

# Key issues and implications for response

## **1. ACROSS ALL CRIME TYPES, “FOLLOW THE MONEY”**

As noted in the Introduction, connected to all crime is the threat and existence of money laundering which amounts to billions of US dollars worldwide. While money laundering is not the main focus of this report, it nevertheless has a major impact on the region. In all countries, efforts are being taken to address money laundering. Past experience points to one main conclusion: money laundering is a crime that has a unique impact on those countries where it is left unchecked. It damages reputations and frightens away honest investment. It also opens up financial institutions to criminality. By tackling

money laundering – by “following the money” – law enforcement efforts disrupt organized crime by tackling its lifeblood. Disruption also undermines the role-model status of organized crime bosses in the eyes of small-scale offenders and may prevent them from becoming major criminals themselves. By addressing the issue of money laundering governments also promote a fair and just society where crime is seen not to pay and, which prevents criminals from enjoying the fruits of their crimes.

## PEOPLE

### Responses common to both smuggling of migrants and trafficking in persons

## **2. DEVELOP AFFORDABLE, ACCESSIBLE, SAFE AND LEGAL MIGRATION CHANNELS**

Despite the restrictions imposed by highly-regulated migration systems, people move continuously for a range of reasons – to seek employment, to escape poverty, to reunite with their families. They also move to flee internal conflict or persecution. However, the difficulty in accessing legal channels for migration often forces individuals to rely on the services of smugglers to reach their destination. Whether they are smuggled or not, migrants who move without the protection of the law – or full access to the labour market and social services in destination countries – can suffer from considerable disadvantages. In turn, these disadvantages make them vulnerable to exploitation or trafficking by brokers, agents, and employers. Several countries in Southeast Asia have established formal labour migration channels, and some have long-standing

refugee resettlement programmes. However, many of these systems are complicated, time-consuming, and expensive. Such shortcomings contribute to fuelling irregular migration and migrant smuggling.

### **Implications for a response:**

**a. Expand legal migration opportunities:** Instead of resisting economic demands for low-skilled labour, countries which are growing economically and require such labour should expand legal migration opportunities for both men and women through regularization processes and temporary migration programmes. |

**b. Review processes for bringing migrants within the law:** Existing processes should be reviewed and made more accessible, efficient and flexible for migrants. Such efforts are an important step towards harmonizing a regional migration system. Anticipating the move towards an ASEAN Economic Community in 2015, such a system can bring more migrants within the law and address the needs of

vulnerable migrants, including those in need of protection.

**c. Introduce or expand refugee quota systems:**

In addition, there is scope to introduce or expand refugee quota systems to promote legal migration. Several destination countries have family reunification policies that provide legal channels for the migration of relatives. Such channels also need to be expanded.

**3. IMPROVE MONITORING OF LABOUR STANDARDS – especially inspections in the workplace**

Irregular migrants are extremely vulnerable to exploitation, including human trafficking, as they are generally not protected under any relevant labour standards. Law enforcement responses to this problem can further persecute victims if officers do not understand the linkages, as well as differences, between migrant smuggling and human trafficking.

**Implications for a response:**

Labour standards need to be extended to all migrants, including irregular migrants. Labour departments should monitor and enforce these standards and conduct inspections. This can be done: (a) proactively, through scheduled visits; (b) reactively, in response to complaints; and (c) at random. Inspection teams should be constituted through a coordinated inter-agency approach. Usually this will involve law enforcement and judicial authorities as well as social services. The purpose would be to properly identify victims of trafficking as well as employers suspected of trafficking or engaging the services of migrant smugglers. An effective understanding of the linkages between migrant smuggling and trafficking in persons is critical to ensure appropriate and proper responses to the broad range of situations encountered in the workplace.

Employers of illegal workers should face greater risks of detection and punishment. Such employers recruit illegal workers in order to reduce wage costs and taxes paid to the state. In doing so, they simultaneously contribute to the vulnerability of migrant workers to exploitation and deprive the state of tax revenue. Punitive measures taken against employers of illegal labour should complement the measures outlined above to increase the supply of legal labour to the market.

**4. ON THE LAW ENFORCEMENT SIDE, COMPLEMENT IMPROVED BORDER CONTROLS WITH BETTER INVESTIGATION AND PROSECUTION OF TRAFFICKING AND SMUGGLING NETWORKS**

Migrant smuggling and trafficking in persons both generate large profits for the criminals involved – whether they are migrant smugglers or traffickers in the form of agents or employers. Both are low-risk and high-profit crimes. Both are often deadly crimes. Both are increasingly attractive to organized criminal networks.

**Implications for a response:**

There is a need to complement border control efforts with improved collaborative investigation and prosecution responses. The aim should be to dismantle migrant smuggling and trafficking in persons networks. Responses to both crimes require a transnational approach by law enforcement, judicial authorities, and policy-makers. Specialist operational units with high-level investigative and prosecutorial skills are required to achieve an effective outcome. A greater focus on the development and use of intelligence in tackling criminal networks will lead to more effective and efficient use of police resources.

**SMUGGLING OF MIGRANTS**

**5. GENERATE POLITICAL WILL TO COMBAT MIGRANT SMUGGLING**

For the most part, there is a strong global commitment among origin, transit, and destination countries to combat human trafficking. Unfortunately, the criminal aspects of migrant smuggling are often ignored. This situation is worsened by the fact that migrant smugglers expose people to tremendous risk, including, an increased vulnerability to human trafficking.

