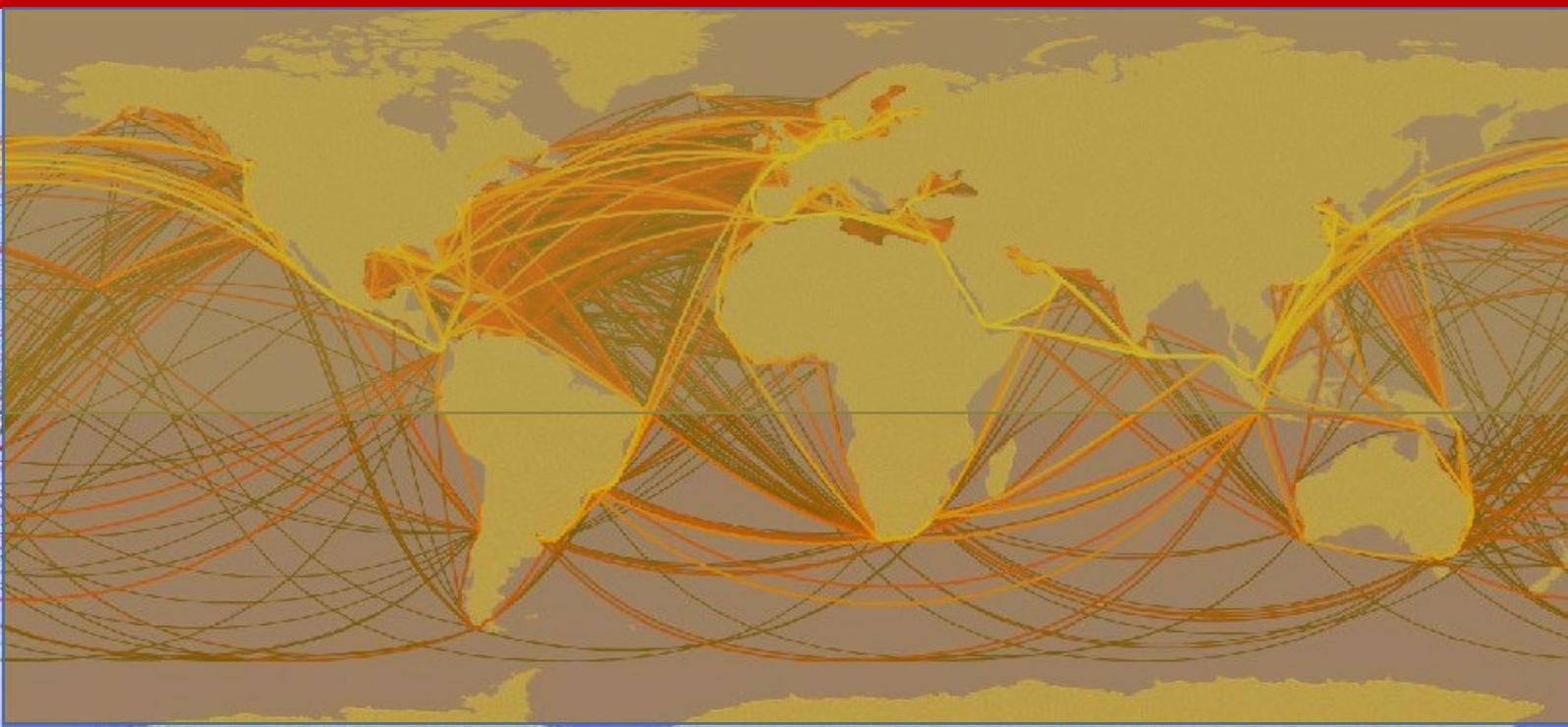




A SPECIAL TYPOLOGIES PROJECT REPORT ON POACHING, ILLEGAL TRADE IN WILDLIFE AND WILDLIFE PRODUCTS AND ASSOCIATED MONEY LAUNDERING IN THE ESAAMLG REGION





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A Special Typologies Project undertaken by the ESAAMLG Typologies Working Group, supported financially by the Government of the United States.

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TABLE OF CONTENTS

| | |
|--|----|
| A. ABBREVIATIONS | 4 |
| B. BACKGROUND | 5 |
| C. EXECUTIVE SUMMARY | 7 |
| D. OBJECTIVES | 9 |
| E. METHODOLOGY | 10 |
| F. GAPS (LIMITATIONS) IN THE FINDINGS | 10 |

| | |
|---|--------|
| G. DETAILED ANALYSIS OF FINDINGS | 11-106 |
|---|--------|

CHAPTER I – WILDLIFE POACHING AND ILLEGAL TRADE IN RHINO HORNS AND ELEPHANT TUSKS

| | | |
|-----|---|----|
| 1. | General overview on risk of wildlife crimes | 11 |
| 1.1 | Risk of rhino and elephant poaching activities | 13 |
| 1.2 | Resourcing wildlife crime activities | 22 |
| 1.3 | The extent of prejudice to governments in value terms | 30 |

CHAPTER II – TRAFFICKING WILDLIFE PRODUCTS

| | | |
|-----|--|----|
| 2. | Methods used to transmit or move funds to the poaching activities | 35 |
| 2.1 | Trafficking of rhino horns and/or elephant tusks or parts of any other vulnerable wildlife | 36 |
| 2.2 | Methods of trafficking wildlife products | 40 |

CHAPTER III – UNDERSTANDING THE DEMAND SIDE OF WILDLIFE AND WILDLIFE PRODUCTS

| | | |
|-----|---|----|
| 3. | Legal basis for importing wildlife and wildlife products to the Asia Pacific Region | 44 |
| 3.1 | Organisational arrangements underpinning poaching and the illegal trade in wildlife and wildlife products | 46 |
| 3.2 | Criminalizing wildlife offences | 46 |
| 3.3 | Mechanisms to reduce risk of wildlife product trafficking | 48 |
| 3.4 | What happens to the confiscated wildlife products in the APG Region? | 49 |

CHAPTER IV – UNDERLYING REASONS FOR ILLEGAL TRADE IN WILDLIFE, RHINO HORNS AND ELEPHANT TUSKS

| | | |
|-----|---|----|
| 4.1 | Underlying reasons for poaching and wildlife trafficking activities | 50 |
| 4.2 | Indications of the retail prices of rhino horns and ivory | 50 |
| 4.3 | Retail market for rhino horns and ivory products | 52 |
| 4.4 | Summary of prosecutions and convictions for wildlife crime Offences | 54 |
| 4.5 | Linking wildlife crime activities to the demand in Asian Countries | 55 |
| 4.6 | Terrorist Financing activities relating to wildlife crimes | 56 |
| 4.7 | The demand of ivory in the United States of America | 58 |

CHAPTER V – WILDLIFE CRIME COMBATTING AND PREVENTIVE MEASURES

| | | |
|-----|---|----|
| 5. | Preventative measures to combat poaching and wildlife trafficking in ESAAMLG region | 63 |
| 5.1 | Measures to detect and control wildlife/wildlife products Trafficking | 64 |
| 5.2 | Financial Intelligence Units | 66 |
| 5.3 | Law enforcement and investigative authorities | 67 |
| 5.4 | Law enforcement and international cooperation | 68 |
| 5.5 | Capacity for enforcement | 70 |
| 5.6 | Strategies of enforcement and their consequences | 73 |
| 5.7 | Legal framework | 76 |
| 5.8 | Customs and cross border movements | 78 |
| 5.9 | Challenges and proposed remedies | 79 |

CHAPTER VI CASE STUDIES

| | | |
|-----|---|----|
| 6.1 | Case studies: Methods used in poaching, smuggling and trading of protected wildlife products and some notable preventative measures | 82 |
|-----|---|----|

| | | |
|----------|-------------------|------------|
| 7 | CONCLUSION | 104 |
|----------|-------------------|------------|

| | | |
|----------|-------------------|------------|
| 8 | REFERENCES | 106 |
|----------|-------------------|------------|

ANNEXURE A: OVERVIEW OF THE NATIONAL WILDLIFE CONSERVATION LAWS IN THE EIGHT FOCAL COUNTRIES

ANNEXURE B: INTERNATIONAL AND REGIONAL FRAMEWORK FOR CONTROLLING WILDLIFE TRADE

A. Abbreviations

| | |
|------------|---|
| AML/CFT | Anti-Money Laundering/Combating Financing of Terrorism |
| APG Member | |
| Countries | Refers to countries in the Asian Pacific Region FATF style Review Body (FSRB). |
| ESAAMLG | Eastern and Southern Africa Anti Money Laundering Group |
| FATF | Financial Action Task Force |
| FIU | Financial Intelligence Unit |
| KNP | Kruger National Park |
| LEA | Law Enforcement Agencies |
| ML | Money Laundering |
| ML/TF | Money Laundering/Terrorist Financing |
| PEP | Politically Exposed Persons |
| SAR | Suspicious Activity Report |
| STR | Suspicious Transaction Report |
| TF | Terrorist Financing |
| CITES | Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) |
| UNSC/S/RES | United Nations Security Council Special Resolution |
| USD | United States Dollars (or US\$) |

B. Background

1. The majority of ESAAMLG member countries have vast resources in wildlife, which during the last few years have seen unprecedented targeting by both individuals and syndicates involved in poaching and other illegal wildlife activities. This typology project focused on poaching and illegal trade in wildlife and wildlife products and associated money laundering in the ESAAMLG Region.

2. Illicit wildlife trafficking is one of the most lucrative types of transnational organized crime today, with annual revenues estimated to be between USD 7.8 billion and USD 10 billion per year¹ (excluding fisheries and timber). These illegal proceeds are suspected to be laundered into the financial systems worldwide.

3. Common to wildlife poaching is its localized and cross-border phenomenon which is often orchestrated by well organised, sophisticated and at times heavily armed poachers. The cross border nature of poaching puts the illegal activity beyond the capacities of most governments in the Region. Poaching invariably transcends into illegal wildlife trade which has been associated with well organised crime groups which through the unlawful trade and complex laundering means of the proceeds have amassed a lot of resources. The resources include immediate large amounts of disposable cash, modern technology and established corrupt transportation routes.

4. The Independent newspaper, a daily publication in Britain, reported on 6 February 2014 that the dangerous criminal networks that run the global wildlife trade have been allowed to persist and prosper as a result of “chronic government failures” to treat them seriously. The report further states that the industry (dealing in illegal wildlife business) is the world’s fourth biggest illegal trade after narcotics, human trafficking and counterfeiting. Feedback from regional wildlife NGOs (using former Police officers as consultants), indicated that the criminal networks involved in smuggling drugs, humans, extra are almost always the same networks involved in smuggling wildlife products. This is because they already have

¹ According to a report by US-based strategy and policy advisory firm Dalberg. Report titled: *Fighting illicit wildlife trafficking - A consultation with governments*, conducted by Dalberg.

Accessible at: http://www.dalberg.com/documents/WWF_Wildlife_Trafficking.pdf

an established “network” – and the wildlife product is just a different product.

5. The ESAAMLG region, given its vast resources in wildlife is uniquely placed to study and uncover the illegal trends in this industry, in an effort to assist governments of its member states and other stakeholders in setting up an informed policy framework on wildlife resources.

6. The findings in this report also confirms that despite arresting traffickers and seizing illegal wildlife products, law enforcement have failed to arrest or convict, let alone confiscate/forfeit illegally acquired assets by the criminal masterminds wreaking havoc in this area across Africa. A report by the Environmental Investigation Agency (EIA), which has been investigating illegal wildlife trade for more than three decades states; *“Despite record seizures of illegal ivory, not a single criminal kingpin involved in the international illegal trade of ivory has been prosecuted and convicted to date. That is a damning indictment. With less than 3,500 wild tigers left, elephant numbers plummeting and rhinos under attack again, we need to get it right,”*².

7. Azzedine Downes, a researcher on wildlife poaching, in an article titled; *“When it comes to poaching, hate the crime not the criminal”*, highlights factors contributing to wildlife poaching being: the amounts of money generated, low risk of arrest, lenient penalties, killing and thefts done quickly, inexpensive and little social stigma associated with the crime (compared to other crimes such as murder, robbery, kidnapping, etc). The ESAAMLG Region, through this study found indications which may support the above factors as contributing to the ever increasing incidences of wildlife poaching and associated wildlife illegal trade in the region.

8. The ramifications of poaching and other wildlife crimes and illegal trade are horrendous. ESAAMLG member countries’ future generations stand the possible risk of not seeing the wonderful wildlife which the Region has been naturally enriched with. This study found that cultural beliefs which do not have their origin in the ESAAMLG Region and the huge financial benefits derived from wildlife illegal trade and their successful laundering could be some of the factors fuelling poaching of wildlife in the Region. In summary the study, among other things, presents indications, trends and typologies to help understand how these crimes are organised, identify the players, proceeds generated and their movement with specific

²A report by the Independent titled: Time to hunt down the ‘kingpins’ of wildlife crime
Accessible at: <http://www.independent.co.uk/voices/comment/time-to-hunt-down-the-kingpins-of-wildlife-crime-9113150.html>

attention being paid to the laundering trends of the illegal proceeds. Ultimately the study is intended to influence policy change by the ESAAMLG member countries in their approach to combatting illegal wildlife activities and mitigate the gaps in combating wildlife crimes and laundering of the generated illegal proceeds.

9. The project was approved by the ESAAMLG Council of Ministers at its meeting in Luanda, Angola, in September 2014. The project team consisted of Mozambique, Zambia, Kenya, Tanzania, Botswana, Zimbabwe, South Africa and Namibia. Namibia was the project chair.

C. Executive summary

10. This typology report primarily looks at the poaching, trafficking and the proceeds thereof (illegal trade), in the ESAAMLG member countries and Africa as a secondary part of the scope. Given the significant demand for wildlife and wildlife products harvested in member countries, it is clear that there are significant financial flows associated with these crimes. Such financial flows constitute proceeds of crime, and thus fall within the ambit of money laundering, and to a certain extent these financial flows may in one way or the other be used to support terrorist financing activities in Central Africa.

11. The major finding is that wildlife crimes, particularly rhino and elephant poaching are escalating at alarming levels, with extinction being a reality. The study further found that a number of vulnerabilities in wildlife crime combatting frameworks across the various member countries are exploited by syndicates committing these crimes. The most common shortcoming highlighted by member countries as a hindrance to adequate and effective combative efforts is the general lack of resources for the various wildlife crime combative stakeholders aided by corrupt public officials.

12. The report aims to provide an overview on the:

- Predicate offences of wildlife crimes;
- Syndicates and persons committing these crimes and their methods of operation;
- Notable trends and typologies in the flow of finances related to these crimes;
- Notable preventative measures in place to mitigate these wildlife crimes and related financial flows;
- Areas within combative and intelligence frameworks that may need improvement;

- Destination countries (regions) of poached wildlife products.

13. The study found that there is a growing demand for wildlife and wildlife products mostly in the Asian countries and U.S.A. In an effort to supply this demand, it came to the fore that organized transnational criminal syndicates have created networks that facilitate the execution of poaching and related wildlife crime activities and the trafficking of wildlife and wildlife products from mainly African countries to consumer destinations in Asia and U.S.A. These networks involve recruitment of locals who are in the ESAAMLG region into poaching activities for minimal financial rewards, the bribing of authorities at crucial points of entry and exits such as border posts and airports to help facilitate the smuggling of wildlife and wildlife products, ultimately compromising the border security.

14. It is however worth noting that despite the case studies indicating a lucrative business with significant financial gains in trading wildlife products such as ivory, almost all ESAAMLG member countries could not provide details on financial flows such as methods and techniques used to fund poaching activities in cases investigated. This is compounded by the fact that most ESAAMLG member countries' economies are predominantly cash based. Additionally, the study could not obtain data and information related to methods used to pay for the wildlife and wildlife products by end users and/or kingpins of the organized criminal syndicates, in the consumer countries. This lack of information in itself may explain why authorities in member countries did not paint successful wildlife crime combatting efforts as per information requested for this study.

15. The study equally found that the FIUs in member countries are hardly involved in investigative operations (tactically or strategically) concerning wildlife crimes. Apart from South Africa, LEAs in other member countries such as the police and the various environmental authorities do not have engagements through formal MoUs with the resident FIUs, let alone foreign FIUs, in an effort to coordinate and benefit from the strengths of one another. It goes without saying that despite the transnational nature of wildlife crimes, countries generally reported poor international cooperation as an area of concern in the combatting of wildlife crimes.

16. The study equally reviewed counter wildlife trafficking efforts in Asian countries, as destinations of wildlife and wildlife products. It is worth noting that information requested from most of the countries identified as the largest consumers of illegal wildlife products harvested from ESAAMLG member countries has to date not been provided by the relevant authorities in those countries. In two of the countries where wildlife and wildlife

products from ESAAMLG member countries are consumed, it was surprising to find that these countries have only criminalised possession of wildlife and wildlife products, if same is originating from within their jurisdictions. This means, in these countries, being found in possession of wildlife and wildlife products from Africa is not a criminal offence.

17. Despite the various counter wildlife trafficking laws in most Asian countries advocating for investigative authorities to liaise with and involve the countries of origin of the wildlife and wildlife products seized or found in their jurisdictions, there were hardly any cases provided by such jurisdictions to show if this is indeed happening. In almost all cases provided for this study, by Asian countries, the wildlife crime investigations do not engage with relevant African authorities and the seized wildlife products such as rhino horns and elephant tusks are destroyed, if not reserved for local state museums. These factors may point a need to strengthen international cooperation, with the aim of enhancing combative efforts both locally and in consumer jurisdictions.

D. Objectives

18. The objectives of this study are as follows:

- To determine the magnitude of poaching of wildlife, its illegal trade and other related wildlife crimes in the ESAAMLG Region;
- To determine the major underlying reasons for poaching of wildlife, its illegal trade and other related wildlife crimes;
- To determine the major sources of funds used to finance wildlife crimes and related illicit activities;
- To determine how poaching and related wildlife crimes are organised in the ESAAMLG Region, establish who is involved, where the crimes are most concentrated and possible reasons;
- To establish the trends in payment methods, ways of tracing the proceeds and how they are eventually laundered and whether there has been an effective confiscation/forfeiture regime for these crimes in most of the ESAAMLG member countries;
- To establish the extent of the prejudice (both in monetary and wildlife resource value) to governments in the ESAAMLG Region;
- To determine the adequacy of control measures (legal and institutional frameworks) and implementation in preventing poaching and related wildlife crimes;
- To come up with recommendations to mitigate the gaps identified and augment the regulatory, supervisory and enforcement framework already existing in ESAAMLG member countries.

E. Methodology

19. The project team working jointly with the ESAAMLG Secretariat developed a comprehensive questionnaire that was distributed to all ESAAMLG member countries in November 2014. Another questionnaire was also sent to Asia-Pacific Member Countries for which some responses were received. Together with information obtained from open sources, the responses received to the questionnaires form the basis for the findings of this report. This is supported by additional data and information sourced from structured interviews and published articles.

F. Gaps (limitations) in the findings

20. Given ESAAMLG's standing as an authoritative body on AML/CFT & CFP in the region, the planning of this typology project deliberately centred on gathering information on the financial flows related to wildlife crimes, in addition to relevant matters relating to the predicate offences and related trafficking. However, the study's findings were that despite rapidly increasing criminal cases involving wildlife in the ESAAMLG, information on the illicit financial flows driving the crimes, both on the demand and supply sides is not available, or accessible, or understood and this limited more light being shed on amongst others, the following:

- **Source of funds:** an understanding of how and where funds are generated to fund the organized wildlife criminal activities in ESAAMLG member countries;
- **Financial flows:** an understanding of how funds are moved along the formal or informal financial system in organized crime networks involved in wildlife crimes; and
- **Payment methods:** indication of how funds are channelled to retailers of ill-gotten wildlife products by consumers of such products (payment methods).

21. The study equally found that law enforcement investigations, particularly in the ESAAMLG region, were primarily focused on the poaching activity as a predicate offence and hardly considered investigating the financial flows related to these crimes. The fact that local FIUs hardly reported having received any STRs or other information requests relating to wildlife crimes further supports the limited scope of wildlife crime investigations. From cases reported by law enforcement in various ESAAMLG member countries, the overwhelming indication of the payment method, particularly between poachers and traffickers (or other role players)

was primarily *cash on delivery* of wildlife or wildlife products. The mere fact that authorities do not have an understanding of related financial flows is a finding worth noting.

G. DETAILED ANALYSIS OF FINDINGS

CHAPTER I – WILDLIFE POACHING AND ILLEGAL TRADE IN RHINO HORNS AND ELEPHANT TUSKS

1. General overview on risk of wildlife crimes (excluding the risk of Rhino and Elephant poaching activities)

22. To determine the risk rating of other wildlife besides the rhino and elephant, the study requested member countries to indicate the risk rating assigned to the level of risk posed by wildlife crime. The other wildlife referred to herein primarily include zebras, lions, pangolins, leopards, eland, warthogs, impalas, cheetah, hyenas, reptiles, wildebeest, puku, giraffes, Kudus, gemsbok, springbok, buffalos, turtles, tortoises various bird species of prey, etc. The table below presents a summary of risk ratings received from seventeen member countries that provided information to the typology questionnaire.

