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**COMBATING
WILDLIFE AND FOREST CRIME**

UNITED NATIONS OFFICE ON DRUGS AND CRIME



Criminal justice response to wildlife crime in Thailand

A Rapid Assessment





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Cover: Officers of the Thai Department of National Parks, Wildlife and Plant Conservation carry a sedated tiger out of its cage at the Wat Pha Luang Ta Bua Tiger Temple in Kanchanaburi, Thailand, on June 4, 2016. Courtesy: Dario Pignatelli <http://www.dariopignatelli.com/>

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ACRONYMS

AMLA	Anti-Money Laundering Act
AMLO	Anti-Money Laundering Office
ASEAN	Association of Southeast Asian Nations
ASEAN WEN	Association of Southeast Asian Nations Wildlife Enforcement Network
CHIS	Covert human intelligence source (informant)
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
DNA	Deoxyribonucleic acid
DNP	Department of National Parks, Wildlife and Plant Conservation
DSI	Department of Special Investigation
IGO	Inter-governmental organization
INTERPOL	International Criminal Police Organization
NED	Natural Resources and Environmental Crime Suppression Division
NACC	Office of National Anti-Corruption Commission
NGO	Non-governmental organization
OAG	Office of the Attorney General
RTP	Royal Thai Police
Thai WEN	Thai Wildlife Enforcement Network
TOC	Transnational organized crime
UNODC	United Nations Office on Drugs and Crime
WARPA	Wild Animal Reservation and Protection Act
WB	World Bank
WCO	World Customs Organization
WCS	Wildlife Conservation Society

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INTRODUCTION

Thailand is a country rich in biological diversity, and home to unique and rare species of flora and fauna including the iconic tiger and Asian elephant. In Thailand – as elsewhere – there is a constant battle between conservation and development. Habitat loss, poaching and trafficking, human-wildlife conflict, and domestic use of wildlife has impacted heavily on many of Thailand’s native plant and animal species, including those afforded protection under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). These include high-value timber species such as *Dalbergia cochinchinensis* commonly known as Siamese Rosewood (Appendix II) and fauna species such as the Indochinese and Malayan Tiger (Appendix I), Leopard (Appendix I), Clouded Leopard (Appendix I), Elephant (Appendix I), Sun Bear (Appendix I) and Sunda Pangolin (Appendix I).

The objective of this study is to determine the effectiveness of the criminal justice system response to wildlife crime, given the role of Thailand as a source, transit and destination for CITES-protected flora and fauna. The research is based on a field visit to Thailand, a review of the available primary and secondary data, and interviews with key interlocutors from the government agencies. Interviews were mainly conducted with key players of the criminal justice system such as prosecutors, police, customs and environment/forestry officials involved in law enforcement. Wherever possible, interviews were conducted at the level of departmental head or deputy.

For the purposes of this report “wildlife crime” refers to the taking, trading (supplying, selling or trafficking), importing, exporting, processing, possessing, obtaining or consumption of wild fauna in contravention of national or international law.¹ This study has placed significant importance on the analysis of the domestic legal framework.

The political commitment to use criminal justice resources to target the illegal exploitation and trade in timber and wildlife crime is one of the starting points for this country analysis. Criminal justice systems deal with multiple crimes and face considerable public and political pressure on a range of issues. In practice, criminal justice actors prioritize their interventions to meet the extensive demands on their services in the best way possible, given the limited resources at their disposal.

While criminal justice systems are designed in theory to respond to all crimes, the purpose of this report is to map out as far as possible the processes by which wildlife crimes are investigated and prosecuted – and by whom. The latter question is critical: Wildlife crime falls in the purview of multiple departments in Thailand, and effective coordination between them is crucial for success. The recommendations of the report are aimed at national policy makers, but also at generating a wider discussion as to how criminal justice interventions could play a more effective role in tackling transnational organized wildlife crime.

The opening section provides a brief overview of the illicit wildlife trade in Thailand and the role the country plays in the global trade as a source, transit and destination country. The report then briefly examines the legal framework of wildlife-specific environmental law in Thailand. It illustrates how these laws, although adequate to address internal issues, have created loopholes that have been exploited by criminal gangs to the detriment of flora and fauna originating from countries outside of Thailand. It provides a short overview of the key issues and mechanisms through which criminal justice systems could

¹ International Consortium on Combating Wildlife Crime. *Wildlife and Forest Crime Analytic Toolkit*.

play a more important role in the response to these illicit trades. It also identifies the key enforcement agencies, how these agencies interact, and their capabilities to undertake complex investigations. It addresses international cooperation and examines the role played by the Association of Southeast Asian Nations Wildlife Enforcement Network (ASEAN WEN) and other platforms. It also addresses corruption, and the challenges faced by Thailand to identify and defeat this pervasive threat. Finally, the report concludes with several recommendations.

Thailand can play a major role in tackling the global problem of transnational organized wildlife crime. It has the necessary expertise, and, after some minor (but far-reaching) amendments, it could have the legal framework to seriously challenge the criminal networks plundering the world's natural resources. To achieve this, all that is needed is a shift in focus from the domestic borders towards the broader supply chain. Thailand has shown that it is a leader within ASEAN, now it has an opportunity to accept its place as a global leader in the fight against transnational wildlife crime.

1. THE ILLEGAL WILDLIFE TRADE IN THAILAND

Thailand faces several major challenges in detecting and suppressing the trafficking of its native wildlife. This section of the report will not seek to cover all the native species under threat from poachers, traffickers and deforestation but will focus on two of its iconic species; the tiger and elephant.

This section will also briefly examine the role Thailand plays in the transnational trafficking of African ivory, rhino horn and pangolin. It will also examine the role that Chatuchak Market in Bangkok plays in fuelling the illegal trade in CITES-listed birds, reptiles, primates and turtles.

The forests of Thailand contain the remnants a once considerable tiger population. At the beginning of the 20th Century there were an estimated 100,000 wild tigers in Asia. This number is now estimated at fewer than 4,000, of which an approximately 200-250 are in Thailand.

Despite the critical situation, Thailand has its success stories in places like the Huai Kha Khaeng Wildlife Sanctuary in the west of the country, where tiger numbers are estimated to have tripled over the last 10 years. Described as the one safe tiger habitat in South-East Asia, Huai Kha Khaeng is a joint venture between the Wildlife Conservation Society (WCS) and the Department of National Parks, Wildlife and Plant Conservation (DNP). The sanctuary uses intensive patrolling to curb the poaching of tigers and of their prey.²

Despite this enhanced protection, tiger poaching still occurs within Huai Kha Khaeng Wildlife Sanctuary. In 2013 a ranger was shot in the neck by poachers³ and in 2015 a female tiger was poached on the fringes of the sanctuary. In the latter instance two suspects were arrested at a highway checkpoint in Mae Sot District, around 400 km north-west of Bangkok, after officers search their vehicle and found the dead tiger. The ensuing police investigation identified an additional three suspects, who said that the tiger's body was to be sold to a buyer in Bangkok for 80,000 baht (around US\$ 2,300).⁴ In 2015-16 in Thailand there were two reported cases of wild tiger poaching, which resulted in the death of eight tigers.⁵

Huai Kha Khaeng Wildlife Sanctuary is just one example of a tiger success story that is being repeated in other tiger conservation areas in Thailand. While this success is encouraging, continued vigilance and support will be required for it to remain sustainable.

While the DNP struggles to protect the country's remaining wild animals, a burgeoning trade in captive tigers occurs within Thailand. The only legal way to obtain tigers in Thailand is for the (non-commercial) purpose of a zoo. In March 2017, there were 49 licensed zoos, 32 of which held a total of 1,287 tigers.⁶ In

² J.R. Platt, 2016. Tigers Have Just One Safe Habitat in SE Asia, Scientific America
<https://blogs.scientificamerican.com/extinction-countdown/tigers-thailand/> accessed on 27 March 2017

³ T. Maresca, 2016. Rangers Risk Life Trying To Save Endangered Tigers. USA Today,
<http://www.usatoday.com/story/news/world/2016/09/28/rangers-risk-lives-save-endangered-tigers/90688536/> at
accessed on 27 March 2017

⁴ Tiger Poachers Caught in One Week. Wildlife Conservation Society webpage found at
<http://www.wcsthailand.org/english/news/tiger-poachers-caught-within-one-week> accessed on 27 March 2017

⁵ Information provided by the Department of National Parks, Wildlife and Plant Conservation, April 2017

⁶ Information provided by the Department of National Parks, Wildlife and Plant Conservation, April 2017

2016 the DNP and Royal Thai Police (RTP) raided the world-famous Tiger Temple, around 180 kilometres west of Bangkok, and allegedly gathered evidence of that facility's involvement in the illegal breeding and trafficking of tigers.

Established in 1999 with an initial complement of seven tigers,⁷ the temple attracted tourists by providing an opportunity to feed a tiger cub or be photographed with a tiger. It also drew the attention of several conservation non-governmental organizations (NGOs) and investigative journalists who claimed that the temple was engaged in the speed-breeding of tigers, the trade in their body parts and cubs, and the disappearance and suspected trafficking of tigers to Lao PDR.⁸ It is important to highlight that the breeding of tigers in Thailand is prohibited by law and therefore the possession of tigers is allowed exclusively within licensed zoos for non-breeding and non-commercial purposes. The Tiger Temple's extensive breeding programme has apparently operated illegally and with impunity for years.⁹

After several years of NGO agitation and several false starts, on 1 June 2016 the DNP resolved to act and raided the temple with the assistance of the RTP. A total of 137 tigers were removed to a rehabilitation centre, 40 deceased tiger cubs were found in a freezer, and a further 20 preserved in jars of formaldehyde.¹⁰ All tigers that were moved to a rehabilitation centre cannot be sold to zoos at any stage in the future. At the time of writing, the prosecution of the Tiger Temple case is ongoing in a court in Kanchanaburi, the province where the temple is located.¹¹

Following on from the Tiger Temple investigation, DNP said it would inspect other tiger facilities in Thailand to ensure compliance. The inspections were to include measures such as recording tiger stripe patterns and DNA testing. This is a positive development and Thai authorities must maintain their pressure on those who traffic tigers, irrespective of whether they are from the wild or farmed.

Recently, new facilities have been built near the Tiger Temple, with the apparent intention of developing tiger zoos. The licence for such zoos is relatively easy to obtain, but ongoing permission to operate them is subject to several inspections by DNP officers, to demonstrate compliance with a number of safety and welfare requirements.¹² Due to the clamour generated by the recent cases, there is an opportunity for the assessments of the new operations to be made as transparent as possible and involve animal welfare associations and conservation NGOs.

Asian elephants are another iconic species whose population has been decimated by habitat destruction, poaching, domestication and human-wildlife conflict in Thailand. The elephant is a national symbol and the

⁷ Interview DNP, 2017

⁸ S. Guynup, 2016. Tiger Temple Accused of Supplying Black Market, National Geographic Society at <http://news.nationalgeographic.com/2016/01/160121-tiger-temple-thailand-trafficking-laos0/> accessed 27 March 2017

⁹ Information provided by the Department of National Parks, Wildlife and Plant Conservation, April 2017

¹⁰ Al Jazeera, 2016. (Adam Ramsey) What really happened at Thailand's Tiger Temple? At <http://www.aljazeera.com/indepth/features/2016/06/happened-thailand-tiger-temple-160605074332073.html> accessed on 5 May 2017

¹¹ Information provided by the Department of National Parks, Wildlife and Plant Conservation, April 2017

¹² *Ibid*

community has a natural affinity towards these majestic animals. At the beginning of the 20th century there were approximately 300,000 wild and 100,000 domesticated elephants in Thailand. Now there are an estimated 3,000-3,700 wild and 3,700 domesticated individuals in the country.

Thailand has worked hard to protect its wild elephants, and in March 2017 it announced a 10% increase in elephant numbers within protected areas.¹³ This is a positive result but the future of Thailand's elephants is still uncertain. Reduced genetic diversity and habitat fragmentation have left a question mark over the long-term viability of the population. Over the past four years authorities have recorded eight cases of elephant poaching, which resulted in the deaths of 10 animals.¹⁴

In 2012-13 Thailand came under significant international pressure over its domestic ivory market. Thailand was identified by the CITES Secretariat as a country of primary concern over its domestic ivory trade, and was requested to submit a National Ivory Action Plan (NIAP), to strengthen control of the trade, and to introduce measures to combat the illegal trade in ivory.¹⁵

Thailand reacted positively to this international pressure by designing a NIAP that included the introduction of specific legislation in the form of the National Ivory Act 2015 to protect Thai wild and domestic elephants. Protection was subsequently extended to include African elephants. Additional measures were introduced such as registering all domesticated elephants, collecting DNA samples – to ensure calves are not taken from wild animals and laundered into the captive system – and recording ivory stockpiles. Thai authorities also worked with the NGO TRAFFIC to legally purchase ivory from several markets, test it and determine its origin. The ivory tested was overwhelmingly of African origin.¹⁶ Thai authorities also undertook an education and awareness campaign aimed at foreigners purchasing ivory from local markets.

