UNODC
United Nations Office on Drugs and Crime

Organised Crime and Trafficking in Eastern Africa

A Discussion Paper

TABLE OF CONTENTS

EXECUTIVE SUMMARY

In 2009, UNODC initiated an exploratory study of issues relating to organized crime and trafficking, as a background to the development of the 2009-12 Regional Programme for Eastern Africa: *Promoting the Rule of Law and Human Security*. In both this discussion paper and in the Regional Programme, thirteen countries of Eastern Africa are considered, including Kenya, Tanzania, Uganda, Burundi, Rwanda, Djibouti, Eritrea, Ethiopia and Somalia, as well as the Indian Ocean Islands off the Eastern African coast Seychelles, Comoros, Mauritius and Madagascar.

Eastern Africa has experienced considerable progress towards sustainable development over the last years, but at the same time, the economic crisis, ongoing extreme poverty and inequality, climate change and a continuous threat of escalating violence and conflict in the region have continued to threaten Eastern Africa's progress, and provide a fertile ground for the twin threats of organized crime and trafficking to flourish. Governments in the region have made efforts to develop and implement policies to turn the tide, but it is often the case that corruption, weak governance and rule of law have undermined those efforts.

This discussion paper examines the data and environment regarding the different aspects of organized crime and trafficking in the Eastern Africa region, posing the question of whether or not there are growing trends of concern, and whether they pose a significant threat to the developing stability and societies of Eastern Africa. The report explores the following areas:

1. ***Trafficking in persons and migrant smuggling:*** Despite significant efforts by governments, international agencies and NGOs to eliminate trafficking in persons and migrant smuggling, it is still a major concern in Africa. Due to the large migration flows resulting from formal economic unions and expansive, open borders, the trafficking and smuggling of people are not easily detected. The prospect of better living conditions elsewhere, is most frequently the motivating factor for trafficking in persons and migrant smuggling, as many people desire to move closer to areas that present them with increased opportunities. An uneven regulatory framework, poor international cooperation, lack of awareness among both the police and the population has made trafficking difficult. As trafficking networks become more organized and ruthless, so the problem becomes increasingly more prominent.

2. ***Firearms trafficking***: No accurate data is available on the extent of illegal small arms and light weapons (SALW) available in the region. In recent years the Eastern Africa region has received increased international attention for the excessively high amounts of weapons in civilian hands, and in response, many governments have undertaken weapons amnesty and destruction programmes. But violent conflicts within and at the borders of the region are seen as an on-going source for the illicit trade in SALW, and as a consequence, an increasing level of violence in local communities. Furthermore, evidence is coming to light that SALW trafficking is being connected to piracy and migrant smuggling, as the same groups expand their activities and thus their influence in the region.

3. ***Drug trafficking***: While Eastern Africa is not particularly threatened as a destination for drug trafficking, most countries in the region are used as transit points to other destinations. Cannabis is the most cultivated, smuggled and consumed drug in the region, followed by heroin and to a much lesser extent cocaine. Low seizure figures reported by Governments are more likely to be an indicator of week border controls and insufficient resources to drug control activities, rather than a sign that drug trafficking is not taking place.   West Africa has recently received considerable attention as a drug route, and as mechanisms are strengthened there, the Eastern Africa region will come under threat as traffickers seek new routes across the continent.

4. ***Environmental crime***: Projects show that environmental crime in Eastern Africa is on the rise. There is growing concern about the illegal trade in flora and fauna, wildlife and pollution/dumping of toxic waste. While the amount of environmental crimes may not seem to rate high on the international scale, the impact of these crimes in the Eastern Africa region are enormous. Environmental crime reaches deep into communities, and Resource-based conflicts are easily triggered. More importantly, turning the tide on environmental damage is a huge endeavor, and thus timely interventions of a preventative nature can be far more effective than investigating and prosecuting after the fact.

5. ***Counterfeiting***: Eastern Africa is emerging as a significant market for cheap counterfeit goods. Although this may not seem the most pressing problem for the region, the fact that counterfeit medicines, pesticides, food and drinks enter the region unchecked, is a threat to the health and well-being of the populations. Figures show low arrests, but once again, this should not indicate that the problem is not serious, but perhaps that insufficient resources and attention are being dedicated to the problem.

6. ***Money laundering***:   Address money laundering effectively is complicated, as it required excellent cooperation between a range of partners, both nationally and internationally. Resources are required to conduct investigations over a long period, as cases are often complex and far flung. The level of commitment to the issue, resources available and capacity in region have made it extremely vulnerable to international money laundering activities.

7. ***Piracy***: Piracy operations today are increasingly organized and have turned into a multi-million dollar industry, and the concentration of this activity has been off the coast of Eastern Africa. The frequency, scope and sophistication of recent piracy operations indicate that it is a serious organized crime problem, which is having an enormous impact on local economies, and feeding national organized crime networks.

While it is not possible to establish a definitive threat analysis based upon the data currently available in the region, there is enough evidence to point to disturbing trends. The region, with its extensive coastline, weak border controls, limited cross border and regional cooperation, under-resourced police forces, corruption at all levels and in some cases lack of political will to address crime in a sustainable way, have created an environment in which organized crime can flourish. The UNODC Regional Programme "Promoting the Rule of Law and Human Security in Eastern Africa, 2009-2012" aims at supporting the efforts of Member States in the region to respond to evolving human security threats and promote good governance.

1. INTRODUCTION
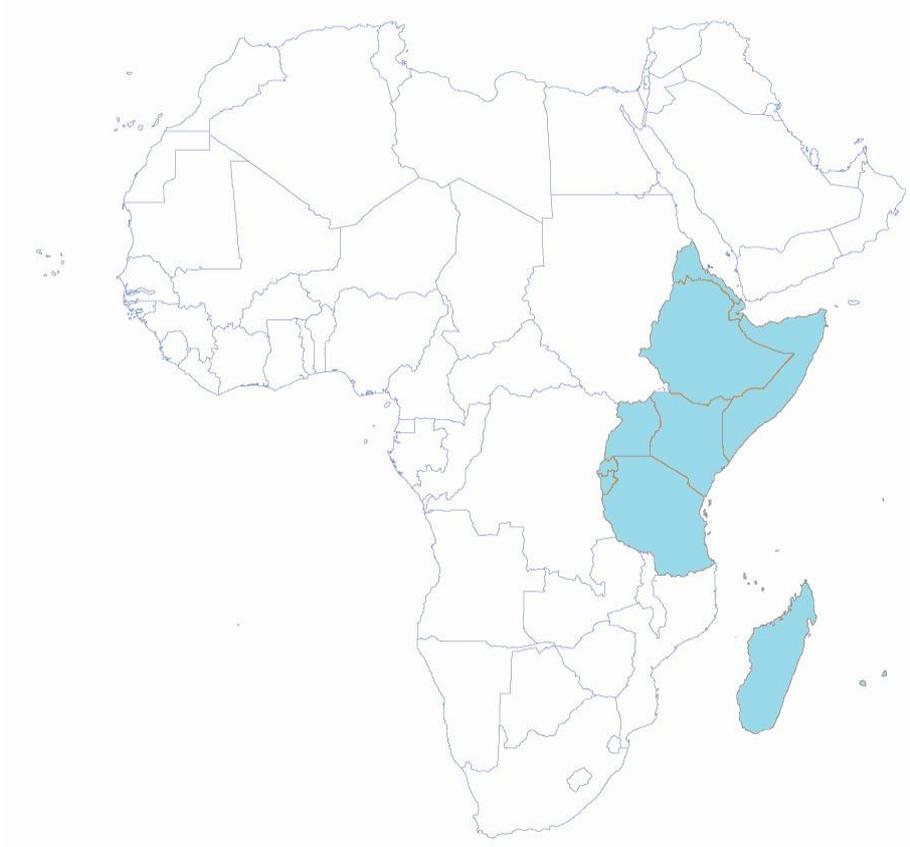
Figure 1: Map of the Eastern Africa Region

In 2009, UNODC initiated an exploratory study of issues relating to organized crime and trafficking, as a background to the development of the 2009-12 Regional Programme for Eastern Africa: *Promoting the Rule of Law and Human Security*. In both this discussion paper and in the Regional Programme, thirteen countries of Eastern Africa are considered, including Kenya, Tanzania, Uganda, Burundi, Rwanda, Djibouti, Eritrea, Ethiopia and Somalia, as well as the Indian Ocean Islands off the Eastern African coast Seychelles, Comoros, Mauritius and Madagascar. The term Eastern Africa is used in the paper when referring to all of the countries outlined above. This is intended as a referral, as the region is culturally very heterogeneous containing pastoral communities roaming in border areas, diverse ethnic groups living in rural regions, as well as fast growing urban areas. UNODC recognizes that countries and people within the region have different social and political backgrounds and sometimes tense or even hostile relationships, and the nature of the analysis and the response was merely to highlight trends, identify issues which particularly require a regional response, but to leave room for individual national approaches.

In recent years, there has been considerable progress towards sustainable economic and human development in Eastern Africa. Countries in the region have recorded high levels economic growth and regional cooperation was high on the agenda for issues ranging from peace and security to health. At the same, however, certain developments raise new threats to ongoing sustainable development in the region. The worldwide economic crisis is undermining the economic growth experienced by these developing economies, and the region, already suffering severe droughts and

floods, is increasingly affected by climate change, which threatens to further undermine agricultural development and livelihoods if no action is taken.

Stark inequality remains an issue, with more than 50% of the population in the Eastern Africa region living on less than $2 a day. Health and human security issues, varying from the high spread of HIV/Aids to countless deaths caused by curable diseases such as TB, measles and cholera, are still paramount in the region, adversely affecting scores of people in the prime of their lives.

Eastern Africa is also a conflict prone region, with the threat of emerging new violent conflicts remaining high. The region is home to one of the most insecure countries in the world, Somalia, and it borders various other various other conflict-torn states, most notably Sudan and the Democratic Republic of Congo. In addition, Kenya experienced internal conflicts in 2008 with the root causes of the violence remaining unaddressed. Border regions between Ethiopia and Eritrea remain volatile, and in the Lord's Resistance Army (LRA) in Uganda is still active. As a result of these wars and conflict, refugee camps are prevalent throughout the region, and the spread of fear and violence by militias, gangs and armed pastoralists are of ever present concern.

There is a persistent threat that Eastern Africa will spiral into a vicious circle of underdevelopment, which is exacerbated by weak governance, weak rule of law structures and high levels of inequality. Governments in the region attempt to develop policies aimed at fostering sustainable development, but in some cases, their efforts have fallen short due to a lack of good governance and high levels of corruption, creating a situation that bolsters the position of organized crime throughout the region. Combined these factors diminish the chances for economic, political and social development and fail to prevent the conflicts and civil wars in the region.

Such an environment allows illicit activities to flourish. Although recent evidence suggests that many African countries have been affected by organized criminal groups, little attention has thus far been given to a systematic analysis of the problem in the Eastern region of the continent.   Despite the lack of reliable data, the existence of organized crime and transnational trafficking in illicit goods such as firearms, drugs and counterfeit products is not contested. There is much anecdotal evidence to suggest that with the growth of international trade, its geographical location and long coastline, and instability along with weak law enforcement structures, the region is becoming an important transit location for illicit drugs and trafficked persons heading to the Middle East, Europe and elsewhere.   Furthermore, the long term impact on biodiversity and environmental resources of the region are adversely impacted, as environmental crimes occur largely unhindered. The health and lives of Africans in this region are put at risk due to the widespread presence of counterfeit medicines. Armed conflicts and violent crimes such as piracy are perpetuated due to the presence and trade in Small Arms and Light Weapons (SALW). The question now is not whether these activities undermine the states in Eastern Africa, but rather is to what extent these activities pose a threat to the development of these societies, and what would be the consequence if no further action is taken.

Reducing the spread of (organized) crime and the illicit trafficking is crucial for development in the region. The objective of this report is to provide an broad overview of illicit transnational activities

and the involvement of organized crime in the Eastern African region, which thus far has not been subject to comprehensive study.

The paper is based on UNODC data, secondary information, and interviews with representatives from government institutions, international organizations and NGOs. Because of the low availability of objective and reliable data, this paper cannot give a detailed account of organized criminal activities across Eastern Africa, but it is intended to provide a basis for further discussion and investigation. Although accurate figures about the occurrence of illicit transnational trafficking and the connection between trafficking and organized crime are not readily available, there is some proof of its existence. For example, figures from the Kenya Wildlife Service show, environmental crime in Kenya is on the rise (see chapter 7 of this report). An in-depth study from the Small Arms Survey shows how the easy availability of ammunition fuels conflict in the border region between Uganda, Sudan and Kenya (see chapter 5). The data from the Pharmaceutical Security Institute in combination with research from WHO (see chapter 8) indicate the availability of counterfeit medicines in Africa must be high, but they are not easily detected and thus not adequately addressed.

In Eastern Africa, as elsewhere on the continent, the lack of quantitative data presents the biggest challenge in developing an overview of illicit trafficking. In this study, UNODC attempts to offer some insights on the extent of illicit trafficking and organized crime in Eastern Africa. However, the absence of reliable data prevents a definitive conclusion being drawn on the extent to which organized crime and illicit trafficking have penetrated the region. Data is either not collected, not easy accessible, or treated as confidential. Data that is available is often not reliable, as the methods of collecting are not consistent and the reliability of reporting by victims is uncertain. Thus it currently is not possible to state how large the problems surrounding the issues of illicit trafficking and organized crime in Eastern Africa actually are. The size of these problems varies per country and topic, and even within individual countries there are conflicting views on this subject due the lack of accurate data, changing external circumstances and perceptions on safety and security in a country.