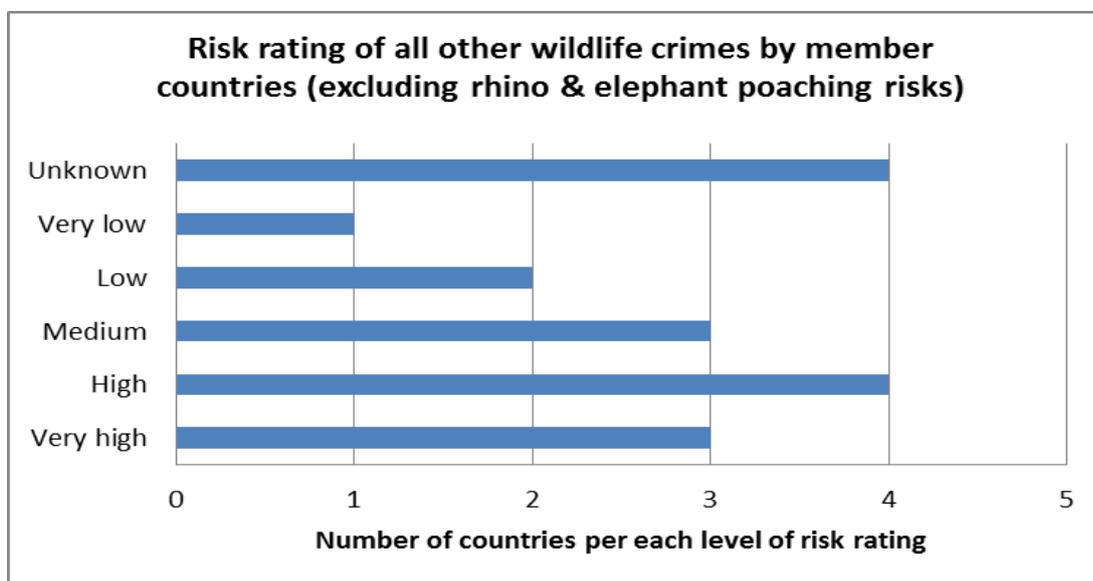


Table 1 Summary of wildlife crime risk ratings in the ESAAMLG region (excluding rhino and elephant poaching risks)

From the responses received, it was noted that some countries have conducted formal wildlife risk assessments which is done periodically in some cases. It was further noted that most countries were prompted to carry out a risk assessment based on the following factors:

- a. Reported carcasses found from poaching;
- b. Gathered intelligence shared with both internal and external stake – holders of a jurisdiction;
- c. Periodic census records and Ranger based data collection; and
- d. Reliance on anecdotal evidence.

23. The risk ratings collected from the study were based on wildlife crimes the member countries experience. Maintaining reliable data of wildlife population census is important to conducting wildlife crime risk assessments. Some member countries felt that keeping track of wildlife population census is a challenge except for a few endangered species like rhinos and elephants. Additionally, it is also worth noting that due to porous borders within the region, wildlife easily moves from one territory to another depending on the seasons. This was said to contribute to the problem of keeping reliable data on wildlife populations.

24. South Africa indicated that poaching (except for the illegal sourcing of Cycads from the wild) was not regarded as a threat to the local wildlife populations until rhino poaching escalated alarmingly in 2009. It is worth noting that despite the study not being provided with adequate information, the majority of respondents (ESAAMLG member countries) had records of their *vulnerable* wildlife which enabled the countries to note the increases and decreases in wildlife populations.

25. The value of understanding wildlife risk exposures, as highlighted by member countries lies in having valuable information which guides wildlife conservation efforts to combat illegal poaching and wildlife trafficking activities. For example, it was revealed that countries intensified patrol activities in the most vulnerable areas and increased the presence of Law Enforcement Authorities (LEAs) in some key areas. Even countries that indicated that they have not carried out risk assessments, at a minimum indicated that their combative efforts are guided by some form of risk considerations.

26. In view of the risk ratings that most member countries provided, an observation was made that there appeared to be no standardized methodology used to conduct wildlife crime risk assessments among ESAAMLG member countries. This means countries had different risk assessment methods, indicators, etc. Hence, when considering the summary of risk ratings above, care needs to be taken in light of the different risk assessment approaches adopted in countries.

1.1 Risk of rhino and elephant poaching activities

27. The study, at an early stage identified rhinos and elephants as the wildlife species that faced a significantly high risk of poaching. This was influenced by the growing rate of poaching activities (year to year) in ESAAMLG member countries, and in Africa as a whole. For this reason, and also in an effort to highlight areas in combative frameworks that may need improvement, the study mainly focused on rhino and elephant poaching activities, in addition to all the other wildlife species.

28. All countries that responded to the questionnaire have elephant populations in their jurisdictions. As for rhino population, the study found that all member countries have rhinos except for Rwanda. The rhino population in Mozambique was estimated to be about 250 in the 1980s³. This study found that this population has reduced to only about 25 animals, primarily due to illegal poaching activities.

29. In order to understand their vulnerability and implement combative measures accordingly, most countries indicated to have done some form of risk assessment and only four countries could not indicate knowing the risk rating to assign to rhino and elephant poaching activities. Below is a summary of how member countries rated the risk of rhino and elephant poaching activities:

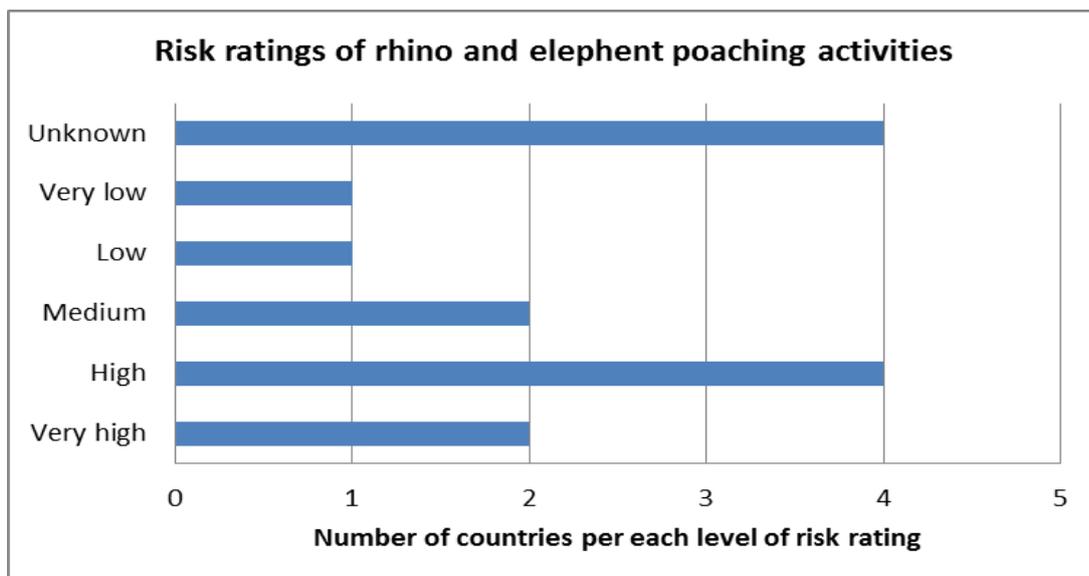


Table 2 Summary of how member countries rate the risk of Rhino and Elephant poaching activities combined.

³ According to Emslle and Brooks (1999)

30. Generally, there appears to be a positive correlation between countries which cited a high risk rating of wildlife crimes and the actual rhino and elephant poaching activities in such countries. For example, countries such as Tanzania, Kenya and South Africa rated this risk as high and have generally a higher rate of poaching activities compared to other countries in the region. This is mainly attributed to the presence of endangered species in the various jurisdictions that provided responses to the project questionnaire. To illustrate this correlation between countries with high risk ratings and a high rate of wildlife crimes, the study also placed reliance on open sources as there were mostly poor responses to the questionnaire. Another means used to illustrate this correlation is on the number of carcasses reported linked to unlawful killings.

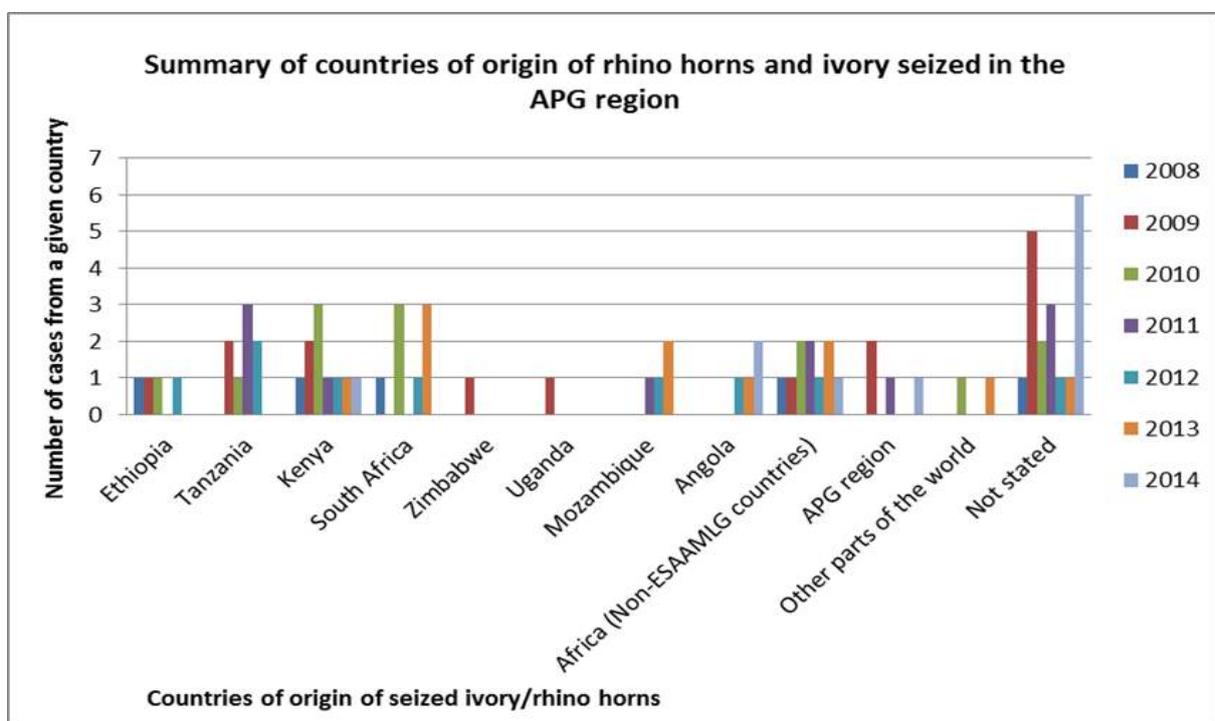


Table 3: Data obtained from various TRAFFIC reports and compiled by ESAAMLG. Based on number of seizures by LEAs

31. Six countries rated the risk of rhino and elephant poaching activities high to very high, whereas two countries found their risk rating as medium and only two countries rated this risk as low to very low. Four countries could not explain their risk ratings and cited the same as unknown. Below is a summary of the risk rating of rhino and elephant poaching activities of ESAAMLG member countries:

| Risk rating categories: | Countries | Primary reasons for such ratings |
|--------------------------------|---|---|
| High to very high risk | <ul style="list-style-type: none"> • Kenya • Malawi • Mozambique • South Africa • Tanzania • Zambia | <p>Porous borders which provide easy access to country and national parks; Having some of the largest population of rhinos and elephants also contributes; High growth in demand of rhino horns and elephant tusks; Increase in prices of rhino horns and elephant tusks; well organised criminal syndicates executing crimes; Poor combative efforts such as lack of needed resources; Poverty was cited as a driving factor which forces locals into being contracted into poaching activities.</p> |
| Medium risk | <ul style="list-style-type: none"> • Botswana • Zimbabwe | <p>This rating was mainly informed by the number of poaching activities periodically; well organised poaching syndicates; high demand for relevant wildlife products.</p> |
| Low to very low risk | <ul style="list-style-type: none"> • Namibia • Rwanda | <p>Rwanda indicated to not have a rhino population at all; low level of poaching activities and effective combative efforts etc.</p> |
| Not rated/Unknown risk ratings | <ul style="list-style-type: none"> • Angola • Swaziland • Uganda | <p>No study was done to determine same; no data to help determine same, including not having explanations for the unknown risk ratings.</p> |

Table 4: Analysis of risk ratings of rhino and elephant poaching activities

32. In addition to the above, there were some additional factors noted from the study that contribute to the high risk rating of wildlife crimes related to rhino and elephant poaching, such as:

- **Inadequate sharing of information and data** between wildlife authorities and law enforcement was a notable barrier in efforts to combat illegal poaching and the illicit trade in wildlife products. This has led to uncoordinated efforts on the part of national

authorities/agencies who have largely adopted a 'silo' mentality with regards to the sharing of information both internally and externally;

- **A lack of harmonisation in the methods** used to collect data and sharing statistics on the numbers killed. For instance, in considering the number of reported carcasses, a pregnant animal will be counted as two carcasses in some instances, while same could be counted as only one carcass in other instances. Globally there appears to be no standardised methods for collection/reporting of this type of data;
- **Infancy of most member country FIUs:** Most Financial Intelligence Units (FIUs) in the ESAAMLG region are in their infancy, therefore a lack of understanding of the role that FIUs could play in combating poaching and the illicit trade in wildlife products was evident. It must be noted that most wildlife authorities were unaware of the existence of an FIU in their respective jurisdictions and the value FIUs could add to their combative efforts;
- **Misuse of hunting permits:** The general perception that in countries where certain hunting activities are permitted – there is potential abuse of hunting permits as people often exceed the legally permitted hunting allocations or species.

33. Member countries that indicated a high risk rating noted the following benefits arising from conducting such risk assessments:

- **Enhanced targeted combatting efforts:** The results helped place measures such as anti-poaching programs, mobilise other law enforcement agencies to join anti-poaching efforts, mobilise resources in fighting poaching, direct combatting efforts to specific geographical areas within the country (this includes covert operations, routine patrols, etc);
- **Enhanced coordination of combatting efforts:** Intensification of local inter-agency law-enforcement. Elevation of poaching and wildlife trafficking to national security levels so these crimes can get the attention required; and
- **Improved strategic direction in combatting efforts:** Tanzania used results of the risk assessment to prepare a National Strategy to combat poaching and illegal wildlife trade which was launched in October 2014.

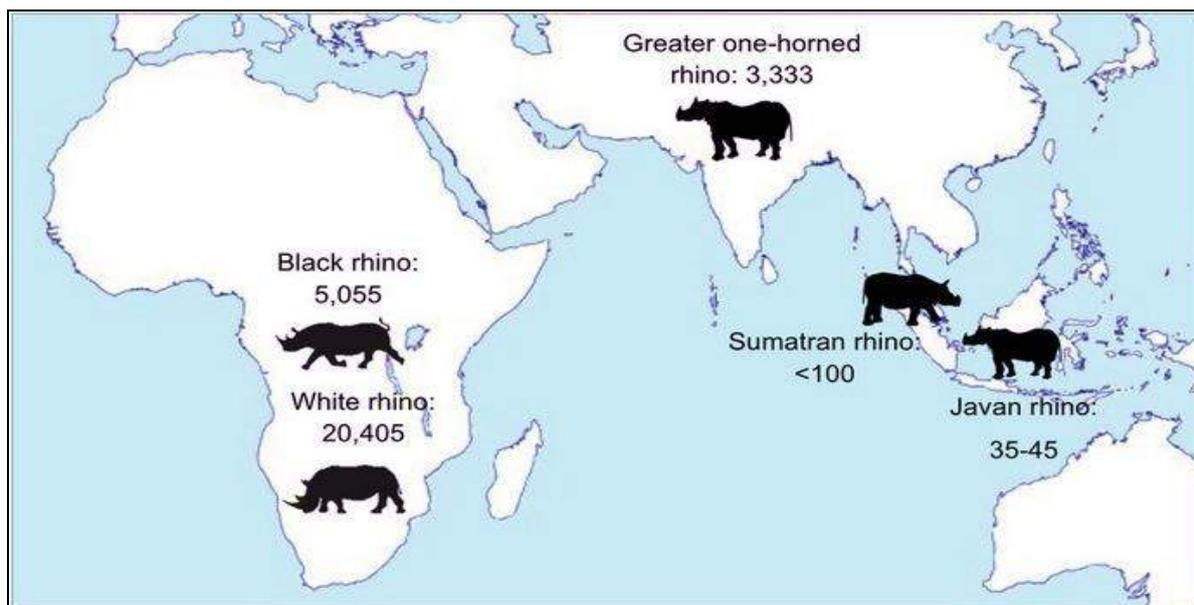
34. The overwhelming indication is that risk assessment results are useful in guiding efforts to combat wildlife crime activities at national policy level and operationally or/and tactically. Countries that did not carry out risk assessments indicated that available intelligence and statistics on wildlife crimes are used as a guide to allocate resources to areas needing

intervention. This may point to operational organization of combative efforts informed by an understating of some vulnerabilities by countries which did not conduct formal risk assessments. It is important to note that countries which have not carried out risk assessments did not indicate measures that guide their strategic combatting efforts.

1.1.1 Rhino population data

35. Of the five rhino species, the black rhino (*Diceros bicornis*) and the white or square-lipped rhino (*Ceratotherium simum*) live in Sub-Saharan Africa (see figure 1). Two subspecies of white rhino are recognized: the northern white species (*Ceratotherium simum cottoni*) and the southern white species (*Ceratotherium simum simum*). The northern white subspecies was wiped out through poaching in its natural range in Central and East Africa by 2007. The last four potential breeding northern white rhinos were moved from a zoo in the Czech Republic to a rhino sanctuary in Kenya, where armed guards protect the survivors around the clock (Jones 2015).⁴

36. With the exception of Angola, all member countries indicated that they maintain national data of rhino and elephant populations. Angola however explained that some data on the number of these animals is collected and retained by game rangers and local authorities. The maintenance of databases on the number of vulnerable wildlife is important as it helps member countries keep track of their vulnerable species and equally note reductions or growth patterns in these species.



⁴ Scientists were hoping that the move to the rhino's natural habitat would encourage breeding. One of the two rhino bulls died of natural causes in October 2014, pushing the subspecies closer to extinction (Knight et al. 2015: 13).

Figure 1: Global rhino population figures (Save the Rhino, 2014)

37. With approximately 5,000 animals remaining in the wild, the IUCN categorizes the black rhino species as “critically endangered” (IUCN 2012b).⁵ The greatest number of black rhinos – approximately 1,850 animals – lives in Namibia. Community-based conservation initiatives led to positive growth rates after a period of severe poaching during the border wars of the 1970s and 1980s. The Namibian rhino populations recovered until 2014, when 24 rhino carcasses were discovered in the north-western desert regions. In light of the further 80 rhino poaching incidents reported for 2015, rhinos are facing an uncertain future in Namibia. It is noted that while white rhino numbers are increasing in most host countries, in Zimbabwe and Mozambique they are decreasing. The reasons behind the declining trends in the latter two countries have not been fully researched and countries could not explain such reasons.

38. South Africa is home to 80% of the world’s remaining rhinos (Milliken/Shaw 2012: 8). By the 1960s an estimated 650 white rhinos were left in Africa. The Natal Parks Board rescued the white rhino from almost certain extinction through innovative conservation measures in the 1970s (Player 2013). Of the remaining 21,000 rhinos⁶ –

- 19,300 are southern white rhinos;
- approximately 1,700 animals belong to the black species (Milliken 2014:15); and
- between 8,001 to 9,290 white rhinos survive in the Kruger National Park (KNP) (Molewa, 2015), which is South Africa’s signature national park. Also worth noting is that over one quarter of South Africa’s rhinos are on private land, while national and provincial parks authorities host approximately 15,700 black and white rhinos (Ferreira, 2013). The critical tipping point of rhino deaths outstripping births may have been reached in 2014. South African rhino numbers are since then believed to be decreasing as noted from the 2015

⁵ The IUCN Red List is the world’s most comprehensive inventory of the global conservation status of plant and animal species. It uses a set of criteria to evaluate the extinction risk of thousands of species and subspecies. These criteria are relevant to all species and all regions of the world. With its strong scientific base, the *IUCN Red List of Threatened Species* is recognized as the most authoritative guide to the status of biological diversity. Within the Red List the concept “threatened species” is used as an overarching concept. The following categories of imperilment are relevant:

- “critically endangered”: species face an extremely high risk of going extinct in the wild
- “endangered”: species face a very high risk of going extinct in the wild
- “vulnerable”: species face a high risk of going extinct in the wild (IUCN Standards and Petitions Subcommittee 2010)

⁶ Milliken collated rhino numbers from IUCN/SSC AfRSG data that was last updated on 13 October 2013. In 2015, conservators (personal communication, 2015) estimated that the total number of rhinos had dropped to 19 700 animals of both species.

figures. At the current rate of attrition (two to three rhinos are poached each day), the South African rhino will be extinct in the wild by 2022 (African rhino expert, personal communication, 2015).

| Countries, Subspecies, and Range | White Rhino | | | | Black Rhino | | | | |
|----------------------------------|----------------------|--------------------|--------|--------|-----------------------|-----------------------|--------------------|-------|--------|
| | <i>C. s. cottoni</i> | <i>C. s. simum</i> | Total | Trend | <i>D. b. bicornis</i> | <i>D. b. michaeli</i> | <i>D. b. minor</i> | Total | Trend |
| | (northern) | (southern) | | | (south-western) | (eastern) | (southern-central) | | |
| Angola | | | | | 1 | | | 1 | |
| Botswana | | 185 | 185 | Up | | | 9 | 9 | Up |
| Kenya | 4 | 390 | 394 | Up | | 631 | | 631 | Up |
| Malawi | | | | | | | 26 | 26 | Up |
| Mozambique | | 1 | 1 | Down | | | | | |
| Namibia | | 524 | 524 | Up | 1,750 | | | 1,750 | Up |
| South Africa | | 18,933 | 18,933 | Up | 208 | 68 | 1,792 | 2,068 | Stable |
| Swaziland | | 84 | 84 | Stable | | | 18 | 18 | Up |
| Tanzania | | | | | | 100 | 27 | 127 | Up? |
| Uganda | | 14 | 14 | Up | | | | | |
| Zambia | | 10 | 10 | Up | | | 27 | 27 | Stable |
| Zimbabwe | | 284 | 284 | Down | | | 424 | 424 | Down |
| 2012 Total | 4 | 20,425 | 20,429 | Up | 1,959 | 799 | 2,323 | 5,081 | Up |
| 2010 Total | 4 | 20,160 | 20,164 | | 1,920 | 740 | 2,220 | 4,880 | |

The top four key rhino range States are highlighted.