These new measures appear to have significantly reduced the legal trade of ivory in Thailand. Research undertaken by TRAFFIC in 2016 showed a 96% reduction in ivory on sale in the domestic market compared with 2012.¹⁷ This is a dramatic turnaround and is testament to the effectiveness of the Thai response. However, the longevity of this programme will depend heavily upon continued law enforcement monitoring of the situation.

Thailand also plays a significant role in the global trade of wildlife and wildlife products. Thailand is a major source, transit and destination country for many different types of wildlife and wildlife products. It has a well-developed and efficient transportation network and is serviced by two international airports in Bangkok, including the major international hub Suvarnabhumi Airport.

¹³ P. Rujavanarom, 13 March 2017. Number of wild elephants in Thailand on the rise. The Nation, <http://www.nationmultimedia.com/news/breakingnews/30308906> at accessed 2 April 2017

¹⁴ Information provided by the Department of National Parks, Wildlife and Plant Conservation, April 2017

¹⁵ CITES at <https://cites.org/sites/default/files/eng/com/sc/67/E-SC67-13-A5.pdf> accessed 27 March 2017

¹⁶ Thailand's drive against illegal ivory trade bolstered by forensic tools. TRAFFIC, at <http://www.traffic.org/home/2015/2/23/thailands-drive-against-illegal-ivory-trade-bolstered-by-for.html> accessed 2 April 2017

¹⁷ Massive downturn in Bangkok ivory market as Thailand introduces National Ivory Action Plan, at <http://www.traffic.org/home/2016/9/29/massive-downturn-in-bangkok-ivory-market-as-thailand-implement.html> accessed 27 March 2017

The Thai Customs Department has made numerous seizures of CITES-protected wildlife species coming into Thailand or in transit to other countries in Asia. For example, between 2014 and 2017, customs authorities seized about 7 tonnes of ivory, approximately 10,000 turtles and tortoises, and nearly 6 tonnes of pangolin.¹⁸ Many of these larger seizures of ivory, pangolin and rhino horn were shipments destined for Lao PDR.

The seizure of over 10,000 turtles and tortoises also illustrates another dimension of the Thai wildlife crime trade: animals trafficked for the international exotic pet market. Thailand has become a hub for the trafficking of CITES-protected species to feed the exotic pet trade in the United States, Europe and elsewhere in Asia. According to several NGOs, a loophole in the country's Wild Animal Reservation and Protection Act, 2014 has created an environment where animals are smuggled into Thailand and laundered as captive-bred specimens throughout the world (for more details see Section 2 – Legal Frameworks). The JJ or Chatuchak Market in Bangkok has been widely condemned in dozens of NGO reports as the epicentre of this trade.

Criminal networks operating from or connected with the markets are suspected of being behind the trade in primates, birds, testudines and other reptiles. During surveys of JJ Market, TRAFFIC sighted numerous specimens of species listed in CITES Appendix I and II from Africa, Asia, Australia and South America, and domestically protected specimens from Thailand that were openly for sale.

Several seizures of wildlife being smuggled out of Thailand or on arrival in other countries point to the markets as the source of the specimens. Unfortunately, this is an issue that Thai lawmakers have not adequately addressed, despite the overwhelming evidence of criminal involvement in the trade from the markets. This loophole, which would be relatively easy to rectify, epitomizes an inward-looking approach by Thai authorities to wildlife crime.

¹⁸ Figures provided by Thai Customs, 2017

2. LEGAL FRAMEWORKS

Thailand has a comprehensive and generally effective legal framework in relation to the investigation and prosecution of wildlife related crimes and ancillary crimes such as corruption, money laundering and smuggling.

There are a number of areas where the laws are deficient, particularly in relation to the protection of non-native CITES-listed fauna species, the definition of trade, and current sentencing provisions, but it is hoped that these will be addressed in amendments that are currently under review.

Thailand has also introduced legislation to deal with transnational organized crime. This allows for the use of advanced investigative methodologies, including the interception of telephone communications, that has previously been lacking within the Thai legal framework.

There are several pieces of legislation in Thailand that cover the investigation and prosecution of wildlife-related and ancillary crimes. These include;

- Wild Animal Reservation and Protection Act, B.E. 2535 (1992) and as amended B.E. 2557 (2014)
- Ivory Trade Act, B.E. 2558 (2015)
- National Park Act B.E. 2504 (1961)
- Customs Act, B.E. 2469 (1926) and as amended B.E. 2548 (2005)
- Export, Import of Goods Act, B.E. (1979), as amended B.E. 2558 (2015)
- Anti-Money Laundering Act B.E. 2542, (1999) as amended B.E. 2559 (2016)
- Penal Code 1861, as amended (1948)
- Penal Code Amendment Act (No.14) B.E. 2540 (1997)
- The Act on Prevention and Suppression of Corruption B.E. 2542 (1999)
- The Act on Mutual Legal Assistance in Criminal Matters B.E. 2535 (1992)
- The Act on Prevention and Suppression of the Participation of Transnational Organized Crime B.E. 2556 (2013)
- Enhancement and Conservation of National Environmental Quality Act B.E. 2535 (1992)
- Organic Act on Counter Corruption B.E. 2542 (1999)

For brevity this report will review only the main legislation relating to the investigation of wildlife crime and for addressing organized crime in Thailand.

Wildlife Crime

The main legislation used to investigate wildlife crime in Thailand is the Wild Animal Reservation and Protection Act, B.E. 2535 (1992), as amended B.E. 2557 (2014) known as WARPA. Under this legislation wild animals are defined under three categories, namely:

1. "Wild animal" designates all kinds of naturally occurring animals, whether terrestrial or aquatic, fowl, insects or arthropods, which are able to sustain life in the forest or water. This excludes beasts of burden registered in accordance with the Beasts of Burden Code;
2. "Preserved wild animals" refers to species listed under Wild Animal Species according to the schedule of this act, which is prescribed by the publishing of a notice in the Royal Decree;

3. “Protected wild animal” means a protected species of Wild Animal as specified in the ministerial regulations.

These definitions have attracted significant criticism from NGOs as they do not protect all the fauna species listed by CITES. According to the TRAFFIC report, in total WARPA protects fewer than half of all the CITES-listed taxa, and includes just 12 non-native CITES-listed species, namely seven mammals, one bird, three reptiles and one butterfly.¹⁹

This loophole in the definition effectively means that once a trafficker manages to elude authorities and introduces a non-native species (other than the 12 protected) into Thailand, law enforcement authorities cannot take action. This then enables Thai citizens to lawfully possess and subsequently breed these specimens. Despite WARPA being amended twice, legislators have failed to address this glaring deficiency, which in effect perpetuates wildlife trafficking in Thailand.

To address this issue it is recommended that as a minimum corrective measure Thai authorities amend WARPA to prohibit the possession, taking, trading (supplying, selling or trafficking), importing, exporting, processing, obtaining and consumption of CITES-listed Appendix I and II species without a licence or permit. The current draft of the new WARPA is reported to include reference to all appendices of CITES, and is expected to be approved by the end of 2017. An even bolder measure to close all gaps in the legislation would be to include a provision that prohibits the trade of any species (not only the CITES-listed ones) that have been obtained illegally according to the legislation in the country of origin. In this way, as long as it could be proven that the species were illegally obtained in a third country, entry to Thailand could be denied and a criminal investigation on the importer could be started. Such an approach is in use in the United States through the Lacey Act.²⁰

Another option for the DNP to address the unlicensed CITES-listed Appendix I and II species that are already in Thailand is to consider an amnesty for the possession of those species. While this may be seen as controversial, and could draw the ire of conservation agencies, effective law enforcement needs a starting point. At the moment in Thailand there is an unregulated black market for non-native CITES-listed fauna, and the government does not know the size of the problem. To adequately manage it, this problem first needs to be mapped and understood. Once this is achieved, the trade can be regulated and monitored, ensuring greater compliance. This approach would also provide a clearer intelligence picture on who the larger players are within the trade, and allow the allocation of resources to where they would be most effective.

There is precedent for such an amnesty. In Australia, both federal and state agencies with a mandate to regulate the possession of native animals have used amnesties for those possessing exotic animals. In some instances, those animals were registered and were allowed to be kept. In other cases, owners were obliged

¹⁹ P. Moore, C. Prompinchompoo and C. Beastall, 2016. CITES Implementation in Thailand – A review of the legal regime governing the trade in great apes and gibbons and other CITES-listed species. TRAFFIC at http://www.trafficj.org/publication/16_CITES_Implementation_in_Thailand.pdf accessed on 1 April 2017

²⁰ US Lacey Act (Food, Conservation and Energy Act of 2008, Pub. L. No. 110-234, § 8204, 122 Stat. 923 (codified at 16 USC §§ 3371-3378)

to surrender them prior to the introduction of harsh penalties for their possession.²¹ In both scenarios, possession of an unregistered specimen after the end of the amnesty was an offence.

The cost to introduce and monitor such a system could be offset by licence fees and charges for possession of non-native CITES-listed species.

Several other definitions in the Act are also relevant in the wildlife crime context. These include:

1. “Trade”, defined as to purchase, sell, exchange, dispose of, distribute, or transfer ownership for the purpose of trading. It also includes possessing or displaying an item with the purpose or intention of sale.
2. “Import”, defined as bringing a wild animal into Thailand or ordering it to be brought in.
3. “Export”, meaning to take a wild animal out of Thailand, or order it to be taken out.

In its current form the definition of trade is not consistent with the CITES definition as it does not cover re-export or introduction from the sea.²² An assessment should be undertaken to determine if this discrepancy has any discernible impact on the interpretation of the Thai law.

Under WARPA the maximum penalty for the illegal import or export of protected wildlife is four years of imprisonment. However, the transshipment of wildlife products through Thailand is punishable with a maximum three-year imprisonment. This maximum penalty is insufficient to allow a controlled delivery of any contraband under Section 20 of the Act on Prevention and Suppression of the Participation of Transnational Organized Crime B.E. 2556 (2013), which requires a maximum penalty of at least four years’ imprisonment.

A controlled delivery is where suspects under surveillance are not apprehended but rather tracked by law enforcement agents to gain information about trafficking routes, actors and destinations.

To address this issue and permit the controlled delivery of wildlife products that are transiting through Thailand it is recommended that the maximum penalty be increased to at least a maximum of four years in prison.

In 2015 the Thai Government introduced the Ivory Trade Act, B.E. 2558 (2015). The sections of both WARPA and the Ivory Trade Act that are relevant to possession and trafficking are shown in Annex I – Selected provisions .

Another area where the Thai wildlife laws are deficient is in the sentencing provisions. Although the maximum penalty for illegal import or export is up to four years’ imprisonment and meets the definition of serious crime under the United Nations Convention against Transnational Organized Crime, it does not represent a sufficient deterrent to organized crime. The maximum fine of 40,000 baht (\$1,200) is manifestly

²¹ J. Fielding, 2016. Donaldson Launches Reptile Amnesty, News Mail at <https://www.news-mail.com.au/news/donaldson-launches-reptile-amnesty/3032915/> accessed on 2 April 2017

²² P. Moore, C. Prompinchompoo and C. Beastall, 2016. CITES Implementation in Thailand – A review of the legal regime governing the trade in great apes and gibbons and other CITES-listed species. TRAFFIC at http://www.trafficj.org/publication/16_CITES_Implementation_in_Thailand.pdf accessed on 1 April 2017

inadequate when compared to the profits from such crimes, with, for example, rhino horn fetching approximately \$30,000 per kilogram on the black market in Viet Nam.²³

Key Provisions of Other Laws

Domestic wildlife crime legislation often fails to address the transnational or organized nature of these crimes. Law enforcement agencies that investigate or prosecute these matters are often forced to revert to other legislation that is generally focussed on traditional crime types, but can be applied in wildlife crime investigations.

In Thailand there are several provisions of other laws that could be used to address transnational organized wildlife crime or the crimes that facilitate them including corruption and money laundering. Some of these laws are extremely relevant in terms of penalties to be added to the most serious forms of wildlife crimes: For instance the Customs Act amended in 2005 provides for a maximum penalty of 10-year imprisonment for the import or export of restricted goods such as CITES-listed species.

Of great importance to the fight against wildlife crime is also the Act of Prevention and Suppression of the Participation in Transnational Organized Crime (2013). This recent law provides the legal basis for the use of special investigative techniques, such as controlled deliveries (section 20) and electronic surveillance (section 21). Furthermore, it punishes any involvement with transnational organized criminal activities with between four and 15 years in prison. The key provisions of these additional laws are displayed in Annex II – Selected provisions from other laws.

²³ Price of rhino horn plummets in Viet Nam, at <http://e.vnexpress.net/news/news/price-of-rhino-horn> accessed on 2 April 2017

3. COMPETENT LAW ENFORCEMENT AUTHORITIES

Thailand has several agencies responsible for the enforcement of wildlife and forestry laws. This study has analyzed the following:

- Department of National Parks, Wildlife and Plant Conservation
- Forestry Department
- Natural Resources and Environmental Crime Suppression Division, Royal Thai Police
- Department of Special Investigations
- Anti-Money Laundering Office
- Thai Customs Department
- National Anti-Corruption Commission

Unfortunately, the UNODC team was unable to interview representatives from the Provincial Anti-Corruption Commission or the judiciary.