It should also be noted, that a growing body of global literature and analysis points to the methodological difficulties associated with studying illicit and clandestine activities, including those related to organized crime. Such difficulties include the possibility of collecting data from multiple sources and the challenge of drawing conclusions based on fragmentary data. Despite these hurdles the amount of literature focusing on these themes in the academic fields of sociology and criminology is growing. However, few pieces focus on the central problems associated with criminal groups and networks in Eastern Africa.

Nevertheless, relevant information regarding organized crime and illegal activities is scattered throughout various sources, such as a variety of reports from international and regional research institutions and NGOs. Such information is fragmented, but coupled with anecdotal evidence of development professionals working in the region, there is a sufficient information to sketch trends in some major fields of criminal activity (chapters 4-10). In combination with the facilitating factors for crime and development presented in chapter 2, it is possible to draw some preliminary conclusions, which emphasize the need to addressing transnational illicit trafficking in the Eastern Africa region. The final chapter of the report outlines areas that need to receive structural attention and presents

and initial proposals on how this could be accomplished (chapter 11). Regardless of the lack of quantitative data, the trends point to the need to take immediate action to stem the growth of organised crime and trafficking activities in the Eastern Africa region.

2. CONTRIBUTING FACTORS

Organised crime and corruption have the power to hold East African countries in a vicious circle of under-development. Illicit trafficking and the associated problem of organized crime adversely affects society, threatens human security, hampers development, obstructs investment and corrupts state institutions. The findings of a previous UNODC study highlight three broad impacts of crime on development:[1]

1. *Crime erodes Africa's social and human capital*: Crime degrades the quality of life and can force skilled workers overseas, while the direct impacts of victimization, as well as fear of crime, may impede the development of those that remain.

2. *Crime drives business away from Africa*: Both foreign and domestic investors view increasing crime levels in Africa as a sign of instability. Crime drives up the cost of doing business, which serves as a disincentive to invest. The tourism sector, which is becoming an increasingly significant contributor to economic growth in the region is particularly sensitive to crime issues.

3. *Crime undermines the ability of the state to promote development*: Most profoundly, crime and corruption destroy the trust relationship between the people and the state, thus undermining democracy. Aside from direct losses to national funds due to corruption, crime can erode the tax base as the rich bribe tax officials and the poor recede into the shadow economy. Unfair tax regimes and bribe-seeking officials fuel inequality and increase informality, both of which are associated with crime. In addition, the revenue that does manage to find its way into the national coffers may be diverted into graft rich public works projects, at a cost to education and health services. When people lose confidence in the criminal justice system, they may engage in vigilantism, which further undermines the state.

Some of the main factors that facilitate these processes are described below as they have major impact on the existence of illicit trafficking topics and organized crime we will describe in the next chapters of this report.

1. *Several Eastern African countries are affected by weak governments and instability.* Absence of strong democracies, checks and balances, division of power, adequate legislation, oversight systems, effective and humane law enforcement, and lack of public services are common in most states, hindering development and undermining the trust of the people in the state and its institutions. Combined with the frequent eruption of conflicts, these weak states foster instability. Located either within, or on the borders of the region are three conflict zones: in Southern Sudan, the East of the Democratic Republic of Congo and all over Somalia. The conflict in Somalia has encouraged the trafficking of firearms in the region and is a cause of the high influx of refugees, causing long term detrimental consequences in the region. In addition, conflicts have spill-over effects such as the disruption of the local economy, human rights

---

[1] United Nations Office on Drugs and Crime (UNODC): "Crime and Development in Africa", Vienna 2005, page xii

violations and the disappearance of vital state functions – effects that are evident in the neighbouring countries in the region. Furthermore, a primary concern at the moment is that the conflicts taking place in border regions, such as the one in Ethiopia, are not diminishing significantly, thus posing a long term threat to the stability of the region.

Armed conflict weakens the power and legitimacy of state institutions and undermines democracy and development. These conditions facilitate the emergence of organized crime and provide ample opportunities for criminals to exploit the situation in the region, accumulate illegal profits and amplify their influence. In such circumstances, criminal networks are able to take advantage of the absence or weakness of criminal justice systems, and may often collude with local warlords, control the provision of public goods and services, hamper humanitarian assistance, or corrupt and distort the provision of state institutions and services.

2. *Low resources and low allocation of resources to the criminal justice systems.* Most East African countries depend partially on financial support and have low tax revenues. In most countries, not enough resources are set aside to build up an adequate police and justice system. To effectively deter future offenders, incapacitate offenders, or rehabilitate past offenders, there must be a certain level of resources available so that the criminal justice system can function properly. Currently, many African countries do not possess adequate resources in this field. This is evidenced by the fact that the region possesses the lowest police force to public ration, as well as fewer judges per capita than in any other region of the world.[2]

3. *Corruption remains a critical problem.* In 2002, the African Union (AU) reported that Africa was losing an estimated $150 billion per year to corruption. Corruption can range from bribery of law enforcement officials to the infiltration of state institutions. For example, there are severe allegations of officials in some countries colluding with organized criminals in cases of drug, arms and human trafficking. Due to the large direct benefits derived from these criminal activities, government officials have no intention to reduce or contain them. Corruption in Eastern Africa undermines business performance and reduces incentives for trade and investment. The economic and political costs imposed by corruption drastically impact Eastern African countries and are difficult to eradicate if corruption becomes a part of the political culture. Large number of citizens are denied access to basic public services and suffer from the non-enforcement of the rule of law, such as ineffective public safety standards or environmental protection policies. Corruption also directly contributes to the lack of public infrastructure, investment, education opportunities, and employment which harms the most vulnerable most acutely, and sustains the cycle of poverty and inequality.

4. *Transparency, accountability, voice and awareness are low in most countries.* Low levels of education and the prevalence of authoritarian political systems have fostered a low level of awareness among citizens. If people do not know what to expect from a government and state institutions, they cannot react accordingly. The lack of accountability and transparency provided by individuals within government, parliament, state institutions and regional offices leaves the

---

[2] Europe and North America e.g. have a police ratio of 346 and 325 respectively per 100.000, whereas Africa has a ratio of 180 per 100.000 citizens. Africa has 3 judges compared to Europe with 18 judges per 100.000 citizens (UNODC: "Crime and Development in Africa", June 2005).

citizenry in a vulnerable position. Unawareness or the lack of information creates opportunities for individuals to be exploited, succumbing to the tragedy of human trafficking or the risks associated with counterfeit medicine. Even in countries where people are more aware of their rights, and use their voice to demand better services and just treatment from their governments, responsiveness from the government often remains low. Increased knowledge and information throughout the region will strengthen social structures and political involvement, which is crucial for addressing illicit criminal activities.

5. *Poverty and inequality.* Even after the economic growth of recent years, poverty and inequality remain rampant. Slums and slum populations are on the rise. Inequality, especially in urban areas has increased. In more rural areas, as the smaller towns around Lake Victoria in Kenya, Uganda and Tanzania, inequality is also rising as the populations in these towns increases and public services and infrastructure remain insufficient for the growing number of people.[3] People lack jobs, social security and education and many are unable to escape from the poverty trap on their own. Young people are especially hard hit as they increasingly have access to information about opportunities elsewhere in the world, but remain without a job and a proper education to improve their live. In addition, weak or biased property rights worsen the problem and revenues of economic growth ends up in the pockets of the higher or middle class.

6. *Demographic trends.* Africa hosts the world's youngest population – 43% of the population of the continent is under the age of 15. According to many conducted studies, crime is most likely committed by people between the ages of 12 and 30. In Eastern African countries the median age is 16 to 19 years, meaning that a greater part of the society is vulnerable to becoming involved in criminal activity, if not given alternative methods of legitimate employment and livelihood generation.[4]

7. *Geographical location.* Eastern African countries have become an ideal transit point for illegal goods. Due to the region's long coastline, its remote islands, and porous borders presents an easy entry point to the whole continent. Furthermore, being located south of the world's major heroin producing regions, it can be used as a transit point from east to west, or up to the north. In addition, the geographical features of Eastern Africa are exacerbated by high levels of corruption, which further ease the transfer of goods through the region by permitting access via official border crossings.

8. *Source area for commodities.* Eastern Africa is rich in natural resources such as timber and wildlife products, and also borders regions abundant in them as well. For example, ivory and timber are smuggled in large quantities from the region to a number of destination countries in both the west and Asia.

9. *Destination markets for illegal commodities.* East African States have become a market for counterfeit goods, meaning that the region is no longer mainly a departure or transit location for illicit goods. Counterfeit medicines, drugs, firearms and victims of human trafficking are widely

---

[3] UN Habitat 2009
[4] UNODC: "Crime and Development in Africa", June 2005

available, and their availability will continue to spread if not proper and coherent action is taken to stem the flow of illegal activities and products.

A lasting success in both ending crime and improving development can only be achieved if the underlying factors are addressed. Only by enforcing the rule of law, enhancing the capacities of regulatory, law enforcement and judicial institutions, and introducing a just prison system, as well as improving levels of cooperation within and between countries, can East African states and other actors in the world hope to create the conditions necessary for sustainable development throughout the region.

3. ORGANIZED CRIME AND CRIMINAL MARKETS

While there is no internationally accepted definition of "organized crime", the United Nations Convention against Transnational Organized Crime (UNTOC) defines an "organized crime group" as "a structured group of three or more persons existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit".[5] This is a rather broad definition, which does not consider organized crime solely in terms of mafia-style organizations with a strict hierarchical structure; but would also include street gangs or vigilante groups under the definition of organized crime.

The breadth of the definition of organised crime is of particular relevance in Eastern Africa, where criminal groups take the form of loose and flexible networks. Those networks are defined by the activities of key individuals who engage in illicit activity in often shifting alliances.[6] Eastern African criminal networks are generally characterized by their great fluidity and flexibility, qualities that actually can be used to great advantage in modern, globalized markets, including illegal ones. The following actors/networks can be distinguished:

4. *National criminal syndicates:* in some instances with links to international syndicates in Asia or Europe engaged in diverse activities such as trafficking in drugs, guns and persons, often using the same routes for all commodities.

5. *Family networks* with extended family across country borders.

6. *Independently owned businesses* with contractors, such as employment agencies whose activities take place in a grey zone between legal and illegal activities.

7. *Loosely based acquaintances/organizations* moving illicit goods on a limited scale.

Understanding the variety of groups and networks offers insight into their modus operandi and can lead to the means by which they can be effectively countered.

Transnational organized crime by definition concerns more than one country. In the case of Eastern Africa, this may involve locals colluding with others from outside the region - for example, Asian groups and other foreign nationals - or it may involve citizens of the regions based in their home country maintaining relations with expatriates living abroad. According to expert opinion, the importance and relevance of certain groups in the region is growing, such as Somali groups or the Mungiki-group in Kenya. The latter emerged as a religious sect in the late 1980s, presenting a resistance movement against modernization and globalization, but has evolved into a criminal organization. Today the group is purported to be engaged in extortion and protection rackets,

---

[5] Article 2(a) of the UN Convention against Transnational Organized Crime
[6] UNODC: "Results of a Pilot Survey of Forty Selected Organized criminal Groups in Sixteen Countries", Vienna 2002

mainly in the slum areas of Nairobi. Mungiki is often referred to as Kenya's Cosa Nostra, Yakuza, or Kenyan Mafia due to its mafia-type organization and activities.

Besides national or regional Eastern African groups, arrest figures indicate that also West African criminal networks and groups are active in the region. Reports and interviews suggest that apart from West Africans and some European groups, the presence of Asian criminal networks has grown rapidly in recent years. However, understanding the role and extent of Asian groups in illegal activities is extremely difficult, especially in the trade in counterfeit medicine. Little is known as to how these operations are controlled and the extent to which they cross-over between legitimate and illegitimate activities, as well as the degree to which corruption is involved.

Preliminary reviews of the various types of criminal markets in which criminal groups are involved in the Eastern African region is provided below and include:

- Trafficking in persons and migrant smuggling
- Firearms trafficking
- Drug trafficking
- Environmental crime
- Counterfeit
- Money laundering
- Piracy

The following sections of the paper will review the available information on each of these areas of criminal activity, presenting the environment, known facts, the legal framework, and possible interventions to counter them.

4. TRAFFICKING IN PERSONS AND MIGRANT SMUGGLING

4.1.Introduction

Despite significant efforts by governments, international agencies and NGOs to eliminate trafficking in persons and migrant smuggling, it is still a major concern in Africa. Due to the large migration flows resulting from formal economic unions and expansive, open borders, the trafficking and smuggling of people are not easily detected. The prospect of better living conditions elsewhere, is most frequently the motivating factor for trafficking in persons and migrant smuggling, as many people desire to move closer to areas that present them with increased opportunities. This is just as true for people moving within a single country, from a rural to an urban area, as it is for those moving across international borders.

An exact number of human trafficking and migrant smuggling cases is difficult to estimate due to the lack of statistical evidence that results from a number of factors. For example, in many cases individuals willingly begin the migration process and to some extent, a number of parents are directly involved in the trafficking of their own children, thus making it difficult to obtain reliable data on human trafficking. Such situations make it difficult to gauge the full extent by which society is affected by human trafficking and migrant smuggling. However, it does not mean that these two phenomena do not have a profound impact upon the countries of East Africa and their societies. This is evidenced by the amount of attention given to these issues in recent years. While Djibouti, Ethiopia, Eritrea, Rwanda and Tanzania have enacted specific anti-trafficking in persons legislation, Burundi, Kenya, Mauritius and Uganda are in the process of adopting anti-trafficking legislation, either having already presented draft laws to the legislative bodies or being in an advanced stage of the drafting process. [7] In addition, in most countries there are laws in place for trafficking related offences that enable criminal justice professionals to take action. In spite of these efforts though, the vast majority of people remain vulnerable to the actions of traffickers due to a lack of awareness on the part of the public and the absence of investigative and prosecution capacity on the part of law enforcement officials, as well as to a weak overall legal framework and long, porous borders that benefit organized criminal and trafficking networks.