**Implications for a response:**

**a. Mobilize key constituents:** In order to combat migrant smuggling, more effort is required to mobilize and enhance political will, particularly in origin and transit states. Efforts to galvanize political will should involve not only government agencies, but also businesses, labour unions, diaspora groups, and civil society organizations. This will help ensure

the development of a coherent policy agenda that sees migration as an integral element of globalization. Such an approach will assist in demonstrating how safe and legal migration can be of benefit to all countries and individuals.

**b. Strengthen regional and international institutions dealing with migrant smuggling:**

Strong national frameworks are only part of the solution. On their own, national or even bilateral responses to migrant smuggling can result in the displacement of smuggling routes to other countries. There is thus a critical need for strengthened regional and inter-regional cooperation among origin, transit, and destination countries if states are to effectively combat migrant smuggling.

**6. STRENGTHEN NATIONAL LAWS AND POLICIES with due diligence given to human rights and to protecting the rights of smuggled migrants**

Many countries do not have specific legislation on migrant smuggling. Where such legislation does exist, enforcement and implementation often remain weak. Migrant smuggling is typically included under more general laws and policies geared to reducing irregular migration. Often the natural impulse – reflected in laws and policies – is to simply strengthen border controls. Yet, there is substantial research evidence which suggests that restrictive border policies – by themselves alone – do not solve the problem of migrant smuggling. Moreover, states are bound by international refugee and human rights commitments. If efforts to address migrant smuggling are not embedded within a broader, more comprehensive approach, tight border controls can push irregular migrants into the hands of smugglers.

**Implications for a response:**

Comprehensive and practical approaches are required that identify and provide protection and assistance to smuggled migrants according to international law, in consort with the apprehension and prosecution of smugglers. Policies must therefore strike a balance between these two principles, punishing migrant smugglers while upholding the rights of the weak and vulnerable who are smuggled.

**7. IMPROVE KNOWLEDGE OF THE PROBLEM – including through the use of the VRS-MSRC system**

There is currently a lack of reliable and consistent data on migrant smuggling being collected and shared in the region. This greatly constrains the ability of the responsible authorities to develop evidence-based policies and implement strategies to combat migrant smuggling.

**Implications for a response:**

The ongoing development of the Voluntary Reporting System on Migrant Smuggling and Related Conduct (VRS-MSRC) in support of the Bali Process represents an important step in building evidence-based knowledge on migrant smuggling and irregular migration. The VRS-MSRC is a web-based data collection system that will make it easier for countries to collect, share, use, and analyze data on these issues. All countries of East and Southeast Asia are encouraged to use the VRS-MSRC to improve evidence-based knowledge on migrant smuggling and irregular migration.

**TRAFFICKING IN PERSONS**

**8. IMPROVE VICTIM IDENTIFICATION SYSTEMS**

The prompt and accurate identification of victims lies at the heart of successful responses to human trafficking. Once identified, victims can be provided with protection and support. Vital information can also be gathered for the identification of traffickers and trafficking networks for effective prosecution. By failing to identify trafficking victims, states deny victims the ability to realize their rights and the protections to which they are legally entitled and simultaneously allow traffickers to act with impunity.

**Implications for a response:**

**a. Standardize national mechanisms:** To identify victims of trafficking, standardized national mechanisms set within a holistic policy framework, are required.

**b. Inter-agency coordination:** Such coordination is necessary between law enforcement and social services.

**c. Properly trained specialists:** Specialists are also critical to ensuring the correct identification of victims, and in particular, to avoid mistaken assessments of trafficked victims as illegal migrants.

## ***9. INVEST IN VICTIM-CENTRED APPROACHES TO LAW ENFORCEMENT***

Simply put, traffickers are rarely identified, prosecuted, and convicted. This is the case worldwide – and also in East Asia and the Pacific. National law enforcement agencies and justice systems often lack the capacity to effectively investigate trafficking in persons cases. Nonetheless, an adequate law enforcement response to trafficking in persons is dependent on the cooperation of trafficked victims and other witnesses. Despite all this, many victims and other witnesses are reluctant to become involved in criminal investigations for several reasons. This is often because they lack confidence in the criminal justice system. This problem becomes compounded when law enforcement officials are complicit in or directly involved with trafficking practices.

### **Implications for a response:**

- a. Training:** Law enforcement personnel must be provided with appropriate training and other capacity development resources to investigate the crime of trafficking in a victim centered manner.
- b. Rights at the core:** Law enforcement officials have an obligation to ensure that the rights of victims are protected at all stages of the investigation process, even if victims do not become witnesses in criminal proceedings. Protecting the rights of trafficking victims should thus be at the core of all anti-trafficking efforts and responses. This should become an essential element in all law enforcement training related to human trafficking.

## ***10. ENCOURAGE INTELLIGENCE-LED APPROACHES TO THE INVESTIGATION OF TRAFFICKING***

The capacity of law enforcement agencies to collect, develop, analyze and disseminate intelligence is under-developed in the region. Consequently trafficking investigations can be prone to achieving only a superficial penetration of the criminal networks responsible, and police officers rely too heavily on “fishing trips” to identify offenders –

where the officer adopts a speculative approach to identification of offenders.

Greater emphasis should be placed on the development of criminal intelligence structures and systems around the investigation of trafficking. This will allow more effective and efficient use of resources, greater penetration of criminal networks, and greater protection of the rights of innocent parties. It will also facilitate improved local, national, and international police cooperation. Furthermore such an approach will allow for a reduced reliance on the testimony of victims in trafficking cases.