Department of National Parks, Wildlife and Plant Conservation

Under the Ministry of Natural Resources and Environment (MoNRE), the Department of National Parks, Wildlife and Plant Conservation (DNP) is responsible for managing Thailand's protected areas and its native wildlife. It is one of three agencies that make up the Thai CITES Management Authority and it is the main focal point for CITES-listed fauna. The other two agencies are the Department of Agriculture, which is responsible for CITES-listed flora, and the Department of Fisheries, which manages CITES-listed aquatic species. These three agencies also make up the CITES Board of Thailand which meets three to four times per year.

The DNP has approximately 360 staff, consisting of 66 government officials, an estimated 100 wildlife inspectors and around 200 temporary workers.

The DNP has representatives at 53 checkpoints throughout Thailand including Suvarnabhumi International Airport. Twenty-five of the 66 government officials work at these checkpoints, while the remainder operate from DNP's headquarters in Bangkok. The DNP has 10 wildlife detector dogs, which are occasionally used at Suvarnabhumi International Airport and at the border checkpoints. Interestingly, these dogs are not deployed at Don Muang International Airport, which has also been the scene of several wildlife seizures. The borders with Laos and Malaysia have been identified as primary areas of concern.

DNP wildlife inspectors undertake investigations and have similar powers of arrest to police. After an arrest they have 24 hours to send the suspect and the case file to police for processing. The DNP can apply for and execute search warrants, and the inspectors have access to firearms. Wildlife inspectors need a warrant to enter commercial premises for an inspection, but do not need to give notice.

The DNP operates an electronic permit system for monitoring the domestic possession and trade of native species. The management of CITES-listed species relies on the issuance of paper permits. The possession of protected species in Thailand must be licensed by the DNP, which has to verify that the specimen has been acquired from a licensed breeding facility and in compliance with the trade regulations. Permit holders have to notify DNP of any acquisition, sale or possession transfer of wildlife within 30 days. Violations of these regulations is regarded as a crime and is punishable by up to four years in prison. Currently in Thailand there are 975 permit holders, 240 breeding facilities and 704 licensed traders.

Between 2013 and 2016 the DNP undertook a total of 2,331 wildlife crime cases involving 2,724 suspects. A total of 9,350 carcasses weighing 19,635 kilograms and 43,632 live animals were recovered.

While the DNP has a regulatory and enforcement role, it relies on other law enforcement agencies within Thailand for advanced investigative techniques. DNP wildlife investigators undertake covert online investigations and frequently monitor closed Facebook groups. DNP inspectors recruit and manage covert human intelligence sources (CHIS)²⁴. However, they have no central registration system nor have they received any formal training on how to manage CHISs.

The DNP lacks intelligence analysts or a computer-based intelligence or case-management system. The department is currently using a paper-based system but will be moving to an electronic system with the provision of a program sponsored by the World Bank.

The DNP also has the responsibility for the storage and security of wildlife products seized under the Wildlife Conservation Act, including native species, African ivory and other CITES-listed specimens. The live specimens are sent to care centres while other exhibits are stored at DNP headquarters. This current system is less than ideal and places significant financial, administrative and security pressures on DNP.

The long-term care of seized live fauna is an onerous and financially prohibitive task. Seized animals are prone to disease or dying, and when this occurs in government care it can attract criticism and create issues in court cases. Several thefts of wildlife have also occurred at a storage facility in Chonburi, raising issues around the security of such facilities.

It has been suggested that the new wildlife legislation coming into effect in 2018 will address this situation and allow for the disposal or repatriation of live specimens in a timely manner.

The DNP also has the responsibility for securing seized African ivory. Between 2013 and 2017 Thai customs seized approximately 7 tonnes of ivory, which was subsequently transferred to DNP. At current market rates it is worth approximately \$7 million. Securing this ivory poses a major administrative and security issue for the DNP. The paper system used by the DNP for recording the location and movement of the ivory is also open to manipulation, and represents a potential corruption risk.

The DNP is foremost a conservation agency. As such it has a good rapport with many of its counterparts in neighbouring countries, despite not having any formal agreements or memorandums of understanding (MoUs). It also has expertise in the identification of species, and provides advice to law enforcement agencies on species identification.

²⁴ CHISs are generally referred to as “informants”, meaning someone who maintains a relationship with a person believed to be directly or indirectly involved in criminal activities, for the purpose of obtaining relevant information for investigation purposes

Forestry Department

This report has a focus on wildlife crimes and it does not touch specifically on timber-related crimes and illegal logging. However, Thailand is at the centre of an important trade of a CITES-protected timber species which goes under the common name of rosewood. With a focus on CITES-listed species, the assessment team decided to interview also the Forestry Department.

The department monitors the enforcement of the laws and regulations related to forest protection. It is not the CITES Management Authority for the trade in protected timber species, but rather implements its relevant policies. The FD has 23 provincial offices, each responsible for a land range of 100,000 rai (16,000 hectares), 523 district stations (including near the land borders), 2,000 permanent staff (including 500 rangers) and 10,000 temporary workers (including 5,000 rangers).

Rangers working for the FD have powers of arrest and confiscation. When an illegal activity is identified, they can investigate and prepare the case, which is then transferred to the police - namely the Natural Resources and Environmental Crime Suppression Division (NED) - within 48 hours. The FD cannot issue fines or refer cases directly to the Prosecutor's Office. Rangers can use weapons. The media has often reported shooting episodes between rangers and loggers, especially in relation to the illegal trade of rosewood. Authorities indicate that two or three rangers die every year during shooting incidents, especially at the borders with Cambodia and Lao. Based on the experience of the FD, loggers are generally nationals of Cambodia, while traders are Thai, Cambodian and Chinese nationals.

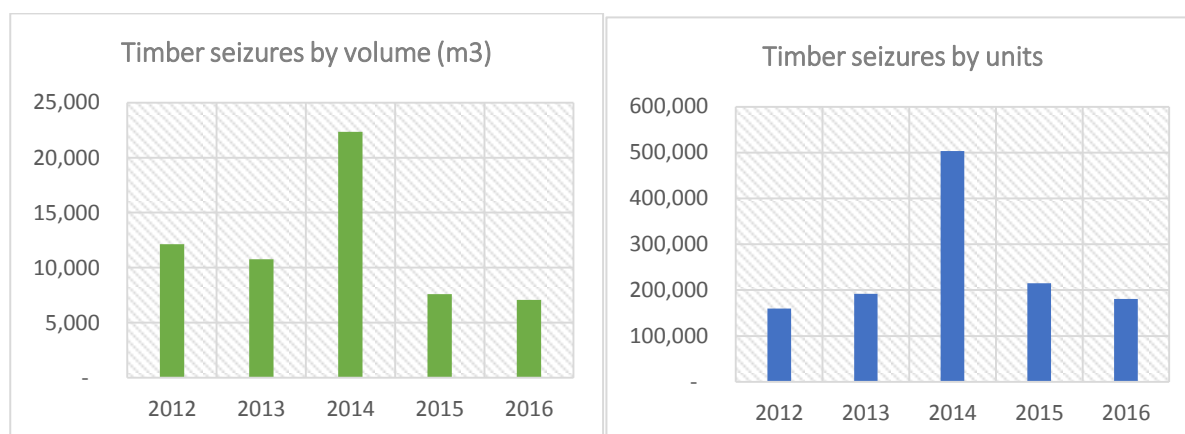


Figure 1: Timber seizures 2012-2016. Source: Forestry Department

As shown in the tables above, in 2014 the seizures of timber spiked. Authorities indicate that this has to do with the fact that following the *coup d'état* in 2014, the newly formed military government prioritized the conservation of forests and allocated army resources to patrol forests and protected areas.

Once seized, the timber is kept at the district offices until the investigation is completed. After the case, the seized timber can be used only for initiatives of public benefit. Thailand has announced it is building a museum for precious timber, to be built with the confiscated timber. Sale by auction of seized timber is prohibited since approximately 10 years ago.

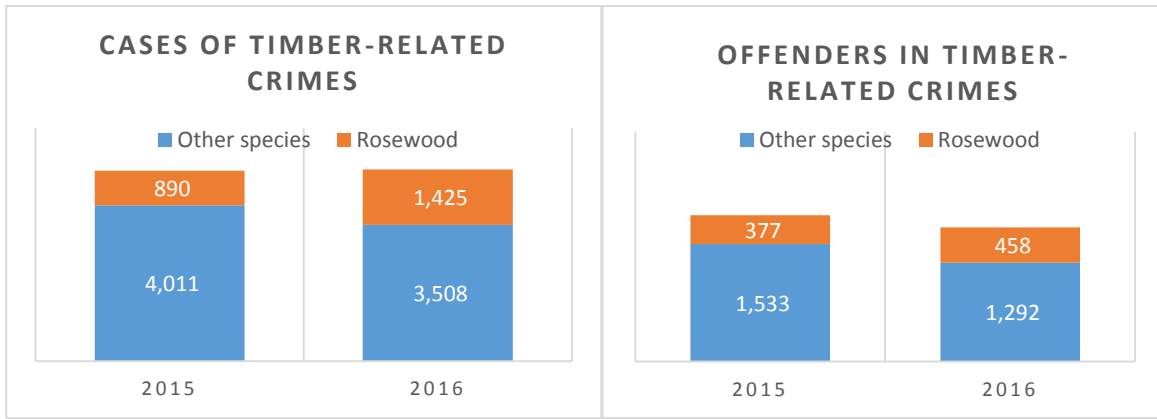


Figure 2: Timber seizures 2015-16. Source: Forestry Department

The offenders identified during the incidents were reported to the police. Statistics for the prosecution and conviction of these cases were not available at the time of the assessment. However, the FD representative indicated that nearly all of the offenders only received administrative sanctions.

Rosewood seizures by the FD are generally of two species, *Dalbergia cochinchinensis* and *Dalbergia oliveri*, both indigenous to Thailand. The *Dalbergia* genus is one of those used for rosewood products. Over a four-month period in late 2016 and early 2017, the FD made 213 seizures of rosewood, which represents 30 percent of the total value of timber-related offences in that period. It is important to note that as a result of the CITES Conference of the Parties in 2016 – and following a proposal by Thailand – all species under the *Dalbergia* genus have been granted protection under CITES Appendix II.

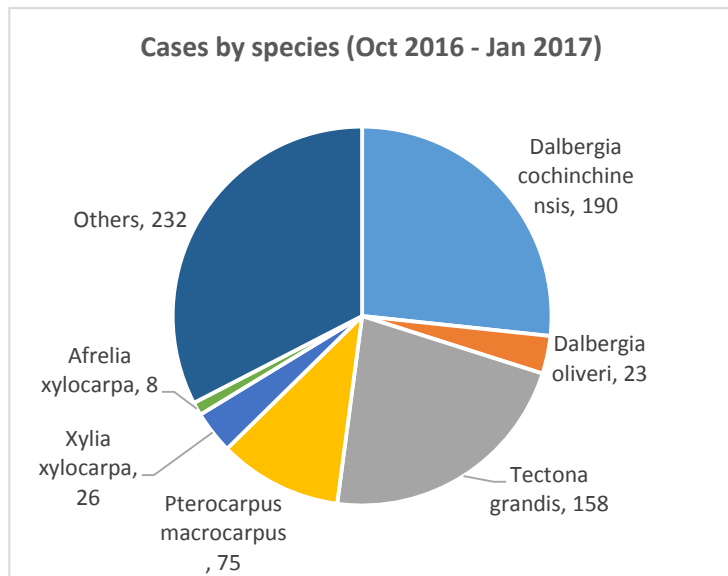


Figure 3: Timber seizures 2016-17 by species. Source: Forestry Department

Natural Resources and Environmental Crime Suppression Division, Royal Thai Police

The Natural Resources and Environmental Crime Suppression Division (NED) of the Royal Thai Police (RTP) is the police unit responsible for investigating environmental crimes in Thailand. The NED, which is part of the RTP Central Investigations Bureau, has approximately 500 full-time staff and focuses its investigations on four main crime categories, namely:

- Illegal logging and offences related to forestry industry, such as wood-processing plants
- Forest and public land encroachment
- Wildlife crime
- Pollution and illegal waste as well as unlawful destruction of natural resources, such as illegal mining

Thailand has seen a need for police to investigate serious environmental crimes, and the NED brings the full powers and resources of a police agency to this issue. Based in Bangkok, the division deploys teams to the provinces to investigate environmental crimes, and can call upon local RTP units for assistance.