4.2 Definitions and Legal Framework

Two major areas of irregular migration are important for consideration: trafficking in persons and the smuggling of migrants. Trafficking in persons is defined in the Palermo Protocol, while migrant smuggling is defined by a supplementing protocol to the United Nations Convention against Transnational Organized Crime (UNTOC) known as the Protocol against the Smuggling of Migrants by Land, Sea and Air. Smuggling of migrants and trafficking in persons often represent overlapping areas of criminal activity, yet, they are distinct crimes. The key distinction is that smuggled migrants normally consent to the smuggling process, and their relationship with the smuggler terminates once they arrive at their intended destination. On the other hand, victims of trafficking have either never given their consent or their initial consent is nullified by the means used by the trafficker to gain control over the victim, such as deception and violence. Also, the purpose of trafficking is always exploitation, which ultimately generates profits for the traffickers, while smugglers generate

---

[7] UNODC Global Report on Trafficking in Persons, February 2009

their profits through selling their services to their clients – illegal entry to another country – a relationship that is terminated when reaching the destination country.

Most countries in the region have signed the Palermo Protocol and ILO conventions, and in many states anti trafficking laws have been enacted and national laws have been adjusted to conform to international conventions. Also, in practice investigations, prosecutions and convictions are possible in most countries based on existing laws for anti trafficking related offenses. However, more steps need to be taken in order to close loopholes and increase the legal risk associated with these crimes, ensure that national law is in line with international standards, and that a regional framework addressing the issue is established.[8]

4.3 Migrant Smuggling

Migrant smuggling is a thriving business in Eastern Africa, due to the enduring political and economic instability in the region. The latest study from the International Organization for Migration (IOM) shows that approximately 14.5 million people migrate per annum; 10 million of them moving within the countries of the East Africa region.[9] While not all of these individuals migrate illegally, many of them do in the hope of escaping a poor and conflict torn state, this only makes the profits to be made from smuggling to be more attractive. Spurring irregular migration, the smuggling of migrants further exacerbates the adverse impacts of unmanaged migration on the societies as a whole in both the sending and recipient countries. As a result, a vicious cycle is repeated: economic development is hindered, creating a breeding ground for crime, which in turn increases the lack of economic opportunities, further stalling human development.

Although current data is too scattered and incomplete to paint an accurate picture of the number of people smuggled each year and the routes and methods employed in smuggling them, the available evidence reveals three main trends:

- Migrant smugglers are being utilized at an increasing rate. Due to improved border controls, irregular migrants increasingly resort to the assistance of smugglers, causing migrant smuggling to become a highly profitable business.

- Migrant smugglers are becoming more organized. With a low risk of detection and punishment, as well as higher returns, migrant smugglers are increasing their level of organization and cooperation, establishing professional networks that transcend borders and regions.

- The migrants are exposed to ever increasing levels of danger. Migrant smugglers constantly change routes and methods used in response to changing circumstances. The cost of these changes is usually borne by the smuggled migrants, who often pay with their lives.

Migrant smuggling can take many forms, from ad-hoc to the fraudulent acquisition of a visa to outright pre-organized stage-to-stage smuggling. Regardless of the manner of smuggling that is utilized, the above trends highlight the need for immediate action on the part of the UNODC and

---

[8] The African Union (AU) has begun to address the issue of migration in its Migration Policy Framework for Africa and African Common Position on Migration and Development
[9] International Organization for Migration (IOM): "World Migration Report 2008"

countries in the region in order to combat migrant smuggling. Not only are new methods necessary, but increased coordination across and between regions should be a priority.   UNODC should continue in its efforts to assist countries in implementing the Migrant Smuggling Protocol, as well as continue to promote a comprehensive response to the issue of migrant smuggling.
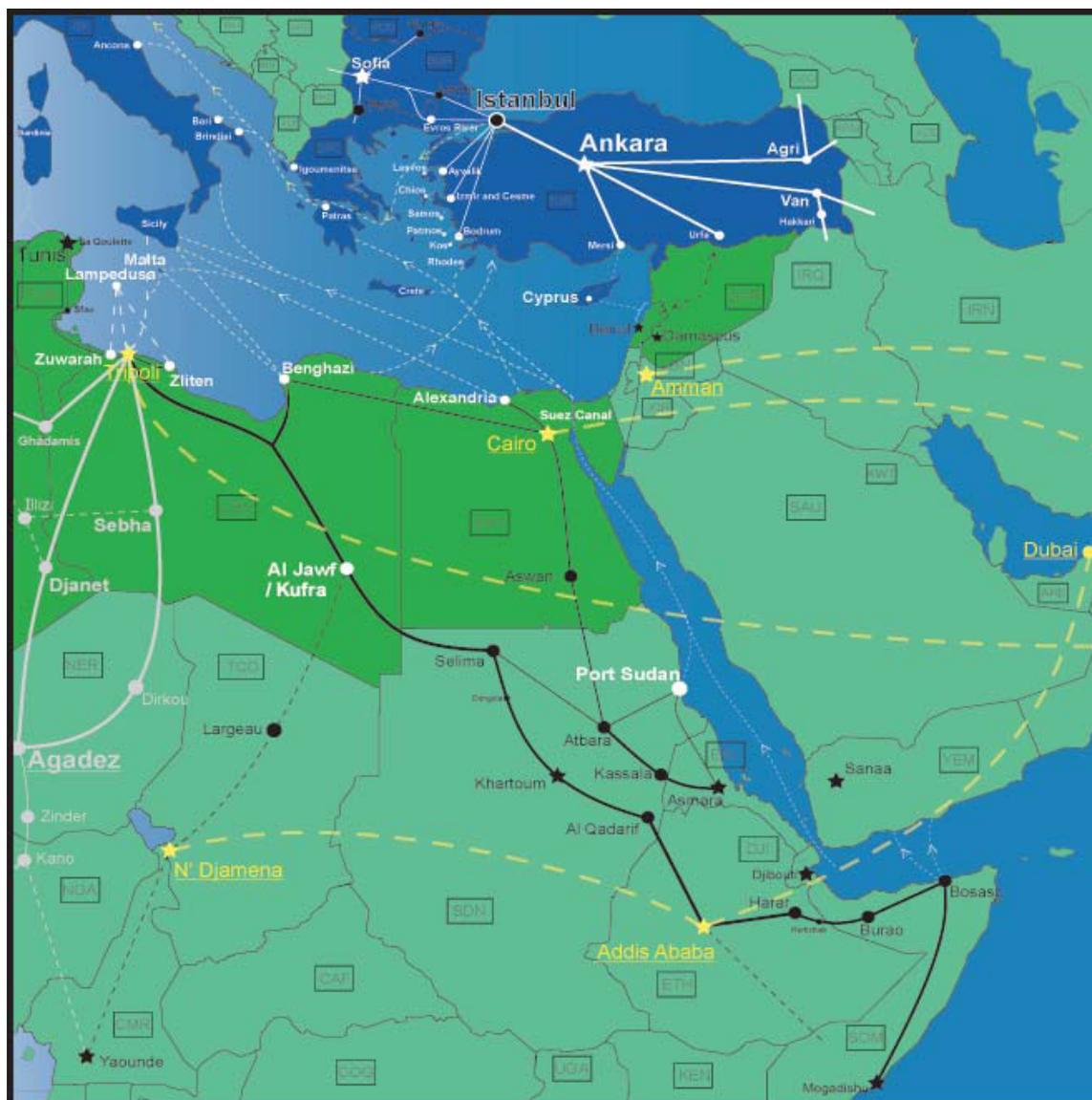
Figure 2: Migrant smuggling routes from Africa to Europe[10]

4.4 Trafficking in persons, profile of victim and traffickers

Although information relating to the analysis of trafficking patterns, flows or trends in the East African region is scarce, available data suggest that the countries in the region are beset by domestic as well as intra-regional trafficking.[11] On the domestic level, trafficking is occurring on a large scale, as men, women and children are transported from rural to urban areas for forced labour and sexual

[10] United Nations Office on Drugs and Crime (UNODC): "Organized Crime and Irregular Migration from Africa to Europe", 2006

[11] UNODC Global Report on Trafficking in Persons, Feb., 2009

exploitation. At the international level, trafficking also occurs on a large scale in some countries, such as Uganda[12], but most transnational trafficking occurs between countries in the region.

The profiles of the victims vary greatly; however, the reasons for their trafficking are similar: unemployment, income levels, the death of parents and educational levels.[13] Most victims of human trafficking in the IOM assessment were lured by the all too common promises of a good job, a higher salary, improved education opportunities or other favourable prospects, but in the end, the promised conditions were rarely met. The demand for female victims is boosted in the region by the growing tourism and sex industry[14], and forced child labour is prevalent in rural areas on plantations, and in the fishing and mining industries.[15]

The prevailing civil conflicts in countries in or bordering the region offer fertile grounds for trafficking in persons. Women and children often end up in the hands of warlords, soldiers and rebels. They are abused as sex slaves, soldiers, forced labourers, carriers of ammunition and weapons, spies, and messengers. Children in armed conflicts are drawn into extreme violence and many are exposed to and become involved in drug abuse. This experience makes children and young adults more likely to become engaged in violent and criminal acts themselves, even after the conclusion of the armed conflict.

Armed forces use brutal and sophisticated techniques to separate and isolate children from their communities, such as abduction, force and intimidation. Moreover, there are indications that the trafficking of children in and from conflict zones is becoming a growing transnational trend, linked to sophisticated international criminal networks, leading to the increase in victimization and participation of children in conflict.

4.5 International Trafficking

Trafficking in women, children and to some extent men, also occurs on an international level to destinations in Europe and the Middle East for labour and sexual exploitation. In contrast to domestic trafficking, perpetrators are typically part of bigger organized networks of African citizens or international syndicates. As in the case of domestic trafficking, victims of trafficking are deceived about working conditions, salaries or even the type of work they have been promised.

Despite difficulties in obtaining data, the US Department of State indicates that Somalia serves as a destination, origin and transit country for trafficked men, women and children.[16] East African countries, although to a much lesser extent are also destination countries for women from South Asia, in particular for India.[17] In addition, it is important to mention that most international migration to Europe is occurring to countries where a Diaspora is already present. Migrants are assisted by other nationals living in these communities, and sometimes even use the same traffickers.[18] These trends demonstrate that the East African region is an important depot in the

---

[12] Interview with IOM director Uganda on 15 September, 2009
[13] Human Trafficking in Eastern Africa, Research assessment and baseline information in Tanzania, Kenya, Uganda and Burundi, IOM Geneva 2008
[14] International Organization for Migration (IOM) Report 2009
[15] African Network for the Prevention and Protection against Child Abuse and Neglect (ANPPACAN): "Regional Progress Report 2007"
[16] US Department of State: "Trafficking in Persons, 2008 Report: Special Cases", Somalia 2008
[17] GTZ: "Study on Trafficking in Women in East Africa", 2003
[18] ICMMPD 2007

human trafficking trade, serving as a destination, as well as a place of origin and transit for individuals being trafficked to the Middle East and Asia, as well as Europe. The table below gives an overview of source and destination countries for international trafficking:

	South Africa	Ethiopia	Kenya	UAE	Saudi Arabia	Other Middle East	Egypt	Europe	North America	Uganda	Tanzania
Burundi								X		X	
Comoros											
Djibouti											
Eritrea											
Ethiopia			X	X	X	X		X			
Kenya	X	X				X		X	X		
Madagascar											
Mauritius											
Rwanda			X					X		X	
Seychelles											
Somalia	X		X			X					X
Tanzania	X		X	X	X	X	X	X			
Uganda	X		X	X	X			X	X		

Figure 3: Impression of international trafficking[19]

4.6 Irregular migration patterns and routes

Two typical migration routes can be identified in the region, the north route by land and seas – via North Africa to the Middle East and Europe – and the south route mainly to Mozambique and/or Southern Africa. Eastern African countries are primarily countries of origin, but for the region and in domestic cases, they also serve as destination or transit points. Kenya has been identified as a destination country for illegal migrants. South Africa is the most targeted country in the sub-region due to its relatively high level of economic and social development, and Tanzania is the leading country for refugees in the region due to its relative level of political stability, receiving officially close to one million migrants in 2005.

The East Africa routes are mainly composed of individuals from the Horn of Africa. The routes depart from Ethiopia, Eritrea and Somalia, pass through Sudan/Chad and Libya, and eventually end on the shores of the Mediterranean Sea: in Egypt, Libya and even in Turkey. The flows from East Africa constitute from a numerical point of view the main flow of migrants crossing the Mediterranean Sea, and this Eastern Route is currently the most frequently and successfully used.

A 2007 UNODC assessment mission to Yemen provides detailed information on the Gulf of Aden Route, from Somalia to Yemen, which serves as a transit country to other states in the Middle East and Europe. Not only due migrants on this route originate from Somalia, but an increasing number set out on their journey from Ethiopia and Eritrea. Once on the journey, migrants are exposed to extreme danger and many die along the way, not only due to the risks associated with the high seas,

---

[19] Overview based on information from TIP 2008, 2009 and ICMPD Reports

but also because of the conditions on the transit journey and the brutality of the smugglers. Despite the high risk associated with the crossing though, the exodus of Somali migrants does not cease. Tens of thousands of migrants and refugees use the Gulf of Aden route every year, and many still perish on their way to a better life.[20]

4.7 Occurrence and facilitating factors

Research completed in 2006 and mentioned in the US TIP 2008 found approximately 800,000 people are trafficked across national borders, and millions more are trafficked within their own countries. Out of these figures, approximately 80 percent of transnational victims are women and girls, and up to 50 percent are minors.[21] Although the lack of exact data regarding migrant smuggling and human trafficking makes it difficult to measure how adversely these two phenomena affect the countries of East Africa, several indicators show that this issue needs immediate attention.