### **Implications for a response:**

- a. Equipment and training:** Law enforcement agencies require investment in terms of both equipment and training to develop an effective intelligence-led approach to counter trafficking work.
- b. Understand the structures behind human trafficking operations:** Collection and analysis of available intelligence will promote deeper understanding of the criminal structures, allowing for identification of offenders one or more steps removed from the immediate crime scene.
- c. Enhanced police cooperation at local, national and international levels:** As the bigger picture comes into focus, the potential for exchange of intelligence and wider cooperation is realized.

## ***11. BETTER REGIONAL CRIMINAL JUSTICE COORDINATION***

Trafficking in persons may take place within a country, but often it involves the movement of victims across national borders. In order to tackle the criminal groups involved, national law enforcement agencies must therefore cooperate effectively with the law enforcement agencies of other countries. Existing regional coordination mechanisms on TIP are in place. These include the COMMIT mechanism in the Greater Mekong Sub-region and ASEAN’s Senior Officials Meeting on Transnational Crime (SOMTC), the latter of which has a specific TIP working group. However, both these existing mechanisms are largely policy-focused. They are not directly operational. In addition, they cover only specific parts of the broader East Asia and Pacific region (i.e., the ten ASEAN countries) within which human trafficking networks operate.

**Implications for a response:**

The establishment of a specific mechanism that links or builds upon the work of COMMIT or ASEAN SOMTC, has potential to facilitate cooperation between regional law enforcement. This is particularly the case in respect of intelligence-sharing and investigative responses. Such an approach would enable a transnational coordinated law enforcement response to human traffickers.

**12. EXPAND THE COUNTERMEASURES TO INCLUDE LEGISLATION AND OPERATIONS AGAINST CHILD SEX TOURISM (including suspicious internet activities)**

There is significant concern that child-sex tourism is on the rise in Southeast Asia, and that the internet is being increasingly used to facilitate the activities of travelling child-sex offenders.

**Implications for a response:**

- a. Extra-territorial legislation:** Such legislation should be enacted, which prescribes criminal jurisdiction over sexual offences committed against children in foreign jurisdictions.
- b. Outlaw simple possession of indecent images of children:** Many of those with a sexual interest of children retain such images for their personal use, and as bartering chips to gain access to other collections. This behaviour perpetuates offending against children. A strong law on possession of such images gives greater scope to law enforcement officers when responding to such offenders.
- c. Intelligence-sharing strategies:** Policy-makers and law enforcement agencies should also develop national, regional, and international strategies to share intelligence on victims, facilitators, and offenders in cases of child sex tourism.
- d. ISP-related legislation:** In order to support investigations and transnational law enforcement cooperation, additional legislation should be enacted to ensure that Internet Service Providers (ISPs) maintain transactional records of suspicious criminal activity related to child sex tourism. ISPs should also block sites or remove websites with child sex images as a temporary disruptive tool.

**13. MORE AND BETTER RESEARCH**

As demonstrated in this TOCTA, the matter of estimating the volumes and annual gains from labour and sex trafficking is extremely difficult. At present, the lack of systematic and broad research limits the ability of policymakers to make informed decisions to improve law enforcement efforts.

**Implications for a response:**

Independent research should be conducted, with the endorsement and full support of national authorities. This will support more informed policy making and priority setting for law enforcement agencies. This in turn will increase the likelihood of improving responses to human trafficking in its various forms throughout the region.



## DRUGS

### ***14. PRIORITIZE MYANMAR – support the reduction of poppy cultivation and drug production in Myanmar***

Opium poppy cultivation and heroin production in Myanmar has risen steadily since 2006. Myanmar is also a major source of ATS. Nevertheless, recent positive political developments in Myanmar, including in conflict affected areas such as Shan state (the key source of drug production) – and increasingly Kachin and Chin states – provide a window of opportunity to effectively address opium, heroin and ATS production in the country. Poppy-growing areas are becoming more accessible to law enforcement intervention, and there is high-level pressure from the President to eliminate poppy cultivation in advance of Myanmar's self-imposed deadline of 2014. These recent developments have produced a new political and operational momentum on drug control. However, international experience clearly indicates that crop elimination efforts must be accompanied by effective alternative development strategies if the livelihoods (and human rights) of poor farmers are to be protected, and the benefits are to be sustained.

#### **Implications for a response:**

- a. Alternative development and food assistance:** The international community now needs to become more actively engaged in supporting Myanmar's drug control efforts. The international community must show that it can become a reciprocal partner in these drug control efforts by financially supporting immediate food assistance needs for poppy farmers, as well as investing in long-term alternative development programmes in poppy-growing areas.
- b. Law enforcement and precursor chemical control:** At the same time, parallel law enforcement and prosecutorial efforts need to target the organizers of criminal syndicates that control drug trafficking from Myanmar into neighbouring countries, particularly China, including the movement of precursor chemicals for manufacturing ATS. It needs to be remembered that Myanmar, the largest single producer of heroin and methamphetamines in the region, does not produce the precursors for those

illicit drugs. Unless resolute efforts are undertaken in countries where most of these precursors are sourced, an important element of the solution will be missing. The solution will thus require transnational cooperation with neighbouring and regional law enforcement agencies, especially China, India, Lao PDR and Thailand.

- c. Greater cross-border cooperation:** UNODC and other relevant international agencies can assist in providing the forum, as well as relevant technical assistance, for such cross-border dialogue and cooperation.

### ***15. KINGPIN STRATEGIES – increase the operational focus of law enforcement agencies towards investigating and prosecuting the kingpins of organized criminal groups***

In tackling the drug problem, it is important to devote increased attention, in general, to identifying, arresting and prosecuting the kingpins of the drug trade, including those state officials with whom they collaborate.