Table 5: Known White and Black Rhino Populations in Rhino Range Countries (Last Updated in October 2013 by Milliken, 2014: 15)

39. The table below shows the number of rhino killings for the period 2006 to 2013 as recorded by Milliken (2014:20)

| Country | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | Total | 2013 poaching as % of 2012 pop estimates |
|-----------------|------|------|------|------|------------------------------------|------|------|-------|-------|--|
| Botswana | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 2 | 0.00% |
| DR Congo | 0 | 0 | 2 | 2 | Believed to be extinct in the wild | | | | 4 | |
| Kenya | 3 | 1 | 6 | 21 | 22 | 25 | 30 | 59 | 167 | 5.76% |
| Malawi | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 2 | 4 | 7.69% |
| Mozambique | 0 | 9 | 5 | 15 | 16 | 10 | 12 | ? | 67 | ? |
| Namibia | 0 | 0 | 0 | 2 | 2 | 0 | 1 | 5 | 10 | 0.02% |
| South Africa | 36 | 13 | 83 | 122 | 333 | 448 | 668 | 1,004 | 2,707 | 4.78% |
| Swaziland | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 2 | 0.00% |
| Tanzania | 0 | 0 | 2 | 0 | 1 | 0 | 2 | ? | 5 | 1.57% |
| Uganda | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0.00% |
| Zambia | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0.00% |
| Zimbabwe | 21 | 38 | 164 | 39 | 52 | 35 | 29 | 20 | 398 | 2.82% |
| Total | 60 | 62 | 262 | 201 | 426 | 520 | 746 | 1,090 | 3,367 | |
| No. poached/day | 0.16 | 0.17 | 0.72 | 0.55 | 1.17 | 1.42 | 2.04 | 2.99 | | |

Table 6: Detected number of rhino killings

1.1.2 Elephant population data

| Country and Regional Totals and Data Quality | | | | | | | | | | |
|--|----------------|---------------|---------------|---------------|-------------------------------|---------------------|---------------------|-----------------|------------------|----------|
| Country | Definite | Probable | Possible | Speculative | Range Area (km ²) | % of Regional Range | % of Range Assessed | IQ ¹ | PFS ² | |
| Angola | 818 | 801 | 801 | 110 | 406,003 | | 31 | 5 | .03 | 1 |
| Botswana | 133,453 | 20,818 | 20,818 | 0 | 100,253 | | 8 | 99 | .87 | 2 |
| Malawi | 1,223 | 218 | 461 | 97 | 7,539 | | 1 | 66 | .47 | 3 |
| Mozambique | 16,422 | 3,241 | 6,334 | 6,979 | 342,727 | | 26 | 78 | .47 | 1 |
| Namibia | 13,684 | 2,871 | 2,891 | 0 | 146,904 | | 11 | 56 | .48 | 1 |
| South Africa | 20,260 | 0 | 4,767 | 0 | 30,651 | | 2 | 93 | .76 | 2 |
| Swaziland | 35 | 0 | 0 | 0 | 50 | | 0 | 100 | 1.00 | 5 |
| Zambia | 9,964 | 2,501 | 2,648 | 542 | 201,246 | | 15 | 70 | .56 | 1 |
| Zimbabwe | 67,954 | 6,974 | 6,974 | 14,730 | 76,930 | | 6 | 97 | .75 | 2 |
| Totals | 278,520 | 22,532 | 30,802 | 22,458 | 1,312,302 | | 100 | 55 | .47 | 0 |

¹ IQI: Information Quality Index: This index quantifies overall data quality at the regional level based on the precision of estimates and the proportion of assessed elephant range (i.e. range for which estimates are available). The IQI ranges from zero (no reliable information) to one (perfect information).

² PFS: Priority for Future Surveys, ranked from 1 to 5 (highest to lowest). Based on the precision of estimates and the proportion of national range accounted for by the site in question, PFS is a measure of the importance and urgency for future population surveys. All areas of unassessed range have a priority of 1. See Introduction for details on how the PFS is derived.

Figure 2: Total elephant populations and range in Southern Africa. Source: www.elephantdatabase.org⁷

| Country and Regional Totals and Data Quality | | | | | | | | | | |
|--|---------------|---------------|---------------|--------------|-------------------------------|---------------------|---------------------|-----------------|------------------|----------|
| Country | Definite | Probable | Possible | Speculative | Range Area (km ²) | % of Regional Range | % of Range Assessed | IQ ¹ | PFS ² | |
| Eritrea | 96 | 0 | 0 | 8 | 5,275 | | 1 | 100 | .92 | 3 |
| Ethiopia | 47 | 27 | 351 | 578 | 38,417 | | 4 | 73 | .05 | 2 |
| Kenya | 25,292 | 513 | 3,602 | 5,498 | 111,423 | | 13 | 91 | .67 | 1 |
| Rwanda | 88 | 0 | 0 | 37 | 1,014 | | 0 | 100 | .70 | 4 |
| Somalia | 0 | 0 | 0 | 70 | 4,525 | | 1 | 68 | .00 | 3 |
| South Sudan | 1,172 | 5,882 | 5,882 | 0 | 309,897 | | 35 | 35 | .19 | 1 |
| Tanzania | 53,833 | 9,791 | 9,940 | 1,200 | 387,538 | | 44 | 67 | .57 | 1 |
| Uganda | 3,452 | 2,110 | 1,942 | 345 | 15,228 | | 2 | 69 | .49 | 2 |
| Totals | 89,860 | 12,443 | 15,793 | 7,736 | 873,318 | | 100 | 59 | .48 | 1 |

¹ IQI: Information Quality Index: This index quantifies overall data quality at the regional level based on the precision of estimates and the proportion of assessed elephant range (i.e. range for which estimates are available). The IQI ranges from zero (no reliable information) to one (perfect information).

² PFS: Priority for Future Surveys, ranked from 1 to 5 (highest to lowest). Based on the precision of estimates and the proportion of national range accounted for by the site in question, PFS is a measure of the importance and urgency for future population surveys. All areas of unassessed range have a priority of 1. See Introduction for details on how the PFS is derived.

Figure 3: Total elephant population numbers and range in East Africa. Source: www.elephantdatabase.org⁸

40. Despite most countries indicating population counts of these protected species, it should be pointed out that countries in the ESAAMLG

⁷http://www.elephantdatabase.org/preview_report/2013_africa_final/Loxodonta_africana/2013/Africa/Southern_Africa (accessed 12 January 2016)

⁸http://www.elephantdatabase.org/preview_report/2013_africa_final/Loxodonta_africana/2013/Africa/Eastern_Africa (accessed 12 January 2016)

region apply different methodologies of wildlife population censuses (actual numbers versus estimates) and counting animal carcasses. To provide an example: When a pregnant rhino is poached in South Africa, only one carcass is counted. It appears that the fetuses and the pregnant status of a rhino cow are only used in aggravation of sentence. If a rhino cow has a young calf - which is deemed unable to survive on its own in the bush - then two carcasses are reported (personal communication with DPCI, 2016).

41. Another big problem encountered in analysing poaching statistics is the overall incoherent approach applied to capturing data across the region. Some countries only capture the weight of horns and tusks instead of providing the number of animals killed. Others provide number of tusks or horns. In order to provide regional comparative data, countries would have to apply the same criteria and measurements. In light of these limitations, the following sections provide data (where available) in the format provided by member states.

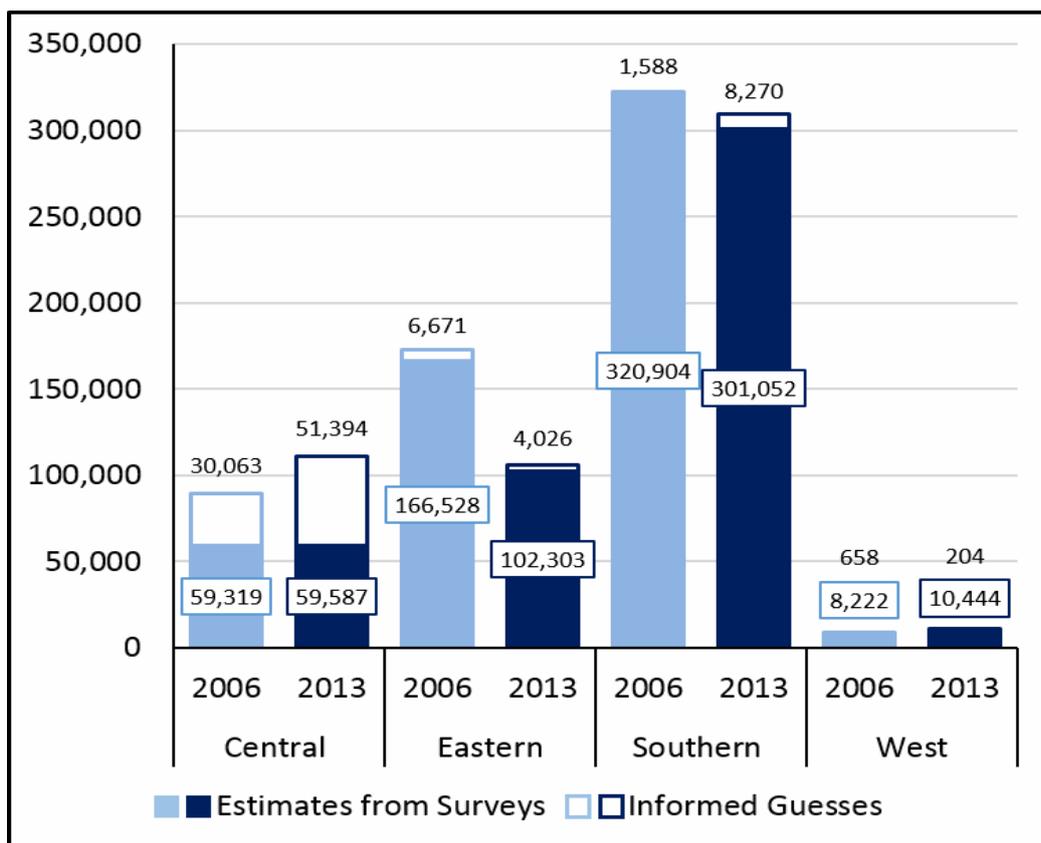


Figure 4: Sub-regional summary of elephant numbers, showing surveyed numbers in solid fill and ‘best guesses’ over and above that number in outline, based on the African Elephant Status Report 2007 and the most recent online update at www.elephantdatabase.org. (CITES Secretariat 2016: 13)

1.2 Resourcing wildlife crime activities

42. The study found that the predicate offences of wildlife crimes having a significant impact on wildlife populations in the region, were perpetrated by organized crime syndicates. Also, the nature and capacity of combatting efforts require well organized and resourced syndicates to perpetrate these criminal activities. This section presents observations on mechanisms relating to support and resourcing of wildlife crime activities in the region.

1.2.1 Persons involved in wildlife crimes: the predicate offence (poaching)

43. One of the perspectives on the range of criminals involved in wildlife crimes is taken from Vira and Ewing (2014), who identified the following criminal persons and relevant information on resourcing of such persons:

a. Subsistence or artisanal poachers (lower end of the spectrum):

They are usually from poor communities and are said to be driven by poverty and hunger. They do not have the resources to acquire and use long range weapons or tranquilizers, and often resort to shooting or poaching wildlife from a nearer distance. Subsistence poachers are usually on foot and will shoot the rhino with random fire to the head and chest area, as well as the legs in order to immobilize the animal. They will then remove the horns very roughly using an axe or similar tool. The member countries pointed to poverty as the driving force for subsistence poachers, and this is a dire socio-economic problem deliberately exploited by syndicates to coerce people part take in poaching activities. The poachers take high risk for comparatively very little reward. They will usually pass the horns to a syndicate member after the killing has been done.

- i. The primary tools for subsistence poachers were said to be the axe and firearms. A few ESAAMLG member countries found that poachers are sometimes borrowing or even using stolen weapons and ammunition to perpetrate the criminal act. They initially poached to supply local markets, but the emerging trend is that they have 'since been co-opted or crowded out by an illicit commercial trade that is monopolized by organized crime, and enabled by government functionaries, security forces, and businessmen.' Poachers that are not connected to networks will often be involved in killing animals, but usually expose themselves to arrest while searching for buyers. (Ref: *State vs Richard Nevhulaudzi (Makhado CAS 377/08/09; Case number RC 136/09)*. Cases from

Malawi reported in the Traffic Bulletin of seizures and prosecutions (2009 – 2014) involving hippo teeth, have also highlighted this. The pangolin poaching cases encountered have all involved cash payments. Various interviews with law enforcement officials confirmed that cash payments are made upon delivery, as the parties are keen to minimize the risk of arrest or deception;

b. Professional snipers (higher end of the spectrum): The study found that unlike subsistence poachers, they have well-structured operations and use high technology methods which involve tranquillizer guns, helicopters, veterinary drugs, cyanide poisoning and high calibre weapons for poaching activities. Member countries could not indicate the source of all these instruments, assets and weapons used to support the poaching activities, despite some being seized by authorities. The fact that some established business personalities and international criminal syndicates are involved might explain some of the sources.

- i. The study found that they are occasionally in formal employment, in some other profession or in business, with some being in law enforcement (police officers, soldiers, security intelligence operatives, professional hunters of specific animals). Their role is to procure firearms, spot/track and kill the animals. In contrast to subsistence poachers, snipers are contracted on account of their perceived expertise in killing specific targeted animals, as well as their skills in using firearms equipped with silencers. Where they do not have their own weapons and equipment, they rely on middlemen further up the value chain for weapons, ammunition, and in some cases, night vision goggles. The same middlemen/intermediaries support them with transport and intelligence. The snipers are often paid using cash, but can also be paid through cellphone banking transfers that are redeemable at certain retail supermarkets and shops (noted from interviews with law enforcement);
- ii. Some member countries, especially those with a recent history civil wars (or their neighbouring countries being in civil wars) indicated that many of the arrested poachers seem to have had some form of military training. Even when no arrests were made, it was indicated that the investigative findings on the skill and planning involved may point to same. Some weapons and ammunition could be traced to militant groups. It was also indicated by member countries that

they will normally have prior access to information about the area or farm they intend to target. These professional poachers are driven by a desire for financial gain and sheer greed, and they are paid much more than subsistence poachers.

- iii. This group sometimes involves experienced criminal gangs that are part of a more organized and structured group. Some of the indicators are that skilled professional hunters are also involved. One indicator or tell-tale sign is the fact that in some cases it is clear that the wildlife are felled with one single well-placed deadly shot to the head or body. In some cases, it was observed that the high-tech (usually aerial attack from helicopters) will be done darting the animal from the air with tranquillizer guns. The rhino subsequently dies either from an overdose of tranquillizers or bleeds to death, usually after the poachers are gone. This is said to take less than seven minutes to bring down the animal.
- iv. In some cases in Southern Africa, professional or organized poaching syndicates make use of helicopters. The use of helicopters, albeit in a few cases noted by this study is worth noting as it speaks to the high level of organization involved. The use of a helicopter allows for easy access and quick getaways. Some indications are that the registration numbers on the tail of the aircraft get covered up or falsified during the poaching operation.
- v. Member countries further stated that professional hunters usually dehorn the carcass using a chainsaw, unlike subsistence poachers who mostly use axes. Below are images which reflect different dehorning techniques.



Figure 5: Image on the left shows a rhino horn roughly removed with an axe, while image on the right shows a typical higher end killing with a tranquilizer dart (poisoning), and the rhino horn neatly removed with what could be a chain saw.

- c. Weaponry:** It is noted that access to, and sources of, weapons, vary from country to country. Botswana interviewees indicated that the poachers are supplied by the intermediary with Kalashnikovs bought new from the factory in Czechoslovakia. In Tanzania, a newspaper article suggested that refugees from the Democratic Republic of Congo trade military grade guns to poachers in exchange for basic necessities such as food and clothing (Daily News, 11 Feb 2016, pg 6). In the case study on South Africa's Kruger National Park (in this report), it is noted that "kingpins and hunters invested in sophisticated hunting rifles such as Mauser .458's and .375's typically used by trophy hunters to shoot rhinos or elephants. One kingpin said that he and one of his close associates would also provide weapons training to new recruits";
- d. The porters (transporters)** are said to be the ones that establish and maintain radio contact with the snipers. Law enforcement agency reports indicate that the snipers inform the porters of the location of a shooting, and direct them to go and remove the tusks and/or horns. Their role is to carry them through secret routes to the point at which they will be passed on to intermediaries. The latter may be involved in some of the transportation, if distances are long, by picking up consignments at agreed points. [Anecdotal evidence from Botswana suggests that weapons and communication technology (cellphones, satellite radios, GPSs) flow inward via intermediaries to the poachers and their supporters, as part of the exchange or payment for the wildlife product being poached.] The porters are predominantly paid in cash, in the local currency. Cash is preferred because of limited access to banking institutions, and to minimize the risk of detection or arrest. In addition, cash allows for easier flows between the legal and illegal economies through the reduction of opportunities for detection;
- e. Possible involvement of corrupt public officials and law enforcement:** *Are veterinarians involved? ...Use of highly regulated drugs/chemicals*
- i. *The fact that highly controlled and regulated veterinary drugs are used in certain cases of rhino poaching may indicate the involvement of professional veterinarians. In some cases, a rhino or elephant is killed, chemicals, not readily available in the market are used or applied on the carcass. If vultures feed on this carcass, the chemicals applied end up killing the vultures, preventing them from flying*

around the carcass to draw attention of Law Enforcement Authorities. This presents adequate time for the syndicate to get-away from the crime scene and smuggle wildlife products out of the country before efforts are made to derail them.

- ii. Four member countries indicated that they had cases in which law enforcement officials had been involved in illegal wildlife trafficking for financial gains by corruptly assisting the criminals. However, the countries could not indicate methods in which finances or bribes were channelled to such corrupt officials.

f. Fraudulent hunting permits: In the case of fraudulent hunting permits, use has been made of public officials or/and functionaries and structures that can provide the interface between the criminal networks and public regulatory institutions, such as the departments that issue permits. These structures and people could be in a position either to facilitate or to inhibit criminal activities [as noted in *Chumlong Lemthangthai v The State [2014] SA 131 (SCA)*]. These include business entities and government regulatory and law enforcement agencies, whose collusion the criminal actors need to secure. Legitimate business is important in that it also provides opportunities as a front to launder the proceeds and individuals in key positions within it also corrupted or co-opted. These actors are normally paid bribes in cash.

g. Understanding the role of intermediaries:

- i. **First level intermediaries:** Usually located in an urban area to receive the products from the porters and arrange further transportation to the dealer. Also responsible for hiring some of the lower level actors, and for paying them against the delivery of products. These intermediaries could also procure firearms and chemicals and pass them on to the snipers and poachers. Chemical poaching has been committed using cyanide (to contaminate drinking water) or traditional poison to contaminate pumpkins. Cyanide is commonly used in the artisanal gold mining sector, part of which is diverted, as shown by the 3 Hwange National Park elephant poisoning cases (2013-2015). First Level Intermediaries are paid either in cash or by e-transfer from Second level intermediaries. The types of businesses in which intermediaries tend to be involved in the ESAAMLG region are cash intensive. In retail, they would

involve fast moving merchandise, such as clothing, textiles, construction equipment and pharmaceuticals. Commuter and goods transportation are also sectors that attract the business of intermediaries. (Ref: *Ivory Queen case, Cobra II Report*). Cash generating businesses are strategic for a number of reasons. They provide a pretext for possession of large sums of money, which can be mingled with proceeds of trafficking. They also present opportunities to familiarize oneself with handling imports and exports. In many economies, running a small to medium sized business comes with a measure of respectability.

In the case of transport, the same vehicles may be used to transport lawful commodities and contraband. Some of the drugs stocked in pharmacies can be used in poaching activities. A few retail outlets are located in places that are strategically close to sources of wildlife products;

- ii. **Second level intermediaries:** They are often closely connected to markets, which are predominantly Asian. This level of intermediary has a presence in the ESAAMLG region, often disguising illicit activities through running a legitimate, but often-strategic business in commodity import/export, transportation, pharmaceuticals, scrap metal or general retail. Familiarity with customs processes and personnel is considered to be important, as is access to trade routes. The case of Xue uncovered during Operation Cobra II in 2013-2014 is typical. The intermediary's role in the case was to procure and coordinate the smuggling of products to Asian markets. So also is a case involving intermediary Ahmed K (Pakistani national based in Tanzania who co-ordinated the smuggling of live animals to Qatar). The payment at this level varies with the relationship to the final market place. If the intermediary is a partner in a syndicate, visible regular payments generally do not occur, as these are arranged in kind in the consumer countries or in third countries;

- iii. **Alternative to first and second level intermediaries (as per above):** There may be only one level of intermediary, who is based locally but connected (by nationality or/and through trade relationships) with dealers in Asia. The intermediary would operate a small retail shop in a remote area, through which he acquires some ivory and/or rhino horns and/or pangolins from subsistence poachers. These are brought in on motor bikes, where after the intermediary moves larger quantities for shipment from the capital

or coastal town (observed in Kenya). One such intermediary was arrested in Uganda in early 2012, for allegedly trying to sell about 115kgs of pangolin scales. The suspect was intercepted as he was driving to meet clients in Kampala. He claimed to have many suppliers and that he always exported the pangolin scales to China, but would not reveal the identity of his Chinese based customers. The intermediary received deliveries from at least four places in Uganda and also from the Democratic Republic of Congo.

