombian drug cartel.”* (National Geographic Daily News, 2014)

Based on intelligence reports from East Africa, the terrorist organization al Shabab (an al-Qaeda affiliate) gets 40% of its income from illegal ivory. The same stands (to different degrees though) for al-Qaeda itself and the notorious Lord's Resistance Army. In fact, the current U.S. administration has enhanced its multi-faceted counterterrorism initiatives by engaging not only African defence leaders but also conservation and development leaders. As the good old saying goes in law enforcement and counterterrorism: *'follow the money-trail and it will take you to the culprits'...*

East Africa is worldwide the most important transit area of illicit wildlife. The majority of recent large seizures took place in Kenya, Tanzania's Mombasa, Dar es Salaam and in Zanzibar. Since ivory comes from many places and is distributed to buyers across Asia, these ports represent a vital chokepoint in the flow.

Illicit ivory trade is also associated with violence. There have been cases where armed groups have crossed borders to raid elephant herds, and ivory has been associated with the arms trade. Across Africa, the struggle against poachers costs the lives of around 100 wildlife rangers per year (UNODC, 2013). There are basically two types of ivory and rhino-horn poaching: opportunistic and commissioned. In the past, the market has been viewed as largely opportunistic, but recent evidence suggests this pattern may be changing. There have been several well-documented cases of mass elephant slaughter which involved organized crime groups. The crime syndicates respond to demand coming mainly from South East Asia which although it has its own elephant populations, it mostly uses the beasts as heavy-load carriers; a local custom that practically saves the animals from poachers. All in all, consumer demand in Asia indirectly sustains poaching. In fact, wildlife authorities say that since 2007, the elephant in East Africa has experienced its most serious conservation crisis since 1989. As incomes rise in South East Asia, so does the appetite of consumers for ivory on the demand side of the equation.

## Conclusions

Global trade has accompanied cheek-by-jowl economic growth and development for over five millennia. Throughout human history, trade flows have been brought up-side-down and inside-out by wars, revolutions, insurgencies, natural catastrophes and geopolitics, to say the least. The 21<sup>st</sup> century though has been unprecedented due to globalisation, which has been immensely facilitated by the great catalyst of the internet.

The implementation of the very concept of *'Earth, as a Global Village'* has undeniably created winners and losers. The authors of this analysis consciously side with all those who believe that a globalised world is a more equitable one, with diminishing inequality (notwithstanding persisting *'pockets'* of potentially rising inequality) and flourishing prosperity. According to McKinsey:

*"By 2025, 1.8 billion people around the world will enter the consuming class, nearly all from emerging markets, and emerging-market consumers will spend \$30 trillion annually, up from \$12 trillion today. This will create enormous new hubs for consumer demand and global production."*, (McKinsey Quarterly, 2014)

Within this broader landscape of a *'prosperous global village'* featuring booming demand for goods and services, crime could be no exception to the rule. It has evolved, keeping pace with (and sometimes bursting ahead of) its hosting global society. By the same token though, it has also *'mutated'* into something more elaborate, more sophisticated, and less tractable, at times rendering jurisprudence simply irrelevant. Making things even more challenging, global crime has *'migrated'* into business activities, where it used to be unheard of in the past. According to the Economist:

*"Trade is "a ready-made vehicle" for dirty money, says Balesh Kumar of the Enforcement Directorate, an Indian agency that fights economic crime. A 2012 report he helped write for the Asia/Pacific Group on Money Laundering, a regional crime-fighting body, is packed with examples of criminals combining the mispricing of goods with the misuse of trade-finance techniques. Using trade data, Global Financial Integrity (GFI), an NGO, estimates that \$950 billion flowed illicitly out of poor countries in 2011, excluding trade in services and fraudulent transfer pricing. Four-fifths was trade-based laundering linked to arms smuggling, drug trafficking, terrorism or public corruption."* (The Economist, 2014)

There is a clear message stemming from the above analysis. It comprises two basic observations:

- Crime in the 21<sup>st</sup> has evolved along with global society, both in terms of its sophistication and in its *'portfolio of interests'*;
- In the same way globalization turned the planet into a global village, it also drove crime to become transnational (if not global);