The East African migration patterns are profoundly influenced by conflict and political instability, causing internal and international displacement in addition to creating a viable atmosphere for trafficking. It is not difficult to foresee that while refugee camps grow and migrant flows within the region as well as to Europe and the Middle East remain high, illicit human trafficking will remain a problem and most likely increase. In addition, efficient border management is lacking. Borders are long and porous, permitting people to travel relatively easily across them, and the border police lack the necessary training and equipment needed to effectively monitor what border crossings are in place.   The problem of human trafficking and migrant smuggling is further exacerbated due to the presence of weak governments and criminal justice systems. The lack of an adequate legislative and regulatory framework and awareness of the part of law enforcement and government officials only serves to impede the effective and coherent prevention of human trafficking.

4.7 Potential Interventions

Overall, trafficking in persons and smuggling in migrants are increasingly gaining attention in East African countries. Child trafficking in particular is being recognized as a problem that needs to be addressed. Having appropriate legislation in place, as well as having a national action plan, albeit useful, is ineffective if the political will to act is not present, and capable law enforcement and judicial officers are lacking. The political will to confront these problems is needed not only to address issues of legislative reform, but more importantly in order to raise public awareness regarding human trafficking, migration issues, and in doing so increase the level of regular migration and the reporting of illicit trafficking. The presence of adequately trained and equipped police forces and judiciary in vital to ensuring that trafficking is recognized, investigated and properly prosecuted. In almost all the countries of the East African region, the low levels of investigation, prosecution and conviction are deeply concerning[22].

The prevention of transnational human trafficking requires not only cooperation between various state agencies (border police, police forces, prosecutorial and judicial actors, immigration officers, ministries of interior), but also good communication and data exchange between countries within

---

[20] The Mixed Migration Taskforce Report "Addressing Mixed Migration Along the Gulf of Aden: A Strategy Paper", Mrach 2008 (authored b IOM/UNHCR)
[21] U.S. TIP report 2008, page 7
[22] See country reports in US TIP 2008

the region and worldwide is needed. Coordination is a difficult issue in almost all government areas, and although regional organizations take trafficking in persons and migrant smuggling seriously, joint action has not yet developed on a large scale.

Human trafficking is not addressed on an appropriate scale by law enforcement officials. Resources and skills are lacking, and awareness concerning human trafficking is still low. Even more concerning, though are reports of law enforcement officials harassing victims of trafficking instead of helping them[23].

However, there are also positive trends providing evidence that improvements are possible. Amongst sub-Saharan African countries, Madagascar has an excellent record on combating human trafficking.[24] Addressing the problem of child sex tourism is taken seriously. The government has significantly increased its law enforcement efforts during the last few years, including the adoption of a comprehensive anti-trafficking law and the punishment of local government officials who facilitate trafficking in 2007. As there is no central reporting system in Madagascar, however, the government could not provide prosecution statistics.

In Ethiopia, progress has also been made over the last year. Forum for Street Children (FSCE), a local NGO, has collaborated with international NGOs and local and regional law enforcement in establishing Child Protection Units (CPU) in police stations in Addis Ababa and nine other towns worldwide. Each CPU educates law enforcement officials on the rights of children and provides assistance to child victims of exploitation. This program has helped reunite over 1,000 trafficked and exploited street children with their families, and the staff at the Addis Ababa Central Bus Terminal now report possible child trafficking cases to local CPUs.[25]

State responses to trafficking in persons in Madagascar and Ethiopia indicate that the problem of human trafficking in East Africa is gaining increased attention and that states are beginning to address the issue more comprehensively. Based on the findings presented above and the recommendations from the in-depth study in Ethiopia, Kenya and Libya from the ICMPD[26], the following are proposals on how to increase efforts in East Africa to prevent and diminish human trafficking and its effects:

- Make use of existing local, regional and international support for legal and practical capacity building directed towards policy development, development of laws and a coherent and institutionalized national framework to address trafficking in persons and migrant smuggling. (Support is offered for example through national and regional NGO's, the U.S State Department, IOM, and the UNODC GIFT programme).

- Make sure cooperation and co-ordination among national and international stakeholders in all migration related areas (i.e. migration offices, border control, awareness raising campaigns) are further developed.

---

[23] IOM report 2008, page 30
[24] US TIP 2008
[25] US TIP 2008, page 38
[26] ICMPD Country reports 2008

- Efforts to improve the lack of data gathering overlap of responsibilities, lack of co-ordination and communication between local and regional law enforcement and judicial officers. This needs to be addressed in the context of a lack of financial and human resources with possible assistance coming from destination states.

- Invest in efficient border management as a core element of migration management. Countries need to acquire sufficient human, financial and technical resources for efficient border management.

- Raise awareness among the population through awareness and education campaigns, news reporting etc. about the opportunities for legal migration and the dangers of trafficking in persons.

- Improve the education and training of criminal justice actors, especially law enforcement officials to assist them in detecting cases of trafficking of persons and migrant smuggling,, as well as sensitization regarding the proper care and assistance to be provided to victims of human trafficking. Ensure facilities are available to offer care and support to trafficking victims.

- Overall, all (international) support activities need to be placed in the context of other pro-poor development strategies in countries, such as the Plan for Accelerated Sustainable Development to End Poverty (PASDEP) in Ethiopia, or the New Partnership for Africa's Development (NEPAD) at the regional level.

5. FIREARMS TRAFFICKING

5.1 Introduction

Of the estimated 640 million small arms and light weapons (SALW) in circulation worldwide, 100 million of those are thought to be in Africa and the majority of those in the hands of civil society.[27] Trafficking in firearms constitutes one of the most challenging and pressing problems in Eastern Africa. Firearms are circulating from one conflict to another and eventually end up in the hands of warlords and criminal gangs, prolonging conflicts, promoting crime and armed violence and slowing down the development of social and economic stability and democracy.

Most countries in the region are heavily affected by the circulation and misuse of illicit firearms, which are often the direct cause of death of many civilians. The flow of firearms is fuelled by persistent instability in the region and recurring outbreaks of conflicts within the Horn of Africa, the Great Lakes Region and to neighbouring countries.

Firearms trafficking and organized crime are inextricably linked, yet little information is available about the networks and organizations involved in the East Africa region. Firearms' trafficking has also a clear link to terrorism, armed conflicts, and it is closely related to urban violence and gang criminality. The availability of firearms and firearms trafficking are widespread in the region, but the proliferation of firearms is generally believed to have a certain pattern and could be effectively controlled if the channels of supply were identified and tackled.

Reducing the amount of SALW could clearly contribute positively towards ending the vicious circle of violence. Although most states in the region have weak governance structures and are struggling to provide security within their borders, they have attention for the arms problem. In practice, they face multiple challenges in addressing the issues around SALW. Porous borders create a difficult situation to track trade in the commodity and are heaven on earth for illicit activities. The poor condition of state security forces causes the impossibility to provide security country wide and so inhabitants choose to arrange for their own safety and posses weapons. Furthermore widespread corruption in some countries and institutions cannot rule out governmental involvement or allowing of illicit trade.

The exact amount of available SALW in East Africa is unknown. It is expected there are thousands of firearms in illicit possession, and that illicit trafficking of these weapons is taking place at a large scale. Although clear facts and figures, as well as information about involved actors and trade routes are not widely available, it is possible to create a picture of the illicit trafficking in firearms by looking at the laws and regulations in place and to what extent these laws are being effectively implemented.

5.2 Small arms and light weapons and their sources

Small arms and light weapons (SALW) is used to describe most firearms in use by individuals and small groups of individuals and the ammunition used for the weapons. Common firearms in East

---

[27] http://www.smallarmssurvey.org/files/portal/issueareas/inventories/inventories.html, 30 September 2009

Africa are the AK 47 and G 3. SALW are used for a range of reasons, for as by civilians for protections, to pastoral uses, to the more sinister uses of criminal gangs, militias and terrorist groups.

In East Africa a major source for weapons has been the supply of weapons in the 1970s and 1980s in relation to the Cold War. Another major area of concern is the diversion of firearms from official sources due to a combination of factors, including the breakdown of state institutions, looted government stockpiles, and theft from state-run small arms inventories. The majority of firearms are diverted from poorly secured government stockpiles by corrupt officials or thieves and transactions are frequently facilitated by illicit brokers, who take advantage of weak regulatory systems, poor or non-existent import and export controls and licensing systems. In addition, local law enforcement and other officials are involved in the supplying of ammunitions, whether legal, semi-legal or illicit.

Given ongoing instability in Somalia, the country is a gateway for illicit arms to enter the Eastern African region. The UN Monitoring Group on Somalia[28] has noted that significant arms shipments have been made to the country through the Gulf of Aden. Weak border controls facilitate the flow of weapons from Somalia to the region more generally. In particular in conflict-ridden countries, firearms find their way through clandestine military operations, which are covert transfers by corrupt government officials to separatist or rebel forces operating in another country. Kenya and Tanzania, for example, are both affected by the influx of firearms from neighbouring countries, which are faced with armed conflict.[29] Seychelles, although known as a stable and peaceful country, is thought to be an important entry point for small arms in the region.

	Ease of Access to SALW	Level of Violent Crime
Burundi	5	3
Comoros	4	1
Djibouti	4	2
Eritrea	4	2
Ethiopia	4	2
Kenya	5	4
Madagascar	4	2
Mauritius	3	2
Rwanda	3	1
Seychelles	3	3
Somalia	5	5
Tanzania	3	3
Uganda	3	3

Measured on a scale from 1 to 5: where 1 is the least accessible; and where 1 is least violent.

Figure 4: Ibrahim Access to Weapons Index 2008 for Eastern Africa

Arms and ammunition trafficking in Africa is a complex and multi-faceted problem often linked to inter-community violence and organized criminal activities, such as looting natural resources, poaching and drug trafficking. A firearms transaction may involve an array of clandestine criminal

---

[28] Pursuant to Security Council Resolution 1811.
[29] Regional Centre on Small Arms (RECSA): Fact Sheet 2008

network brokers, banks, corrupt government and law enforcement officials, private military companies, dubious transportation companies, and several trans-shipment points.

5.3 Legal and policy framework

The region of Eastern Africa has a fairly good regional arms regulatory framework in place. This is evidenced by the following programmes and protocols: The Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (PoA), the Nairobi Declaration, the Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa, and the Regional Centre on Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa (RECSA). Furthermore, signature to and implementation of the regional legal and policy framework is fairly good, as demonstrated in the table below:

	Burundi	Comoros	Djibouti	Eritrea	Ethiopia	Kenya	Madagascar	Mauritius	Rwanda	Seychelles	Somalia	Tanzania	Uganda
Nairobi Protocol for the prevention, control and reduction of SALW in the Great Lakes and Horn of Africa regions	X		X	X	X	X			X	X	X	X	X
ECCAS Permanent Consultative Committee on Security Matters in Africa	X								X				
SADC Protocol on the control of firearms, ammunition and other related material												X	
AU-Bamako Declaration on illicit small arms	X					X			X			X	X
UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons (PoA)	X					X			X			X	X
Ottawa Convention (Mine Ban Treaty)	X					X			X			X	X
UN Arms Trade Register													
UN Firearms Protocol						X							

Figure 5: Regional SALW Legal and Policy Framework[30]

---

[30] Regional Centre on Small Arms (RESCA): Fact Sheet 2008

Despite this regulatory framework, two major issues in regards to the established framework are in need of mention. First, most of the current regulations do not address the issue of brokering firearms. This issue has not been addressed properly worldwide, but as brokering is a crucial step in the structural spreading of SALW from one place to another, it urgently needs to be addressed. Middlemen in the SALW trade are difficult to 'take out of business', which would serve to severely hamper and disrupt the trade. Secondly, the other serious omission in the current law is that these regulations are not rooted in humanitarian law, thus creating a situation in which law enforcement officials can hunt down and investigate offenders without upholding basic humanitarian protection. While reducing the number of illicit weapons in possession, their use and their trafficking is paramount, it should not lead to a situation in which the civilian population is intimidated away from participating in addressing the illicit arms trade because of undue fear of law enforcement officials.

The regional efforts to control illicit arms trafficking in East Africa have been launched in the right direction. The fact that regional solutions are being sought is worthwhile, as worldwide efforts to reduce or even diminish arms trafficking will prove far more difficult to achieve. More important, a regional approach is necessary to tackle in order to make sure SALW do not continue to be dispersed from country to country. Destruction of weapons, tracking and tracing, border control and stockpile management are prerogatives to end SALW proliferation and illicit trafficking in firearms. The enactment of necessary laws and the establishment of RESCA are important first steps to bringing illicit arms trafficking under control, but it is too early to say whether they will work or be sufficient, because in most cases the undersigning countries are still in the process of adjusting their laws to the Nairobi protocol and the process of implementing enacted laws is excessively slow. At the same time it will be difficult for the countries in the region to succeed in implementing the laws without support, technical and financial, from the outside. Without such support, the SALW trade will continue to flourish and adversely affect the East Africa region.

5.4 Potential Interventions

The mere fact that weapons are easily available and easily transferred is harming the people and development in East Africa. If nothing is done to diminish the amount of available weapons and trafficking of SALW, development will remain difficult to achieve. Disarmament, increasing state based law and order and ending impunity are a necessary part of raising economic, social and political development in the region.