Between October 2015 and February 2017 the NED investigated 5,250 cases involving a total of 1,959 suspects. The vast majority of these cases and suspects related to deforestation and trespassing in a forest or public area. In relation to cases of wild flora and fauna trade, in the same time period more than 1,600 cases were investigated, involving 682 suspects. As a result of these cases, assets worth approximately \$1.7m were confiscated as illustrated in Figure 4. Figures related to the prosecution and conviction rates of the cases were not provided by the Office of the Attorney General.

Year	Number of case	Alleged offenders	Value of the seized asset (THB)
2012	229	Not provided	Not provided
2013	308	161	10,406,185
2014	356	161	8,339,940
2015	356	177	18,273,841
2016	382	183	22,075,919
TOTAL	1,631	682	59,095,885

Figure 4: Wild Flora and Fauna Cases 2012 -2016. Source: Royal Thai Police

One of these cases included the dismantling of an organized crime ring operating from Suvarnabhumi Airport that were involved in facilitating the importation of testudines into Thailand. Using corrupt airline and airport staff the group were responsible for importing an estimated 30 million baht (\$850,000) worth of testudines in two years.²⁵

²⁵ Interview RTP, February 2017

The NED uses special investigation techniques including undercover operatives and tracking devices to investigate environmental (including wildlife) crime. However, many officers attached to the NED have not received formal training in these techniques. While their use is essential to combat transnational organized crime, the techniques are also inherently high-risk and require sufficient training and expertise for safe use.

The 2013 Act of Prevention and Suppression of the Participation in Transnational Organized Crime allows for the use of special investigative techniques, including the interception of telecommunication services. Despite this law being enacted in 2013, the NED has yet to use it to intercept the telephones of wildlife traffickers. There appears to be a need for greater cooperation between the RTP and the Office of the Attorney General to address this.

Under this Act, NED can conduct controlled deliveries, since the maximum penalty for offences related to wildlife trafficking under the WARPA is higher than the minimum requirements set by the Act (i.e. four years in jail).²⁶ However, Thailand has never undertaken a transnational controlled delivery of wildlife products. A barrier that prevents this is that the maximum penalty for wildlife products transiting Thailand under WARPA is insufficient to permit such a controlled delivery. The maximum is set at three years for this offence, and Thai legislation permits controlled delivery only for cases where the suspected offence can incur a maximum penalty of four years on conviction, or more.

An area where the NED can improve its effectiveness is in intelligence collection, analysis and dissemination. The transition from a reactive policing model to a proactive intelligence-led one requires the right computer software and well-trained criminal intelligence analysts. The NED utilizes the latest analytical and mapping software but has been unable to reap the full benefits of these valuable tools, as it does not have trained criminal intelligence analysts operating the system. Intelligence analysis requires specialised training and skill sets that are not adequately developed through normal police training. In June 2015 UNODC provided a 10-day basic training course on intelligence development and analysis for 15 NED officers. However, to date no dedicated position for analyst has been created.

Another area where the NED could improve its effectiveness is through the establishment of a centralized Covert Human Intelligence Source (CHIS) registration and management system. The current RTP model relies upon local officers to recruit and manage human sources. This system fails to realise the full potential of a human source that could be achieved through a centralized management system, whereby the organization owns and manages the human sources, rather than an individual officer.

A centralized system has the added advantage of providing oversight in an area that has traditionally been seen as posing a high risk of corruption through the development of inappropriate relationships. In addition, officers of the NED have not received any formal training in the recruitment and management of CHISs.

Within the RTP there are regulations related to the use of funds for criminal investigations, including the rewards for CHISs. Yet such regulations are reportedly convoluted, and as a result the large majority of the officers seem to prefer paying informants from their pocket, which is less than ideal.

²⁶ For more information see Annex II in relation to the Act of Prevention and Combat against the Participation in Transnational Organized Crime

The NED has very good relationships with other agencies investigating wildlife crime within Thailand. It is part of the Thai Wildlife Enforcement Network (Thai WEN) and it takes part in policy-making decisions within that framework. It also works cooperatively on investigations with the DNP, the Department of Special Investigations (DSI), the Customs Department and the Anti-Money Laundering Office (AMLO).

The NED also mirrors other Thai agencies with varying degrees of cooperation with neighbouring countries when it comes to investigating transnational wildlife crime. For example, it has a very good relationship with its counterparts in Malaysia, which is across its southern border and a major transit country for wildlife products entering Thailand. However, it has no effective relationship with its counterparts in China, where many of the illegal wildlife products exiting Thailand eventually make their way. There is also no formal channel for intelligence sharing between police and non-police agencies within ASEAN. The current favoured method of information exchange from police to police in the region is through the INTERPOL channels.

The NED also has little to no official working relationship with African law enforcement agencies, with most information sharing and support occurring at the personal level. This is most certainly an area for improvement, not only for Thailand but for most of the countries involved along the trafficking routes.

Despite these shortcomings, the NED has shown itself to be effective in combating environmental crimes. It has developed and maintained good relationships with several wildlife-crime focused NGOs operating in Thailand. The division has benefited from intelligence and support offered by these NGOs to affect the arrest of several wildlife traffickers, including a December 2016 arrest of a male for trafficking two baby orang-utans.²⁷

²⁷ Australian Broadcasting Commission News, *Baby Orangutans being old online for 28k rescued by Thai police in undercover sting*. [accessed online 14 March 2017] <http://www.abc.net.au/news/2016-12-23/thai-police-rescue-baby-orangutans/8145790>

Thai Customs Department

Thailand is a key source, transit and destination country for trafficked wildlife and timber products and the Thai Customs Department is both the first and last line of defence to stem the flow of these commodities entering or leaving Thailand. To fulfil this role, the department has approximately 6,000 staff dispersed between 48 customs houses operating throughout the country. Customs officers are well trained and educated, with a bachelor's degree a minimum requirement for employment.

The Customs Department of Thailand identifies its mission as to:

- Facilitate trade and promote a national logistics system
- Promote the national economy with customs-related measures and international trade information
- Protect and secure society based on customs control centre
- Collect revenue in a fair, transparent and efficient manner²⁸

Given the huge volume of shipping containers that enter Thailand, customs use a risk-based model when determining which ones to inspect. Officers are also trained to look for anomalies in paperwork and for possible misidentified species.

The Customs Department has computerised all of its procedures and forms to expedite the movement of goods and to mitigate the risk of corrupt practices.

Customs officers have the power to detain and arrest suspects and they can seize restricted or prohibited goods, goods on which tax has not been paid or goods that have not passed through customs. They have authority to investigate the case, search, detain, and hand over the enquiry to the police for further investigation and prosecution. In the absence of a detention, there is no time limit for customs enquiry officers to hand over a case to the police.

The effectiveness of the Customs Department in identifying suspicious containers, both entering and transiting Thailand, is unquestioned. The department currently has 404 timber cases under prosecution involving the seizure of 724 containers of timber. The value of that timber is approximately 400 million baht (\$ 11.6 million).²⁹

The Customs Department has also seized tonnes of pangolin and ivory, and thousands of turtles, tortoises and live birds. Any live wildlife seized is handed over to DNP to be cared for. The breakdown of seizures from January 2014 - March 2017 is illustrated in Figure 6.

²⁸ Thai customs webpage at

http://en.customs.go.th/content.php?ini_content=vision_mission_strategy&lang=en&top_menu=menu_vision_mission_strategy accessed 23 March 2017

²⁹ Interview Customs Department, February 2017

SPECIES	2014			2015			2016			2017		
	Cases	Qty	Unit	Cases	Qty	Unit	Cases	Qty	Unit	Cases	Qty	Unit
IVORY	12	441	Pcs	14	2,086	Pcs	9	516	Pcs	-	-	-
(raw, semi and worked)	-	76	Kgs	-	5,590	Kgs	-	1,237	Kgs	-	-	-
TESTUDINES	10	2,341	Pcs	13	4,063	Pcs	9	3,852	Pcs	-	-	-
PANGOLIN	2	167	Pcs	11	256	Pcs	-	-	-	-	-	-
	-	-	-	-	2,820	Kgs	1	567	Kgs	3	2,900	Kgs
LIVE BIRDS	4	1,028	Pcs	6	140	Pcs	5	157	Pcs	-	-	-
RHINO HORN	2	14	Pcs	-	-	-	-	-	-	1	21	Pcs

Figure 5: Customs Department Seizures 2014-2017. Source: Customs Department

Unfortunately, despite this high number of seizures there has never been a domestic controlled delivery of wildlife products in Thailand. In the event of such a controlled delivery, the Customs Department would support the police, who would lead the operation.

In fact, the Customs Department is not authorized to adopt the special investigation techniques needed for such operations, including telephone intercepts, listening devices or undercover operatives. At the moment the Customs Department is not included in the Standard Operating Procedures for the Implementation of the Act on Transnational Organized Crime (TOC), which includes the use of controlled deliveries and other advanced investigative techniques. This should be rectified as a matter of urgency, since customs play a pivotal role in performing controlled deliveries of wildlife products transiting Thailand.

The Customs Department does not have a specialized CITES team. For identification of CITES flora and fauna they rely on the assistance of DNP and other CITES Management Authorities. DNP and NGOs also assist Customs by providing training on CITES species identification.

The Customs Department does not have a centralized Covert Human Intelligence Source (CHIS) registration and management system. Like the RTP it relies upon local officers to recruit and manage human sources. It can also undertake surveillance of suspects and suspicious cargo.

The Disciplinary Division of the Customs Department addresses corruption within the organization. Thai customs use IT systems extensively to avoid abuse or rule-bending by its officers. The department also promotes the use of non-intrusive equipment such as mobile x-ray machines. A Code of Conduct is provided for customs officers, and new recruits undergo a training course on moral behaviour and disciplinary measures. During the interview it emerged that in the arrest of a former Thai Customs officer in Malaysia on the charge of trafficking of turtles, crucial information for the arrest was provided by the Customs Department itself.

The Customs Department is part of the Thai Wildlife Enforcement Network, and has good working relationships with other environmental law enforcement agencies, including the exchange of information and intelligence on a case-by-case basis.

Department of Special Investigation

The Department of Special Investigation (DSI) is a multidisciplinary law enforcement agency founded on 3 October 2002 to prevent, suppress, and control serious crimes pursuant to the Special Case Investigation Act, 2004.

Special cases within the scope of the DSI include illegal acts under 39 laws, including the Enhancement and Conservation of National Environmental Quality Act, the Customs Act, and the Anti-Money Laundering Act. Interestingly, WARPA is not one of the 39 laws that fall within the scope of the DSI. Most investigations commenced by the DSI are as a result of the receipt of a complaint by a member of the public, law enforcement agency or government department.

The DSI has a staff of 1,182 operating within 2 divisions, 15 bureaus, 2 sections and one specialized crime centre. The DSI is headquartered in Bangkok but also operates from provincial offices throughout Thailand.

The DSI operates the Bureau of Consumer Protection and Environment Crime³⁰ which has a team of 80 officers that focus on environmental and consumer protection crimes. While these officers are predominantly tasked to investigate land encroachment, the DSI also investigates wildlife trafficking. In 2016 it undertook two self-initiated cases.

The DSI uses special investigation techniques including undercover operatives, the interception of telecommunications and tracking devices to investigate environmental (including wildlife) crime. The DSI is also the only law enforcement agency in Thailand with a centralized CHIS register. The department also operates a computerized case management system. Under its current mandate the DSI is not permitted to undertake controlled deliveries, so it works closely with other authorised law enforcement agencies such as the RTP when the need arises (generally on narcotics cases).

The DSI has an excellent analytical capability and has trained criminal intelligence analysts at both the national and bureau level. This analytical capability is ideally suited to identifying those upper-level criminals engaged in transnational wildlife trafficking in or through Thailand. The identification of these individuals will enable the proactive allocation of resources to target those who make the most money from these crimes. It would also provide the intelligence that may enable the arrest and conviction of those actors whose removal will have the greatest impact on disrupting the trade.

Given Thailand's role as a source, transit and destination country for wildlife and timber products, the mapping of these criminal networks will also assist to inform not only Thailand but also other countries of criminal networks operating in their jurisdictions. The mapping of networks and the sharing of this intelligence are crucial to establishing an intelligence bridge between Asian and African wildlife enforcement networks. Finally, it would also serve to temporarily address a capability gap that exists within the NED in terms of dedicated criminal intelligence analysts.

The DSI is part of Thai WEN and works closely with the RTP to investigate environmental crimes. It maintains good relationships with other ASEAN law enforcement agencies, even though these relationships are generally informal. The DSI also works closely with members of the Foreign Anti-Narcotics Community (FANC), which includes US, Australian, UK and other law enforcement agencies.

³⁰ Government of Thailand, *DSI Annual Report, 2015* p22

Anti-Money Laundering Office

The Anti-Money Laundering Office (AMLO) is the primary agency responsible for the prevention and suppression of money laundering and financing of terrorism in Thailand. As an enforcement agency it plays a financial intelligence role and it manages a large amount of information from financial institutions and other reporting entities.³¹

The AMLO was established under Section 40 of the Anti-Money Laundering Act 1999 (AMLA) and has a staff of 312 officers, of which 137 are investigators. It has recently been authorized to increase its strength by an additional 180 officers. AMLO investigators are responsible for conducting all types of money-laundering investigations, and not just those restricted to wildlife and forestry crime. The majority of cases investigated by the AMLO pertain to drug trafficking and high-risk crimes such as corruption, aggravated fraud, human trafficking, etc.