- h. Front companies** have been used in wildlife trafficking in Southern Africa at least since the 1980s, in which they were pioneered by, among others, the South Africa Defence Force as it colluded with UNITA in trafficking ivory from Angola through Namibia and South Africa to Asian markets. The activities of other front companies are cited in the report by the Kumleben Commission of Inquiry (1996). Their intercession in trafficking usually creates a hurdle in the interception and/or investigation of contrabands;
- i. Couriers**, who are usually hired by 2nd level intermediary for cross border transportation of products. Depending on quantity and type, some products are carried by air or road. Consignments transported by air are usually accompanied by couriers, and may be concealed in diplomatic luggage. One such case involving Asian diplomats is covered in this report. In the case of larger volumes or consignments that are bulky in nature, shipment is preferred. Risk of detection determines whether it is necessary to involve a shipping agent or the operator of the vessel. In some cases, it was noted that a proportion of the courier's fee is paid at the point of embarkation while the balance is paid after delivery;
- j. Processing points and retail markets:** Following its procurement, ivory and rhino horns have to be transported to processing points and retail markets, most of which are currently in China, Taiwan and Vietnam. It is generally at this stage that transnational syndicates and Asian organized crime get involved. A growing number of intermediaries are expatriate Chinese and Vietnamese nationals living in Eastern and Southern Africa according to various reports. In several reported cases since September 1990, nationals from Taiwan, China and Vietnam have been arrested in the region (Operation Cobra II compiled by the Lusaka Agreement Task Force).

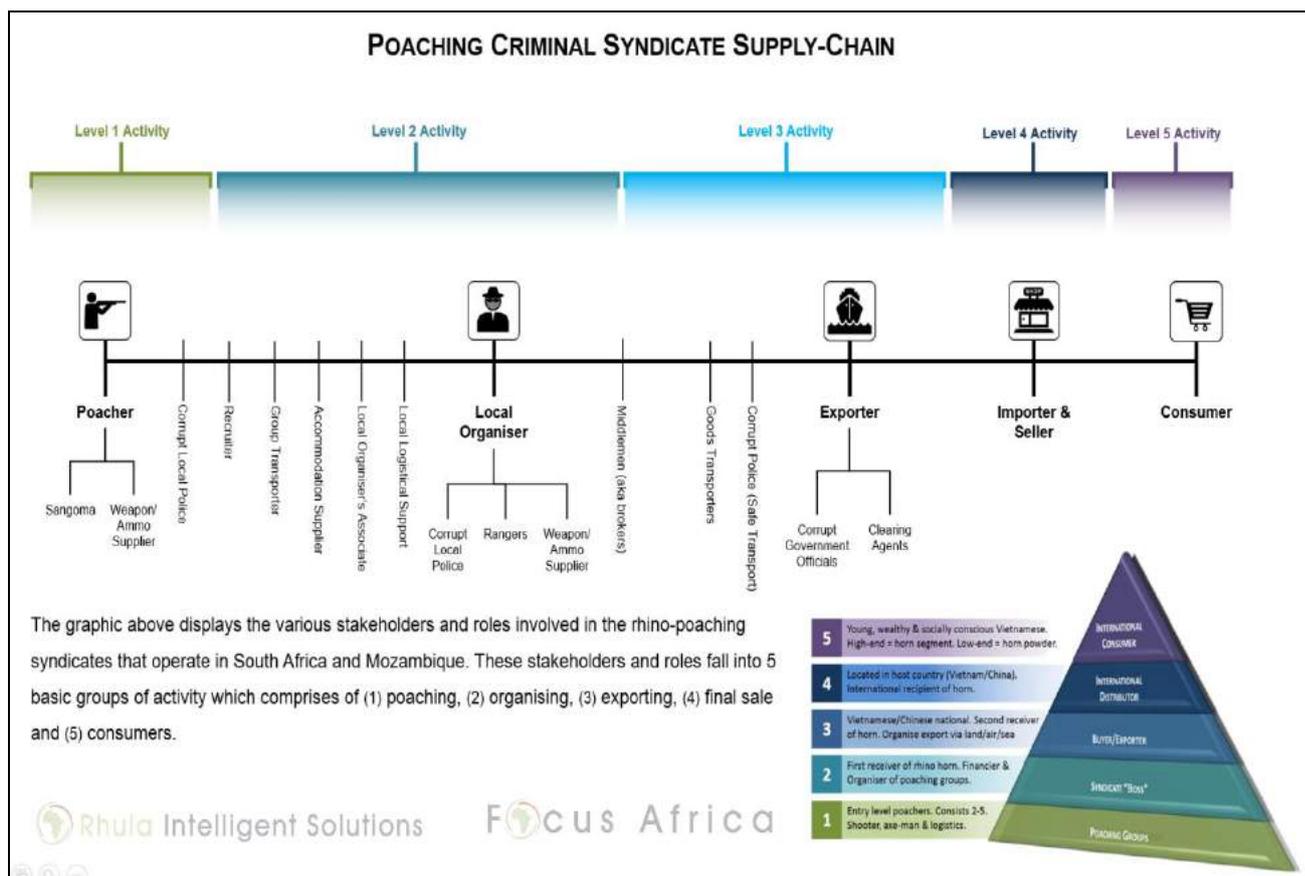


Figure 7: Graphic of the Supply Chain Underlying Wildlife Poaching. Source: Focus Africa Foundation, 2016.

1.2.2 Summary of major differences between subsistence and professional poachers (emphasis on rhino and elephant poaching)

| Element | Subsistence poachers | Professional poachers |
|--------------------------------------|--|--|
| Team composition | Usually one to two persons at most | Usually a team consisting of poacher, pilots, truck drivers, game rangers, those with networks to smugglers, business persons, law enforcement officers, etc |
| Buyers of rhino horns/elephant tusks | Usually need to be linked to buyers | Usually have an established network or links to buyers and deals are struck before poaching activities to enable fast and smooth trafficking and movement of products. |
| Negotiating power | Given their comparatively desperate socio-economic | They are aware of the actual sale values in Asian countries or the |

| | | |
|---|--|---|
| | situation, they are not in a position to negotiate with smugglers who buy horns and tusks from them often at very low rates compared to going rates. | consumers. They have financial means and are not very desperate, hence can afford to negotiate better selling prices. |
| Socio-economic position of involved parties | Usually unemployed or employed in low paying jobs. Members are fully involved in the poaching activity/predicate offence. | Usually professional hunters with other professionals such as game rangers, pilots, established business men etc. Some involved persons are not playing visible roles in the predicate offence. |
| Coercion into wildlife crime | Usually recruited or coerced by parties involved in the trafficking or selling of the wildlife products. | The groups or syndicates usually come together, to leverage of one another's position (e.g. pilot flying them in and out) to advance a common objective of benefitting from wildlife crimes. |

Table 7 Differences between subsistence and professional poachers

1.3 The extent of prejudice to governments in value terms

44. As a general proposition, every successfully completed economic crime presents an opportunity to launder the proceeds of such crime. Depending on the nature of the commodity and the prevailing regulatory regime, the crime may result in the loss of revenue to the state and/or private individuals. Whether money laundering will ensue, and if so, the level of laundering, might depend on such factors as the capacity of the offenders, the capacity of the law enforcement to interrupt them and the quantum involved. The extent of loss sustained by ESAAMLG countries on account of illicit trafficking of wildlife has not been quantified, mainly because of the lack of comprehensive, reliable and current statistics. Loss is evidently both direct and indirect.

45. Direct losses would be the value on the lawful market that would have accrued to the state and/or individual victims from the declared disposal of the product. In the case of products that are illicitly traded, working out such value is not straightforward. The value that tends to be cited is the street value, which is probably at variance with the value on the legitimate market. Another related complication is that the street value may represent the price that could be earned for a product in its unprocessed form.

46. Lawson & Vines, in a 2014 report published by Chatham House, quote the street value of ivory in 2014 to be as high as USD 2,205 / kg in Beijing. They contend that rhino horn could fetch up to USD 66,139 / kg on the Chinese black market. If we assume the average street value of ivory to be USD 2,000 / kg, and that of rhino horn to be USD 65,000 / kg, we may be able to work out the street value 'lost' to countries from which ivory and rhino horn has been illegally procured over a given period of time. Such value is the estimated weight of the contraband multiplied by the average street price per kilogram. Using those values, the loss statistics supplied by some countries that responded were consulted. The incomplete nature of most of the statistics compelled us to resort to certain assumptions. In the case of ivory, an average weight of 6 kg for each pair of tusks was assumed. For rhino horns, the average weight assumed was 5 kg⁹. For the countries in which statistics existed, the outcome is presented in the series of tables below (tables 8 – 14).

| Year | Ivory weight (kg) | Rhino horn (kg) | USD Value Lost (Street value) | USD Value Lost (Official) |
|-------------|--------------------------|------------------------|--------------------------------------|----------------------------------|
| 2011 | 1092 | 15 | 3,159,000 | No figures available (N/F/A) |
| 2012 | 378 | 5 | 1,081,000 | N/F/A |
| 2013 | 348 | 10 | 1,346,000 | N/F/A |
| 2014 | n/a | n/a | | N/F/A |
| 2015 | n/a | n/a | | N/F/A |

Table 8: Estimated value of ivory and rhino horn lost to Botswana, 2011-2015¹⁰

| Year | Ivory weight (kg) | Rhino horn (kg) | USD Value Lost (Street value) | USD Value Lost (Official) |
|-------------|--------------------------|------------------------|--------------------------------------|----------------------------------|
| 2011 | 1734 | 145 | 12,893,000 | N/F/A |
| 2012 | 2304 | 150 | 14,358,000 | N/F/A |
| 2013 | 1812 | 295 | 22,799,000 | N/F/A |

⁹ The average weight will vary strongly from country-to-country, and these values must therefore be seen as indicative of an order of magnitude only. For example, Stiles (2004) suggests that: "Assuming seized and successfully smuggled tusks are equal, an average poached African elephant would therefore yield about 7.4 kg of ivory." A further issue is whether increased poaching over the past 10 years has led to a significant decrease in average weight or not.

¹⁰ Source: CID, Botswana

| | | | | |
|------|-----|-----|------------|-------|
| 2014 | 984 | 175 | 13,343,000 | N/F/A |
| 2015 | 576 | 55 | 4,727,000 | N/F/A |

Table 9: Estimated value of ivory and rhino horn lost to Kenya, 2011-2015¹¹

| Year | Ivory weight (kg) | Rhino horn (kg) | USD Value Lost (Street value) | USD Value Lost (Official) |
|-------------|--------------------------|------------------------|--------------------------------------|----------------------------------|
| 2011 | 12 | 2,240 | 24,000 | 144,480,000 |
| 2012 | - | 3,340 | 217,100,000 | 220,440,000 |
| 2013 | 24 | 5,020 | 326,300,000 | 343,870,000 |
| 2014 | - | 6,075 | 394,875,000 | N/F/A |
| 2015 | - | 5,115 | 332,475,000 | N/F/A |

Table 10: Estimated value of ivory and rhino horn lost to South Africa, 2011-2015¹²

| Year | Ivory weight (kg) | Rhino horn (kg) | USD Value Lost (Street value) | USD Value Lost (Official) |
|-------------|--------------------------|------------------------|--------------------------------------|----------------------------------|
| 2011 | 10,395 | - | 20,790,000 | N/F/A |
| 2012 | 3,257.3 | - | 6,514,600 | N/F/A |
| 2013 | 2,640 | - | 5,280,000 | N/F/A |
| 2014 | 40 | - | 80,000 | N/F/A |
| 2015 | 262 | - | 524,000 | N/F/A |

Table 11: Estimated value of ivory and rhino horn lost to Tanzania, 2011-2015¹³

| Year | Ivory weight (kg) | Rhino horn (kg) | USD Value Lost (Street value) | USD Value Lost (Official) |
|-------------|--------------------------|------------------------|--------------------------------------|----------------------------------|
| 2011 | 276 | - | 552,000 | N/F/A |
| 2012 | 156 | - | 312,000 | N/F/A |

¹¹ Source: Kenya Wildlife Service

¹² Source: Department of Environmental Affairs, South Africa

¹³ Source: Wildlife Division, Ministry of Environment & Tourism, Tanzania

| | | | | |
|------|-----|-----|---------|-------|
| 2013 | 72 | - | 144,000 | N/F/A |
| 2014 | n/a | n/a | - | - |
| 2015 | n/a | n/a | - | - |

Table 12: Estimated value of ivory and rhino horn lost to Uganda, 2011-2015¹⁴

| Year | Ivory weight (kg) | Rhino horn (kg) | USD Value Lost (Street value) | USD Value Lost (Official) |
|-------------|--------------------------|------------------------|--------------------------------------|----------------------------------|
| 2011 | 1318.88 | - | 2,637,760 | N/F/A |
| 2012 | 1064.35 | - | 2,128,700 | N/F/A |
| 2013 | 1850 | - | 3,700,000 | N/F/A |
| 2014 | n/a | n/a | - | - |
| 2015 | n/a | n/a | - | - |

Table 13: Estimated value of ivory and rhino horn lost to Zambia, 2011-2015 (based on estimations calculated by the study)

| Year | Ivory weight (kg) | Rhino horn (kg) | USD Value Lost (Street value) | USD Value Lost (Official) |
|-------------|--------------------------|------------------------|--------------------------------------|----------------------------------|
| 2011 | 1338 | 165 | 13,401,000 | N/F/A |
| 2012 | 1272 | 30 | 4,494,000 | N/F/A |
| 2013 | 1758 | 55 | 7,091,000 | N/F/A |
| 2014 | 1104 | 25 | 3,833,000 | N/F/A |
| 2015 | 1602 | 115 | 10,679,000 | N/F/A |

Table 14: Estimated value of ivory and rhino horn lost to Zimbabwe, 2011-2015¹⁵

47. It is noteworthy that the street value is invariably higher than the value cited by the source countries; see, for example, the value placed on ivory tusks by Botswana in 2013. In that year, 546.5 kg of ivory was valued at BWP 731,836.31 (USD 62,841.22), or an average of BWP 1,339.13 (USD 114.99) per kilogram.

¹⁴ Source: Financial Intelligence Unit

¹⁵ Source: Department of Parks & Wildlife Management, Zimbabwe

48. Only one national risk assessment report was analysed during the study. It showed that while the trafficking of wildlife and its products was rated as one of the 16 contributors to money laundering, it was only ranked 15th in terms of the volume of proceeds laundered. It was estimated to account for USD 350,000 of a total of USD 1.8 billion in terms of that risk assessment. The risk of money laundering from this source was accordingly regarded as low.
49. The indirect losses caused by the illicit wildlife trafficking industry is more difficult to quantify, and potentially larger than the monetary loss set out above. At most, it even consists of structural harm to the institutions on whose integrity and efficiency structures of state depend. The loss to tourism as a source of economic activity, job creation and development income are common effects. The 'loss of earnings' attributable to the illegal trade in wildlife excluding timber and fisheries are estimated worth USD10 billion per year across the globe. It has yet to be quantified in ESAAMLG countries (Lawson/Vines, 2014).

CHAPTER II – TRAFFICKING WILDLIFE PRODUCTS

2 Methods used to transmit or move funds to the poaching activities

50. The logistics of ivory trafficking are complex and highly variable, but there are three distinct phases of wildlife crime, namely: poaching, trafficking, and retail. Each of these phases is increasingly professionalized and dominated by criminal and corruption networks.

51. Payments have to be made at various points in the chain. The methods used and the quantum are determined by various factors, key among them being risk aversion by the parties involved, which leads to cash being the preferred method of payment in respect of payments in the domestic setting of the countries of procurement. It will generally be made in the national currency of the beneficiaries, even if it may be calculated in the putative United States Dollar (USD) value of the merchandise. There is however a strong perception that cash payments in United States Dollars are also used. Cash payments are made against delivery of the products. This suggests that the intermediaries have access to local currency from local banks, or from black market exchange transactions. ESAAMLG's Typologies Report on Currency Exchange Transaction ML/TF Risks (2014) concluded that:

“Unlike other sectors like the banking sector, it is also clear that many countries in the ESAAMLG Region do not have adequate mechanisms to help increase the detection rate of money laundering and terrorist financing activities in bureaux de changes and other money remitters.” The report further identified the following as factors aggravating the risk exposure:

- Failure to conduct adequate customer due diligence in establishing source and ultimate beneficiary; reporting entities not being able to effectively determine the relationship or the link between the transfers of funds and the person that sends or receives the funds;
- Money laundering is a new phenomenon to the money or value transfer (MVT) and currency exchange sectors hence the understanding and appreciation of ML risks is relatively low;
- Failure to strictly adhere to the KYC requirements for fear of losing clients; and
- The speed in transfer for international and local remittances, and low commission associated with local MVT services makes it an attractive option for anyone wishing to remit money.

52. Payments among intermediaries, and between poachers, have also been made in foreign currencies, although these may be exceptional and would be the case where no universal local or regional currency is available or agreed (Interviews, 2015). Direct payments in forex are likely to grow in attraction as the exchange rate between hard currencies and local currencies continues to decline.

53. Where necessary, the foreign currency is subsequently converted to local currency through 'parallel' market outlets or bureaux de change.

54. Participants at the lower level of the poaching value chain have little say in the fee paid to them, as they do not have access to retail markets. They are also under pressure to pass on the commodities to intermediaries within the shortest possible time to avoid arrest. Payments at that level are disproportionate to the value that the products are known to command in the destination markets.

55. An estimate given in one interview was that at the local level, a rhino horn was sold for USD 7,000.00. It further came to light that the first level of intermediary, the sniper and the porters would also be paid from this amount.

56. In instances where fraudulently secured hunting licences were used, the applications were submitted by various landowners on behalf of the trafficking network. It is not clear how the applicants were paid for their role in defrauding the system.

57. The public officials that should have detected the abuse of the licensing system were probably bribed in order to overlook the fraudulent trophy hunts.

2.1 Trafficking of rhino horns and/or elephant tusks or parts of any other vulnerable wildlife

58. Many countries suggested that in most cases, the persons involved in the actual trafficking or trafficking of wildlife parts are not the same persons involved in the predicate offence of poaching the wildlife.

59. Some countries indicated that the poachers themselves need to usually dehorn and transport the horns out of the park or reserve to the next level in the organised criminal network. This therefore makes the poacher the first person to transport the horns or wildlife products. This is

usually the case with subsistence poachers and also some professional poachers.

60. Although not stated in the responses, investigative officers from the Protected Resources Division interviewed in Namibia indicated that there are always attempts by the smugglers or traffickers to distance themselves from the predicate offences as much as possible. Usually, there is a middleman between the poacher and the smuggler or trafficker. Below is a typical example of a case they investigated in 2014, in which the method of operation was structured in such a way that the poachers do not get to meet the smuggler of the rhino horns:

- a. A professional poacher (someone with a military back ground, said to be a former sniper) would shoot and kill the rhino;
- b. The poacher would then apply certain chemicals or poison onto the rhino carcass (in order to kill vultures should they come onto the carcass). This would prevent vultures from hovering above the carcass to attract unwanted attention;
- c. The poacher would then send GPS coordinates of the exact location of the animal carcass to someone in the chain whose duty is just to dehorn the carcass;
- d. The dehorning person would dehorn the carcass and move to hand over the horns to the next level, who in this case was found to be a business man, with various businesses;
- e. This business man (who runs businesses in Chinatown, a part of Windhoek flooded with Chinese businesses) would then sell the rhino horns to the smuggler or the person in the syndicate entrusted with moving the horns across the borders to its destination in Asia.

61. With this syndicate, the police generally said they have not yet established how the finances would flow from one person to another, as their findings at that stage did not reveal interactions between many of the parties involved. What stands out is that the person who does the actual poaching does not even know who will dehorn the carcass. In the end, the person dehorning the carcass will also not know the poacher and the person who eventually smuggles the horns out of the country. The business man who runs legitimate businesses in China town, at least does engage with the person from whom he buys the horns, and he further engages the smuggler to whom he sells the rhino horns.

62. Another member country provided the following summary of a case study on how the poaching activities and trafficking of harvested products is organised:

63. Business man X arranged groups of poachers and sent them out and provided them with firearms. Poachers brought the harvested horns to person X, who received the horns and he established a relationship with a buyer, referred to as Y, who took all the horns supplied by X. X transported horns to Y, who then gave X the money. X paid poaching groups. Y then arranged for horns to be exported. In this example, the poachers carrying out the predicate offence do not get to meet the person trafficking the horns. This creates a distance between the poachers and traffickers and therefore makes it difficult to get to the king pins. Furthermore, what was found was that this syndicate operated by trafficking or smuggling horns in various ways including:

- a. Placing horns in boxes – moved out with legitimate freight;
- b. Packing horns with personal luggage;
- c. Physically carrying horns in backpack across borders; and
- d. Drove through border posts – with horns in the boot or trunk of cars

64. All member countries agreed to the above as some ways in which protected wildlife products were smuggled out of the country.

65. Most member countries stated that LEAs such as customs authorities were often involved in assisting the smuggling activities for kickbacks. This was noted in an ongoing case of the *State v Mohamed Abdi Kadir* (Kenya). In this case, eleven accused individuals were alleged to have connived with customs authorities who signed off, indicating that a container had been loaded only with tea, when such had in fact also contained ivory. A few member countries went as far as saying that to facilitate wildlife trafficking activities, border crossing documents are compromised to facilitate the movement of cargo containing protected wildlife products such as rhino horns. In a few cases in South Africa, rangers who are entrusted with safeguarding wildlife were found to have killed, dehorned and transported the horns to the traffickers. It was said that by moving in government vehicles, they often were not subjected to searches. Other countries equally shared the notion that some police or investigating officers, who have access to the custody of confiscated wildlife products such as rhino horns were involved in trafficking such horns to smugglers, who would buy them from the LEAs.