East African countries are taking the illicit trade in SALW seriously, as evidenced by the development of new legislation and the production of national action plans. However, although relatively strong laws and policies are available throughout the region, there are insufficient means to implement them. In addition, the governments and their security forces are contradictory in their actions, willing to address the proliferation of SALW at times, yet still contributing to the continued trade in such weapons and ammunitions. Underdevelopment, inequality, conflict over resources, tensions between communities and states within the region all create an environment in which it is difficult for civilians to understand and acknowledge the importance of ending SALW possession and trade. In order to secure success in the long term, structural attention for implementation of SALW programmes and the connection of these programmes to livelihood and poverty reduction programmes is necessary.

From the available data, it is difficult to analyze the current situation regarding the illicit possession and trafficking in SALW in East Africa and how it is to develop. However, considering the available facts and figures, it is highly unlikely that weapon possession and illicit trafficking in SALW will decrease anytime soon. Instead, most indicators lead to the conclusion that the situation is most likely to deteriorate in the short or long term if no further action is taken.

Each country can increase its efforts to combat the illicit possession and trafficking of SALW, but if the SALW trade is to be prevented effectively, it is necessary to increase efforts on the regional level. In order to necessitate improved regional cooperation for SALW reduction, the following priority activities should be undertaken:

- Increased implementation of existing (and to be developed) laws, protocols, and regulations;

- Increased utilization of regional structures;

- Strengthened management of weapon stockpiles;

- Restriction on law enforcement behaviour that facilitates SALW trafficking and the use of firearms, such as the issuing of ammunition;

- Enhanced capacity of police units so they are able to deliver security in every region and uphold laws on firearms;

- Guarantee that existing programmes and institutions (RECSA and ICGLR) achieve stated results and objectives, and are accountable to citizens and donors;

- Termination or re-organization of underperforming organizations and programmes;

- Raised awareness among citizens regarding illicit firearms possession and trafficking;

- Established connection between disarmament programmes and other development initiatives; and

- Enhanced capacity of agencies responsible for border control.

6. DRUG TRAFFICKING

6.1 Introduction

Drug trafficking in Africa, particularly West Africa has gained special attention in recent years. Most countries in the Eastern Africa region are used as transit points to other destinations. Cannabis is the most cultivated, smuggled and consumed drug in the region, followed – among the internationally controlled substances – by heroin and to a much lesser extent cocaine. Although seizure figures are low, they indicate more than likely that few resources are being allocated to drug control and weak border controls rather than low levels of illicit drugs being trafficked through the region. An intra-regional drug trafficking pattern has also emerged recently, involving Kenya, Tanzania, Madagascar, Mauritius, Seychelles and the Comoros.
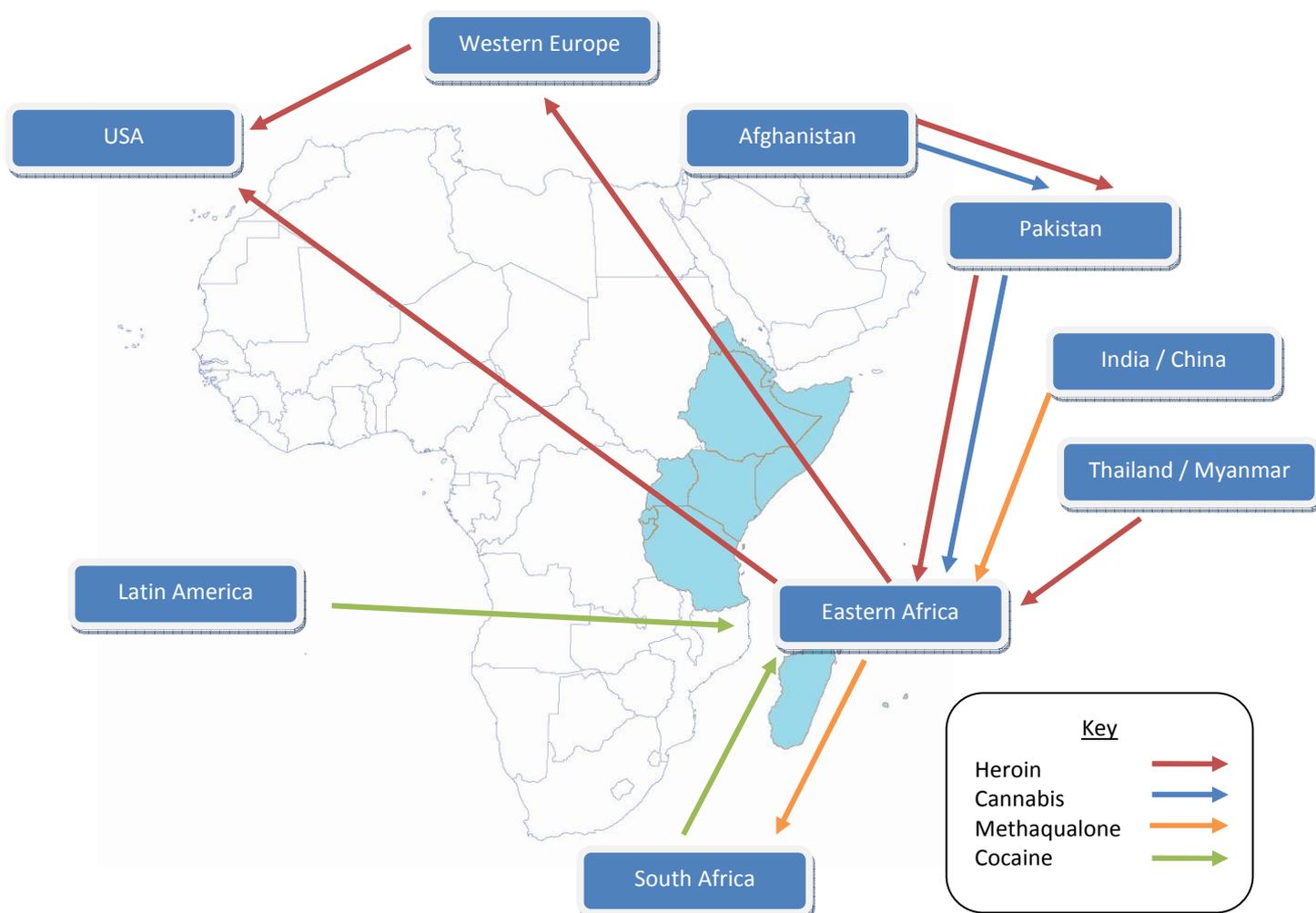

Figure 6: Major drug trafficking routes in the Eastern African region

6.2 Types of drugs, occurrence and trade

Most information on drug trafficking, consumption patterns and country activities to counter the trade in drugs is collected worldwide through the annual reports questionnaire (ARQ) by UNODC.[31] In 2007 and 2008, only a handful of countries submitted completed these questionnaires. As a result, 2006 is the latest year for which total seizure data is reasonably representative of the overall situation in East Africa (ARQs were submitted by Eritrea, Ethiopia, Madagascar, Mauritius and some seizure data was available for Kenya (World Customs Organization), Tanzania and Uganda (HONLAF)).

Although data are not widely available in the past couple of years regarding drug trafficking, the available statistics indicate that traditional drugs such as khat and cannabis continue to be trafficked in large volumes throughout the region. Even though it is not widely used throughout the region and the plant itself is not banned, its main active ingredients, cathinone and cathine, are controlled under the 1971 Convention on Psychotropic Substances and thus illegal in a number of countries outside the region such as Australia, Canada, Denmark, Poland, Sweden, the United States and other Western countries. As a result, several countries in the region are concerned about the health, as well as the socio-economic effects of khat consumption and of aspects relating to its trade and trafficking. Cannabis is still the most widely consumed and trafficked illicit drug in the region. The amount of seizures of cannabis herb in 2006 in the region amounted to 228 tons, rising by 40% in comparison to 2005. East Africa collectively accounted for 4.3% of global seizures of cannabis herb in 2006, 3.4% of cannabis oil, 2.5% of cannabis plant and 2.3% of cannabis resin. Tanzania alone seized 225 tones of cannabis herb, while Kenya reported seizures of 44 tons of cannabis herb in 2007. In addition, the level of cannabis oil seizures in Madagascar in 2006 was the fourth highest in worldwide (after Canada, the Russian Federation and Jamaica).

A rather new development that is of growing concern in the region is the flow of opiates, causing Eastern African countries to be identified as both destination and transit countries. Most seizures of heroin are made at international airports, with the airports servicing Addis Ababa and Nairobi being the two most important due to their extensive connections outside the region, but there is also an increasing use of postal and courier services for heroin, as well as hashish and to a lesser extent cocaine. A review of drug seizures from 1998 to date indicates an increase in the trafficking of heroin to Eastern African countries from Pakistan, Thailand and India. Tanzanians and Mozambicans are becoming involved in the trafficking of heroin from Pakistan and Iran, highlighting the extent to which the eastern coast of Africa is increasingly a transit point. Other indications for the increasing importance of Eastern Africa in the heroin trade stem from seizures in Pakistan, an important transit country for opiates originating in Afghanistan. Details of 1,344 heroin seizures occurring in the period 2005-2007 were reported from Pakistan. Among these, the number of cases in which the destination was identified as a country in Eastern Africa increased from 9 in 2005 to 15 in 2006 and 27 in 2007.[32] In addition, it is worth noting that law enforcement experts from Iran and Pakistan have reported the increasing activities of Eastern African drug cartels in their own countries.[33]

While the sub-region does not have a particular problem with the trafficking of cocaine, it should be

---

[31] Used in the World Drug Reports
[32] UNODC maintains a database with details of significant individual drug seizures (reported by authorities via a reporting mechanism distinct from that of the ARQs).
[33] Discussions at the Paris Pact Meeting, Nairobi November 2008.

noted that it is highly probable the region is still used as a transit point for cocaine destined for the European markets. For example, a major seizure of 1.2 tons of cocaine took place in the Port of Mombasa in 2006, and a number of smaller cocaine shipments were also reported, which originated in South America and were headed to Kenya via West Africa before being subsequently shipped to the UK. In addition, the region has increasingly been used as a transit point and destination for precursors. The INCD precursors report for 2007 identified a number of countries targeted in the diversion and attempted diversion of ephedrine and pseudoephedrine, including Burundi, Ethiopia, Kenya, Somalia and Tanzania. The emergence of Mandrax in the region has gone hand in hand with the diversion of licit drugs and essential chemical precursors into the illicit market, and it should be noted that in 2007, the Indian authorities stopped a 5 ton shipment of anthranilic acid destined for Kenya. Such a seizure should cause alarm because anthranilic acid is used in the production of Mandrax, and Kenya has no legitimate requirement for the substance.
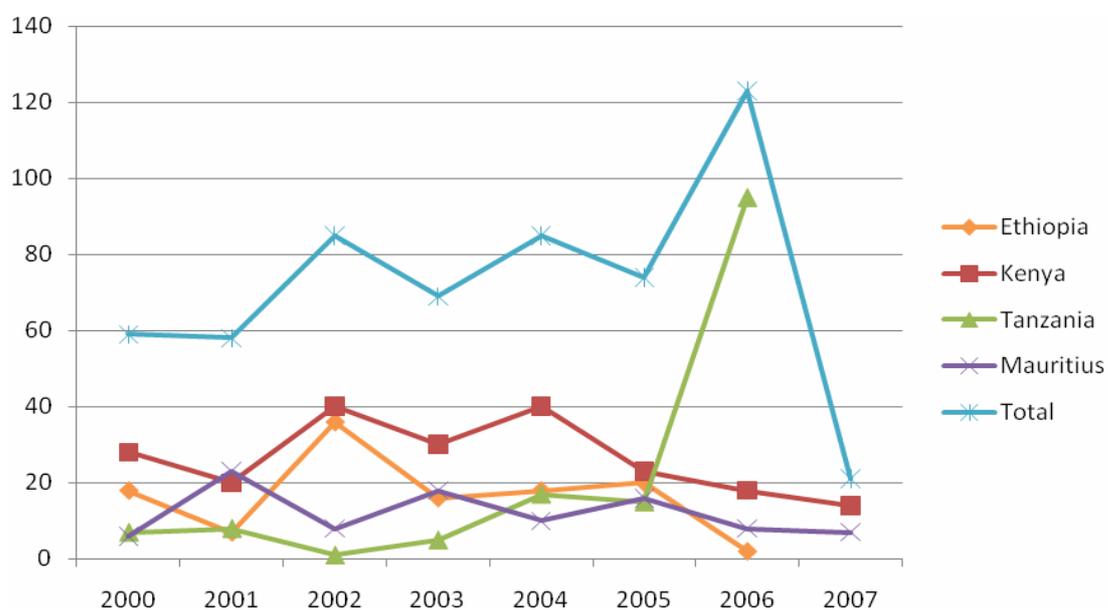

Figure 7: Principal heroin interdiction[34]

6.3 Potential Interventions

Limited seizure statistics provide evidence that Eastern Africa's role as a transit point for heroin destined for the markets of West and Central Europe has increased dramatically. Heroin use is on the rise in East Africa, with a current estimate of 1.2 million heroin users in Africa, making the region not only a transit point, but also a destination of the drug, with an estimated 24-25 tons used every year. In addition, other drugs such as cocaine are trafficked through the region, and in some cases (khat, cannabis) are manufactured and used in the region.

East Africa's role as a transit point and destination for illicit drugs looks to increase if immediate action is not taken. The region as a whole is characterized by weak border controls (land, sea and air), as well as limited cross order and regional cooperation, which can be easily exploited by traffickers. As long as there are no effective control mechanisms in the countries of the region, the

---

[34] Source: ARQs, Governments, HONLAF

trafficking and importation of illegal drugs will continue to rise, further hindering the development process in the region.