The office implements three important measures: criminal measures; civil forfeiture procedures; and obligations for financial institutions and for designated non-financial businesses and professions (DNFBPs). The primary law is the criminal law, which defines the predicate offences, or those offences whose unlawful gains are likely to become the subject of money laundering, and often underpin more serious offences.. The AMLO works with the RTP and DSI to identify predicate offences.

The AMLA lists 26 predicate offences that enable the commencement of proceedings. The key law for the investigation of environmental crime is identified in Section 3 (15) of the AMLA.

Proceedings commenced by the AMLO are determined using the civil law burden of proof, which is decided upon the balance of probabilities. In addition, the onus is reversed and it is up to the affected person to prove the legitimacy of the proceeds subject to the order.

Interestingly, all matters that are subject to AMLO proceedings are required to be finalized by a court. The AMLO does not have the authority to negotiate with affected persons for the voluntary forfeiture of assets. The ability to negotiate between parties is used in many other jurisdictions and often expedites proceedings and saves valuable court and agency time and costs.

Section 13 of the AMLA obliges financial institutions to report the following transactions to the AMLO:

- Cash transactions under Section 13(1) in the amount of 2 million baht or above, or transactions related to money transfers or electronic payments in the amount of 100,000 baht or above;
- Asset transactions under Section 13(2) worth 5 million baht or above, or transactions related to money transfers or electronic payments in the amount of 700,000 baht or above;
- Suspicious transactions regardless of values specified under (1) or (2)

The number of transactions reported to the AMLO in the period 2013 to 2015 shows the high level of information provided to the agency from financial institutions. These figures, taken from the 2015 annual report, are shown in Figure 7.

³¹ Government of Thailand, *Anti-Money Laundering Office, Annual Report 2015*. p. 5

Categories	Number of Transactions		
	FY 2013	FY 2014	FY2015
1. Cash transactions	1,062,020	1,120,059	1,259,728
2. Asset transactions	171,340	229,659	375,861
3. Money transfer or e-payment transactions	15,941,448	14,466,400	16,102,196
4. Suspicious transactions	74,596	13,963	12,920
5. Cross-border cash Transactions	4,329	4,457	8,953
Total	17,253,733 <i>(USD 498,663)</i>	15,834,538 <i>(USD 457,513)</i>	17,759,658 <i>(USD 513,137)</i>

Figure 6: Financial Transactions 2013-2015. Source: AMLO

The AMLO has authority to independently commence an investigation, but it frequently works with other agencies such as the RTP and DSI to find the predicate offence. This is shown in Figure 8.

Year	No. of Dissemination						Total
	AMLO (litigation)	RTP	ONCB	NACC	DSI	Others	
2011	10	55	12	3	7	5	92
2012	13	53	36	5	18	4	129
2013	33	47	20	6	19	4	129
2014	134	31	17	7	8	23	220
2015	188	75	32	9	10	60	374
2016	103	107	6	59	24	52	351
Total	481	368	123	89	86	148	1,295

Figure 7: financial intelligence reports disseminated to relevant agencies on the basis of Suspicious Transaction Reports. Source: AMLO

Under sections 46 and 46/1, the AMLO has the power to conduct special investigative techniques and to set up the necessary legal measures to take action against assets connected to the commission of money-laundering offences, the counter-terrorism financing law and other related laws. The AMLO boasts one of the worlds' most successful environmental crime money laundering cases when in 2014 it secured over 1 billion baht (\$31 million at the time) in cash and property during an illegal logging and wildlife case. The matter was successfully finalized in 2017 and is a text-book example of how to "follow the money." To put this case in context, the largest successful environmental crime money-laundering case to date in the United Kingdom was a 2005 case related to illegal trade in orchids, which resulted in the recovery of £105,000 (\$130,000).³²

The AMLO's biggest weakness is its lack of resources and staff. Given the variety of predicate crimes that can be investigated it is likely, despite their many successes, that much more could be achieved with additional resources. The formation of a unit within the AMLO that specializes in illegal logging and wildlife trafficking cases could also be a game changer in Thailand and may finally impel criminal syndicates to react to law enforcement pressure.

³² J Saunders, J. And J. Hein, 2015. EUTR CITES and money laundering: A case study on the challenges to coordinated enforcement in tackling illegal logging. A study for the EFFACE project. Chatham House: London.

Office of the Attorney General

The Office of the Attorney General (OAG) is the main authority responsible for conducting prosecutions and trials in Thailand. It is an independent agency, responding directly to the prime minister. The OAG traces its origins back to 1 April 1893, when Thailand established the Public Prosecution Department. This was eventually renamed the OAG in 1991 to reflect the public prosecutor's broader scope of functions.

The OAG has four main authorities and functions, namely:

- Criminal justice administration
- Safeguarding of national interests
- Civil rights protection, including legal aid provision
- International cooperation in criminal matters

Organizationally, the OAG is divided into two main areas: the central offices in Bangkok and the regional offices in the provinces.

All of the central offices of the OAG are located in Bangkok and primarily undertake cases which occur in Bangkok. There are a number of exceptions to this where the OAG central offices can handle serious cases from the provinces.

The regional offices outside Bangkok are grouped into nine regions, three in the central region and two each in the north, the north-east and the south. There are also provincial public prosecutor's offices established in 76 provinces outside of Bangkok.

There is a unit within the central offices of the OAG that deals with environmental crimes. However, this is also obliged to undertake other non-environmental cases. In the provinces, environmental crime prosecutions can be undertaken by any prosecutor, and no specialization exists. The current preponderance of prosecutions for environmental crime (which includes wildlife-related offences) occurs in the provinces. Because there is no centralized data management system for prosecution, this makes it difficult to obtain comprehensive information about the number of prosecutions throughout the country.

The OAG finds the legal framework around environmental crimes to be very clear and identifies corruption as a major problem in preventing and suppressing environmental crimes.

The office has also found that penalties for environmental crimes are increasing as judges begin to understand the serious nature of the crimes. While some courts allocate all their environmental crime cases to certain judges, there is no dedicated green court in Thailand with specialized judges and prosecutors who deal exclusively with environmental cases.

The vast majority of environmental cases prosecuted by the OAG relate to timber crimes. This reflects the general focus by law enforcement agencies within Thailand in this area. Statistics on convictions versus prosecutions were not provided by the OAG.

National Anti-Corruption Commission

The office of the National Anti-Corruption Commission (NACC) was established in 1999. The NACC adopts six national strategies to address corruption:

- Strategy 1: Creating a society which does not tolerate corruption
- Strategy 2: Promoting political will to fight corruption
- Strategy 3: Deterring corruption in public policy
- Strategy 4: Developing proactive corruption prevention systems
- Strategy 5: Reforming corruption suppression mechanisms and processes
- Strategy 6: Improving Thailand's score on the Corruption Perceptions Index (CPI)

The NACC has 2,724 staff in total, with 883 staff in head office responsible for corruption suppression, and the rest spread across 76 provincial offices. Each year, it receives about 2,000 complaints of which approximately 10 percent lead to an investigation.

The NACC can be both proactive and reactive in its investigations. It initiates cases arising from complaints from members of the public, the police, government agencies, or from the commissioner. It also undertakes joint investigations with other law enforcement agencies.

Between 2012 and 2017 the NACC investigated five cases of corruption linked to suspected environmental crimes. Four were timber-related offences and the fifth related to the trade of tigers. In the forestry cases intent could not be proved and none of these cases proceeded to prosecution. The case relating to the trade of tigers proceeded to trial, but the accused was cleared of any wrongdoing.

The NACC does not use advanced investigative techniques such as telephone intercepts, listening devices, tracking devices or undercover operations, although it is trying to amend its laws to allow the use of these tools. In the fight against corruption these are crucial investigative tools and the inability to use them seriously hinders the effectiveness of the NACC.

According to the Organic Act on Counter Corruption B.E.2542, the NACC can request the presentation of relevant documents or evidence from any person, or summons any person to give statements or testimonies for the benefit of a fact Inquiry. The NACC can also request telephone records and banking information from the relevant institutions.

The NACC does not have a central CHIS register nor does it proactively seek out and recruit these sources of information in high-risk units or departments. The NACC does not undertake integrity testing nor does it use roll-over or cooperating witnesses to broaden the scope of investigations or to search for systemic organizational corruption.

The NACC has bilateral cooperation with anti-corruption agencies in other countries, as well as with international organizations whose remit focuses on anti-corruption, especially via MoUs. Until now, the NACC has 33 MoUs in total. These provide for the exchange and sharing of intelligence in corruption cases, and also strengthen cooperation among anti-corruption authorities.

Apart from corruption suppression relating to wildlife and forest crime, the NACC has also proposed two preventive measures to prevent forest crime to the cabinet:

- (1) Preventive Measure and Solution on Anti-Corruption in Siamese Rosewood Illegal Logging: These measures were approved by the cabinet in 2014, naming the Ministry of National Resources and Environment as the key agency to implement the measures along with other relevant agencies.
- (2) Preventive Measures on Anti-Corruption and Forest Encroachment: The cabinet approved the measures in 2017. They cover policy measures, administrative measures, and legislative measures.

4. INTER-AGENCY CO-OPERATION

Inter-agency cooperation in Thailand is effective, and the agencies engaged in the detection, investigation and suppression of wildlife crime have very clear policies and procedures outlining their respective roles and responsibilities. This is illustrated in Figure 9.

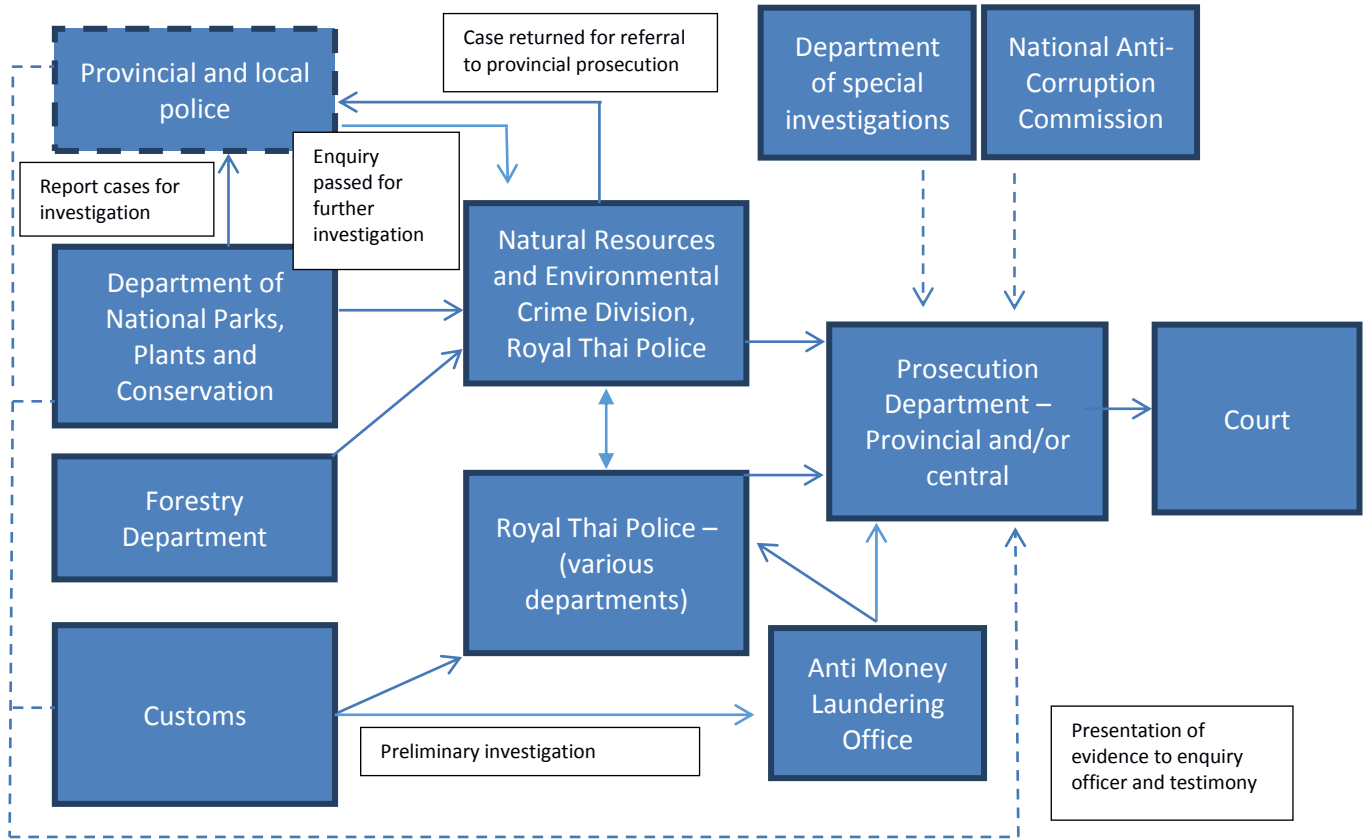


Figure 8: Thai Agency Cooperation

Over the past 10 years Thailand has attempted to promote effective inter-agency cooperation through the Wildlife Enforcement Network, which meets at least annually to discuss criminal trends and policy developments.