2.1.1 Involvement of political office bearers

66. It was also noted that some diplomats were abusing their diplomatic status by using their diplomatic bags and vehicles to transport wildlife products. Of interest are the following cases noted by the study¹⁶:

- A high-ranking North Korean diplomat accused of abusing his diplomatic immunity and his embassy's diplomatic bag to smuggle rhino horn out of South Africa has been expelled from the country. The North Korean diplomat was arrested on May 3, 2015 in the Mozambican capital Maputo after 4.5kg of rhino horn and USD 99,300.00 in cash were found in a vehicle in which he was travelling in. The car had diplomatic licence plates and was registered to the North Korean embassy in Pretoria;
- In April 2008, a Port Elizabeth jeweller of Vietnamese origin was arrested in a police sting operation in Kimberley while trying to buy ten rhino horns from an undercover police operative. At the time of his arrest, he was driving a Vietnamese embassy car with diplomatic plates registered to a Vietnamese Political Counsellor;
- Later in 2008, the Vietnamese embassy's first secretary was secretly filmed receiving rhino horns from a dealer outside the embassy in Brooklyn, Pretoria;
- In 2006, police uncovered evidence that an economic attaché at the Vietnamese embassy in South Africa was using his diplomatic immunity and the embassy's diplomatic bag to smuggle rhino horn out of South Africa.

2.1.2 Indicators of organized crime involvement

67. The overall indication is that there are signs of organized criminal syndicates masterminding the poaching and trafficking activities. For significant trafficking of protected wildlife products to be occurring at the rate they do, member countries agreed that there are signs of organized crime activities. Amongst others, below are some of the noted indicators of organized crime involvement:

- a. Seemingly unreasonable movement or exchange of products from person to person;
- b. No clear indication of someone paying for a shipment of goods/transportation;
- c. No reasonable or logical link between a person who is receiving a certain benefit and the person paying for such a benefit (e.g. someone

¹⁶ The Timeslive report titled: North Korean diplomat kicked out of SA for smuggling rhino horn. Accessible at: <http://www.timeslive.co.za/scitech/2015/12/23/North-Korean-diplomat-kicked-out-of-SA-for-smuggling-rhino-horn>

- paying for the transport or accommodation and meals of a person who could be involved in poaching activities);
- d. Customs officials who appear to be living beyond their financial means;
 - e. A rise in the number of illegal shipments; and
 - f. Trucks that only prefer to cross the borders at certain times (e.g. when certain customs officials are on duty).

2.2 Methods of trafficking wildlife products

68. Based on a report by Tom Milliken (2014) of TRAFFIC, titled '*Illegal Trade in Ivory and Rhino Horn: An Assessment Report to Improve Law Enforcement Under the Wildlife TRAPS Project*', most rhino horn seizures were made at airports as opposed to land, ports and within mailed parcels. However, in the ESAAMLG region, for the same period, most seizures were made on land (at designated points of entry).

69. This study found that rhino horns were moved from the ESAAMLG region to APG member countries mostly by air because of their portability, while ivory was moved by sea through sea cargo. Air was the least used method for transporting ivory, especially unprocessed ivory, due to its size and the quantities trafficked. It should however be noted that member countries indicated that processed ivory is sometimes trafficked via air transport just like rhino horns. Annexure A of this report contains a list of some seizures in the APG member countries which shows methods used to traffic rhino horns and ivory.

70. At source countries, most airport inspection systems do not focus on trophies such as rhino horns and elephant tusks. At points of departure, airport systems are primarily focused on aviation security necessitating that they look for weapons and explosives and criminals could be aware of this loophole and taking their chances to use it. It is at the destination country where inspections for bio-materials are mostly conducted.

71. Road transport appears to be used when moving within a country or crossing borders between African countries. Road transport, given the findings of this study is only utilised until such time that the wildlife reaches the smuggler who has to move the wildlife to its destination in Asia. The table below, which was based on record of seizures in the APG region supports the view that air transport is the most used method.

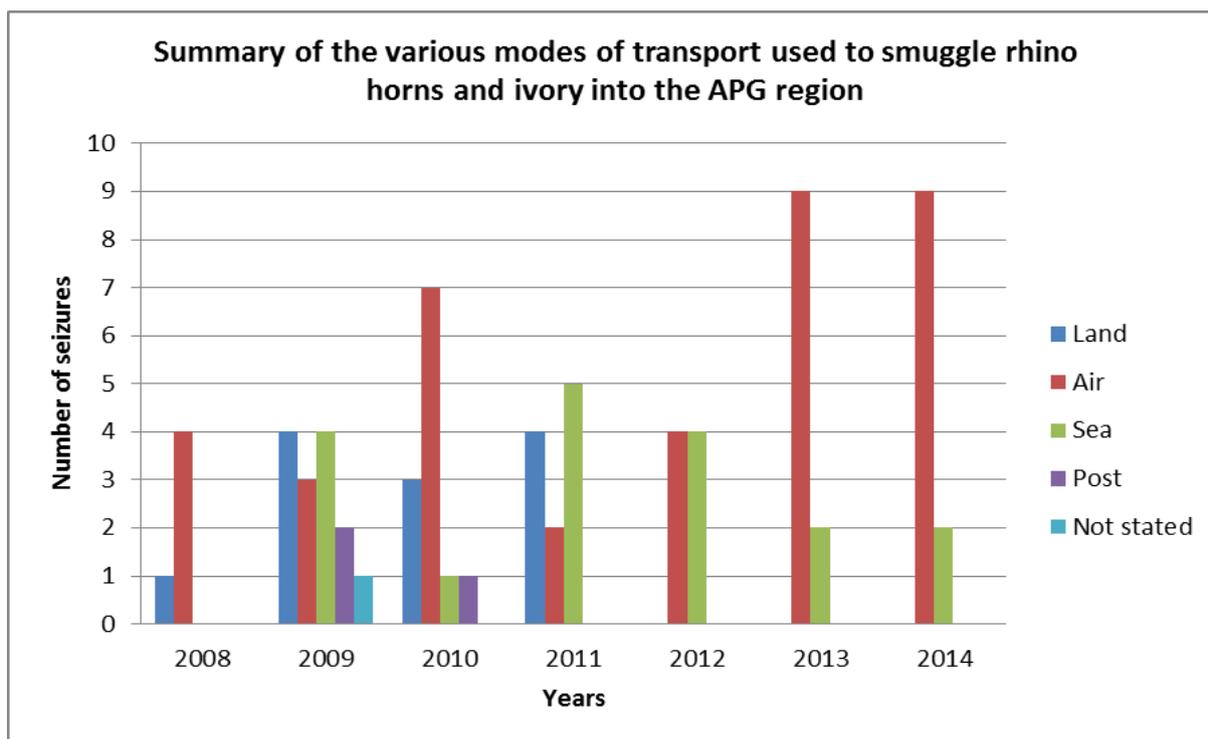


Table 15: Data obtained from various TRAFFIC reports and compiled by ESAAMLG. Based on number of seizures by LEAs in the APG region

72. Despite air transport being commonly used, the biggest seizures of contraband from the ESAAMLG region have occurred at sea ports, indicating that maritime traffic accounts for the largest volumes of seized wildlife products. Research since 2009 indicated and depicted in table 7 below that nearly two-thirds of the large ivory seizures by number, and three-quarters by weight, have transpired as containerized shipping through seaports.

| Year | Air | | Sea | | Land | | Total | |
|--------------|-------------|---------------|-------------|----------------|-------------|---------------|-----------|----------------|
| | Number | Weight | Number | Weight | Number | Weight | Number | Weight |
| 2009 | 3 | 2,364 | 7 | 15,915 | 3 | 3,898 | 13 | 22,177 |
| 2010 | 4 | 6,390 | 6 | 8,035 | 1 | 616 | 11 | 15,041 |
| 2011 | 3 | 3,808 | 16 | 27,939 | 2 | 3,084 | 21 | 34,831 |
| 2012 | 1 | 601 | 9 | 17,683 | 3 | 6565 | 13 | 24,849 |
| 2013 | 1 | 797 | 11 | 31,069 | 6 | 9,808 | 18 | 41,674 |
| Total | 12 | 13,960 | 49 | 100,641 | 15 | 23,971 | 76 | 138,572 |
| % | 0.16 | 0.10 | 0.64 | 0.73 | 0.20 | 0.17 | | |

Table 16: Record of rhino horn and ivory seizures. Source: www.amlsi.com

73. Three-quarters of all rhino horn seizures have occurred in the field (i.e. protected areas, game ranches or surrounding areas) in association with a rhino poaching incident or during the course of subsequent investigative or law enforcement action before the horns are exported abroad.

74. Airports rank second (22%) in terms of seizure location prominence, with most seizures occurring as couriers are attempting to move rhino horns regionally within Africa or internationally to predominantly Asian destinations. Seaports are rarely used as conduits for moving rhino horn unless they are part of an illegal ivory consignment. For transit and destination countries in Asia, the detection of rhino horn most typically occurs at airports (62%), with detail between 2009 and March 2014 shown below:

| Country | Land | Air | Sea | Mail | Total | Country | Land | Air | Sea | Mail | Total |
|--------------------------------------|-----------|-----------|----------|----------|-----------|-------------------------|----------|----------|----------|----------|-----------|
| Rhino range states | | | | | | Non-range states | | | | | |
| India | 7 | | | | 7 | Belgium | 1 | | | | 1 |
| Kenya | 1 | 3 | 1 | | 5 | Czech Republic | 1 | 2 | | | 3 |
| Mozambique | 2 | 2 | 1 | | 5 | Germany | 1 | | | | 1 |
| Namiba | | 1 | | | 1 | Ireland | | 1 | | | 1 |
| South Africa | 42 | 11 | | | 53 | Netherlands | 1 | | | | 1 |
| Zambia | 1 | | | | 1 | Slovakia | | 1 | | | 1 |
| Zimbabwe | 5 | | | | 5 | United Kingdom | | 1 | | | 1 |
| Subtotal | 58 | 17 | 2 | 0 | 77 | United States | 1 | | | | 1 |
| | | | | | | Sub-total | 5 | 5 | 0 | 0 | 10 |
| Asian transit/consumer points | | | | | | Grand total | | | | | |
| China | 14 | 17 | | 1 | 32 | | 86 | 60 | 5 | 1 | 148 |
| Hong Kong | | 2 | 2 | | 4 | | | | | | |
| Philippines | | | 1 | | 1 | | | | | | |
| Singapore | | 1 | | | 1 | | | | | | |
| Thailand | | 7 | | | 7 | | | | | | |
| Vietnam | 5 | 11 | | | 16 | | | | | | |
| Subtotal | 19 | 38 | 3 | 1 | 61 | | | | | | |

Table 17: Seizure location prominence. Source: www.amlsi.com

75. In general, the focus of inspection in most countries is directed at import trade and surveillance of export traffic is comparatively ignored.

76. From the table above, it is worth noting the airports of interest listed below:

- Thailand and Singapore;
- Hubs between Africa and Vietnam;
- Direct flights from South Africa, Kenya and Ethiopia;

- Indirect flights from Dubai, Abu Dhabi or Doha;
- Direct flights from South Africa, Kenya and Ethiopia to China (particularly Beijing, Guangzhou);
- Vietnam and China continue to make rhino horn seizures at their major airports, but only China appears to be targeting particular airlines;
- Airlines at these airports include Kenya, Ethiopian , Emirates, Etihad and Qatar;
- Hong Kong and Philippines have also made rhino horn seizures in the context of large-scale ivory seizures but for the most part, the transport of high-value, low weight rhino horns to Asia is done using air travel.
- 2000 to 2012 South Africa's O.R. Tambo International Airport, was a significant trade route;
- More recently, Mozambique is a growing shipment point.

2.2.1 Methods used to smuggle rhino horns and ivory through control points

77. APG member countries could not indicate various methods used to smuggle rhino horns and ivory for each case the LEAs intercepted and seized such wildlife products. The study summarised related data obtained from various TRAFFIC reports and the table below shows some of the various methods used to conceal rhino horns and ivory:

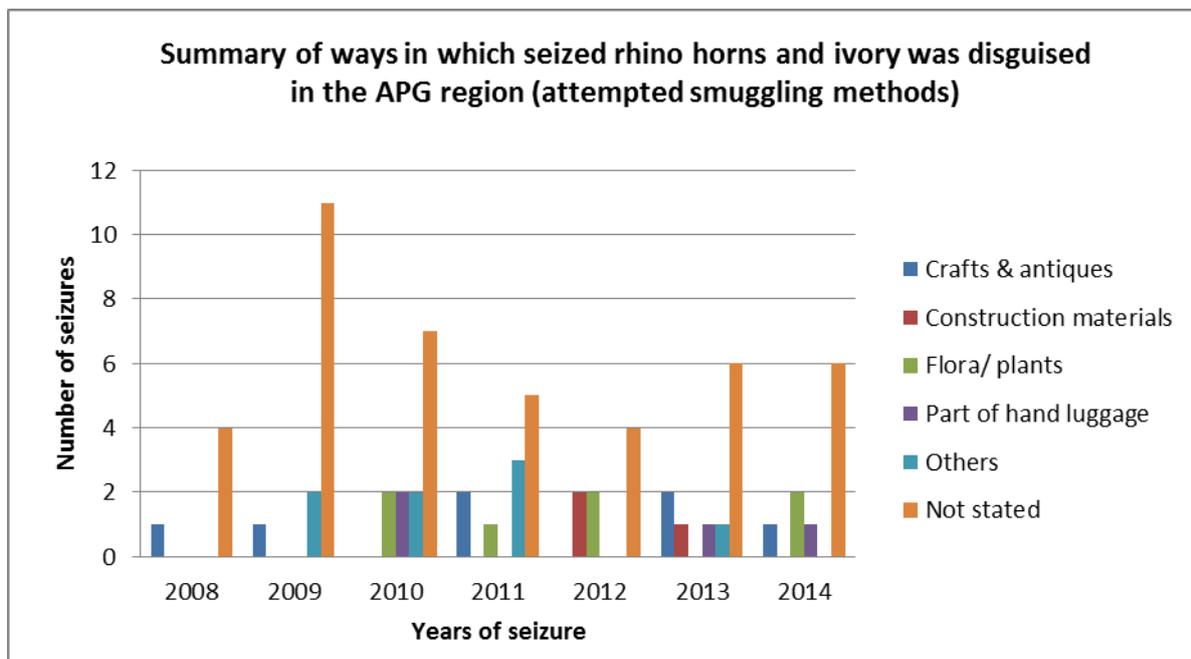


Table 18: Number of seizures by LEAs in the APG region. Data obtained from various TRAFFIC reports and compiled by ESAAMLG.

CHAPTER III – UNDERSTANDING THE DEMAND SIDE OF WILDLIFE AND WILDLIFE PRODUCTS (APG MEMBER COUNTRIES)

3 Legal basis for importing wildlife and wildlife products to the Asia Pacific region

78. In summary, all responding APG member countries principally agree that to legally import wildlife and wildlife products into their jurisdiction, it should be for a legal purpose, which amongst others could be for:

- a. Increase quality and genetic variety in local wildlife;
- b. Develop science and technology or for scientific purposes;
- c. Overcome the shortage of animal seeds, breeding stock and/or superior breed of cattle and poultry; and/or
- d. Research and development purposes.

79. In order for an entity, or any party in the APG member countries to legally import such wildlife or wildlife products, such concerned party need to be licensed by the relevant authorities after satisfying certain requirements, which amongst others include registration as an importer or exporter, obtaining import approval or permit, certificate of health, etc. All these are controls aimed at ensuring that smuggling of protected wildlife species and their products is minimized.

80. All ESAAMLG member countries, as per this study indicated that wildlife and wildlife products from the region is suspected to be smuggled to Asian countries. Most of the ivory smuggled to the U.S.A, which is said to be the second largest consumer of ivory, appears to be harvested from West African countries. This section presents findings on various methods and grounds on which wildlife and wildlife products from the ESAAMLG region end up in Asian countries. Section 4.7 of this report provides an overview on rhino horn and ivory consumption in the U.S.A.

81. Responses to questionnaires were received from seven APG member countries, being: Sri Lanka, Indonesia, Japan, Macao-China, Vietnam, Australia and the Philippines. Together with consideration of data sourced from TRAFFIC, the study compiled the table below showing a summary of locations of rhino horn and ivory seizures. The notable trend is that most seizures are occurring in China, Vietnam, Thailand and Hong Kong.

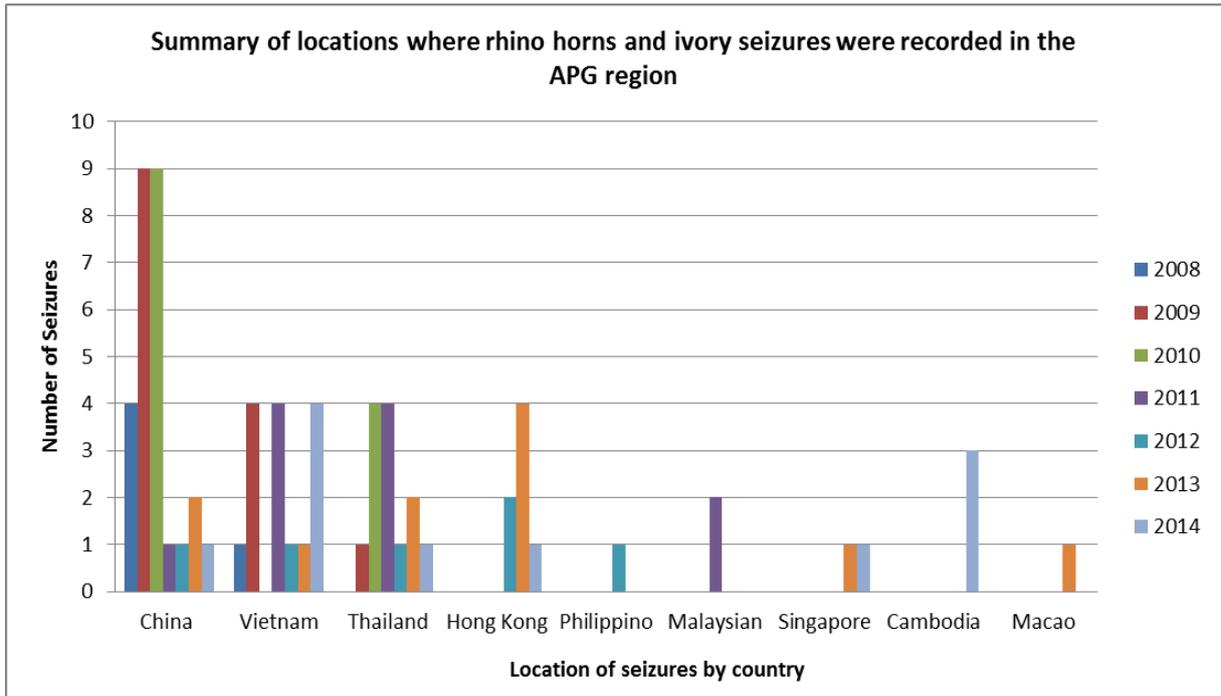


Table 19: Data on location of seizures sourced from various TAFFIC reports and compiled by ESAAMLG

82. With the table above showing that most seizures occurred in China, Vietnam, Thailand and Hong Kong, the table below shows that nationalities from these countries were the most arrested for either smuggling or/and illegal trading in rhino horns and ivory.

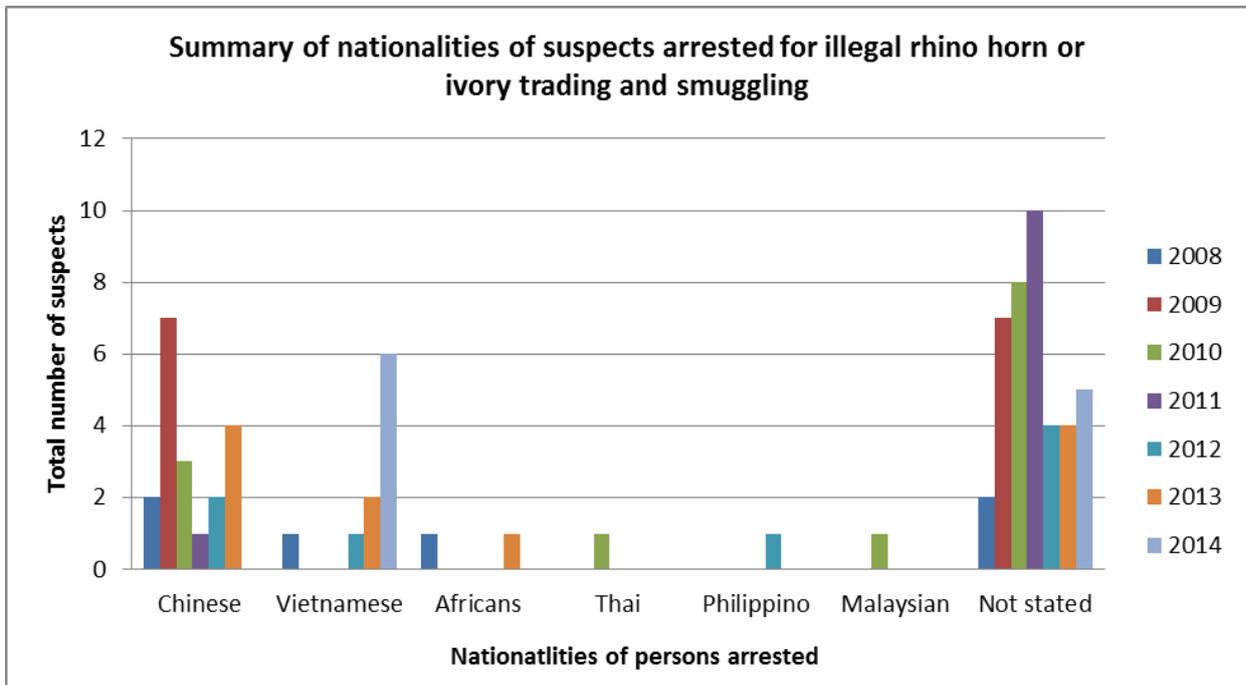


Table 20: Summary of involved nationalities based on seizure reports in the APG region. Source: Data was sourced from various TAFFIC reports on seizures and compiled by ESAAMLG

3.1 Organisational arrangements underpinning poaching and the illegal trade in wildlife and wildlife products

83. The study found that in most cases, those involved in the demand side take over from the second level intermediaries responsible for the containerisation of commodities. They are ‘brokers’ rather than wholesalers or retailers, in turn connected to broader markets in the consuming territories. They probably initiate the larger poaching assignments, using quantities demanded by their clients or by the market in general. A report by the Elephant Action League (2012) suggests that some of the brokers operate from locations in the Middle East, such as Dubai or Qatar. Apart from placing orders for ivory and rhino horn, the brokers set the price to be expected by the 2nd level intermediary, a price that will affect prices in the lower sections of the transaction chain. The offshore broker generally carries the cost of shipment of the consignment, unless there is an agreement to the contrary or the parties are in a partnership.