The following are key areas that would need to be strengthened, in order to have in place a more effective response to the problems of drug trafficking in the Eastern Africa region:

- Increased border control in the region;

- Coordinated actions between government agencies and institutions;

- Enhanced capabilities of special drug units throughout the region through training and adequate equipment (such as drug detection dogs and x-ray machines at airports); and

- Increased awareness among citizens about the dangers of drugs.

7. ENVIRONMENTAL CRIME

7.1 Introduction

Eastern African countries are endowed with high levels of biodiversity and although being plentiful in flora and fauna, the stand of many protected species seems to diminish rapidly. Environmental crime in Africa and in particular in Eastern Africa is projected to be on the rise, challenging the security of citizens and communities, in particular in the border areas. In Eastern Africa, there is growing concern about the illegal trade in flora and fauna, wildlife and pollution/dumping of toxic waste. Environmental crime has become increasingly organized and transnational in nature and can be seen, just as drug and firearms trafficking, as one of the most significant areas of trans-border criminal activity, threatening to disrupt societies in the region and hinder sustainable development.

7.2 Legal Framework

In recent decades the worldwide increase in international environmental crime has led to the formulation of various multilateral conventions to control pollutants that are health or environmental hazards, in order to prevent the wanton exploitation of scarce natural resources and to protect endangered plant and animal species. In East Africa, the Partnership for the Development of Environmental Laws and Institutions in Africa (PADELIA), a UNEP project in existence since 1994, seeks to support the development of environmental law as well as the corresponding national and regional institutions to ensure effective enforcement. In the region Kenya, Tanzania, and Uganda have benefited from the project. As a result, various laws have been developed and enacted, and currently activities are being undertaken on a sub-regional level to harmonize laws between countries.

Although various legal frameworks and protocols have been adopted by a number of countries, one of the major impediments in fighting environmental crime in the region is the variety of different legal frameworks and policies, resulting in a situation where certain activities are criminal in one country and legal in the neighbouring one. Consequently, organized criminal groups can operate in the country possessing the weakest legal framework, and therefore avoid prosecution.

7.3 Types of environmental crime

In East Africa environmental crime ranges from poaching and illegal logging and trade in biodiversity products (flora and fauna) to improper transportation and dumping of waste. Although widespread for decades, trade in illegal timer and illegal logging have only been seen as a major concern in recent years. These activities threaten ecosystems and the future sustainability of forests, foster corruption and result in revenue losses for the state and businesses. Moreover, it undercuts the prices of legally harvested forest products on the international market and is connected to organized crime, human rights abuses and violent conflict. Poor legislation concerning the environment and rampant corruption on the highest level in producer countries impede the prevention and detection of this crime.

A second widespread environmental crime is wildlife poaching and the related illegal trade in ivory. Protected animals are illegally traded in containers by land, sea and air, with Mombasa representing

a major hub in Eastern Africa for the smuggling of products by sea. Trade in ivory has multiplied in recent years as the price of this commodity has increased between two- and fourfold in markets throughout the globe[35], and the trafficking of rhinoceros horn has also increased in the region in recent years. However, even more worrying is the increased involvement of organized crime in the trade, according to a recent report by Traffic, the agency charged with monitoring the ivory trade. The pollution of land, water and air, including the dumping of toxic waste are also major environmental crimes on the rise in the Eastern African region. Expired or hazardous materials (solid and liquid), are often left untreated and are discharged in rivers, the ocean or other areas in the cities. This poses a major health hazard to persons living in largely affected areas. A study carried out by the Institute of Security Studies highlighted the illegal dumping of motor vehicle scrap and release of pollutants into lakes by commercial industries and tobacco firms amongst others. For example, it is estimated that Lake Victoria receives 23,550 tons of biological oxygen demand (BOD) substances, 1555,580 tons of nitrogen (in form of fertilisers) and 32,050 tons of phosphorous per year.

7.4 Actors, connections and occurrences

Environmental crime in the Eastern Africa region is committed on two levels: on a local level by members of pastoral communities for the purpose of ensuring their livelihood, and on an international level for commercial purposes, with the latter case involving criminal networks composed of nationals and foreigners. Corruption at almost every level facilitates environmental crime in the region. Local and national officials permit illegal loggers access to forests and protected species, and in many cases provide false customs declarations, allowing illegal timber and other commodities such as ivory and rhinoceros horns to exit the region undetected. As the table below demonstrates, the degree of local complicity makes it very hard to get a conviction for environmental crimes, where communities are protecting their own people against law enforcers.
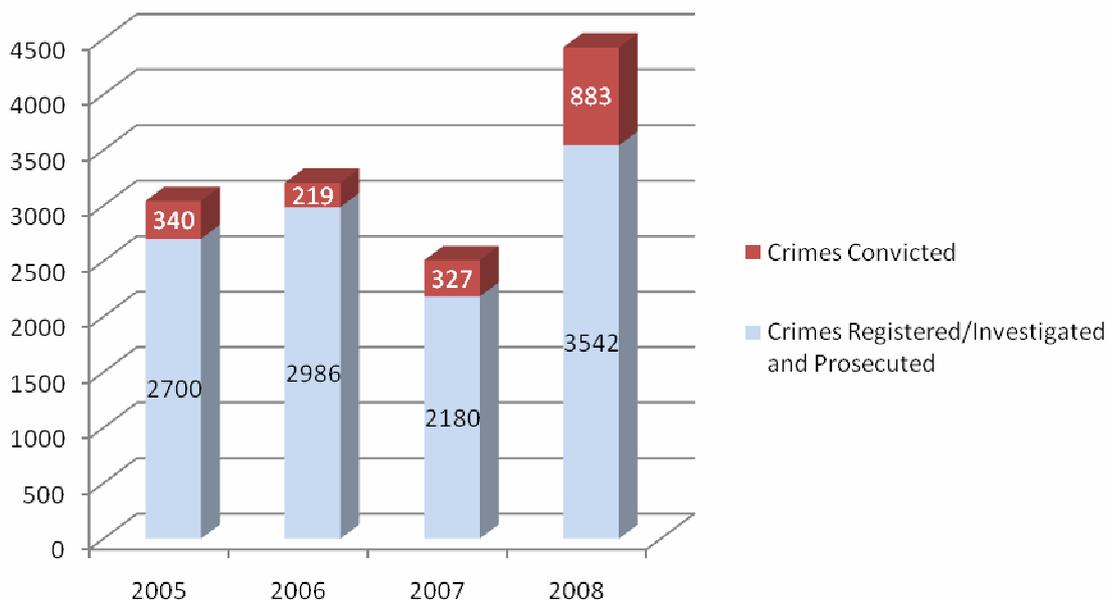
Figure 8: Environmental Crimes Prosecuted vs. Convicted[36]

---

[35] CITES: "Fourteenth meeting of the Conference of the Parties", The Hague (Netherlands) 3 – 15 June 2007
[36] KWS May 2009

Countries in the region are affected on different levels by environmental crime. For example, not all countries in the region are involved in the ivory trade, and in those countries that are, law enforcement capacities and the legal frameworks vary considerably. While the ivory trade appears to be on the rise in Rwanda and Djibouti, Ethiopia and Uganda have been addressing the problem more effectively in recent years. Also, the high number of seizures in Kenya and Tanzania, where nearly three quarters of the trafficked ivory originates, shows that the activities of illicit smugglers has been hampered. In addition to the ivory trade, Kenya and Tanzania also experience high levels of illegal logging due to the presence of large national parks, and in the past year, Madagascar has witnessed an increase in environmental crime due to political unrest, which has allowed armed gangs to ravage the forests for timber and protected wildlife.

7.5 Potential Interventions

Although the amount of environmental crimes might not seem extremely high on a worldwide scale, the impact of these crimes on the East African region is enormous. Throughout the region, resource based conflicts erupt easily and can turn extremely violent. Destruction of forests threatens the water supply in some areas. The lack of pasture and water drives away pastoralist into areas were others graze their herds or use the land for farming. People migrate to other areas or to the already overcrowded cities. And even worse, turning the tide on environmental damage is a long term process. Reversing the damage can take decades, thus making the prevention of further environmental crimes just as important as investigating and prosecuting current crimes.

To address environmental crime, coordination between various national and international governmental organizations is mandatory. Steps have been taken to enhance cooperation between institutions. For example, CITES is attempting to facilitate this type of coordination on preventing the poaching and trading in rhinoceros in East and Southern Africa, and the border patrol initiative on the part of the U.S. Embassy in Kenya has been active in training border police and rangers from the KWS. However, current initiatives are scattered across the region and are incidental in nature. More needs to be done. A proper judicial framework that addresses environmental crimes uniformly throughout the region should be established and nurtured in the countries of East Africa, and it is also important to enhance the investigative capacity and professionalism of the government agencies responsible for addressing environmental crime. In addition, steps must be taken to enhance the awareness of citizens on the long term consequences that could arise if their living environment continues to be destroyed.

Based on current trend and the recommendation made by ISS and the countries in the region[37] the following interventions would bolster regional capacity to counter environmental crime:

- Establishment of new approaches that facilitate vertical and horizontal co-ordination between the various government sectors in fighting environmental crime;

- A review of environmental policies to ensure that socioeconomic needs are accommodated and that environmental protection is not biased towards resources used the communities;

---

[37] ISS Country report on Tanzania

- Enhanced capabilities and increased professionalism of the border control;

- Increased awareness campaigns that encourage communities to protect the environment in and around their neighbourhood;

- Increased response and actions to illegal fishing and the dumping of waste by foreign businesses; and

- The creation of a better system of collecting and exchanging data and information.

8. COUNTERFEITING

8.1 Introduction

In today's world, practically every product can be counterfeited, ranging from clothing, food and medicine, to cars, electronics, DVD's, spare parts and pesticides. Counterfeiting and piracy are terms used to describe a range of illicit activities linked to intellectual property rights (IPR) infringement. In general counterfeit goods are deliberately faked by its producers.   Counterfeiting is of concern because it is growing in scope and magnitude. It poses a problem to economic markets as it hampers innovation, brand value and sales. For governments the illicit trade in illicit goods often means decreased revenues, the growing availability of funds for criminal groups and an increase in corruption. But most of all, counterfeit goods are a threat to health and safety of individual consumers. Eastern Africa is emerging as a significant market for cheap counterfeit goods. Although this might not seem one of the most pressing problems for the region, the fact that counterfeit medicines, pesticides, food and drinks enter the region is a threat to the health and well being of the sub-region's citizens.

8.2 Occurrence and current legal framework

Although data on the trade in counterfeited goods is limited, available information and estimates by the OECD[38], show that East Africa is largely a destination for counterfeit goods.   Medicines, pesticides, fertilizers, food and beverages are especially a threat to the region as they pose a health risk to inhabitants. The production and trade of counterfeit goods are illicit activities closely connected to criminal networks and organized crime. As the profits are high and the risks are relatively low due to inadequate legislation and minimal penalties, organized crime groups are becoming more involved in counterfeiting.

Currently, one of the most acute challenges needing to be addressed in the region is counterfeit medicines. The WHO defines a counterfeit medicine as "a medicine, which is deliberately and fraudulently mislabeled with respect to identity and/or source. Counterfeiting can apply to both branded and generic products and counterfeit products may include products with the correct ingredients or with the wrong ingredients, without active ingredients, with insufficient active ingredients or with fake packaging." This presents a problem, especially when one considers that approximately 30 percent of medicines sold in developing countries are counterfeit.[39] While this is not yet as prevalent a problem in Eastern Africa as it is in Asia (see Figure 8 below), anecdotal reports occurrences of counterfeit medicine are increasing in the region, and the low level of literacy and education make the region particularly vulnerable to this form of counterfeiting.

---

[38] OECD 2007
[39] World Health Organization (WHO): "The new estimates, fact sheet on counterfeit medicine", 15 November, 2006
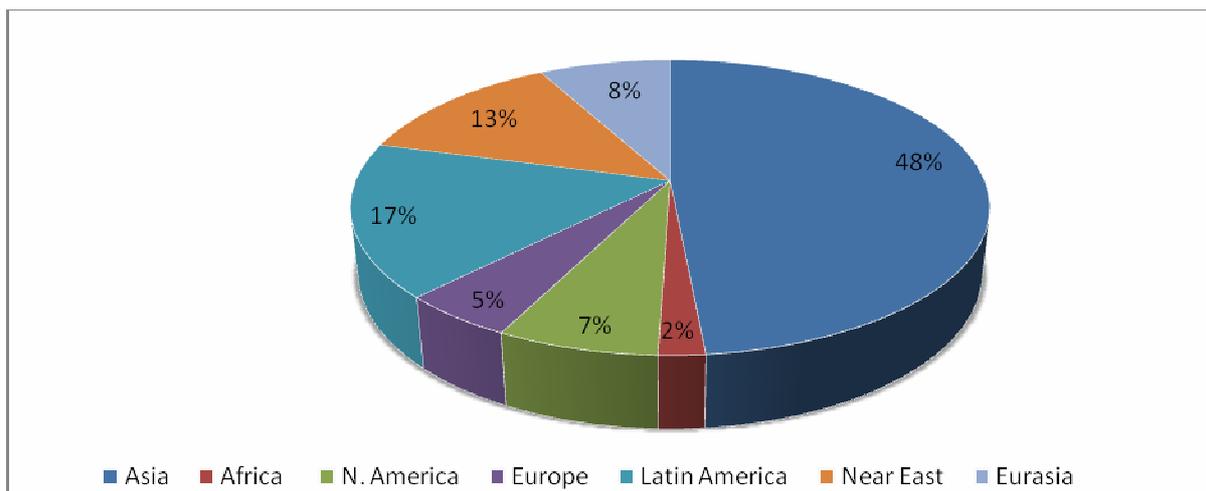
Figure 9: Global Arrests made in 2008 for Counterfeiting Medicinal Products[40]

Developing countries are particular vulnerable as law enforcers and regulatory offices lack the capacity or will to curb the spread of fake medicines through effective control of pharmaceutical products. The lack of awareness among people about the dangers of counterfeit drugs and the easy availability of medicines exacerbate the problem. In most East African countries it is possible to purchase pharmaceutical products without presenting a valid prescription. Many medical products, some smuggled or imported without authorization, are sold in street-markets. Counterfeit medicine, can have detrimental effects on those who consume them, often resulting in major physical harm or even death. The absence of knowledge about the high occurrence of counterfeit medicines worsens the situation, as people will not question the low price or easy availability. And in other cases people pay a high price buying genuine looking medicines and receiving just "chalk and water" for their money.