While cooperation among Thai agencies is good it can still be improved. At operational level, cooperation occurs on a case-by-case basis. While Thai WEN focuses on capacity building the at policy level, room for improvement remains at level of intelligence gathering and enforcement operations.

During the interviews conducted for this report, UNODC was informed that in April 2017 three departments under the Ministry of Natural Resources and Environment – namely the Forestry Department, DNP and the Department of Marine and Coastal Resources – formed an operational taskforce called Forest Protection Operation Centre. Staff from each department was allocated to work together on specific targets. During the related operations, the taskforce will seek enforcement support from the police (through the NED), the army and the local authorities. Due to its very recent establishment, the objectives, means and resources of this taskforce largely remain to be defined, as well as its timeframe and its operating procedures.

As the new taskforce takes its first steps, it is important to highlight that the creation of a specialized wildlife crime inter-agency team to target the upper levels of organized crime in Thailand is of the utmost priority. Such a team will bring several advantages over the current system. These include:

- Can bring the agencies together to investigate major suspects
- Develops closer relationships between agencies and promotes trust
- Can reduce corrupt practices
- Allows the full utilization of each agency's investigative strengths
- Promotes operational awareness
- Allows the leveraging of resources
- Promotes a unified message on wildlife crime

Efforts to develop inter-agency cooperation mechanisms in Thailand are crucial for the success of investigations into wildlife trafficking. It is therefore important that the Government of Thailand select the one option that responds best to its need and capacity, in order to avoid conflicts among different cooperation mechanisms.

5. INTERNATIONAL COOPERATION

Transnational organized criminal networks are small and flexible and can operate across multiple countries and jurisdictions. They react very quickly to disruption from law enforcement and are constantly seeking new concealment methods and more secure trafficking routes. They move in and out of alliances of convenience, and between legitimate and illegitimate businesses.

In contrast, law enforcement agencies are slow and cumbersome, restricted by the need for mutual legal assistance treaties, poor information exchange procedures and platforms, and a nationalistic approach to enforcement. This is a global problem and not unique to Thailand or to the investigation of transnational wildlife crime anywhere.

In the ASEAN context, there is some degree of cooperation but it is yet to translate to an effective regional approach to intelligence sharing and joint operations. Intelligence sharing with counterparts in African Countries is developing but is still a long way away from being able to effectively facilitate the detection, suppression or deterrence of transnational wildlife trafficking.

Based on the interviews with the different agencies, it seems that Thai authorities generally have good working relationships with their counterparts from Malaysia, Lao PDR and Cambodia, while further work is needed to develop stronger relationships with those from Myanmar, China and Viet Nam. An analysis of Thai relations with African partners paints a very different picture. Despite numerous attempts by inter-governmental organizations (IGOs), NGOs and other governments to bring nations together, international cooperation between Asian and African nations remains more a vision than a reality. Such cooperation as exists is still very much based upon relationships between individual officers rather than institutions.

Following a seizure by the Thai Customs Department of 3 tonnes of ivory sent from Mombasa (Kenya) *en route* to Lao PDR in April 2015, Kenyan authorities issued a formal request of mutual legal assistance to Thailand. The purpose of this request was the collection of the ivory for DNA analysis for comparison with other data from Kenya. Both countries demonstrated willingness to cooperate but the actual collaboration was not straightforward. This is in part due to the absence of clear international guidelines in relation to the repatriation of contraband, an issue that frequently creates tensions between countries of origins and destination.

This scenario brings into question the issue of wildlife seized in transit. Ideally these items would be the subject of a controlled delivery that would promote international cooperation. However, when a controlled delivery is not possible and there are no suspects under investigation in the country where the seizure has been made, it stands to reason that the exhibits should be returned – at least partially – from where they came, particularly if they are the subject of legal proceedings in the country of origin. In this regard, one of the officers interviewed during the assessment reported that the Ministry of Commerce has issued a regulation to ban the export of elephant parts, which is currently interpreted as a prohibition of any export even of seized ivory for the purpose of research, DNA sampling or others reasons in line with CITES.³³ Such a strict approach must be relaxed if cooperation among criminal justice authorities is to take place with a view to prosecuting transnational networks.

³³ Notification 2549 of the Ministry of Commerce on the export of elephants, dated 11 April B.E. 2555 (2012)

A. Wildlife Enforcement Networks

On 1 December 2005, the Association of Southeast Asian Nations' Wildlife Enforcement Network (ASEAN WEN) was officially launched. The objective was to develop inter-agency committees including police, customs and environmental agencies operating under the coordination and leadership of one national authority. The committees would allow the free exchange of intelligence and would coordinate joint operations regionally.

On 25 May 2006, the Thai Government hosted the first meeting of ASEAN WEN in Bangkok to finalize the terms of reference and to discuss a proposal to establish the Programme Coordination Unit (PCU). Based in Bangkok the PCU would coordinate and promote cross-border intelligence sharing and law enforcement cooperation. At the time of its creation ASEAN WEN was described by observers as the most ambitious regional approach to wildlife enforcement ever attempted.³⁴

In the 11 years since its inception the fortunes of ASEAN WEN have ebbed and flowed. According to its own records, it has contributed to over 1,300 arrests of wildlife trafficking suspects and the seizure of more than \$150 million in suspected criminal assets, as well as international law enforcement operations that involved 47 countries cooperating on nearly 250 cases.³⁵ An independent evaluation of these results is not publicly available.

As a result of financial constraints, in 2016 its members proposed to merge the WEN with another ASEAN entity – the ASEAN Expert Group (AEG) on CITES – to evolve and streamline wildlife protection efforts.³⁶ In 2017, following the annual meeting of the AEG on CITES, Thailand was tasked to complete the discontinuation of ASEAN WEN and the transition into a new body called ASEAN Working Group on CITES and Wildlife Enforcement. As a result, ASEAN WEN has been terminated.

B. Senior Officials Meeting on Transnational Crime

Meanwhile, in 2015 the Foreign Affairs Division of the Royal Thai Police finally succeeded in bringing the issue of wildlife and timber trafficking within the purview of the ASEAN Senior Officials Meeting on Transnational Crime (SOMTC), after three unsuccessful attempts. SOMTC – and the related Ministerial Meeting on Transnational Crime – effectively represents the only ASEAN platform solely focused on transnational criminal threats. Within this regional structure, 10 transnational crime threats are on the agenda of the proceedings. The area of wildlife and timber trafficking is the latest addition to the list, and Thailand has been appointed to lead the development of a work programme. It is highly likely that the recent developments under SOMTC will play an important role to create incentives – if not obligations – for police to step up their efforts to investigate wildlife criminal syndicates, and therefore to cooperate more efficiently with other agencies also. This will be even more the case if Thailand succeeds in its proposal to

³⁴ W.H. Schaedla and S. Sinha, 'Witnessing WENs: origins and future directions', in: L. Elliott and W.H. Schaedla (eds.), *Handbook of Transnational Environmental Crime*, (Edward Elgar Publishing, 2016) 369, at 370.

³⁵ Press release found at: <http://www.asean-wen.org/index.php/component/content/article/114-news1/593-usaid-program-boosts-wildlife-enforcement-awareness-in-asia?Itemid=490> accessed on 15/03/2017

³⁶ Press release found at: <http://www.freeland.org/blog-posts/senior-asean-officials-direct-wildlife-enforcement-network/> accessed on 15/03/2017

the next SOMTC meeting (May 2017) to set up a dedicated Working Group on Wildlife and Timber Trafficking.

To combat organized wildlife crime requires skill sets and tactics that are beyond conservation agencies, and are within the domains of the police as a fully-fledged enforcement agency. Nonetheless, the expertise of regulatory agencies such as CITES Management Authorities is crucial to improve compliance with international regulations and to reduce the risk of illegalities. Therefore it is important that the ASEAN Working Group on CITES and Wildlife Enforcement and the SOMTC group on wildlife and timber trafficking cooperate to avoid duplication, overlaps or even competition among their respective programmes. As the two structures sit in different communities of the ASEAN architecture – the former in the Economic Community, and the latter in the Political-Security Community – it would be necessary to develop some sort of inter-community work arrangements or at least coordination. Given the active role it plays in both mechanisms, Thailand will carry much of the responsibility in the promotion of this effective cooperation.

6. ADVANCED INVESTIGATION CAPABILITIES

Many advanced investigative techniques, including controlled deliveries, the interception of communications on devices such as telephones or computers, the use of tracking devices, and covert recording devices are standard practices when investigating organized crime throughout the world.

These methods offer several benefits to law enforcement agencies including real-time monitoring of a suspect's conversations and movements. The ability for Thai law enforcement agencies to use advanced investigative techniques is shown in Figure 10.

	DNP	FD	NED	DSI	AMLO	Customs	NACC
Use of Controlled Deliveries	No	No	Yes	Yes	No	Yes^	No
Forensic Capacity including telephone or computer	Yes*	No	Yes	Yes	Yes*	Yes*	Yes*
Availability of CHIS database	No	No	No	Yes	No	No	No
Availability of linked case database	No	No	No	Yes	Yes	Yes	Yes
Intelligence database	No	No	Yes	Yes	Yes	Yes	No
Surveillance capacity	Yes	Yes	Yes	Yes	Yes	Yes	No
Undercover operation capacity	No	No	Yes	Yes	Yes	No	No
Telephone Intercept Capability	No	No	Yes**	Yes	Yes	No	No
Tracking or Listening Devices	No	No	Yes**	Yes	Yes	No	No

*With RTP cooperation

**New TOC Law

^Usually applied for narcotics matters only

Figure 9: Advanced Investigations Capabilities

7. STRENGTHS AND WEAKNESSES OF ENVIRONMENTAL LAW ENFORCEMENT AGENCIES

Agency	Strengths	Weaknesses	Recommendations
Department of National Parks, Wildlife and Plant Conservation	<ol style="list-style-type: none"> 1. Strong mandate as lead agency for wildlife investigations 2. Good presence at border checkpoints 3. Can refer matters directly to the OAG 4. Online investigative capacity 5. Expertise in wildlife identification 	<ol style="list-style-type: none"> 1. More compliance than law enforcement 2. No operational intelligence system 3. No CHIS system 4. Lack of experience with advanced investigative methods 	<ol style="list-style-type: none"> 1. Create of a case management system 2. Create of an intelligence database with the necessary software for improved data collection and analysis capability 3. Increase training including joint training with other agencies on a wide range of basic and advanced investigative techniques 4. Contribute to the formation of a joint task force to address serious wildlife and forestry crimes 5. Develop CHIS Management System 6. Receive training in CHIS management 7. Receive training in online undercover investigations
Forestry Department	<ol style="list-style-type: none"> 1. Good presence in the territory and at border checkpoints 2. Expertise in timber identification, including CITES species 3. Very strong relationship with villagers and local environments 4. Good cooperation with other agencies 	<ol style="list-style-type: none"> 1. Lack of experience with advanced investigative methods 2. High reliance on temporary staff and rangers 3. No CHIS system 	<ol style="list-style-type: none"> 1. Increase training including joint training with other agencies on a wide range of basic and advanced investigative techniques 2. Develop CHIS management system 3. Receive training in CHIS management
Natural Resources and Environmental Crime Suppression Division of the Royal Thai Police	<ol style="list-style-type: none"> 1. Dedicated law enforcement agency 2. Access to international law enforcement agencies i.e. INTERPOL 3. Sound organizational framework 4. Staff have all received law enforcement training on basic and advanced investigative techniques 5. Access to advanced investigative tools and methodologies 6. Good forensic capability 	<ol style="list-style-type: none"> 1. Short staffed 2. Lack of resources 3. Poor analytical capability 4. No CHIS management system 	<ol style="list-style-type: none"> 1. Create dedicated intelligence analyst positions 2. Provision of equipment including cell phone analytical tools to increase investigative capacity and capabilities 3. Contribute to the formation of a joint task force to address serious wildlife and forestry crimes 4. Develop CHIS management system 5. Receive training in CHIS management 6. Provide training on undercover operations