84. On the demand side, the trade is dominated by wholesale and retail business. Substantial logistics, funds, influence and numerous contacts are required to move contraband across vast distances and borders without being detected and/or intercepted in transit or at the destinations (Milliken 2012). Where substantial risk is perceived to exist, it is managed by the use of corruption.

85. Vietnam has been implicated by the Environmental Investigation Agency (2013), as the largest market for rhino horn trafficked from South Africa. Milliken (2012) notes that while there is extensive research into the supply side of the rhino horn trade, there is little empirical data on the actors involved on the demand side in Vietnam.

86. According to TRAFFIC’s Tom Milliken (2014), illegal ivory has been detected at seaports as a result of:

- Acting upon crime intelligence (25%);
- Routine inspections (13%);
- Risk assessment through targeting (11%);
- Investigations (7%);
- X-rays (4%); and
- Sniffer dogs (1%).

3.2 Criminalizing wildlife trafficking offences

87. The study found that trafficking of illegal wildlife and wildlife products has been criminalised by all respondent countries. This includes

smuggling, trafficking and dealing in protected wildlife and wildlife products such as rhino horns and elephant tusks (ivory) which are classified by the majority of respondent countries as criminal. Therefore, lawful CITES¹⁷ permits or certificates which are issued in rare circumstances must be acquired so as to engage in the trade or importing and exporting of wildlife and wildlife products legally. It should however be noted that a few jurisdictions in the APG member countries have failed to criminalise the smuggling and trafficking of wildlife and wildlife products (including rhino horns and elephant tusks) sourced from other countries as the said wildlife and wildlife products are not protected by local laws. These laws only protect wildlife and wildlife products from within their jurisdictions.

88. Proceeds coming out of smuggling and trafficking of wildlife and wildlife products have been criminalised in most APG member states with adequate laws and statutes that have been developed and implemented to classify the said proceeds as laundered funds. It should be noted that all countries have cited the important role played by CITES in modelling laws that are aimed at fighting and criminalising the smuggling and trafficking of wildlife and wildlife products. Interestingly however is the realization that Macao-China and Japan are the only states from the respondents engaged that have not criminalised the laundering of proceeds emanating from activities related to and linked to smuggling and trafficking of illegal wildlife and wildlife products. It should also be noted that the responded countries that have criminalised the smuggling and trafficking of illegal wildlife and wildlife products such as rhino horns and elephant tusks have done so to cover all forms of the products emanating from them.

89. The APG respondent countries that have criminalised the smuggling and trafficking of illegal wildlife and wildlife products have further provided for penalties and fines. The immediate observation is that some penalties seem harsher than those observed by the study in some ESAAMLG member countries. For example, not many ESAAMLG member countries have prescribed life imprisonment and the death penalty as penalties for wildlife crimes. The following are the types of penalties and fines that cut across the APG respondent countries:

- a. Forfeiture of wildlife and wildlife products;
- b. Imprisonment of a maximum term of one year;
- c. Imprisonment of between two to four years and a fine;
- d. Non-custodial reform sentences;
- e. Termed imprisonment, life imprisonment, death penalty;

¹⁷ Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

- f. Confiscation of part or all assets, ban from holding certain positions in government or society or practicing certain occupations or doing certain jobs from one to five years.

90. Criminalisation of illegal activities related to illegal trade of wildlife and wildlife products has been extended to supporting and financing of poaching of rhinos and elephants in the majority of the APG respondent jurisdictions. In light of the foregoing, respondent countries have been unable to identify methods used by persons or organized criminal syndicates to channel funds or support to poachers in Africa. Reasons for failure to identify such methods are unknown. In addition to the above, respondent countries have endeavoured to put in place mechanisms to combat persons or organized criminal syndicates from channelling funds and support to rhino and elephant poachers in Africa by seeking to understand organised wildlife crime in other jurisdictions, undertaking intelligence projects and cooperation between APG member countries and also through the participation and cooperation of member countries' immigration authorities. It goes without saying that the laws that have been put in place by member countries have also been considered to be mechanisms that will assist in the fight against organised crimes that are targeted towards wildlife and wildlife products.

3.3 Mechanisms to reduce risk of wildlife product trafficking

91. The respondent countries from the APG indicated that they all had mechanisms in place to help detect illegally acquired/imported rhino horns and elephant tusks. In summary the measures used by the APG member countries primarily include:

- a. strict controls and monitoring at borders;
- b. the use of scanners at seaports and airports;
- c. patrols, inspections and random searches on all cargo (some searches are done on targeted cargo);
- d. It was also indicated that some jurisdictions have special traffic monitoring units created to simply monitor the trafficking or movements of cargo.

92. It is worth noting that in the few cases provided by responding APG member countries in which wildlife products were detected and seized, the mode of transport used to traffic the wildlife was shipments via the sea. The products were usually smuggled along with cargo.

3.4 What happens to confiscated illegal wildlife products in the APG Region?

93. The study found that when illegal wildlife products are seized, they are destroyed, confiscated or returned to country of origin (this is a provision in most laws of the concerned APG jurisdictions). In spite of this, no cases were cited by responding APG member countries in which seized wildlife products were returned to the ESAAMLG member country of origin. This would have helped in carrying out further investigations and possible DNA tests in the country of origin.

94. In the specific cases cited by respondents in the APG on rhino horns and elephant tusks seizure, for this study, the confiscated wildlife products were destroyed by the state. The following are examples worth noting:

- a. In the Philippines, where the government on 21 June 2013, destroyed about 4,212 kilograms of illegal ivory that authorities confiscated for the period 1995 to 2009. This was said to have been done in compliance with certain CITES requirements;
- b. In 2012, the Philippines authorities seized rhino horns. The Philippines indicated that there was no way of identifying the country of origin, although it is believed to be from Africa. This cargo was shipped via sea. It totalled 13.2kg and estimated at USD 133.00 per gram. The monetary value of this seizure amounted to USD 1,755,600.00. This too was destroyed;
- c. In Macao-China:
 - i. In 2012, pieces of semi-finished ivory, weighing 5.45kg, were traced back to Swaziland as the place of origin but same was destroyed;
 - ii. In 2013, 583 pieces of semi-finished ivory, weighing 33.9kg, were traced back to South Africa as the place of origin but same was destroyed;

95. The study also found that in some cases, the confiscated wildlife products were used as specimens for scientific experiments or put in museums.

CHAPTER IV – UNDERLYING REASONS FOR ILLEGAL TRADE IN WILDLIFE, RHINO HORNS AND ELEPHANT TUSKS

4.1 Underlying reasons for poaching and wildlife trafficking activities

96. There were indications that poaching and wildlife trafficking activities were fuelled by poverty and international demand. As far as poverty is concerned, locals in ESAAMLG member countries are coerced into poaching to earn an income. As for international demand, case studies herein show that wildlife and wildlife products are traded and used, predominantly in the Far East for the following:

- a. As collectibles;
- b. Religious icons;
- c. Traditional medicinal purposes,
- d. To make trinkets;
- e. To make decorative items;
- f. Research;
- g. To increase quality and genetic variety of wildlife; and
- h. As pets and for exhibition at shows (circus)

97. With regards to businesses or persons who were found in illegal possession of rhino horns, elephant tusks or any part of vulnerable wildlife, the majority of the countries failed to provide information that is meant to identify or define the relevant trophies or those involved. For instance, they could not provide information pertaining to the description of persons or businesses involved in the illegal trafficking, their background, the nature or description of wildlife parts they were in possession of, the intended use of the illegal wildlife products acquired and the role played by the initial suppliers of the illegally acquired wildlife products.

98. In terms of other factors that make wildlife crimes lucrative, APG member countries primarily cited the following:

- a. lack of resources (both financial and human) leading to poor monitoring and enforcement of control measures at exit and entry points;
- b. weak controls in national laws; and
- c. a growing urban population (a growing population means a growing demand for consumables which includes wildlife products).

4.2 Indications of the retail prices of rhino horns and ivory

99. It is understood that the selling price of rhino horns and ivory in consumer markets is lucrative for the seller. Although countries in the APG

region could not provide estimations of selling prices when so requested by this study, the study found that there are varying prices for rhino horns and ivory, depending on various factors. The origin of ivory was said to be one such factor. In the case of the rhino, the rhino horn originating from Asia is considered more valuable than that from Africa in view of the herbal plants and fauna that it consumes that are thought to have medicinal elements in Asia. With regards to the elephant, similar distinctions are made between the Asian and African elephant. Further indications are that the price of worked ivory but non-curved is three times higher than that of raw ivory. Depending on the expected finished products, transforming raw ivory into worked ivory products requires basic machine cutting and polishing.

4.2.1 Estimated ivory retail price

100. It was also noted that ivory is also traded online, on a platform called *Wechat*, which is used to purchase ivory and rhino products online in China. The table below shows monitored prices for different types of ivory products on *WeChat*:

| | Average Price (USD/kg) | Standard Deviation (USD/kg) | Sample Size | Average Price from Traffic's Physical Market Surveys from 2012 to 2014 (USD/kg) |
|------------------------------|------------------------|-----------------------------|-------------|---|
| Raw Ivory | 1400 | +/-0.33 | n=7 | 0 |
| Semi-worked Ivory | 1,100 | +/-0.5 | n=23 | 0 |
| Worked Ivory without Carving | 4,900 | +/-1.5 | n=18 | 6.4 |
| Worked Ivory with Carving | 4,500 | +/-1.2 | n=29 | 5.8 |

Table 21: Prices for various ivory products on WeChat (Exchange rate 1.00 USD= 6.57504 CNY)

4.2.2 Estimated rhino horn retail prices

101. Varying reports cited different retail prices on the black market. According to a report by the Deutsche Welle (DW)¹⁸, one kilogram of rhino horn can go for more than 50,000 euros on the black market. On the other hand, one kilogram of gold, in comparison, costs around 31,000 euros. It is also estimated that USD 60,000.00 is the per-kilogram worth of rhino horn on the black market, according to a report by US-based strategy and policy advisory firm Dalberg¹⁹. These sizeable sums make it a commodity that's

¹⁸ A report titled: Worldwide rhino horn trade continues unabated. Accessible at: <http://www.dw.com/en/worldwide-rhino-horn-trade-continues-unabated/a-17798289>

¹⁹ Report titled: Fighting illicit wildlife trafficking - A consultation with governments conducted by Dalberg. Accessible at: http://www.dalberg.com/documents/WWF_Wildlife_Trafficking.pdf

much more lucrative than gold and platinum – and more valuable on the black market than diamonds and cocaine. The price tag is even more shocking when you consider its rapid upsurge in recent years: in 2006, the value stood at around USD 760.00. The same Dalberg report puts the total value of illicit wildlife trafficking (excluding fisheries and timber) as between USD 7.8 billion and USD 10 billion per year.

4.3 Retail market for rhino horns and ivory products

102. The study found that rhino horn and ivory are legally traded in China and the U.S.A provided that it pre-dates CITES protocols. This is one source of funds which could be used to finance wildlife crimes and illicit activities.

103. According to a WildAid report²⁰, experts say that as much as 70% of illegal ivory goes to China²¹. The report further states that in 2011, the International Fund for Animal Welfare (IFAW) discovered widespread abuse of regulations in 158 ivory retail shops and carving factories in China. Their investigation found only 57 retailers and factories possessed ivory trade licenses and even those businesses ran illegal operations. Among licensed facilities, 59.6% laundered illegal ivory in some way. One factory owner complained that the 120kg annual government ration of ivory would last only two months and smuggled ivory was necessary to keep the factory profitable. ‘A Chinese factory owner admitted that the 330 pounds of legal ivory he acquires annually lasts just one month’; the rest is bought on the black market²². Unlicensed and non-compliant ivory facilities outnumbered legal ones—nearly six to one. For consumers, legal ivory can be indistinguishable from “new” ivory smuggled in from Africa. The report found that most retailers did not have identification cards matching the ivory products, and staff in 14 licensed shops discouraged customers from taking the cards so they could be used to represent numerous illegal ivory items.

104. The perception and attitude of consumers of ivory contributes to the demand. The same WildAid report (citing survey outcomes) found the following as worrying trends amongst ivory consumers:

²⁰ A report titled: Ivory Demand in China: 2012 - 2014

Accessible at: http://wildaid.org/sites/default/files/resources/Print_Ivory%20Report_Final_v3.pdf

²¹ Gettleman, Jeffrey. “Elephants Dying in Epic Frenzy as Ivory Fuels Wars and Profits.” The New York Times, 2012.

²² Levin, Dan. “The Price of Ivory: From Elephants’ Mouths, an Illicit Trail to China.” The New York Times, 2013.

- A survey conducted in China in 2012 and 2014, respectively, indicated that 49.4% and 46.3% of Chinese respondents believed that rhino horn could be purchased legally from official stores in Africa;
- In 2014, 49% of respondents could not distinguish between legal and illegal ivory. In a similar finding titled '*Rhino Horn Demand 2012 – 2014*', cited by this report, it was stated that 46.3% of the respondents believed that rhino horns could be legally purchased from official stores in Africa.

105. There is therefore a possibility that people could buy illegal ivory under the belief that its source was legitimate. This belief is reinforced by an argument (observed by ESAAMLG project team members) raised by an APG delegate during the APG Typologies meeting in Kathmandu, Nepal in November 2015, to the effect that rhino horns and elephant tusks are legally sold in the open market in Africa. Also worth noting is the observation during the FATF/APG Joint Experts Typologies Meeting in Bangkok, 2014, where one of the presenters indicated that a growing middle class in China was said to be driving the demand for rhino and elephant products such as trophies, jewellery, sword handles, etc. The presenter further indicated that owning such expensive items was mainly seen as a status symbol.

106. Online trading of wildlife products is carried out using code words to identify the illegal commodities. This is according to a TRAFFIC report titled: '*Tracking online sales of illegal wildlife products in China*'²³, produced after an eight month survey of selected Chinese language websites in mainland China, Taiwan and Hong Kong. The survey revealed a trade in endangered species products including ivory and rhino horn products. Of the monitored products, ivory was the most frequently advertised, generally comprising over half of the new advertisements posted each month.

107. Based on the available information from cited reports, the majority of the cases reported indicate that the persons involved were only charged for the offences of trafficking ivory and rhino horn/products. This is an indication that emphasis is placed on the predicate offence thus overlooking the aspect of money laundering. This has created challenges in understanding the flow of funds that fuel wildlife crime activities in both the ESAAMLG and APG regions.

²³ A TRAFFIC report titled: Moving targets: Tracking online sales of illegal wildlife products in China. Accessible at: <http://static1.1.sqspcdn.com/static/f/157301/26245505/1432122394320/China-monitoring-report.pdf?token=srQwQqczv0kqpDIHrZUnzbuidr0%3D>

108. Going forward, it would be prudent that parallel financial or concurrent money laundering investigations are conducted from the onset of each wildlife crime case in the ESAAMLG and APG regions.

4.4 Summary of prosecutions and convictions for wildlife crime offences

109. According to a report by TRAFFIC, “*Illegal Trade in Ivory and Rhino Horn: An Assessment Report to Improve Law Enforcement under the Wildlife TRAPS Project*” (2014)²⁴, only nine of the seventy six (76) cases reported to CITES Elephant Trade Information System (ETIS) since 2009 indicated that suspects had been arrested. This accounted for only 12% of the cases. This study summarised data, obtained from various TRAFFIC reports, on the status of prosecutions of wildlife crime cases that stemmed from arrests for smuggling and trading in ivory and rhino horns. The table below indicates the low conviction rate in the APG region for these crimes:

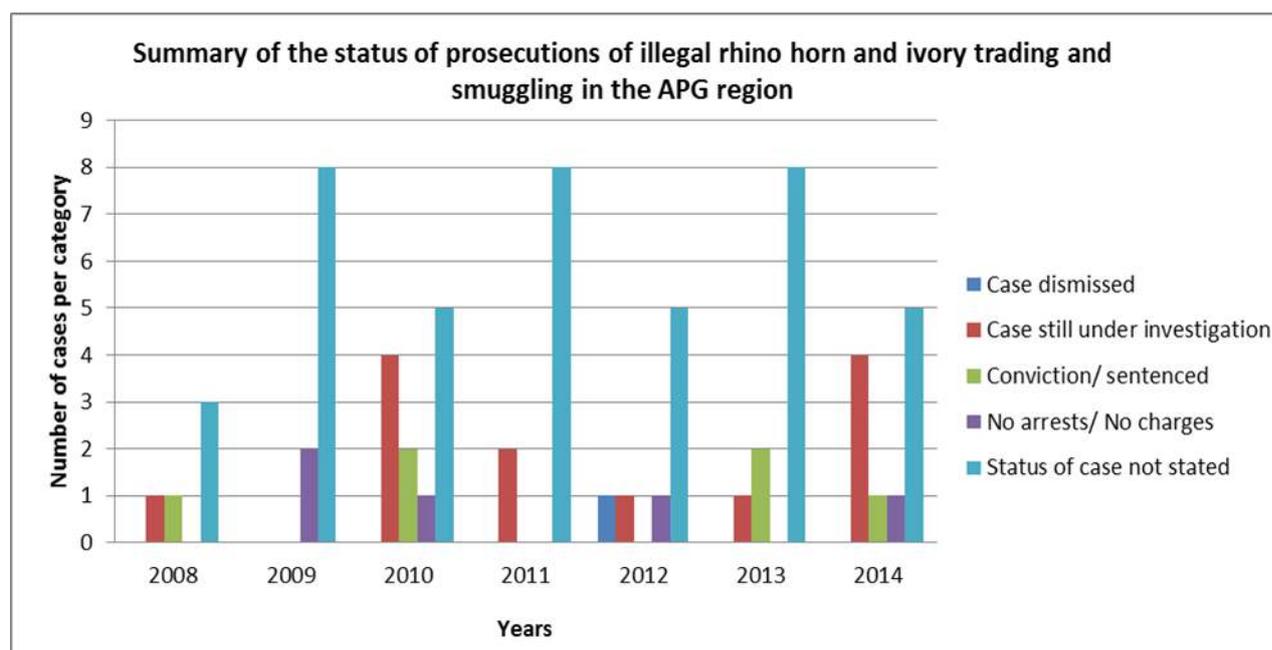


Table 22: Summary of the status of wildlife crime prosecutions. Data obtained from various TRAFFIC reports and compiled by ESAAMLG

²⁴ A TRAFFIC Report titled: *Illegal trade in ivory and rhino horn: an assessment to improve law enforcement under the wildlife traps project* by Tom Milliken. Accessible at: <http://static1.1.sqspcdn.com/static/f/157301/25542141/1413203999027/W-TRAPS-Elephant-Rhino-report.pdf?token=VZQaMyEd8i030d11SDNY3NKX%2Bki%3D>

4.5 Linking local wildlife crime activities to the demand in Asian countries

110. Data obtained from some ESAAMLG member countries, as presented in the table below, supports the view that illegal wildlife and wildlife products from the region are mainly destined to the APG member countries:

| Year | Types of Wildlife Products | | Residence of suspects | Intended Destination of Wildlife Products | Year | Types of Wildlife Products | | Residence of suspects | Intended Destination of Wildlife Products |
|------|----------------------------|----------------------------|-----------------------|---|------|----------------------------|--|-----------------------|---|
| | Qty | Nature of Wildlife Product | | | | Qty | Nature of Wildlife Product | | |
| 2013 | 52 | Carved ivory | Zimbabwe | Mozambique-Beira | 2013 | 6.2 Kgs | Rhino horn; | Vietnamese | Vietnam |
| 2013 | 24 | Carved ivory | China | China | 2013 | 2.6 Kgs | Ivory bracelets | Vietnamese | Vietnam |
| 2013 | 25 | Pangolin Scales | China | China | 2013 | 600 grams | Lion's nails and teeth | Vietnamese | Vietnam |
| 2013 | 18 | Seahorse Pieces | China | China | 2013 | 33.2Kgs | 267 pieces of ivory bracelets | Vietnamese | Vietnam |
| 2013 | 3Kg | Carved ivory | Chinese | China | 2013 | 6.3 Kgs | 109 pieces of bracelets' ivory | Chinese | China |
| 2013 | 12 | Chopsticks | Chinese | China | 2013 | 24.6Kgs | 120 pieces of carved ivory and raw elephant ivory | Vietnamese | Vietnam |
| 2013 | 2 | Necklaces of Ivory | Chinese | China | 2013 | 4.8Kgs | 11 pieces of rhino horn | Vietnamese | Vietnam |
| 2013 | 2 | Pieces of Hippo teeth; | Chinese | China | 2013 | 24.7Kgs | One piece of raw ivory | Unknown | Unknown |
| 2013 | 38 | Assortment of Jewellery | Chinese | China | 2013 | 44Kgs | Rhino horn (8kgs); carved ivory and nail and teeth of lion | Vietnamese | Vietnam |
| 2013 | 1 | Piece of turtle shell | Chinese | China | 2013 | 8Kgs | Carved ivory | Vietnamese | Vietnam |
| 2013 | 2 | Pieces of row ivory | Chinese | China | 2013 | 56 | Carved ivory | Thailand | Thailand |
| 2013 | 5 | Bracelets of Ivory | Vietnamese | Vietnam | 2012 | 1000 Kgs | Abalone | Chinese | China |
| 2013 | 200 grams | Rhino horn; | Vietnamese | Vietnam | 2012 | 7 | Rhino Horns | Vietnamese | Vietnam |
| 2013 | 9 | Bracelets | Vietnamese | Vietnam | 2012 | 130 | ivory | Korean | South Korea |
| 2013 | 1 | Necklace of ivory; | Vietnamese | Vietnam | 2012 | 1 | Skin of leopard | British | Great Britain |
| 2013 | 32 | Bracelets of Elephant tail | Vietnamese | Vietnam | 2012 | 1 | Boa snake | British | Great Britain |
| 2013 | 16Kg | Rhino horn = 9 pieces | Cambodian | China | 2012 | 2 | Shells of Sea turtles | British | Great Britain |
| 2013 | 17.3Kgs | Rhino horn = 6 pices | Vietnamese | Vietnam | 2012 | 30 | Carved ivory | Chinese | China |
| 2013 | 600grams | 5 pieces Rhino horn | Vietnamese | Vietnam | 2012 | 6 | Rhino Horn | Vietnamise | Vietname |