#### **Implications for a response:**

- a. Focus on kingpins and their accomplices:** Law enforcement agencies should be directed and supported to allocate more resources to investigating and prosecuting the kingpins of organized criminal groups (including state officials) who are involved in the illicit drug trade, as well as their white collar accomplices (lawyers, IT specialists, trade experts, accountants).
- b. Focus on “following the money”, the proceeds of crime and money laundering:** Through the use of appropriate anti-money laundering legislation, support should include an increased allocation of resources and a narrowed focus on tracking and confiscating the proceeds of crime. Particularly where state officials are involved, opportunities to prosecute them through the use of anti-corruption legislation and tools should also be more actively pursued.

**c. Empower frontline law enforcement agencies with proper knowledge, skills and equipment:**

In addition, frontline law enforcement officers and prosecutors need access to the latest knowledge on effective countermeasures. With respect to forensic analysis, officers require better technical expertise and equipment. Specific training is also required on human rights principles and appropriate ways in which to manage contact with people who are drug users. Such training for frontline officers can be effectively delivered through e-Learning techniques.

**16. PROMOTE EVIDENCE-BASED DRUG CONTROL AND LAW ENFORCEMENT RESPONSES**

Regional and national responses to illicit drugs must be guided by empirical evidence.

**Implications for a response:**

**a. Better data collected, shared and used:**

Continued efforts are required by all concerned parties to promote evidence-based responses and strategy selection on how to best control the supply of and demand for illicit drugs. This requires that adequate resources are devoted to collecting and sharing robust empirical data, that such information is then actively shared and debated in public forums, and that the data is appropriately used to inform responses.

**b. Prioritize both countering TOC/OC and promoting public health:** Governments need to take a lead in developing innovative policies and strategies that work in tackling the dual objectives of countering organized crime and protecting public health.

**17. USE EVIDENCE-BASED PREVENTION AND TREATMENT METHODS TO REDUCE DEMAND**

Comprehensive prevention programmes – which deliver credible, evidence-based messages to at-risk youth on the dangers of drug use – are not easy to find in most countries. East Asia and the Pacific is no exception. Where programmes are in effect it is often difficult to establish a clear causal relationship between the programmes and a reduction in initiation of drug use and consumption patterns or levels. At the same time, there is solid evidence that

appropriate drug dependence treatment can reduce the demand for illicit drugs. This is particularly the case for opioids both by individuals and within communities. Low cost, community-based treatment – where cases are managed properly and treatment is tailored to the severity of addiction – are the most cost-effective. However, drug use prevention and treatment approaches in the region are poorly funded. Drug dependence treatment services are often compulsory, under resourced and not accessible to those who need immediate help. There is no evidence that incarceration of drug users (either through a judicial process or through compulsory detention) is an effective measure in reducing drug demand.

**Implications for a response:**

**a. Adopt evidence-based communication and prevention strategies:** Drug use prevention strategies should increasingly focus on the risk and protective factors, which powerfully influence an individual to take – or stay away from – illicit drugs. In broader society, effective demand reduction initiatives must also be supported by community education and evidence-informed drug prevention initiatives for all sections of the public.

**b. Focus on community-based treatment:** National authorities should adopt policies to recognize people dependent on heroin, ATS and other addictive substances as people suffering from a chronic relapsing health disorder. National authorities and international organizations should promote approaches that prioritize community-based treatment instead of compulsory detention. Treatment should be accessible to all who are drug-dependent.

**c. Adopt diversion schemes:** For those who are dependent on drugs within national criminal justice systems, national authorities should consider treatment options that include diversion into treatment schemes and treatment options for incarcerated drug dependent individuals.

**18. REDUCE THE NEGATIVE HEALTH AND SOCIAL CONSEQUENCES OF INJECTING DRUG USE**

Heroin users, but also increasingly users of ATS, are at risk of contracting HIV and Hepatitis C infections. The risks associated with HIV and H Hepatitis C transmission are particularly high in closed settings, such as in prisons and compulsory drug detention centres. There is substantial evidence that specific interventions aimed at reducing the adverse consequences of drug abuse for people who are unwilling or unable to stop using drugs are cost-effective in lowering the transmission of HIV and other blood-borne viruses among people who inject drugs (and subsequently among their sexual and injecting partners). Needle-syringe programmes, opioid substitution treatment and anti-retroviral treatment for those who are living with HIV are particularly effective.

**Implications for a response:**

- a. Improve quality and coverage of specific interventions aiming at reducing the adverse consequences of drug abuse:** National strategies and policies should aim to expand access for people who inject drugs to quality HIV prevention, treatment and care services, such as needle and syringe programmes and opioid substitution treatment. Where such services remain at the pilot stage, relevant national authorities should review laws and policies that continue to hamper scaling-up in order to overcome the current low service coverage and to reach a critical proportion of people who inject drugs, as recommended by WHO/UNODC/UNAIDS.
- b. Sensitize law enforcement officers to the nature of drug dependence:** Sensitization of law enforcement officials, judges and public security to drugs, HIV, harm reduction and human rights is a critical cornerstone of the national HIV response.
- c. Increase nationally-financed efforts for HIV prevention:** Commitment is also required in terms of increasing national ownership of the HIV response, including commitment to ensuring that financial resources for HIV prevention are channeled to high-impact interventions for key affected populations, such as HIV prevention for people who inject drugs and their sexual partners.

**19. PROMOTING TRANS-NATIONAL COOPERATION including an increased focus on border control**

Inter-agency coordination and regional cooperation in relation to border control is essential. This is due to growing sophistication of organized drug syndicates in the region, especially those which traffick heroin, ATS (and its precursors), and cocaine. In addition, the operational capacity of law enforcement officers working along the borders remains constrained, in terms of both knowledge/skills, effective communication systems and operational resources.