Department of Special Investigation	<ol style="list-style-type: none"> 1. Dedicated law enforcement agency 2. Dedicated intelligence capability 3. CHIS management system 4. Access to advanced investigative tools and methodologies 5. Dedicated case management system 6. Good connections with international law enforcement agencies 	<ol style="list-style-type: none"> 1. Mandate not limited to environmental crimes so it will constantly need to balance priorities 	<ol style="list-style-type: none"> 1. Contribute to the formation of a joint task force to investigate serious wildlife and forestry crimes 2. Undertake operational intelligence assessment to identify top 25 timber and wildlife traffickers in Thailand
Office of the Attorney General	<ol style="list-style-type: none"> 1. Well trained staff on legal matters 2. An environmental crime unit that acts as a clearing house for environmental crime cases 	<ol style="list-style-type: none"> 1. Limited experience with prosecuting cases based on advanced investigative methodologies 2. No specialist environmental unit in the provinces 	<ol style="list-style-type: none"> 1. Create a dedicated wildlife crime prosecutions unit 2. Provide training on anti-corruption and anti-money laundering 3. Develop a centralized database at the OAG to monitor relevant statistics in the prosecution of wildlife and forest crimes 4. Contribute to the formation of a joint task force to investigate serious wildlife and forestry crimes
Customs	<ol style="list-style-type: none"> 1. Dedicated regulatory agency with managers who possess a law enforcement mindset 2. Access to international law enforcement agencies i.e. World Customs Organization (WCO) 3. Well-staffed and resourced 4. Superior data collection capability 	<ol style="list-style-type: none"> 1. Mandate not limited to environmental crimes so it will constantly need to balance priorities 2. Lack of experience with advanced investigative methodologies 3. No central CHIS system 4. Limited capacity for species identification 	<ol style="list-style-type: none"> 1. Provide advanced investigative training to customs officers at major airports and seaports 2. Create a central CHIS registry 3. Provide CHIS management training 4. Contribute to the formation of a joint task force to investigate serious wildlife and forestry crimes 5. Include customs in the MoU on controlled delivery 6. Provide species identification training (ongoing)
NACC	<ol style="list-style-type: none"> 1. Strong mandate to investigate corruption 	<ol style="list-style-type: none"> 1. Lack of access to advanced investigative techniques 2. Reactive in nature 3. No central CHIS system 	<ol style="list-style-type: none"> 1. Amend legislation to allow access to advanced investigation techniques 2. Provide training in advanced investigative techniques 3. Create a central CHIS registry 4. Provide CHIS management training 5. Organize study tours to other anti-corruption units in the Asia/Pacific 6. Contribute to the formation of a joint task force to investigate serious wildlife and forestry crimes
AMLO	<ol style="list-style-type: none"> 1. Strong mandate to 	<ol style="list-style-type: none"> 1. Lack of manpower 	<ol style="list-style-type: none"> 1. Provide additional staff

	address money laundering 2. Strong legislation 3. Superior financial data collection capability 4. Proactive mindset 5. Strong anti-corruption stance	2. Mandate not limited to environmental crimes so it will constantly need to balance priorities	2. Contribute to the formation of a joint task force to investigate serious wildlife and forestry crimes
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Figure 10: Relative Strengths and Weaknesses of Thai law enforcement and prosecution agencies

8. CORRUPTION

Corruption is a major facilitator of all types of transnational organized crime. However, compared with other crime types, wildlife crime represents an opportunity with much lower risk and higher rewards for criminals. The very high profits also enable traffickers to bribe low-paid public officials to reduce their risks even more.

Thailand is currently ranked equal 101st on Transparency International's Corruption Perception Index³⁷ (where the lowest ranked are the most corrupt) and has been rocked recently by several major corruption scandals. A recent seizure at Suvarnabhumi Airport also highlights the role of corruption in facilitating wildlife trafficking in Thailand.

On 10 March 2017, a customs officer at Suvarnabhumi airport stopped two women passing through the green channel at arrivals, and x-rayed their suitcase, noticing what appeared to be rhino horns inside. A physical examination revealed 21 rhino horns weighing approximately 50 kilograms, with an estimated black market value of \$1.1-1.5 million. During the examination of the suitcase, despite reportedly being escorted by a senior prosecutor and two police officers, the two women managed to flee the airport and make their escape. This case, as well as other confidential reports by RTP on corrupt airline officials and ground staff³⁸, points to serious concerns around Suvarnabhumi Airport.

Another example where corruption was identified in the environmental crime context was a money-laundering investigation by the AMLO, which involved the seizure of cash worth approximately \$31 million dollars (previously mentioned in this report) and identified several local DNP and RTP officers connected with the timber trafficking network.³⁹

While Thailand has the necessary legal framework and a dedicated Anti-Corruption Commission, there appears to be no proactive targeting of high-risk areas or departments in the wildlife trade. As so many different authorities are involved in the supply chain of wildlife trade, it is important to develop a sector-wide policy that identifies all possible risks of corrupt practices, and adopts measure to prevent and mitigate their occurrence.

But despite the clear issues with corruption, there are also signs that Thai authorities are serious about fighting it. The examples mentioned previously in this section were all brought to light by Thai law enforcement agencies. Several recent arrests of police officers suspected of involvement in drug supply were made by police attached to dedicated anti-narcotics teams, and show a willingness of police to investigate their own officers. Importantly, Thai authorities are prepared to name these individuals and move swiftly when corruption is identified. What is needed is a more proactive and aggressive response across the board.

³⁷ Transparency International, Corruption Perceptions Index at http://www.transparency.org/news/feature/corruption_perceptions_index_2016 accessed on 30 March 2017

³⁸ Presentation by RTP to UNODC

³⁹ Interview with AMLO officials

9. CONCLUSIONS AND RECOMMENDATIONS

Conclusions

When it comes to the fight against transnational organized wildlife crime Thailand is a paradox. On one hand, it has some of Asia's most effective law enforcement agencies with the knowledge, expertise and experience to tackle organized crime. It works closely with international law enforcement agencies around the world to address drug and human trafficking issues, and has led the push to make wildlife crime a police priority within the ASEAN Political-Security Community. It has enacted legislation and created agencies to address corruption and money laundering, and has aggressively chased those criminal groups making money from the pillaging of its protected areas.

Yet on the other hand, it has failed to adequately address glaring deficiencies in its legal and regulatory framework that attract wildlife traffickers to use the country as a laundering hub for the international exotic pet trade. It also has a problem with corruption, as the anti-corruption legislation fails to give the NACC the adequate tools to investigate corruption, and prevents it from identifying (or disproving) systemic corruption.

Thailand's law enforcement agencies have understandably focussed on the trafficking of their own natural resources, particularly timber. Protected areas along the borders with Cambodia and Laos are often battle grounds where timber traffickers looking to source valuable rosewood species clash with Thai authorities, resulting in loss of life on both sides. An analysis of the arrests, seizures and prosecutions over the last three years shows an overwhelming focus on timber crimes. This has reduced the ability of Thai authorities to proactively address the role Thailand plays in the global wildlife crime trade. Despite major seizures of ivory, rhino horn and pangolin, there has not been a single controlled delivery, and on many occasions detained suspects have either fled or received minimal sentences.

The Thai Government has a strong history of involvement and collaboration with international law enforcement agencies, but this involvement can be further improved and streamlined, particularly at the operational level. Nationally the cooperation between law enforcement agencies has been good, but this cooperation has not necessarily been reflected in an enhanced capability to address the problem. The formation of a time-bound, multi-agency strike force will go a long way to alleviating this issue and could be a game changer in Thailand.

There is also a deficiency in the way that many Thai law enforcement agencies manage and recruit CHISs. This is a high-risk area for corruption and requires central oversight and management to ensure that these agencies protect themselves, the officers and the sources. This would also enable improved tasking and information collection management.

There are several actions that the Thai government can undertake that could immediately improve the investigation and prosecution of wildlife crimes. These are outlined in the following recommendations.

Recommendations

Improving the legal framework

- Amend WARPA to prohibit – as a minimum – the possession, taking, trading (supplying, selling or trafficking), importing, exporting, processing, obtaining and consumption of CITES-listed Appendix I and II species without a licence or permit, and consider the possibility of prohibiting the import, export, transport, sale or possession of any wildlife that has been obtained in violation of any Thai or foreign law
- Increase the maximum penalty for the transit of illegal wildlife through Thailand in the WARPA to at least four years in prison to make this offence eligible for controlled delivery.
- Consider amending the AMLA legislation to allow for AMLO officials to enter into negotiations with concerned parties to expedite the forfeiture process.

Strengthening inter-agency cooperation

- Create a new specialized task force – or an extension of the very recent Forest Protection Operation Centre – with strong involvement of the NED and made up of a limited number of representatives of the OAG, DNP, FD, Customs Department, AMLO and the DSI
- Include the Customs Department in the Standard Operating Procedures for the Implementation of the TOC law, including the use of controlled deliveries
- Promote the systematic use of controlled deliveries for illicit wildlife shipments arriving in Thailand through intensified cooperation between police and customs and with the support of other agencies
- The DSI should undertake an intelligence assessment to identify the top 25 individuals involved in serious transnational wildlife crime in Thailand and target those individuals in cooperation with the new specialized task force

Focusing on international cooperation

- Increase the use of international information-sharing mechanisms with foreign law enforcement agencies especially at regional level, through the use of INTERPOL channels and through the various specialized fora made available by the international aid and technical assistance providers (INTERPOL, UNODC, USAID, CITES, etc.)
- For the investigation and prosecution of transnational wildlife crime cases – especially for those involving African Countries – consider the use of the UN Convention against Transnational Organized Crime as the principal legal basis for mutual legal assistance, extradition and law enforcement cooperation with the 186 countries that are parties
- Revise the regulation by the Ministry of Commerce on the export of all elephant parts in order to promote an easy exchange of seized African elephant ivory as exhibits in the countries of origin
- Promote regional coordination between the SOMTC Work Programme and the ASEAN Working Group on CITES and Wildlife Enforcement, especially through the work of their respective national leading agencies, i.e. the RTP (Foreign Affairs Division) and DNP.

Building national capacities

- Strengthen data collection to measure law enforcement performance with a focus on advanced investigative techniques, such as financial investigations, cross-border operations and controlled deliveries
- Create dedicated intelligence analyst positions within the NED
- Develop a centralized CHIS management system within the NED
- Provide training to NED staff on the recruitment and management of CHIS
- Provide training to NED staff on undercover operations
- Provide additional investigative staff to the NED
- Provide the NED with the necessary equipment to undertake forensic analysis of cell phones
- Create a dedicated Environmental Crime Division with the OAG to prosecute serious wildlife and forest crime offences
- Develop a centralized database at the OAG to monitor relevant statistics in the prosecution of wildlife and forest crimes
- Provide training to prosecutors in provincial areas on money laundering and wildlife trafficking
- Increase staffing levels for the Anti-Money Laundering Office
- Provide the DNP with an electronic case management system
- Provide the DNP with an electronic intelligence database and analytical software to improve data collection capability and analysis
- Provide online undercover investigation training to DNP staff
- Provide training to DNP, FD, customs and NACC staff on CHIS recruitment and management
- Provide training to DNP and FD on basic and advanced investigative techniques
- Provide ongoing species identification training to frontline customs officers

Addressing the issue of corruption

- NACC to lead the development of an anti-corruption strategy to prevent and suppress environmental crime through the identification of risk indicators across the supply chain, including the issuance of licences, permits, concessions and the performance of inspections, border controls and market controls
- Undertake an independent audit of all seized wildlife and timber products (CITES Appendix I and II) currently in the custody of customs, the DNP, and the FD.
- DNP to ensure maximum transparency in the management of permits and licences for zoos and breeding facilities, especially in relation to the new facilities opening in Kanchanaburi Province. Consideration should be given to the possibility of involving external experts, auditors and non-governmental organizations in the assessment of business plans.

ANNEX I – SELECTED PROVISIONS FROM WARPA AND IVORY TRADE ACT

Wild Animal Preservation and Protection Act B.E. 2535 [as emended by B.E. 2557 (2014)]

Section Number	Provisions
17	The Minister is empowered, with the approval of the committee, to determine any kind of protected Wild Animal to be one of a kind of propagated Wild Animal as specified in the ministerial regulations
19	No person shall keep in their possession preserved and protected Wild Animal and their carcass unless it is protected Wild Animal of the kind prescribed under Section 17, acquired such Wild Animal from propagation or their carcasses and permission must be obtained from the Director-General and complies with the notification as specified in the Ministerial regulations and conditions as stated in the permissions.
20	<p>No person shall trade in preserved and protected wildlife and their carcasses or carcass products unless it is protected wildlife of the kind as prescribed under Section 17, acquired such wildlife from propagation or their carcasses or carcass products and permission must be obtained from the Director-General.</p> <p>The application for permission and obtaining of permission shall be in accordance with the stipulations, procedures and conditions as specified in the ministerial regulations.</p>
21	<p>No person shall collect, endanger or keep in their possession nests of preserved or protected wildlife.</p> <p>Subject to the provisions of the first paragraph, it shall not be applied to any person obtaining permission to collect the Edible-Nest Swiftlet' nests in accordance with the Taxes and Trades of the Edible-Nest Swiftlet' Nests Code (Aerodromes fuciphagus) and a person who works under this permission shall comply with the rules as prescribed by the Director-General as a published notice in the Government Gazette.</p>
23	<p>Subject to Section 24, no person shall import or export Wild Animal and their carcasses or Product made from the Wild Animal Carcasses of the kind as notified and specified by the Minister or pass preserved Wild Animal and their carcasses, Product made from the preserved Wild Animal Carcasses, the protected Wild Animal Carcasses, or Product made from the protected Wild Animal Carcasses through the Kingdom unless permission has been obtained from the Director-General.</p> <p>Importing or exporting preserved and protected Wild Animal and their carcasses or Product made from the Wild Animal Carcasses shall not be permitted, unless it is the importing or the exporting of the protected Wild Animal, their carcasses or Product made from the protected Wild Animal Carcasses acquired from propagation under Section 18(1), or</p> <p>lawfully acquired in accordance with the International Agreement on the Trade of Wild Animal, their carcasses and Product made from the Wild Animal Carcasses and permit must be obtained from the Director-General.</p> <p>The application for permission and obtaining of permission of the paragraph 1 and 2 shall be in accordance with the stipulations, procedures and conditions as specified in the ministerial</p>

regulations.