Table 23: Indication of wildlife products involved per case, nationality of suspects and attempted smuggling destination

111. In addition to the above, the study summarised data on the origin of rhino horns and ivory seized in the APG region in the table below:

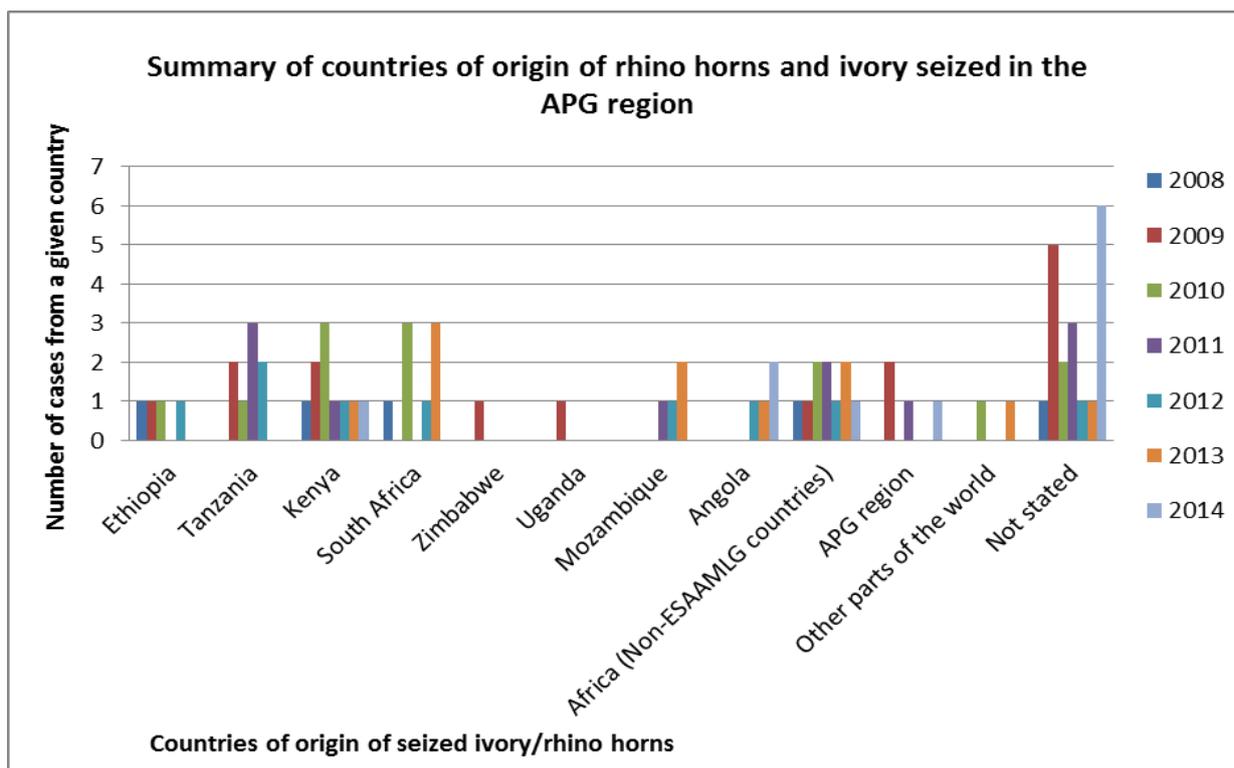


Table 24: Summary of origin of rhino horns and ivory seized in the APG region. Data obtained from various TRAFFIC reports and compiled by ESAAMLG

4.6 Terrorist Financing (TF) activities relating to wildlife crimes

112. The study could not find indications linking proceeds from wildlife crimes to TF activities in the APG region.

113. ESAAMLG member countries also did not provide any indications of incidences, cases, activities or reports that link proceeds from wildlife crimes to TF activities in or outside the region. Countries were either not aware of, or had no reports of such cases. Similarly, countries could not provide information on the threat rating for TF activities emanating from wildlife crimes in their jurisdictions.

114. Much of the concern on links to terrorism financing is centred on East African countries such as Kenya. While no links were established during interviews held in Kenya, there is significant speculation and in agreement with this sentiment, Vira and Ewing (2014: 3) argue that:

“At the most macro level, the ivory trade is essentially a large-scale illicit resource transfer from Africa to Asia; on the ground, however, ivory is bush currency for militants, militias, and terrorists, and one of the most valuable pieces of illicit contraband for organized criminals and corrupt elites.”

115. Kenya is the only country that rated the risk of terrorist activities being funded by proceeds from wildlife crimes as 'high'. This was based on the high rate of wildlife crimes in the country, inadequacies in combative efforts and their own suspicion that proceeds from wildlife crimes could easily find their way to terrorist groups or sympathisers.

116. In addition to the above, Kenya indicated in the questionnaire that the Tsavo National Park (in Kenya), which holds the largest elephant population and is very close to Somalia. Possibly supporting the belief that the poaching activities in that area could be supporting Al Shabaab terror activities. Furthermore, with the fall of Kismayo port in 2013, there was an increase in poaching activities in this park, this is perhaps a pointer to the possibility of Al Shabaab elements being involved. It is worth noting that at the time this position was indicated by Kenya there was no case or incidence clearly showing the link of wildlife crimes to TF.

117. One contested report suggests a strong link, involvement and supervision of trafficking by a terrorist outfit (Elephant Action League, 2012). The report asserts that Al Shabaab's ivory brokers place orders for and buy ivory from suppliers (also brokers) that are based in Kenya. The former, who have acquired a reputation for paying good prices timeously, meet with and receive consignments at the border with Somalia and then transport the ivory to the coast, where they arrange for it to be loaded on to ships for onward transfer to consumer markets in Asia. The report estimates the value of the trade to Al Shabaab to be in the region of USD 200,000.00 to USD 600,000.00 a month, which significantly contributes to the costs of maintaining an armed group of around 5,000 fighters. The Elephant Action League (2012) also suggests that Al Shabaab plays a role in setting the prices for ivory on the global markets.

118. The Elephant Action League (2012) report is the only sole attempt to substantiate the allegation of terrorist financing derived from illicit trafficking in the region. However, as interviews with key informants revealed, the investigation by the League relied on one source and has been strongly questioned by other researchers such as Maguire and Haenlein (2015).

119. As for measures that the jurisdictions have in place to freeze without delay the funds or other assets, and to ensure that no funds or other assets are made available, directly or indirectly, to or for the benefit of any person or entity sanctioned by the United Nations or blacklisted by the jurisdiction, six countries indicated that their legislations have provisions to freeze

without delay the funds or other assets derived from the crimes. However, no country reported imposing such measures yet.

4.7 The demand for ivory and rhino horns in the United States of America

120. The United States (U.S) government banned the import and export of African ivory, but it is still legal to sell ivory that came into the country before 1989. This study found that ivory is still available for sale in luxury shops and, increasingly, over the internet.

121. According to a report by the Guardian titled²⁵: *'Blood ivory' worth USD 10 billion to be crushed by US officials'*, on 14 November 2013, the U.S government destroyed about 5.4 tons of ivory products, which was accumulated over 25 years. This took place at a government repository in Denver. The ivory was estimated at USD 10 billion. The ivory consisted of items seized from smugglers, traders and tourists at US ports of entry after a global ban on the ivory trade came into effect in 1989. The ivory destroyed in November 2013 did not include items legally imported or acquired before the 1989 global ban.

122. The same report further stated that Environmentalists estimated this to amount to more than 2,000 adult elephants which have been killed for the ivory.

123. Wayne Pacelle, the president of the Humane Society of the United States, used this occasion to call on the U.S Government to ban all domestic sales of ivory, and introduce stronger State and Federal laws against ivory trafficking. In his statement, he further said that:

"We hear a lot about China, and concerns about the trade there are warranted, but the fact is, the United States is the second-largest market for ivory in the world".

124. In addition to the above, the study also found out that the United States destroyed more than one ton of seized illegal ivory in the middle of Times Square, New York (According to a report by the EIA²⁶). This is the second time in two years that ivory was crushed in the United States.

²⁵ A report by the Guardian titled: 'Blood ivory' worth \$10bn to be crushed by US officials
Accessible at: <http://www.theguardian.com/environment/2013/nov/14/blood-ivory-stock-crush-us>

²⁶ EIA Report dated 23 June 2015, titled: Crushing the Illegal Ivory Trade, One Market at a Time.
Accessible at: <http://eia-global.org/blog/crushing-the-illegal-ivory-trade-one-market-at-a-time>

4.7.1 Lessons from wildlife crime prosecutions in the United States

A. Manhattan Jewelers Admit Illegal Ivory Trading

125. It was reported in the New York Times, on 12 July 2012²⁷, following one of the largest seizures of illicit ivory sold in New York, that two jewellers and their stores pleaded guilty to marketing what prosecutors said was more than USD 2 million worth of the goods.

126. Prosecutors said the ivory seized in Manhattan came from two shops: Raja Jewels, at 7 West 45th Street, and New York Jewellery Mart, at 26 West 46th Street. Hundreds of seized rings, bangles, necklaces, statuettes and toys — only a small part of the one-ton seizure — were on display. It was further reported that one expert said the items on display alone had probably cost 25 animals their lives. Lieutenant (Lt.) John Fitzpatrick, an investigative supervisor in the State Department of Environmental Conservation, who went undercover as a shopper during the investigation, said Mr. Gupta produced invoices from the 1970s from Hong Kong in an attempt to show that he had bought his ivory when it was still legal to do so. But much of his stock of items had packaging showing that they had been made in India, and he had no invoices for those, Lt. Fitzpatrick said.

127. Manhattan district attorney, Mr. Cyrus R. Vance Jr, noted that state law treats illegal ivory sales as a relatively minor felony. As a result, neither Mr. Gupta nor Mr. Lu faced the likelihood of prison. Under plea agreements, both agreed to pay fines and forfeit the ivory, which filled 70 boxes. Mr. Vance said it would be used to train other investigators. Mr. Vance urged state officials to consider amending the law to provide harsher penalties for the sale of larger amounts of ivory.

B. In another case involving the UNITED STATES v Tania J SIYAM, case no 1:04CR98-001. U.S District Court, N.D. Ohio, Eastern Division. August 14, 2008

128. Defendant pleaded guilty to two counts of violating the Lacey Act by virtue of importing and selling raw ivory, and to a further two counts of smuggling goods into the United States. The value of the ivory exceeded USD 120,000.00. The level of sophistication demonstrated by Defendant's smuggling operation undermined the accused's assertion that the sales at

²⁷ A New York Times Report titled: Two Manhattan Jewelers Admit Illegal Ivory Trading
Accessible at: http://www.nytimes.com/2012/07/13/nyregion/illegal-ivory-leads-2-to-plead-guilty-in-new-york.html?_r=1

issue were her first and only involvement with such an activity. The ivory sales at issue were sent from Cameroon to Canada and then to the U.S. The ivory was sent first to Canada under Defendant's belief that it was easier to pass through customs in this manner. Defendant also informed investigators that she did not like to ship through larger ports, such as New York City, because the security at the ports was more difficult to bypass. In disguising such ivory, each sculpture (tusk) was individually wrapped with newspaper, and then covered with the terra cotta pottery substance, sculptured into a tribal art form, and then painted.

129. In addition to her dedicated efforts to conceal the ivory, Defendant also performed other actions which demonstrated her prior involvement in smuggling. Defendant informed investigators that she did not want anything traceable to her following the purchase. Defendant therefore informed the buyer to pay through Western Union as it provided the most anonymous method for payment. Defendant then instructed that payment be wired to Cameroon in the name of Jean Louis Ndema.

130. The court, in its judgement found it difficult to comprehend how Defendant could acquire 48 tusks without the death of at least 24 elephants. The advisory guideline range on each count under the facts of this case is 41 to 51 months imprisonment, 2 to 3 years of supervised release upon completion, a fine, and the appropriate special assessment.

C. United States v Zhifei Li: A significant penalty for illegal dealing in wildlife products

131. United States v. Zhifei Li (D.N.J): On May 27, 2014, Zhifei Li, the owner of Overseas Treasure Finding in Shandong, China, was sentenced to serve a 70 months' term of imprisonment. He also will forfeit USD 3.5 million in proceeds from his criminal activity as well as several Asian artifacts. Li was in the business of selling raw rhino horns to factories where they would be carved into fake antiques and then resold. Horns that Li acquired were smuggled across international borders. The horns were hidden by a variety of means, including wrapping them in duct tape, hiding them in porcelain vases that were falsely described on customs and shipping documents, and labeling them as porcelain vases or handicrafts. The pieces left over from the carving process were sold for alleged "medicinal" purposes. Li admitted that he was the "boss" of three antique dealers in the United States whom he paid to help obtain wildlife items and smuggle to him through Hong Kong. Rhino horn carvings valued as high as USD 242,500 were sold to Li's customers in China.

132. Shortly after arriving in the United States in January 2013, Li was arrested in Florida on federal charges brought under seal in New Jersey. He was arrested by Special Agents with the US Fish & Wildlife Service - Office of Law Enforcement ("USFWS-OLE") in an undercover operation of which he was the target. Prior to his arrest, he had purchased two endangered black rhinoceros horns from an undercover U.S. Fish and Wildlife Service agent in a Miami Beach hotel room for USD 59,000 while attending an antique show. Li pleaded guilty to conspiracy to smuggle and to violate the Lacey Act, six smuggling violations, one Lacey Act trafficking violation, and two counts of making false wildlife documents. Li admitted to being the organizer of an illegal wildlife smuggling conspiracy in which 30 raw rhinoceros horns (worth approximately USD 3 million) were smuggled from the United States to China.

133. He was indicted on two counts in the Southern District of Florida on February 12, 2013, with the second count being violation of 18 U.S.C. § 554 (smuggling raw rhinoceros horns from the United States). On February 11, 2013, Li was indicted in the District of New Jersey on one-count of conspiracy to smuggle raw rhinoceros horns from the United States, in violation of 18 U.S.C. § 371. The case details were obtained from the United States Department of Justice²⁸ website.

D. U.S. v. Victor Gordon: Prison Term Imposed in Ivory Smuggling Case

134. In June 2014, it was reported²⁹ that a Federal Judge sitting in the Eastern District of New York sentenced a convicted ivory smuggler, Victor Gordon to 30 months in prison, two years supervised release, a fine of USD 7,500 and forfeiture of USD 150,000 plus one tonne of elephant ivory.

135. Gordon pleaded guilty to a smuggling charge in 2012 after U.S. Fish and Wildlife Service seized hundreds of illegal ivory carvings from Victor Gordon Enterprises in downtown Philadelphia in 2009. The sentencing took place almost two years later after having been rescheduled several times.

136. According to the indictment, Gordon paid a co-conspirator to travel to Africa to purchase raw elephant ivory and have it carved to his specifications. In advance of the trips, Gordon provided the co-conspirator with photographs or other depictions of ivory carvings, which served as templates for the ivory carvers in Africa, and directed the co-conspirator to stain or dye the elephant ivory so that the specimens would appear old.

²⁸ The United States Department of Justice. Accessible at: <https://www.justice.gov/enrd/black-market-trade-rhinoceros-horn>

²⁹ Ricardo A. St. Hilaire, Attorney & Counselor at Law, PLLC. Blog url: culturalheritagelawyer.blogspot.com. www.culturalheritagelawyer.com

Gordon then planned and financed the illegal importation of the ivory from Africa to the United States through John F. Kennedy International Airport and sold the carvings to customers at his store in Philadelphia and other buyers as “antiques.” His plea agreement called for forfeiture of all of the seized ivory.

137. The court also found that one of his suppliers was a West African named Abutu Sherif, whom prosecutors say Gordon contracted to smuggle ivory from Gabon to Philadelphia between 2006 and 2009.

138. Federal agents seized nearly one tonne of ivory valued at more than USD800,000.00 from Gordon's storefront and past customers, a quantity representing scores of dead elephants.

CHAPTER V – WILDLIFE CRIME COMBATTING AND PREVENTIVE MEASURES

5. Preventative measures to combat poaching and wildlife trafficking in ESAAMLG region

139. All countries indicated to have designated and controlled areas in which protected wildlife are located for protection from poaching and illegal trafficking activities. Protected areas include national parks, reserves and private reserves. The majority of countries indicated that not all protected wildlife is in protected/designated areas.

140. It was noted that wildlife protection methods of member countries vary from country to country. In some jurisdictions, wildlife stays in physically cordoned areas, whereas in others, there are no physical barriers. The latter allows wildlife to roam freely thus exposing it to poaching risks.

141. The countries reported to have implemented measures such as designation of parks and conservation areas and wildlife management laws that are aimed at protecting and conserving wildlife. In some countries, the wildlife authority is reported to have partnered with the state police and military forces to combat wildlife crime.

142. The majority of countries indicated that the mechanisms implemented to combat wildlife crimes (especially poaching and trafficking activities) in the conservancies and parks included;

- a. Increased number of patrols and anti-poaching activities;
- b. Awareness and sensitization;
- c. Intelligence gathering;
- d. Joint operations between the wildlife authorities and LEAs; and
- e. Training magistrates to handle poaching and wildlife trafficking cases.

143. Majority of countries also indicated that private land owners are allowed to have protected wildlife on their land. Only two jurisdictions within the ESAAMLG region did not allow private ownership of protected wildlife. Private land owners with protected wildlife on their land are brought into the mainstream of anti-wildlife crime systems through sensitization and capacity building, limiting the type of species being kept, and partnership with the wildlife authority and in most cases, private land owners are gazetted as wildlife officials, as they are legally expected to protect such protected wildlife on their land.

144. Interviews with LEAs revealed that there are challenges in monitoring the security of protected species such as rhinos and elephants on private land. It was stated in the interview that some private land owners with such protected species on their land could be involved in poaching activities, with little to no monitoring activities by relevant LEAs due to the impracticalities of continuously doing such monitoring and inspections on private land or farms. Often, private land owners, especially those who have trophy hunting activities on their private land pose the highest risk in advancing wildlife crimes under the pretext of legitimate hunting.

145. In the majority of countries, relevant anti-wildlife crime laws have been enacted. The laws provide for wildlife conservation and management, penalties for wildlife offences committed in all protected areas and private sanctuaries, and prohibit trespassing.

146. Most countries reported to have community based programmes (community empowerment programmes i.e. revenue sharing initiatives) that are aimed at empowering targeted communities living in wildlife habitat areas to benefit from their own initiated wildlife management programmes. This has created awareness to these communities on conservation and motivated to the communities to protect the animals as source of income thus reducing their poverty and limiting their possible vulnerability to be exposed to poaching of some of the endangered species of the animals.

147. Six countries indicated that legitimate trophy hunting of rhinos and elephants is not permitted. For those countries which allow trophy hunting for rhinos and elephants, the mechanisms that are in place to reduce the risk of legitimate trophy hunting being used as cover to engage in illegal rhino horn and/or elephant tusks or any other vulnerable wildlife dealings include setting up hunting quotas and monitoring of the hunting process. Further, South Africa indicated that to prevent risks that are associated with legitimate trophy hunting, they have put in place rules and standards under the Threatened or Protected Species Regulations (TOPS) and Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) Regulations for marking of rhinoceros and rhinoceros horns, and for the hunting of rhinoceros for trophy hunting purposes as preventive mechanisms.

5.1 Measures to detect and control illegal wildlife/wildlife products trafficking

148. Several measures have been put in place by various authorities to counter wildlife and wildlife products trafficking. According to a report by

TRAFFIC *‘Illegal Trade in Ivory and Rhino Horn: An Assessment Report to Improve Law Enforcement under the Wildlife TRAPS Project’* (2014), methods of detecting illegal ivory at the sea ports included:

- a. Receiving and acting upon intelligence information;
- b. Routine inspections;
- c. Risk assessment through targeting;
- d. Investigations;
- e. X-rays; and
- f. Sniffer dogs.

149. The reports also state that for transit and destination countries in Asia, 62% of rhino horn seizures were made at airports, which could be attributed to detection by routine inspections. From the report, China appears to be targeting particular airlines namely Kenya Airways, Ethiopian Airlines, Emirates, Etihad Airways and Qatar Airways for enhanced inspections. This could be a deliberate effort after assessing the risk associated with the airlines and their origins.

150. Sea transport continues to pose significant risk in combating wildlife and wildlife products trafficking. The World Customs Organization (WCO) at a presentation made in Botswana in 2014 indicated that, the most effective port would examine or inspect at most 2% of all the cargo, while the usual global inspection rates are between 0.5% and 1.0%. Based on the indicated percentage, a substantial volume of cargo goes un-inspected creating opportunities for trafficking. According to this report the APG Region leads in sea cargo handling as it hosts the top ten busiest ports in the world in terms of cargo volume. Of the top ten ports, China hosts seven ports, with Shanghai Port being at the busiest.