**Implications for a response:**

Cooperation in the profiling and sharing of intelligence in relation to known intra-regional and inter-regional drug syndicates and their couriers requires ongoing improvement. In this regard, enhanced information collection, storage, analysis and exchange systems would help control cross border movement of precursor chemicals. Transnational crime of this nature requires a sophisticated and coordinated transnational response. Increased support for joint operations (as well as capacity development support for border management systems and staff skills) involves the participation of counterparts in national agencies and regional partners.



## ENVIRONMENT

### WILDLIFE

#### **20. RECOGNIZE THE ILLICIT WILDLIFE TRADE AS A TOC PROBLEM**

The illegal wildlife trade is a high-profit, low-risk transnational organized crime. There is a high level of sophistication and profit, but there is a low risk of arrest and prosecution for perpetrators. National law enforcement has been inadequate to match the scale of the problem.

#### **Implications for a response:**

In East Asia and the Pacific, policy makers need to be more informed about the mechanics, transnational nature and diversity of wildlife crimes in the region, delivering regional responses where necessary.

#### **21. REDUCE THE DEMAND**

**There is a need to reduce the demand for wildlife products, with special urgency for tiger and rhino parts:** Despite law enforcement efforts and seizures, the demand for wildlife in East Asia continues to grow.

#### **Implications for a response:**

Targeted interventions that raise consumer awareness about the environmental impact of wildlife consumption or the related criminal penalties are needed in the main consumer countries of wildlife products. Misconceptions about the curative qualities of rhino and tiger parts should be urgently and seriously addressed through partnership with the media and private sector. Notorious wildlife markets should be closely monitored. When there is evidence of wildlife offences being perpetrated, adequate penalties should be applied.

#### **22. KNOW THE PROBLEM BETTER**

There is insufficient knowledge and information sharing on the range of regional wildlife crimes which are occurring. In comparison with other transnational organized crimes, the illegal trade in wildlife is a misunderstood and under-researched phenomenon. In particular, the broad range of different markets, trafficking routes and criminal operations in relation to different types of wildlife in the region are largely unknown, often due to insufficient data.

#### **Implications for a response:**

National authorities and other appropriate organizations should enhance their research and information collection capacities in addition to instituting more systematic coordination mechanisms for information sharing and analysis on the different forms of wildlife crime.

#### **23. ESTABLISH (BETTER) NATIONAL STRATEGIES**

There are few national wildlife strategies in existence to promote intelligence-led law enforcement and coordinated investigation strategies. Many countries in the region do not have a clear national strategy for combating the trade in illegal wildlife, frequently resulting in fragmented and under-resourced law enforcement responses.

#### **Implications for a response:**

The development of national strategies is essential to scale-up the quality of the criminal justice response to wildlife crimes. The diverse range of illegal wildlife trafficking requires effective intelligence-led strategies. Border control at land, sea, and airports should be strengthened through multi-agency responses and/or specialized task forces. Access to forensic and other innovative techniques is critical to effectively investigate wildlife crimes, in addition to inter-agency cooperation in areas such as anti-money laundering measures and 'controlled deliveries'.

#### **24. ENACT TOUGHER LAWS**

There is a need to strengthen legal frameworks to ensure prosecutions for wildlife crimes. National legislation on wildlife crime, including the prescribed criminal penalties, is often inadequate to support effective prosecutions or effective deterrence to the criminals involved.

##### **Implications for a response:**

It is important for Governments to enhance specific legislation to effectively prosecute wildlife crimes with consistent penalties across source, transit and consumer countries. As an example, national legal frameworks could criminalize the poaching of, and trade in highly endangered wildlife species. Judicial actors should be closely involved in the development of such legislation to ensure full implementation of relevant laws in national justice systems. In particular, this should involve prioritizing prosecutions which target high-level criminal actors controlling illicit international operations. The prosecution of wildlife crimes should also pay special attention to investigating state officials who are allegedly involved in the illegal trade in wildlife in source, transit and destination countries.

#### **25. BUILD NATIONAL LAW ENFORCEMENT CAPACITY**

There is a need to build the capacity of the criminal justice system to prevent, prosecute and punish wildlife offences. While the role of non-governmental organizations has been crucial in this area in recent decades, the primary sphere of responsibility to scale-up the response to wildlife crime needs to remain with national enforcement institutions. These include police forces, customs authorities and forest administrations, which can mount credible and effective national and regional strategies.

#### **26. STRENGTHEN REGIONAL LAW ENFORCEMENT COOPERATION**

Enhanced transnational and inter-regional cooperation among law enforcement agencies is critical. Trafficking in wildlife is a transnational organized crime. It requires an effective transnational law enforcement response.

##### **Implications for a response:**

**a. Better funding:** National authorities and appropriate groups should further improve intra-regional coordination throughout East Asia and the Pacific. In Southeast Asia, mechanisms such as the ASEAN Wildlife Enforcement Network (WEN) need to be strengthened and made financially sustainable through the support of its member states.

**b. Better use of information-sharing potential:** Such mechanisms should become a tool to exchange information and promote enforcement operations at a multilateral level. Similar efforts should also be undertaken to enhance legal cooperation with regions beyond the ASEAN Countries, such as South Asia, the Pacific, the Middle-East, Southern and Western Africa.