47	Whoever acts in contravention of the provisions of Sections 16, 19, 20 paragraph one, or 23 paragraph one, shall be punished with imprisonment not exceeding four years or with a fine not exceeding forty thousand Baht, or both.
50	Whosoever trades in protected wildlife or their carcasses acquired from propagation, or carcass products of such wildlife without permission under Section 20, shall be punished with imprisonment not exceeding two years or with a fine not exceeding twenty thousand Baht, or both.
55	Whoever assists in concealing, disposing of, taking away, purchasing, holds in pledge, or receives by any other means Wild Animal and their carcasses, Product made from the Wild Animal Carcasses acquired through the commission of an offence under this Act, shall be punished with the imprisonment not exceeding one year or with a fine not exceeding ten thousand Baht, or both

Ivory Trade Act B.E. 2558 (2015)

Section No.	Provisions
5	Any person shall not import, export, or transport elephant ivory unless permission is granted by the DG
6	<p>Any person possessing elephant ivory not for the commercial purposes shall notify the Director-General of his/her possession and present documents of elephant ivory acquisition under the law on beasts of burden in accordance with the rules, procedures, and conditions prescribed by the Minister.</p> <p>After being notified of possession, the Director-General shall issue a document of possession of elephant ivory for the person notifying possession as evidence thereof in accordance with the form prescribed by the Minister.</p> <p>After the Director-General has been notified of possession, if it is found that there are reasonable grounds to suspect that the elephant ivory is not the ivory considered under the law on beasts of burden, the Director-General may order the possessor of elephant ivory to provide relevant documents or evidence for further proof.</p> <p>The reasonable grounds and proof of relevant documents or evidence under paragraph 3 shall be prescribed by the Minister.</p> <p>In cases where the owner or possessor fails to prove that the elephant ivory in his/her possession is taken from an elephant deemed to be a beast of burden, such ivory shall devolve upon the State, and the owner or possessor shall deliver the ivory to Department of National Parks, Wildlife and Plant Conservation within thirty days from the date the order issued by the Director-General is received.</p> <p>If case of disagreement with the order issued by the Director-General under paragraph 5, the owner or possessor shall have the right to lodge an appeal with the Minister within fifteen days from the date the owner or possessor is notified of such order. The decision given by the</p>

Minister shall be final.

- 13** Any person violating of failing to comply with section 4 paragraphs 1, or section 5 paragraph 1, or the Notification issued by virtue of section 18 paragraph 2, shall be subject to imprisonment not exceeding 3 years, or a fine not exceeding 6 million Baht, or both
-

ANNEX II – SELECTED PROVISIONS FROM OTHER LAWS

Penal Code 1861 (as amended 1948)

Section No.	Provisions
143	Whoever, demanding, accepting or agreeing to accept a property or any other benefit for himself or the other person as a return for inducing or having induced, by dishonest or unlawful means, or by using his influence, any official, member of the State Legislative Assembly, member of the Changwat Assembly or member of the Municipal Assembly to exercise or not to exercise any of his functions, which is advantageous or disadvantageous to any person, shall be punished with imprisonment not exceeding five years or fine not exceeding ten thousand Baht, or both.
148	Whoever, to be the official, by a wrongful exercise of one's functions, to coerce or to induce any person to deliver or to procure the property or any other benefit for oneself or other person, shall be imprisoned as from five years to twenty years or to life imprisonment, and fined as from two thousand Baht to forty thousand Baht, or both.

Anti-Money Laundering Act B.E. 2542 (1999) (No.4) B.E. 2556 (2013)

5	<ol style="list-style-type: none">1) Whoever transfers, receives the transfer, or changes the form of an asset involved in the commission of an offense, for the purpose of concealing or disguising the origin or source of that asset, or for the purpose of assisting another person either before, during, or after the commission of an offense to enable the offender to avoid the penalty or receive a lesser penalty for the predicate offense;2) or acts by any manner which is designed to conceal or disguise the true nature, location, sale, transfer, or rights of ownership, of an asset involved in the commission of an offense shall be deemed to have committed a money laundering offense.
6	Whoever commits a money laundering offense, even if the offense is committed outside the Kingdom, shall receive the penalty in the Kingdom, as provided in this Act, if: <ol style="list-style-type: none">1) either the offender or co-offender is a Thai national or resides the Kingdom;2) the offender is an alien and has taken action to commit an offense in the Kingdom or is intended to have the consequence resulting therefrom in the Kingdom, or the Royal Thai Government is an injured party; or3) the offender is an alien whose action is considered an offense in the State where the offense is committed under its jurisdiction, and if that individual appears in the Kingdom and is not extradited under the Extradition Act, Section 10 of the Penal Code shall apply mutatis mutandis.
60	Any individual who is found guilty of the crime of money laundering shall receive a term of imprisonment of one to ten years, or a fine of twenty thousand to two hundred thousand Baht, or both.

Export and import of Goods Act B.E.2522 (1979)

- 5** In the case where it is necessary or appropriate for economic stability, public benefit, public health, national security, public orders or good morals, or other benefits of the State, the Minister of Commerce shall, with the approval of the Council of Ministers, have the power to issue Notifications in the Government Gazette on any of the following matters:
- 1) specifying any goods to be prohibited for export or import;
 - 2) specifying any goods which require a licence prior to the export or import;
 - 3) specifying the categories, kinds, quality, standards, quantity, volume, size, weight, prices, trade names, sign, trademarks, origin for the goods to be exported or imported as well as the countries to or from which the goods are exported or imported;
 - 4) specifying the categories and kinds of goods liable to export or import surcharge;
 - 5) specifying the goods to be exported or imported to have a certificate of origin, certificate of quality or other certificates pursuant to international conventions or trade practices;
 - 6) specifying other matters for the benefit of laying down regulations on the export and import under this Act.
 - 7) The provisions of paragraph one shall apply mutatis mutandis to any amendment or repeal of the Notifications under this section.

20 Whoever exports or imports goods prohibited under section 5 (1) or violates section 7 paragraph one, shall be liable to a term of imprisonment not exceeding ten years or to a fine equivalent to five times the value of exported or imported goods, or to both, and the goods including containers and vehicles used in connection with the transport thereof as well as vehicles used in the haulage thereof shall be confiscated.

In the case where the offender has been apprehended, the Court shall, upon a motion filed by the public prosecutor, pay reward to informers thirty percent and to officers making the apprehension twenty-five per cent of the net proceeds of the sale of goods confiscated by the Court or in the case where there are no exhibits or the exhibits cannot be sold, the reward shall be deducted from the fine paid to the Court.

In the case where there is no informer, a reward of thirty percent of the net proceeds of the sale of goods confiscated by the Court shall be given to the officer making the apprehension or in the case where the exhibits are not confiscated or cannot be sold, the reward shall be deducted from the fine paid to the Court.

In the case where there are several informers or officers making the apprehension, the reward shall be equally shared among them.

In the case where there are exhibits but no offender has been apprehended, the Director-General of the Department of Foreign Trade shall, with the approval of the Minister of Commerce, have the power to pay the reward which shall not exceed the rate prescribed in this section from the net proceeds of the sale of exhibits which become vested in the State

22 Whoever violates or fails to comply with the Notifications issued under section 5 (3), (5) or (6), shall be liable to a term of imprisonment not exceeding one year or to a fine not exceeding twenty thousand Baht, or to both.

Customs Act B.E. 2469 (1926) and as amended by the Customs Act (No. 20), B. E. 2548 (2005)

27 Any person imports or brings into the Kingdom any tax unpaid, restricted, or prohibited goods, or any goods which has not duly passed through the customs, or exports or takes such goods out of the Kingdom or assists in any way in importing or exporting or removing or assisting to removal without permission from any ship, quay, godown, warehouse, place of security, or

store room, or provide the place to keep, or conceals such goods, or permits or arranges other persons to do so or is involved in any manner in carrying, removing, or dealing with such goods in any manner to avoid or attempt to avoid the payment of customs tax or of any duties of avoid or attempt to avoid any provisions of law and restrictions relating to the importation, exportation, landing, warehousing, and delivery of goods with the intention to defraud the government tax of His Majesty the King with must be paid for such goods or avoids the prohibition or restriction of such goods, for each offence there shall be a fine of four times the amount of price of the goods including duty or to imprisonment for a term of not exceeding ten years, or to both

***The Act of Prevention and Combat against the Participation in Transnational Organized Crime
B.E. 2556***

5 Whoever commits the following acts:

- 1) being a member of or affiliated with any transnational organized criminal group.
- 2) conspiring with two or more persons to commit serious crimes involving transnational organized criminal group.
- 3) participating in any act, directly or indirectly, in the activities or operations of a transnational organized crime in the knowledge of its aim and its criminal activities or in the knowledge of the intent to commit serious crimes of such transnational organized criminal group.
- 4) managing, directing, assisting, abetting, facilitating, or counselling in the commission of the serious crime of the transnational organized criminal group in the knowledge of the aim and its criminal activities, and in the knowledge of the intent to commit serious crime of such organized criminal group.

Such person shall be regarded as participants in transnational organized crime.

6 Whoever commits the offense in section 5 outside the kingdom, shall be liable for punishment in the kingdom as provided for in this Act.

The provisions as set forth in section 10 of the penal code shall be applied mutatis mutandis.

17 In a case where there is a reasonable cause to believe that a document or information sent by post, telex, telephone, facsimile, computer, communication tools or equipment, electronic media or any technological media is used or may be used in order to derive benefit from the commission of an offence of involvement in transnational criminal organization, the investigating officer, authorised by the Attorney General, National Police Commissioner-General, or a person so authorised, as the case may be, may submit a unilateral request to the Chief Justice of the Criminal Court for the issuance of an order permitting such document or news information to be obtained. In granting permission under paragraph one, the effect on personal rights or any other rights shall be considered, together with reasons and necessities, as follows: (1) there is a reasonable cause to believe that an offence of involvement in transnational criminal organization has been committed or is to be committed; (2) there is a reasonable cause to believe that information concerning the commission of an offence of involvement in transnational criminal organization shall be obtained by accessing such information; (3) no other methods that is more suitable or efficient may be used. In granting permission under paragraph one, the Chief Justice of the Criminal Court shall issue an order granting the permission for no more than ninety days. Any conditions may be prescribed and the person relating to the information in the communicative material under the order must cooperate for matters to be in accordance with this section. After the issuance of order granting

permission, if it later appears the facts that the reasons and necessities are not as stated or that the circumstances have changed, the Chief Justice of the Criminal Court may change the order granting permission or extend the time period permitted as deemed appropriate. When the investigating officer has carried out the operation as permitted, he or she shall report the operation to the Chief Justice of the Criminal Court. From all of the information obtained under paragraph one, only the information concerning the commission of the offence permitted under paragraph one shall be kept and used for the benefit of the investigation, or used as specific evidence only for the litigation of such case. Other information shall be completely destroyed, in accordance with the Rules prescribed by the Attorney-General.

20 In a necessary case and for the benefit of the inquiry and investigation concerning the commission of an offence of involvement in transnational criminal organization, the investigating officer or a competent official who has been authorised, in writing, by the Attorney-General, the National Police Commissioner-General or the person so authorised, as the case may be, shall have the power of movement under control. A movement under control means the methods of permission for illegal or suspicious objects to be transferred, to move or to enter into the territory of a State or more than a State, while being under acknowledgement and monitor of an authorised official in order to investigate an offence and to determine persons involved in the commission of the offence. Criteria, methods and conditions in seeking permission, permitting and movement under control shall be in accordance with the Rules prescribed by the Attorney General with the approval of the Cabinet. In this regard, under such Rules, there must at least be control and examination measures to the exercise of power. Action and evidence obtained from the actions of investigating officers or competent official under this section may be admitted as evidence.

21 An investigating officer or competent official may use communication tools, electronic tools or any other means only for tracing a person under the suspicion that he or she has committed or would commit an offence of involvement in transnational criminal organization in order to inquire, arrest, seek and collect evidence, in accordance with the rules prescribed by the Attorney-General.

25 Whoever commits an offense involving participation in transnational organized crime shall be punished with 4 to 15 year's imprisonment, or with a fine from 80,000 to 300,000 baht, or both



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