As in other illicit trafficking cases, the capacity to address counterfeiting and counterfeit medicines is low in many East African countries; the challenges being similar to those encountered in classical law enforcement (lack of coordination, corruption, inter-agency rivalries, no centralised information, funding). Lack of resources and urgency in confronting this issue hampers the detection and investigation of counterfeiting. Due to the high availability of counterfeit medicines on the market, this is particularly troubling given the immense and direct negative impact that counterfeit medicines have on a country's populations. The biggest threats contained in counterfeited medicines are the absence of active pharmaceutical ingredients and the possibility that the individual consuming the drug will develop a resistance to the authentic version of the medicine. For example, in the case of anti-malaria medication, no resistances have yet developed against Artesimin and it is therefore widely used as a cheap and effective drug. However, it is at the same time heavily counterfeited, with a potentially disastrous impact.[41]

8.3 Potential Interventions
Although some countries in East Africa devote much effort in addressing counterfeiting, weak regulatory and legislative frameworks persist and there is a lack of awareness regarding the issue on

---

[40] Pharmeceutical Security Institute 2008
[41] Information received from Mr. Rogé of Sanofi-Aventis, UNODC Senegal, May 2009

the part of civilians. Thus, the proliferation of counterfeited goods, especially medication, presents a growing challenge for the region. Awareness on the part of citizens and government officials should be increased, and the capacity of regulatory offices, border control agencies and law enforcement to address the challenges presented by counterfeiting should be strengthened. Another crucial step in stemming the flow of counterfeit products is increased cooperation between state agencies. Recently steps have been taken by the WHO to establish a system that supports the building of legal and regulatory frameworks, as well as increases awareness on the issue amongst the public. However, further efforts are needed if East Africa is to lessen the potential devastating impact counterfeited products could have on the region and its people.

Governments in the region have the following range of responses available to tackle challenges posed by counterfeiting:

- Strengthen legislation and ensure that counterfeiting is a crime possessing severe penalties;

- Establish a clear and enforceable oversight framework and make sure all private partners comply with the rules for trade and distribution;

- Improve co-ordination amongst the domestic agencies and enhance cooperation with industry and the business sector;

- Ensure effective local and transnational enforcement of laws and regulations through training and the supplying of resources;

- Develop a communication and advocacy strategy to ensure that health professionals, the general public and the media are aware of the dangers associated with counterfeit medicines; and

- Consider enacting lower tariffs on imported medicines in order to improve the availability of proper drugs at reasonable prices.

9. MONEY LAUNDERING

9.1 Introduction

Money laundering is a transnational illicit activity. It is closely connected to organized crime, terrorism and various trafficking crimes (i.e. drugs and firearms), and it can destabilize economies and financial markets, as well as corrupt governments and their institutions. It is subject to international treaties and regulations, but addressing the issue of money laundering is complicated as it requires cooperation between various parties such as law enforcement, financial, regulatory and intelligence bodies in countries around the world. These agencies require extensive resources in order to conduct their investigations over a long period of time, a consequence that arises due to the complexity of most cases. This is hard to achieve in most developed countries and is especially difficult in East Africa.

9.2 Legal framework and occurrences

	Burundi	Comoros	Djibouti	Eritrea	Ethiopia	Kenya	Madagascar	Mauritius	Rwanda	Seychelles	Tanzania	Uganda
Criminalized drug money laundering	N	Y	Y	N	Y	Y	Y	Y	N	Y	Y	Y
Criminalized beyond drugs	N	Y	Y	N	Y	N	Y	Y	N	Y	Y	N
Record large transactions	N	N	Y	Y	Y	Y	N	N	N	N	Y	N
Maintain records over time	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	N
Report suspicious transactions (NMP)	N	M	M	N	M	P	M	M	P	M	M	M
Egmont financial intelligence units	N	N	N	N	N	N	N	Y	N	N	N	N
System for identifying assets	Y	Y	Y	N	N	N	Y	Y	N	Y	Y	N
Arrangements for asset sharing	N	Y	N	N	N	N	N	Y	N	N	N	N
Cooperates with international law enforcers	Y	Y	Y	Y	N	Y	-	Y	Y	Y	Y	Y
International transportation of currency	Y	Y	N	Y	N	Y	N	N	N	N	Y	N
Mutual legal assistance	N	Y	Y	N	N	Y	Y	Y	N	Y	Y	N
Non-bank financial institutions	N	Y	Y	N	N	N	Y	Y	N	Y	Y	N
Disclosure protection "safe harbor"	N	Y	Y	N	N	N	Y	Y	N	Y	Y	Y
Criminalized financing of Terrorism	N	Y	Y	N	Y	N	N	Y	N	Y	Y	Y
States party to 1988 UN convention	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Intl. terrorism financing convention	N	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y

The letter Y means yes, N means no, M signifies mandatory reporting and P permissible reporting

Figure 10: Actions from countries concerning money laundering[42]

---

[42] International Narcotics Report 2009

As the above table (Figure 10) demonstrates, several international instruments and standards on money laundering are available for East African countries to use as guidelines when drafting and implementing national legislation, and many countries in the Eastern Africa region have put them to use. For example, the 1988 UN Convention against the Illicit Trafficking in Narcotic Drugs and Psychotropic Substances is the legal instrument that criminalizes money laundering. In addition, the UNTOC, UNCAC and the International Convention for the Suppression of the of the Financing of Terrorism all address money laundering in a certain way and require member states to take measures to ensure their financial systems are not misused, and the Financial Action Task Force on Money Laundering (FATF) has issued recommendations for improving national legal systems. In East Africa, the Eastern and South African Anti Money Laundering Group (ESAAMLG) was established in 1999, and the countries in the region have been offered technical assistance and training from the UN Global Programme against Money Laundering, as well as from the U.S. through their International Law Enforcement Academy (ILEA).

Despite these international and regional initiatives and protocols though, several incidents over the course of the past years have shown that money laundering activities in the region are on the rise. Various methods and structures are (ab)used for money laundering: trade in securities, tax evasion, property purchase, cash and bogus sales transactions, as well as the embezzlement of public funds and a lack of prudence in the investment of public funds.[43] In Tanzania, for example, the equivalent of $16 billion was embezzled from the Bank of Tanzania's External Payment Arrears account in 2005.[44] In recent years Kenya has been through several major corruption investigations, all of them relating to the former government, that indicate the theft of millions of Kenyan Shillings, and authorities in the UK have identified several people possessing fake diplomatic passports from the Ugandan Department of Finance laundering funds in the UK. These incidents show that corruption and influential political figures and people in high positions within e.g. the judiciary, law enforcement, the military abusing their position seem to play a vital role in facilitating money laundering in Eastern African countries.[45] At the same time, the amount of convictions is non-existent or low.

Such incidents show that Eastern Africa is both vulnerable and attractive to criminals for money laundering due to poorly regulated banking systems alongside a large informal cash economy and a weak legislative framework to combat organised crime, money laundering and corruption.[46] A study conducted by international forensic auditors' firm Price Waterhouse Coopers in 2002 found that, in terms of susceptibility to money laundering, 50% of ESAAMLG countries are regarded as high risk, 35.7% fall into the medium risk category, and only 14.3% are regarded as low risk jurisdictions.[47] Consequently it is relatively easy for criminals, money launderers and possibly also for terrorist groups to move money and other valuable assets across borders without drawing the attention of the authorities.[48] The impact of money laundering can be devastating and should not be underestimated. If money laundering is allowed to continue unopposed, large sectors of a country's economy could end up under the control of organised crime and powerful criminal organisations

---

[43] Madzima, Jackson: "Politics, Corruption and Money Laundering in Tanzania – An Unholy Trinity", 18 March, 2007, www.issafrica.org
[44] Ibid
[45] Madzima, Jackson: "Politics, Corruption and Money Laundering in Tanzania – An Unholy Trinity", 18 March 2007, www.issafrica.org
[46] UNODC Project Paper , 3000-18/2007-199
[47] Esaamlg
[48] Moshi, Humphrey: "Fighting money laundering – The challenge in Africa", ISS Paper 152, October 2007

that control a country's economy would be in a position to undermine that country's democratic systems.[49]

9.3 Potential Interventions

In the fight against money laundering, most countries in East Africa find themselves unable to uphold the FATF standards, draft the necessary laws and use the existing laws effectively. This is due to a lack of public pressure, and a lack of resources and training on the part of those charged with monitoring, regulating, investigating and prosecuting violations. Also, in some countries systemic corruption also serves as an impediment to the development and implementation of viable anti-money laundering regimes.

Currently there does exist the necessary framework and support to put in place the laws and regulations, as well as to conduct the trainings if money laundering is to be effectively addressed. However, the political will needed to undertake such initiatives is lacking. In addition, there is a lack of cooperation between financial agencies and law enforcement, and there exists only moderate knowledge on the issue in the region. If the governments in East Africa are to begin dealing with money laundering and its effects effectively, the above issues need to be addressed. Support is widely available, but it must be utilized properly.

A first step towards combating the challenges of money laundering would be for Governments in the Eastern Africa region to use the FATF, GMLP and ILEA structures and facilities to undertake the following:

- Draft and implement laws;

- Train specialized teams on money laundering; and

- Begin initiating investigations in the near future.

---

[49] Ibid.

10.   PIRACY

10.1 Introduction

While piracy worldwide is diminishing, in Eastern Africa it is on the rise, predominantly due to Somali pirates attacking ships in the Gulf of Aden. Pirates from Somalia began seizing ships in late 2005. Since then incidents of maritime piracy in the East African region have soared along the coast of Somalia during the past year, as the chart below demonstrates.

Originally carried out in order to stop toxic dumping and the plundering of coastal fishing stocks by foreigners[50], piracy operations today are more and more organized and have turned into a multi-million dollar industry, generating between 18-30 million US Dollars alone in 2008. The frequency, scope and sophistication of recent piracy operations indicate it can be seen as a serious organized crime problem. In 2008 over 80 actual and attempted pirate attacks have been recorded, amongst them the hijacking of the French luxury yacht "Le Ponant", the Ukrainian cargo MV Faina (transporting about 35 T72 military tanks and an assortment of other weapons) and a Saudi-owned ship carrying crude oil worth up to $100 million. In addition, pirates have been targeting ships carrying humanitarian aid, delaying the delivery of humanitarian supplies and significantly impacting human security throughout the region, since many people in Somalia depend on these items for survival.[51]

10.2 Definition and legal position

Due to the current situation in Somalia, the legal framework and procedures on how to address piracy and the prosecution of piracy have received attention from the international community. In 2008, the Security Council unanimously adopted Resolution 1846 which condemns all acts of piracy and armed robbery against vessels off the coast of Somalia and authorizes a series of decisive measures to combat these crimes. Under the auspices of this resolution, naval vessels may enter Somalia territorial waters and engage the pirates. The Security Council further adopted Resolution 1851, which authorizes states to use land-based operations in Somalia as part of the fight against maritime piracy.

As a variety of countries are involved in capturing and sentencing pirates, jurisdiction and humanitarian issues have been discussed, and experts have come to agree on the following positions: [52]

1. International law sufficient authority for public vessels to use force for the suppression of piracy in the high seas. Whichever vessels with public authority are used (whether naval or coastguard, or naval combined with police), they are undertaking a police function against the criminal activity of piracy. The degree of force used must not exceed that reasonably required in the circumstances.

---

[50] Socialist Worker: "Toxic scandal in Somalia gave birth to new piracy, 29 November 2008
[51] The Institute for Security Studies (ISS): "Piracy in Somalia: Indications of a Breakdown of Global, Regional and National Security Systems", 9 October 2008; CBS News: "Pirates hijack oil tanker in brazen attack", 17. November 2008; The Guardian: "Yacht seized by pirates anchors off Somalia", 7 April 2008
[52] Chatham House, 2009, page 8

2. For those states which are parties to the European Convention on Human Rights, there is no legal problem with their public vessels holding pirates on board for the purpose of taking them to a proper jurisdiction for arrest and prosecution. There may, however, be a problem in relation to the holding of pirates on their own vessels, and not allowing them to go, for the purpose of disruption of piracy, rather than of detention for prosecution.

3. There are no easy solutions to the problem of prosecution or extradition of pirates. Capacity-building in the region is the way forward. The huge difficulties must not be underestimated; these are not limited to the absence of relevant local legislation. The leadership of the country concerned may be complicit with the pirates. Prisons and prison systems – and judicial systems more generally – need to be developed. Capturing countries must be able to receive credible human rights assurances from the states to which they hand over the pirates for prosecution.