#### **27. THE PACIFIC – A THREAT IN THE FUTURE**

The illegal exploitation of maritime resources in the Pacific is likely to increase. The prospect of the serious depletion or even the extinction of various species of terrestrial and marine wildlife in Southeast Asia may portend a shift in the sourcing of various types of illegal wildlife trade towards the Pacific Island States and their maritime territories.

##### **Implications for a response:**

Given the anticipated threats to wildlife and ecosystems in the Pacific, inter-governmental coordination to promote adequate legislation and effective law enforcement in this region – and on this subject – should become a priority in preventing the proliferation of illegal wildlife crimes in the Pacific region.

#### **TIMBER**

#### **28. RECOGNISE THE ILLEGAL TIMBER TRADE AS A TOC PROBLEM**

The illegal timber trade exhibits all of the main characteristics of a sophisticated and well organized transnational crime. Given (a) the scale of the problem, (b) the level of corruption, (c) the violence associated with it, (d) the crossover between legality and illegality, (e) the profit margins and (f) the social, economic and the environmental impact of

the illegal trade itself, the problem requires an urgent response at national and regional levels.

#### **Implications for a response:**

In East Asia and the Pacific, policy makers should become fully informed about the mechanics, transnational nature and diversity of wildlife crimes in the region. In particular, there is a need to provide a broader range of resources and appropriate skill sets to relevant law enforcement and environmental agencies. Similarly, international organizations and development partners in the region should reassess their policies on combating timber crimes, with a view to increasing the level of support to law enforcement agencies in order to respond more effectively.

#### **29. REVIEW NATIONAL LAWS – to empower countries to tackle illicit timber trade as an organized crime**

National legislation in some countries is inadequate to support the effective prosecution of timber-related crimes. Source countries in the region need to introduce legislation to prohibit the export of all illegal timber and wood products.

#### **Implications for a response:**

**a. Legal framework:** Obsolete legal frameworks should be revised with a view to (1) criminalize the illegal timber trade, (2) simplify the adoption of the laws and (3) provide adequate penalties. There is a need to clarify legal frameworks so that prosecutors can apply the correct law. Intelligence-led operations should be conducted on the basis of effective information sharing among all relevant enforcement agencies of the criminal justice system.

**b. Enforcement:** In addition, any such new legislation should empower enforcement agencies to adopt modern investigative techniques (e.g., including wire tapping, anti-money laundering measures, and controlled deliveries). This will permit law enforcement to address the broader networks behind the illegal trade of timber rather than simply focusing – as is currently the case – on seizures and arrests.

**c. Reciprocal legislation:** Regional bodies should encourage cooperation with importing countries to

respond by enacting reciprocal legislation, which prohibits the import of illegal wood products from regional source countries.

#### **30. IMPROVE BORDER CONTROLS – strengthen surveillance and control measures at border points and along transport routes**

Illegal timber, in the form of either logs or sawn timber, is a bulky product and is difficult to conceal. Nevertheless, without the adequate skills and resources, frontline law enforcement officers may have significant difficulty in identifying illegal timber.

#### **Implications for a response:**

Governments should support border authorities, including customs, army and police, to strengthen their capacities to interdict the transboundary (and in-country) movements of illegal timber. Such efforts should include the following:

- a. Training:** training activities (for instance on the identification of fraudulent documentation and suspicious shipments, as well as the collection of evidence);
- b. Intelligence:** the sharing of intelligence related to seizures and arrests; and
- c. Inspection technology:** improved technology to inspect trucks/containers or to identify timber species at port and land crossings.

#### **31. BUILD NATIONAL LAW ENFORCEMENT CAPACITY – specifically establish specialized and independent Task Forces on the illegal timber trade comprising representatives from Police, Customs, Forestry Administration and Attorney-General**

#### **Implications for a response:**

The criminal justice response to the illegal timber trade is often fragmented and there are few (effective) high-level prosecutions. Countries in the region should take concrete steps to develop National Strategies to improve the capacity of their criminal justice systems to investigate, detect and prosecute all cases related to the illegal timber trade. The creation of specialized Task Forces would improve coordination in the investigations phase as well as effectiveness in conducting high-level prosecutions of illegal timber cases.

**32. ENFORCE EXISTING SOURCE COUNTRY LAWS BETTER- including anti-corruption laws**

Recent attention given to the illegal trade in wood products has resulted in significant policy changes in some source countries in the region. For example, Indonesia has actively undertaken efforts to curb illegal production and trade in logs and sawn logs. Nevertheless, there is significant scope in many countries to better enforce existing legislation, as well as enact new legislation that effectively prohibits the export of illegal timber and wood products.

**Implications for a response:**

All source and processing countries should properly enforce existing logging and timber export bans through effective law enforcement, anti-corruption initiatives and independent judicial action.

**33. WITHIN LAW ENFORCEMENT, FOCUS ON TRAINING FORESTRY OFFICIALS**

Identifying illegal logging activities on the ground, and then collecting appropriate evidence to feed into often complex criminal investigations and prosecutions requires appropriately trained and supported frontline forestry enforcement officials.

**Implications for a response:**

Selected forestry officials should be taught specialist skills so that the necessary evidence required to support complex criminal investigations and prosecutions is provided. The evidence that can be provided by these frontline officials is often critical to the work of the aforementioned specialized Task Forces.

**34. PROMOTE SUSTAINABLE FOREST MANAGEMENT – as a crime prevention tool**

To date, corrupt forestry officials have prevented the development of sustainable forest management for their own benefit. Evidence from elsewhere demonstrates that well-regulated forests are harder to plunder.

**Implications for a response:**

The quality of forest management in the region can be improved to prevent theft and illegalities in the trade of wood and forest products.