Against this background of multifaceted evolution and growth, both the above features of crime give hints about its *'tactical containment'* (and potential eradication), which cannot but include cooperation of crimebusters on a transnational (if not global) scale

## References

1. Congressional Research Service (2013): Report '*International Illegal Trade in Wildlife: Threats and U.S. Policy*', available at: <http://goo.gl/VtAiQy>, [accessed: 19/04/2014]
2. Coutroubis A, Kiourktsoglou G, Schwartz J. (2012): Paper '*Is Maritime Security a Wicked Problem*', available at: <http://goo.gl/EWbPXF>, [accessed: 05/04/2014]
3. Economist I (2014): Article '*Earning with the fishes*', available at: <http://goo.gl/16yHc2>, [accessed: 19/04/2014]
4. Ganapathiraju Pramod & al. (2014): Paper '*Estimates of illegal and unreported fish in seafood imports to the USA*', available at: <http://goo.gl/VwhuHj>, [accessed: 14/04/2014]
5. Gullo B.S. (2011): Article '*The Illegal Discharge of Oil on the High Seas: The United States Coast Guard's Ongoing Battle against Vessel Polluters and a New Approach Toward Establishing Environmental Compliance*', available at <http://goo.gl/6HOvRE>, [accessed: 15/04/2014]
6. ICC International Maritime Bureau (2014 a): Report '*Piracy and Armed Robbery against Ships (Annual Report)*', at p. 24, available at: <http://goo.gl/2BQZe>, [accessed: 05/04/2014]
7. ICC International Maritime Bureau (2014 b): Article '*Beware spurious oil fraud claims*', available at: <http://goo.gl/NcCcQO>, [accessed: 13/04/2014]
8. McKinsey Quarterly (2014): Article '*Global flows in a digital age: How trade, finance, people, and data connect the world economy*', available at: <http://goo.gl/mR8IT5>, [accessed: 08/05/2014]
9. National Geographic Daily News (2014): Article '*Convicted Drug Dealer Indicted for Selling Rhino Horns*', available at: <http://goo.gl/HLnHHu>, [accessed: 19/04/2014]
10. One Earth Future Foundation (2013 a): Report '*The Economic Cost of Somali Piracy, 2012*', available at: <http://goo.gl/uXW6j0>, [accessed: 07/04/2014]
11. One Earth Future Foundation (2013 b): Report '*The Human Cost of maritime Piracy, 2012*', available at: <http://goo.gl/5bNGWe>, [accessed: 10/04/2014]
12. STS (2014): Article '*Food crime is on the Rise*', available at: <http://goo.gl/Dt0D1T>, [accessed: 06/04/2014]
13. The Economist (2014): Article '*Trade is the weakest link in the fight against dirty money*', available at: <http://goo.gl/dqUyws>, [accessed: 08/05/2014]
14. United Nations Convention on the Carriage of Goods by Sea (1978): International Convention '*Hamburg Rules*' (Article 7), available at <http://goo.gl/x8dVPE>, [accessed: 10/04/2014]

15. United Nations Convention against Transnational Organized Crime and the Protocols Thereto (2000): International Convention (Article 3), available at <http://goo.gl/vCK7uN>, [accessed: 19/04/2014]
16. United Nations Office on Drugs and Crime (2010): Report '*A Transnational Organized Crime Threat Assessment*' (chapters 2 & 3), available at <http://goo.gl/1fjHNv>, [accessed: 21/04/2014]
17. United Nations Office on Drugs and Crime (2011): Report '*Estimating illicit financial flows resulting from drug trafficking and other transnational organized crimes*', available at <http://goo.gl/ZvhWh>, [accessed: 22/04/2014]
18. United Nations Office on Drugs and Crime (2013): Report '*Transnational Organized Crime in Eastern Africa: A Threat Assessment*', available at <http://goo.gl/mH5ITc>, [accessed: 19/04/2014]
19. Zeit Online (2014): Article '*Ndrangheta-Umsatz übertrifft Deutsche Bank und McDonalds*', available at: <http://goo.gl/Sb4UzU>, [accessed: 15/04/2014]