10.3 Piracy: Occurrence and practice

While piracy worldwide is diminishing, it is on the rise in East Africa, mainly due to Somali pirates attacking ships in the Gulf of Aden. Out of the 293 attacks/attempts reported in 2008, a large number (125) took place in East Africa.
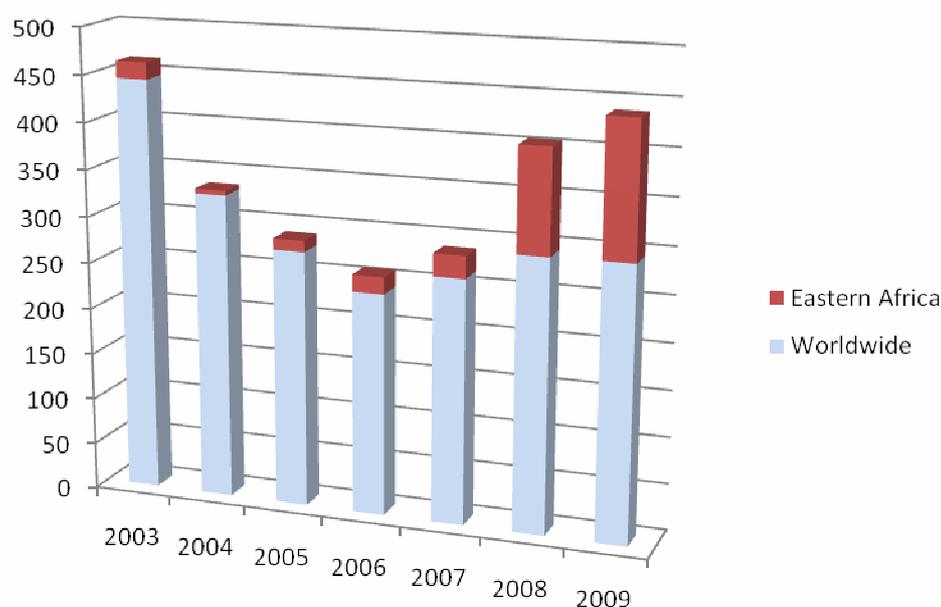

Figure 11: Global instances of piracy vs. instances in the Eastern Africa region

For the first three months of 2009, a total of 102 attacks and attempts by pirates have been reported. 61 of these have been in the Gulf of Aden/Red Sea and Somalia. Together with 2 attacks in Tanzania and 1 in Kenya, the attacks in East Africa represent 62 % of all attacks in the first months of 2009. In total 9 vessels were hijacked, 178 crew have been held hostage and 2 crew members were killed with 19 more injured, kidnapped or threatened.[53]   The reward to risk ratio for the pirates is so high that only robust measures from the international community are considered as a possibility to stop the pirates. The situation is also not bolstered by the current circumstances in Somalia, which does not permit the government to address piracy at the moment or in the near future.

---

[53] IMB 2009

Piracy in East Africa shows signs of being a form of organized crime. The exact level of organization related to piracy is still unidentified, and experts remain divided whether it is organized by mid-level organizers, business men, at higher political levels or even by individuals outside Somalia. Of concern is that coastal communities in some parts of Somalia are now financially dependent on the practice and that the resources obtained have bolstered the power of criminal networks and groups. Also, in Puntland it is alleged that some (high level) members of the administration are closely connected to piracy activities. Even though the Puntland administration has stepped up action to address piracy, mainly through their coastal guards, it is likely actions will be selective and limited as administrators are corrupt.

There also appears to be an intersection between piracy and other criminal activities such as arms trafficking and human trafficking. In both cases small vessels are used to move arms and people across the Gulf of Aden, from Eritrea or Yemen to Somalia and back. In at least the case of one group, the same boats used for piracy are used for migrant smuggling from Somalia to Yemen, bringing arms and ammunition on their return journey.[54] According to the monitoring group for Somalia, the expansion of piracy is in part driven by the non-enforcement of the arms embargo, and as such the maritime militias have benefited from their ready access to arms and ammunition. Combined with the huge ransom payments the pirates receive, the militias have enough funds to upgrade their weapon arsenals, and in doing so become more efficient and effective in continuing to destabilize the region.

10.3 Potential Interventions

Increased vigilance, patrolling and precautionary measures taken on board of ships are responsible for the diminishing of piracy attacks. As in Indonesia, the Malacca Straits and Malaysia, these measures seem to work in the East African waters as well. As a result of the increase in war ships patrolling the Gulf of Aden, and the precautionary measures the crew are taking, the successful attempts to hijack a vessel in this area have decreased enormously.

However, even though the risk of a piracy attack may have been reduced, naval and/or police action cannot in the end resolve the Somali piracy activities.[55] It is widely agreed upon that piracy in the Gulf will only diminish if the problems on land are addressed. Piracy in the region is a symptom of the lawlessness, raging war and insecurity on the Somali mainland. Poverty, lack of employment, environmental hardship, low incomes, the reduction of livelihoods or resources (due to drought and illegal fishing), and a volatile security and political situation all contribute to the rise and continuance of piracy in the region. These issues need to be resolved in order to ensure an end to piracy in the region. Worldwide, piracy in the Gulf has serious repercussions for human security, development, trade and the environment. It obstructs aid deliveries for conflict ridden states, increases shipping and manufacturing costs due to rerouting of ships and can destroy large parts of the sea environment. This situation will remain serious until there is an effective and coordinated response against piracy, including the development of effective responses within Somalia itself.

---

[54] *Report of the Monitoring Group on Somalia pursuant to Security Council Resolution 1811*, 10 December 2008, p. 32.
[55] Chatham House, 2009

Based on suggestions by, among others, the UN Security Council, the Monitoring Group Somalia and experts involved in a round table discussion at Chatham House, the following steps are recommended as a priority response:

- Maintain a coordinated response on sea in order to deter piracy and protect vessels and crews, as well as the ongoing interdiction of firearms trafficking across the Gulf of Aden;

- Focus on preventive action by strengthening law enforcement on the ground in Somalia and increasing coordinated action to support development on a wide range of issues in Somalia;

- Provide capacity building and support for the operations of the Somali Coast Guard forces, notably Somaliland and Puntland, as well as the navies and coast guards of other states in the region such as Kenya, Yemen and Djibouti;

- Improve the adoption and implementation of national legislation aimed at addressing piracy in the region (as is currently supported by the International Maritime Organization and UNODC);

- Improve prison and prison systems and ensure international human rights principles are upheld during the process of prosecution and detention in the region;

- Undertake targeted action against key pirate leaders and their possible sponsors in the Puntland Administration; and

- Undertake immediate and coordinated action against illegal fishing and the illegal dumping of toxic waste in Somali territorial waters by foreign companies.

11.   CONCLUSION AND WAY FORWARD

Without peace and security, sustainable growth and development will remain elusive. Illicit activities that loom at the cover of the street in every society are always going to be hard to address.

This preliminary discussion paper only provides an indication of the extent and seriousness of organized crime and illicit trafficking in Eastern Africa. While the quantifiable data and exact amounts might be hard to predict, whenever researchers take a closer look at issue at the issue of criminal activities and behavior in the region, the evidence points clearly towards a serious and growing threat. The very few studies that have been conducted over a longer period and on the ground show trafficking and related crimes are occurring in a substantial way, and the opportunism and organization of the groups involved constantly increasing.

Two things clearly underlie this organized criminal activity, whether it is trafficking in humans or firearms, piracy in the Gulf of Aden, or importing and trading counterfeited goods in the region. First is the weak state of the police and justice systems in all countries. The low police-inhabitant ratio, the state of the police force, the available training, the back log in the judiciary and the state of the prisons are all a contributing factor to ongoing crime and violence, which, when coupled with the lack of standardized and comprehensive legislation for the region, ensure that it is possible to get away with most illegal activity somewhere in the region. And most criminal areas examined in this paper are not isolated, but are deeply interconnected. For example, poaching of wildlife and trading in animal parts are connected to money laundering, corruption, organized crime networks, tax evasion and transnational trafficking. As one issue becomes more prevalent, so the entire cycle increases in dynamism and damage.

The second issue which underpins the growing crime and violence, and makes the need for a targeted intervention by the international community absolutely critical is the connection between crime and corruption. The weak states, lack of resources low level of economic opportunity and lack of political will to address crime makes the Eastern Africa region a breeding ground for corruption. Whether illicit trafficking and organized crime are already on the rise or not, sooner or later they will be a serious threat to the people and societies in Eastern Africa. Just as increased economic development is needed, increasing the level of proper law enforcement and justice must be an urgent priority for the countries in the region. Governments of all the Eastern Africa countries have a role to play and need to focus on this area. A Government is the only actor which can, on a legitimate basis, address state security, organize the protection of civilians and uphold laws. Taking action to ensure overall peace and security is first and foremost the responsibility of Governments.

Furthermore, it is important for countries worldwide to address transational crime and trafficking in a holistic global approach. Leaving some regions unaddressed is an invitation for criminal groups and individuals to move their activities there. Even if East Africa is not yet an acute problem, it is vulnerable enough that it is only a matter of time before activities roll over from another part of the world. For example, the drug trafficking problem in West Africa has recently received much international attention, which resulted in the strengthening of regional capacity. Trade routes

through West Africa have died down, but there has been no significant reduction in the global flows of illegal drugs.[56] The routes have simply relocated to another region whose defenses and capacities are weaker.

In fighting organized crime and trafficking, it is crucial for countries to work together, both in the region and in the wider world. The nature of these problems are quintessentially cross border issues, and as such require that the countries of the Eastern Africa region work together to address them. A key goal would be to find effective ways to pursue development and security together, as it has increasingly been demonstrated that security and the rule of law are central to effective development. In this context, technical cooperation, inter-agency work, advocacy and partnership building are essential. The UNODC Regional Programme "Promoting the Rule of Law and Human Security in Eastern Africa, 2009-2012" aims at supporting the efforts of Member States in the region to respond to evolving human security threats and promote good governance.

The UNODC programme proposes to support countries who express the wish to address illicit trafficking and organized crime, and are willing to maintain a long-term focus on the issue, supported by the necessary resources (human, financial, material and political will) to fulfill the tasks required to address these challenges. The UNODC programme to counter trafficking and organized crime focuses on the following four areas:

1. *Strategic Information and Analysis:* A prerequisite for developing an integrated response to dealing with the challenges of organized crime is access to comprehensive data and information on the nature and extent of operations – both domestically and regionally. UNODC will assist countries to build, maintain and use of an intelligence position on illicit trafficking and organized crime, per country and for the region as a whole. Data collection and data admittance will need to be done on a region-wide basis, on general and specialized topics, disaggregated for population groups and gender. The region is encouraged to use one framework for data collection so that information sharing and analysis is facilitated.

    UNODC will also build national capacity to accurately assess and analyse the scope and scale of organized crime through the carrying out of threat assessments, and from this support them to develop effective counter measure strategies for adoption both nationally and collectively across the region. As a result, the regions concerned national governments will be better placed to develop effective intelligence based response strategies.

2. *Legislative and Policy Advice*: Legislation and policies are instrumental in combating trafficking in humans, illicit trafficking in drugs, firearms, fauna and flora, the looting of natural resources as well as counterfeit goods/currency, money-laundering and the illicit cross-border movements of cash, as well as supporting Member States in achieving a functional universal legal regime against terrorism in accordance with the principles of the rule of law.

    UNODC will provide assistance to countries of the region to align their domestic legislation with the international conventions addressing illicit drug trafficking, transnational organized crime

---

[56] World Drug Report 2009

and terrorism. Specific legislative assistance is needed in the areas of the protection of victims and witnesses, combating human, drug and firearms trafficking, counterfeit goods/currency/medicines, money laundering and terrorism. Further assistance will also be given to assist countries in drafting national laws on extradition and mutual legal assistance in criminal matters, so as to strengthen sub-regional, regional and international cooperation, in particular in the area of counter-terrorism and organized crime.

3. *Capacity Building of National Institutions*: UNODC will support national institutions to build capacity in all sectors of judiciary, police, investigation, prosecution and imprisonment. UNODC will develop, train and support the use of specialized units (pilot teams) to create good practices in a combined police, justice and imprisonment approach. In order to reinforce the work of the specialized unit and have impact at the community level, UNODC will simultaneously work with the national authorities to develop awareness raising, development and livelihood programmes that will support the communities in which the specialized units are active. The areas and topics will vary per country according to need, and in this way lessons learned, best practices, and centers of excellence in countries will develop, and can be shared across the region at a later stage Furthermore, UNODC will encouraged increased attention to be paid to corruption and integrity of actors in all sectors.

4. *Cross-border and Regional Cooperation Mechanisms:* UNODC will assist governments to develop an integrated approach to law enforcement that works to ensure effective coordination and cooperation between agencies and makes the best use of state investment in agency resources. Assistance is required to broker and bring about this change domestically, and to extend the same cooperation to information exchange and operational support between agencies and between countries across the region and wider.

UNODC will assist in building the capacity of judicial practitioners and central authorities to request and grant international cooperation in criminal matters, including extradition, mutual legal assistance and confiscation, which is an essential requirement in addressing drug trafficking and other transnational crimes at the regional level. The Office will also enhance capacity for police to police cooperation and FIU to FIU exchange of information. UNODC will seek to assist in establishing a network of witness protection authorities in East Africa in order to facilitate the exchange of experiences and to cooperate for the temporary and long term protection and relocation of victims and witnesses.

UNODC will foster cross-border collaboration and improved border security through the establishment of dedicated airport and seaport specialist response units, the application of risk assessment and targeting procedures, the sharing and networking of intelligence among strategic ports and airports, which will improve intelligence collection and data sharing among the regions to facilitate the work of law enforcement agencies in the region.