**35. MONITOR THE EFFECTIVENESS OF THE CRIMINAL JUSTICE RESPONSE TO FOREST CRIME**

When monitoring the effectiveness of the criminal justice response to illegal logging, it should be noted that seizures of timber and number of arrests do not necessarily provide an accurate measure of success in protecting forests.

**Implications for a response:**

Indication of success should include the number of complex investigations and prosecutions that target sophisticated networks involved in the timber trade. Nevertheless, at the same time, all institutions of the criminal justice system should strengthen their capacity to collect, manage and analyze basic data in relations to seizures, arrests, perpetrators, prosecutions and convictions for timber cases.

**E-WASTE AND ODS**

**36. INCREASE AND COORDINATE LAW ENFORCEMENT EFFORTS ON POLLUTANT TRAFFICKING**

East Asia is a hub for pollutant crimes related to e-waste and ozone depleting substances (ODS). The illegal trade in e-waste and ODS is closely associated with, or operates within, the international legal trade in these products.

**Implications for a response:**

Law enforcement efforts should effectively target the illegal trade while minimizing any disruption of the legal trade. This will require increased specialized training and improved inter-agency cooperation - including between jurisdictions – in order to properly identify and respond to specific forms of pollutant trafficking.

**37. INCREASE EFFECTIVE INVESTIGATION AND PROSECUTION**

Efforts have been undertaken to strengthen and coordinate customs agencies in the region in relation to pollutant crimes. However, investigation agencies and national justice systems have not yet implemented an effective prosecutorial response to the transnational crime. In East Asia, there is

no public record of any prosecutions of traffickers or companies engaged in the illegal trade of such pollutants.

**Implications for a response:**

The judicial deterrence delivered by successful convictions would contribute to reducing the likelihood of criminal network engagement with the illegal trade in e-waste and ODS. At the very least, judicial deterrence will disrupt the illegal trade. Specialist investigation agencies and prosecutors should be properly trained in relation to the nature of this trade, particularly with regard to the relevant criminal legislation and the skill sets needed to properly investigate and prosecute pollutant crimes within national jurisdictions. Transnational justice responses to the crime will also be required in some cases.

**38. INCREASE JOINT TRANSNATIONAL LAW ENFORCEMENT OPERATIONS**

Until now, customs agencies in the region have been the frontline response to trafficking in pollutants and countering trafficking networks. Coordination mechanisms and partnerships such as the Green Customs Initiative, capacity building and intelligence-sharing through the Multilateral Environmental Agreements Regional Enforcement Network have proved important in strengthening the transnational response of customs agencies to pollutant crimes. In addition, the Sky-Hole Patching joint operation represents a good example of joint law enforcement operations to combat trafficking in pollutants by disrupting trafficking syndicates. As a result of lessons learned, improved approaches to setting up and undertaking joint operations are also being established.

**Implications for a response:**

Policy makers in the region should undertake efforts to raise awareness of the Sky-Hole Patching joint operation experience across government agencies. National governments, regional organizations and international partners, including civil society, should also develop strategies and practical approaches to ensure that more national governments and law enforcement agencies in the region actively participate in joint operations. Operation Sky-Hole Patching should be not only provided with extended support but also broader participation by governments.

**39. IMPROVE RECYCLING INFRASTRUCTURE AND TECHNOLOGY TRANSFER**

With continuing economic growth, particularly in East Asia, the trade in e-waste and ODS is expected to increase commensurately over the foreseeable future. In particular, the volume of e-waste is anticipated to increase in parallel with growth and rapid innovation of consumer goods production in the region.

**Implications for a response:**

Governments, agencies and international partners need to ensure that safe and high standard recycling infrastructure is available and accessible in production countries, in order to reduce current reliance on the un-regulated informal sector. Furthermore, the more aggressive promotion of new technology – which is not reliant on HCFCs – would contribute to preventing the proliferation of the illegal trade in ODS following phase-out that is officially scheduled to commence in 2013.

**40. DEVELOP OR STRENGTHEN POLICIES AND REGULATIONS TO CONTROL TRADE IN E-WASTE**

In most countries in the region, regulations do not exist or are not adequate to tackle the increasing environmental and social challenges that are associated with trade in e-waste. In addition, e-waste is dealt with under hazardous waste regulations in most countries. This limitation in policy response can make recycling through the informal recycling sector more attractive, and also fuel the transboundary trade in e-waste – both among neighboring countries and across the planet.

**Implications for a response:**

Policy makers should prepare and implement regulations targeting e-waste management within each country. They should also monitor and control trade in e-waste. Such regulations should include approaches to the definition of e-waste, as well as its recovery, recycling and proper disposal.



## GOODS

### COUNTERFEIT GOODS

#### **41. CREATE CONSUMER AWARENESS – reduce consumer demand**

Addressing the level of consumer demand for counterfeit goods is critical, particularly in developed economies as this is where most of the TOC profits from criminal counterfeiting are generated.

##### **Implications for a response:**

Consumers need to be better informed about the social impact of counterfeiting – particularly health and safety concerns - and better understand the linkages between counterfeiting and organized crime. In addition, consumers should be better informed about what constitutes a counterfeit product. Given that Internet traffic from consumers seeking counterfeit goods is increasingly prevalent, initiatives to reduce online demand for counterfeit products must be innovative and multi-faceted with the involvement of various levels of government, private industry and civil society.

#### **42. INTRODUCE TECHNOLOGICAL INNOVATION TO DISTINGUISH GENUINE PRODUCTS**

Many counterfeit products are difficult to identify as counterfeit.

##### **Implications for a response:**

Technological innovations such as enhanced security features and packaging features that allow consumers to distinguish genuine articles from counterfeits would contribute to efforts to contain counterfeiting. Some electronic products now contain holographic images and identification codes to guard against counterfeits. Brand name prescription medication manufacturers have started using radio frequency identification (RFID) tags to track shipments. Given the expected increase in online sales, these innovations would be especially effective if designed to target the online market of counterfeit goods. Attention should also be given to the sophistication of technological innovation exhibited

by counterfeiters and criminal networks in East Asia in deciphering, reverse engineering and adaptation to such innovative security features. Coordinated efforts by governments, law enforcement and private industry to devise and broadly introduce technological solutions would contribute to reducing consumer demand for some counterfeit goods (and fraudulent medicines) and improve law enforcement interception methods.

#### **43. IMPROVE LAW ENFORCEMENT RESPONSES TO ONLINE COUNTERFEIT MARKETS**

Authorities have been shutting down websites that were selling counterfeit goods in recent years. However, these counterfeit websites can easily be rebranded or restarted in another jurisdiction.

##### **Implications for a response:**

Intensive monitoring and tracking websites will require enhanced technical innovation as well as cooperation between law enforcement and judicial authorities across jurisdictions. Law enforcement strategies need to be continually adapted to effectively combat this rapidly changing and innovative criminal enterprise.

#### **44. STRENGTHEN IPR REGIMES AT THE REGIONAL LEVEL and enforce anti-corruption measures through law enforcement and prosecution**

Intellectual Property Rights (IPR) regimes are an effective weapon to combat counterfeiting. However, in much of East Asia and the Pacific, these regimes are often weak, weakly enforced or both. Protection to criminal counterfeiting networks and the facilitation of product counterfeiting by corrupt officials in East Asia undermines policy initiatives and law enforcement efforts.

##### **Implications for a response:**

East Asian countries should consider strengthening their IPR regimes as well as implementing broader anti-counterfeiting measures through anti-corruption and anti-organized crime initiatives. Regulations

should be vigorously enforced by public officials and police. The linkages between corruption and organized crime in counterfeiting operations in East Asia should be formally assessed by governments and other regional bodies. Strong efforts should be made to bolster criminal investigations and the prosecution of counterfeit production and related corruption cases. This will represent an important criminal justice deterrent to the current high levels of counterfeiting in East and Southeast Asia.

#### ***45. ENHANCE PRODUCER-CONSUMER COOPERATION ON A TRANS-REGIONAL BASIS TO COMBAT COUNTERFEITING***

Product counterfeiting is a transnational problem on a massive scale.

##### **Implications for a response:**

All consumer and producing countries of counterfeit products should sign the Anti-Counterfeiting Trade Agreement (ACTA) to establish international standards on intellectual property rights enforcement. The ACTA covers various aspects of enforcement. These include criminal procedures, judicial obligations and the authorization of actions which border officials can take to prevent counterfeiting and piracy. A number of countries have signed, but other key countries, particularly in East and Southeast Asia, should consider joining this initiative. Broad support from countries for the ACTA would establish a new international legal framework that countries can join on a voluntary basis, and would create its own governing body outside existing international institutions such as the World Trade Organization and the World Intellectual Property Organization.

## **FRAUDULENT MEDICINES**

#### ***46. IMPROVE CONTROLS THROUGH LICENCING AND LAWS***

Many patients in East Asia obtain their medication from unlicensed vendors. The impact can be deadly.

##### **Implications for a response:**

**a. Licensing:** Countries should work towards robust and coordinated licensing system for importers, wholesalers and retailers of

pharmaceuticals. A proper licensing system with tracking and inspections (both random and targeted) can help prevent fraudulent medicines from entering various points of the distribution chain. This will make it easier to detect – and then sanction – unlicensed dealers which import or distribute fraudulent medicines. By means of technical and financial assistance, support for developing East Asian countries could be facilitated through “twinning” drug regulatory authorities in developed countries with those in need.

**b. Legislation:** Laws are needed to govern safety and quality standards for medicines. This will help prevent the production and distribution of substandard medicines. Laws can also be used to identify a preapproved list of medicine importers, wholesalers and retailers.

#### ***47. DEVELOP A COMMON UNDERSTANDING AROUND THE DEFINITION OF FRAUDULENT AND COUNTERFEIT MEDICINE***

There remains a lack of common agreement on the definition of fraudulent and counterfeit medicines. This impedes the international community from developing common policies and procedures to combat fraudulent medicine traffickers, and also prevents authorities from collecting data and assessing trends. Ultimately, the lack of a common definition is affecting developing countries worldwide, where access to a safe and affordable drug supply is critical.

##### **Implications for a response:**

The international community and the World Health Organization should continue work to resolve the long-standing issue of definitions in relation to what WHO currently refers to as “spurious/falsely-labelled/falsified/counterfeit” medicines.

#### ***48. PROMOTE INITIATIVES TO COUNTER ONLINE SALES OF FRAUDULENT MEDICINE***

Online sales of fraudulent medicines appear to be growing.

**Implications for a response:**

Fraudulent Internet pharmacies can be partially combated through regulatory initiatives. Government approved online logos can be issued to websites that comply with safety and quality standards and online drug sellers of controlled drugs can be forced to link to a central government website. Ultimately, public initiatives to regulate Internet pharmacies will only work through enhanced cooperation with private sector actors such as Internet Service Providers. Voluntary programs can also be used to accredit online pharmacies, such as through the Verified Internet Pharmacy Practice Sites (VIPPS) accreditation program in the US, run through the National Association of Boards of Pharmacy.