Top 10 World Container Ports

| Rank | Port | Volume 2013 (Million TEU) |
|-------------|--|--------------------------------------|
| 1 | Shanghai | 33.62 |
| 2 | Singapore | 32.60 |
| 3 | Shenzhen, China | 23.28 |
| 4 | Hong Kong, S.A.R, China | 22.35 |
| 5 | Busan, South Korea | 17.69 |
| 6 | Ningbo-Zhou Shan, China | 17.33 |
| 7 | Qingdao, China | 15.52 |
| 8 | Guangzhou Harbour, China | 15.31 |
| 9 | Jebel Ali, Dubai, United Arab Emirates | 13.64 |
| 10 | Tianjin, China | 13.01 |

Table 25: Top ten world container ports. (TEU: Twenty Equivalent Units)

151. By comparison, the Kenyan Port of Mombasa, which is the busiest port in East Africa handled only 1million TEU in 2014. This is according to a report by the Elephant Action League (2012) titled, *Flash Mission Report: Port of Mombasa, Kenya*.

5.2 Financial Intelligence Units (FIUs)

152. Of the thirteen ESAAMLG member countries that responded to the questionnaire, eleven countries did not receive intelligence reports relating to illegal trade in rhino horns and elephant tusks or parts of other vulnerable wildlife, whilst the other two countries received such reports. This may help to explain why most jurisdictions could not indicate methods used to channel funds to poachers and other financial flows relating to the proceeds of wildlife crimes.

153. No country reported to have used data from illegal trade in rhino horns or elephant tusks and wildlife to develop trends and typologies to help combat related ML/TF in their jurisdiction and internationally. None of the jurisdictions also reported to have conducted a typology study relating to wildlife crimes through their FIU.

154. Three countries reported to have carried out a National Risk Assessment (NRA), while seven are still to do so and in four countries NRA was underway. Countries which reported not to have carried out a NRA cited lack of capacity and others were awaiting technical assistance. Countries which have conducted a NRA reported that the ML/TF risk assessment did not cover or include the risks relating to wildlife crimes.

155. The three countries which reported to have carried out the NRA did not give an indication of the risk rating assigned to ML/TF relating to wildlife crimes. The reasons cited included the report not having been published and the scope of the NRA exercise in some countries not having included the wildlife crime data.

156. All but one country reported to be facing challenges of inadequate or no reports on wildlife crimes being reported to the FIU. Only one country reported encountering challenges tracing transactions as they are mostly cash based and are not recorded in the formal financial system. This makes such information difficult to be traced.

157. The study found that stakeholders involved in combatting wildlife crimes had insufficient knowledge on the duties and responsibilities of the FIU and how it could assist them carrying out investigations related to wildlife crimes.

158. In summary, FIUs highlighted the following challenges related to their role in assisting relevant authorities to combat wildlife crimes:

- a. Inadequate coordination and cooperation between domestic agencies;
- b. The transnational nature of the wildlife crimes means more than one jurisdiction is involved and various laws are at play. Sometimes, even the poachers and the traffickers are foreign nationals and not much is known about them. This makes it difficult to uncover criminal syndicates; and
- c. Difficulties in bringing kingpins to justice.

5.3 Law enforcement and investigative authorities

159. Most countries indicated that they had specialised units established to investigate cases relating to wildlife crimes with the exception of Malawi and Swaziland, who depend on the general police to investigate wildlife crimes.

160. In view of the above, countries indicated that the specialised units established to investigate wildlife crime were also assisted by other LEAs that had the mandate to investigate Money Laundering and Terrorist Financing (ML/TF) cases. Among others, the police, customs, Anti-Corruption Agencies, Wildlife Authority, Park Rangers and the Military composed of teams that investigated cases relating to wildlife crimes.

161. The study noted that in South Africa, the authorities have long been using helicopters to counter the movement of poachers. In 2014 the Namibian Defence Force was enlisted to assist in poaching combating efforts and provide the aerial mobility previously not in place. In the same year, a non-governmental organization donated a helicopter to the anti-poaching task force consisting of the Ministry of Environment and the Namibian Police. It is being used to help counter the aerial mobility of poachers together with the helicopters of the Namibian Defence Force.

162. In view of the special investigative techniques used to combat ML/TF relating to wildlife crimes, the following methods were employed by most countries:

- a. Undercover and sting operations;
- b. Communication and funds transfer interception;

- c. Monitoring of money remitted and currency exchange transactions;
and
- d. Tracing and recovery of proceeds of crime

163. Most countries further indicated that LEAs had the investigative powers to carry out investigations on ML/TF relating to wildlife crimes. These investigative powers included:

- a. Interviewing suspects;
- b. Recording statements;
- c. Arresting, seizing, entering and searching premises; and
- d. Access to records.

164. With respect to the efforts put into the work of LEAs, some countries indicated that there were instances where confiscated rhino horns and elephant tusks and parts of other vulnerable wildlife could not be traced to carcasses. However, Namibia indicated that its LEAs send seized rhino horns and elephant tusks (and related samples) to the police science laboratory in South Africa to help with DNA testing with the intention to link rhino horns and elephant tusks to carcasses.

5.4 Law enforcement and international cooperation

165. In view of Law Enforcement and International Cooperation, all countries indicated to have put in place measures to assist other stakeholders, like Interpol to carry out cross border investigations and activities relating to illegal wildlife trade and poaching. These measures include;

- a. Bilateral agreements with other countries, e.g. the relationship between Namibia and South Africa cited above, where the Namibian LEAs sent trophies to the South African laboratories for DNA testing;
- b. Participation in joint operations and information sharing; and
- c. Being party to enabling treaties and conventions.

166. In a bid to ensure that international networks or syndicates that could be benefiting from poaching and illegal trade in rhino horns and or elephant tusks or parts of vulnerable wildlife trafficking are brought to book, countries indicated that they had put in place the following measures;

- a. Legal framework that criminalises illegal wildlife trade , and
- b. Collaboration with Interpol, CITES and other regional bodies.

167. In the midst of various challenges facing LEAs, such as the transnational nature of wildlife crime activities, it was noted that not all

countries have made use of the international cooperation platform(s) available to them to request for information related to transnational wildlife crimes. For unknown reasons, this study found that most ESAAMLG member countries do not make use of Law Enforcement international cooperation platforms such as the 2013 ECOSOC³⁰ Resolution as well as the INTERPOL GA Resolution. For the few countries that have made requests, it was indicated to this study that where responses were provided, the information was inadequate or not useful.

168. With regards to competent authorities sending and receiving requests for information to or from international counterparts relating to poaching and illegal trade in rhino horns, elephant tusks or parts of other vulnerable wildlife, the study found out that only four countries indicated that they have engaged with foreign counterparts for purposes of requesting for information.

169. In summary, the engagements by the four countries who responded in the affirmative bordered on:

- a. Exchange of information;
- b. Conducting inquiries and obtaining information;
- c. Evidence gathering;
- d. Joint investigations; and
- e. Establishing bilateral or multilateral arrangements to enable joint investigations.

170. Amongst the four countries described above, one country indicated that certain jurisdictions had not responded to its requests due to differences in operating standards and laws.

171. The graph below illustrates the total number of requests made and sent in the period 2004 to 2013 that related to poaching and illegal trade in rhino horns, elephant tusks or parts of other vulnerable wildlife.

³⁰ The Economic and Social Council (ECOSOC) is the United Nations' central platform for reflection, debate, and innovative thinking on sustainable development. ECOSOC, one of the six main organs of the United Nations established by the UN Charter in 1946, is the principal body for coordination, policy review, policy dialogue and recommendations on economic, social and environmental issues, as well as for implementation of the internationally agreed development goals. Accessible at: <http://www.un.org/en/ecosoc/substantive2013/index.shtml>
The ECOSOC resolution 2013/39 of 25 July 2013: International cooperation in the prevention, investigation, prosecution and punishment of economic fraud and identity-related crime.

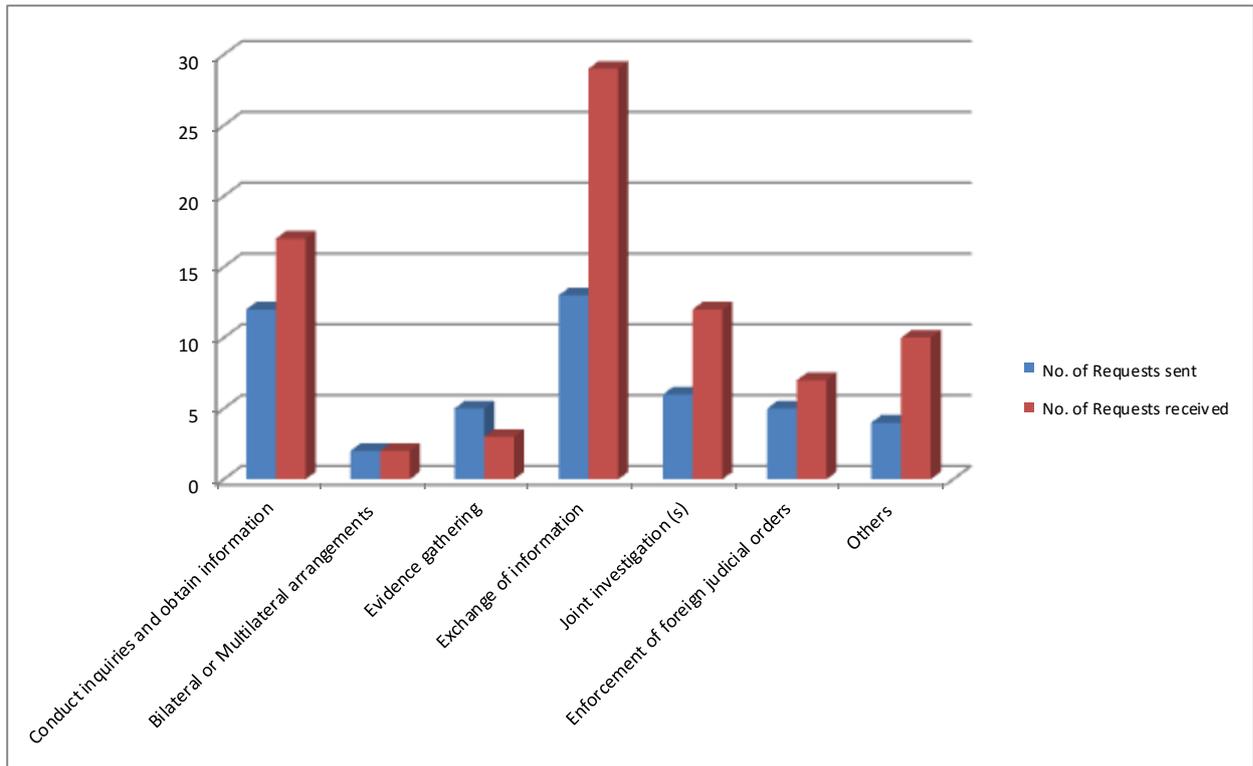


Table 26: The table indicates total number of information requests and sent for the period 2004 to 2013 by member FIUs, which relate to wildlife crimes.

172. In view of the fact that customs authorities keep records of incidences involving smuggling/trafficking of protected wildlife products at each of the points of entry and exit, only four countries highlighted that they had cases which involved the smuggling of Pangolin scales, Ostrich, Elephant, Crocodile, Buffalo, Rhino, Warthog and Hippo products. These cases involved nationals of Ireland, the United Kingdom, United States of America, Malawi, China, Ukraine and Italy that had attempted to smuggle wildlife (or products) to their respective jurisdictions. In addition, the aforesaid illegally traded wildlife was mostly detected through spot checks, verification of documents and the use of custom scanners as well as risk profiling.

5.5 Capacity for enforcement

173. Government efforts to crack down on poachers and traffickers have been undermined through high levels of corruption, complicity and collusion of politicians, state officials and business people. Unfortunately law enforcement activities have been directed at Level 1 investigations (poachers) instead of focusing on intermediaries and kingpins. One of the few highlights relates to INTERPOL-coordinated interventions known under the codename “COBRA”. Cobra I and II have provided successful

models of how a transnational group of law enforcement officers can collaborate and produce results. Cobra III, which ended in June 2015, resulted in 139 arrests and more than 247 seizures. However, few arrests lead to successful convictions. This is frequently linked to a backlog of cases and “missing files” during court cases (Interviews, 2015). In some instances, key witnesses ‘disappear’ and cases collapse (Interviews in Kenya, 2015).

174. Trends have shown that the wildlife trafficking industry is flexible, capable of displacement from one place to another in a relatively short space of time. Botswana’s approach of involving police, defence force and private sector has been suggested as being more successful because it allows the different agencies to hold each other accountable, thus limiting any potential for corruption.

175. Zimbabwe has recently created a unit dedicated to the seizure of implicated illicit property, belonging to persons convicted of trafficking offences. The overwhelming challenge is that significant numbers of the arrested are low-level participants, mainly foreign nationals who have very little traceable property. Where it exists, the property is likely to be located in Zambia, requiring collaboration with counterparts in that country to track, seize and confiscate tainted assets. At the same time, the recent lifting of the domestic ban on rhino horn trade in South Africa³¹ led to high levels of concern in countries sharing borders with South Africa, as the fear was that it would be easier for poachers targeting rhinos in other countries to move the horns. The SA Government is currently appealing the lifting of the ban. However, the issue highlights the need for a regional approach, and the strengthening of cross-national efforts and agreements.

176. One example of how collaborative efforts can be pulled together is that of the International Consortium on Combating Wildlife Crime (ICWC)’s Coordinated Law Enforcement Support. This global initiative is increasingly being taken up by ESAAMLG member countries, but engagement levels still vary (Table 27). In particular, the adoption of a standardised toolkit by all ESAAMLG members would go a long way to support collaboration. To-date, none of the eight ESAAMLG countries with large wildlife population has set up a Wildlife Incident Support Team; this might be an avenue worth exploring as an area of collaboration for capacity-building.

³¹ See, for example, <http://ewn.co.za/2015/11/26/Govt-ban-on-rhino-horn-trade-removed>

| | Implementation of ICCWC's Wildlife and Forest Crime Analytic Toolkit | Wildlife Incident Support Team | COBRA Involvement | Other activities |
|---------------------|---|---------------------------------------|--|---|
| Botswana | Since 2015 | -- | | |
| Kenya | Since 2016 | -- | COBRA II operational planning meeting (2013) | Rhinoceros Enforcement Task Force meeting (2013) Workshop: wildlife law enforcement officers from Africa & Asia (2013) |
| Mozambique | Since 2015 | -- | | |
| Namibia | | | | |
| South Africa | | -- | | 2 nd Global Meeting of Wildlife Enforcement Network (2016) 1 st International rhinoceros DNA sampling training workshop (2013) |
| Tanzania | Since 2016 | -- | COBRA III post operational review training workshop (2015) | |
| Zambia | | | | |
| Zimbabwe | | | | |

Table 27: Level of participation in ICCWC's coordinated law enforcement support³²

³² Source:
https://cites.org/sites/default/files/eng/prog/iccwc/images/ICCWC_region_Africa_Europe.pdf

5.6 Strategies of enforcement and their consequences

177. Beyond the security sector, public and private intelligence operatives, law enforcement agencies, corporate and private investors, and several hundred NGOs have stepped up protective measures to ‘save’ the last remaining rhinos and elephants. Taken at face value, the protective and conservation measures employed to safeguard the rhino, for example, would suggest that the wild animal should be one of the best-protected and cared for creatures in South Africa. Yet close to 5 000 rhinos were poached in South Africa between 2008 and late 2015. Not only rhinos are killed: anti-poaching units have shot dead several hundred suspected poachers in the KNP since 2009,³³ many of whom originate from impoverished local communities living nearby conservation areas. The increasing militarization of anti-poaching responses comes at a high cost not only in terms of human lives and financial disbursements but has also led to the further marginalization and alienation of local communities (Hübschle 2016).

178. In Tanzania, a well-intentioned anti-poaching campaign *Operation Tokomeza* led to a massive public outcry after horrendous human rights abuses were perpetrated against poaching suspects. In October 2013, Tanzania’s former Minister for Natural Resources and Tourism, Khamis Kagasheki, oversaw an anti-poaching strategy that included shoot-to-kill orders. More than 2,300 security personnel from multiple security units, including the People’s Defence Force, local police, anti-poaching militias, and wildlife rangers, were sent to enforce the country’s ban on rhino and elephant poaching. Two months later, ‘Operesheni Tokomeza’ (Operation Destroy) was abandoned and Kagasheki was dismissed from government following allegations that anti-poaching units were raping, murdering, and torturing civilians. The units were subsequently accused of crimes such as the theft of thousands of domesticated animals and other property, including money (Carlson/Wright/Dönges 2015). A parliamentary inquiry found that 13 people were murdered and thousands of livestock – the livelihood of many – were maimed or killed. Affected communities also brought allegations that security forces committed rape, murder, torture and extortion of locals.

179. State security forces, conservation NGOs, private security companies and the military-industrial complex have become inextricably linked to anti-poaching measures and broader conservation issues.

³³ Data supplied by the Kruger National Park in August 2014.

Lunstrum (2014) observes a growing and mutually-beneficial partnership between public conservation officials and private military companies in the KNP. She refers to “the use of military and para-military (military-like) actors, techniques, technologies, and partnerships in the pursuit of conservation” as “green militarization” (Lunstrum 2014: 2), which has “led to a conservation-related arms race” (Lunstrum 2014: 7). The unintended consequences of these military interventions and technological innovations (such as the use of drones) on social and economic structures, such as village communities living in and around conservation areas, are largely disregarded. A few half-built houses in the villages are a stark reminder of the stark reality that many poachers do not return from ‘Skukuza’.³⁴ According to Mozambican sources,³⁵ close to 400 poaching suspects from Mozambique were killed inside the Park between 2008 and early 2014. South African officials are apprehensive to share statistics (see Table 28) for fear of bad press and retribution (Interviews, 2013). At the time of writing, poachers had not killed rangers in the KNP (in other ESAAMLG member states including Kenya, Tanzania and Zimbabwe, poachers have killed rangers, law enforcement and security forces); however, one ranger was killed and another seriously wounded in ‘friendly fire’ (personal communication with KNP officials, 2015).

| | 2014 | 2013 | 2012 | 2011 | 2010 |
|---------------------------|------------------|-------------|-------------|-------------|-------------|
| Neutralized ³⁶ | 174 | 133 | 73 | 82 | 67 |
| Killed in action | 45 ³⁷ | 47 | 17 | 21 | 4 |

Table 28: Poacher arrests and deaths in the Kruger National Park between 2010 and 2014³⁸

³⁴ Skukuza is the main rest camp and administrative headquarters of the Kruger National Park (KNP). When a poacher announces that he is ‘going to Skukuza’, it indicates that he is preparing for a poaching expedition into the KNP.

³⁵ Investigative journalist Lazaro Mabunda undertook fascinating research into poaching crews in the Mozambican borderland in 2012. According to one of his confidential police sources in the Mozambican police, 363 Mozambican poaching suspects had been shot dead in the Kruger between 2008 and early 2014. Former Mozambican President Joaquim Chissano announced at a press conference in September 2015 that South African rangers and security forces had killed 476 Mozambicans in the Kruger National Park between January 2010 and June 2015 (AIM 2015). It is unclear why the Mozambican and South African statistics do not tally.

³⁶ Explanatory note: The KNP environmental management inspectorate employs the unfortunate terminology of “neutralized” to reflect the total of suspected poachers killed and arrested inside the KNP.

³⁷ By 25 August 2014, 23 suspected poachers had been killed. The figure of 45 deaths derives from a media briefing. Attempts to confirm the latest figures with KNP officials were not answered.

³⁸ Source: Supplied by Kruger National Park on 25 August 2014

180. Focus groups with community representatives in the borderlands revealed that the deaths of poaching suspects had led to further alienation and outright antagonism of community members towards the Park. Community members recounted that many villagers traversed the KNP in search of work or to visit families in South Africa. People living on both sides of the border are highly mobile and move between South Africa and Mozambique for numerous reasons. In the eyes of the community, Kruger game rangers kill fellow villagers on the suspicion that all trespassers are poachers. The militarization of responses to rhino poaching is pitting them against park authorities, rangers and wild animals. Moreover these responses have further exacerbated the sentiment that government and conservation authorities value wild animals more than the villagers.

181. Key informant interviews indicated that law enforcement officials and conservators were increasingly arguing that the international community should deal with poaching and ITW as “environmental organized crime” in terms of the United Nations Convention against Transnational Organized Crime should promote domestic laws that deal with organized crime, racketeering or conspiracy. The international law enforcement community has put measures in place to deal with wildlife trafficking (such as the International Consortium on Combating Wildlife Crime (ICCWC)³⁹ and the INTERPOL Wildlife Crime Working Group.⁴⁰ Wildlife crime is nonetheless considered to be the “Cinderella of crimes” (Interview with law enforcer 8).⁴¹ And in spite of being branded a “priority crime” by regional organizations such as the Southern African Regional Police Chiefs Cooperating Organisation (SARPCCO)⁴² and dedicated wildlife crime law enforcement, regional networks such as the Association of Southeast Asian Nations Wildlife Enforcement Network (ASEAN–WEN)⁴³ and the Lusaka Agreement Task Force (LATF)⁴⁴,

³⁹ The International Consortium on Combating Wildlife Crime is an initiative started by the CITES Secretariat, INTERPOL, the United Nations Office on Drugs and Crime (UNODC), the World Bank and the World Customs Organization (WCO) to bolster international cooperation regarding the combating of wildlife and forest crime.

⁴⁰ There are numerous other international, regional and sub–regional initiatives with the objective of tackling illegal wildlife trade.

⁴¹ Wildlife crime is perceived as a ‘soft’ crime amongst many actors in the law enforcement community and beyond. Interviews with law enforcement officials working in the field of wildlife crime investigations revealed that they had to deal with the perception that wildlife crimes were lesser crimes.

⁴² Formally established in 1996, the Southern African Police Chiefs Cooperating Organization (SARPCCO) is a regional organization of Chiefs of Police for SADC member states. The 15 SADC member states are also SARPCCO member states (SARPCCO 2014).

⁴³ The Association of Southeast Asian Nations’ Wildlife Enforcement Network (ASEAN–WEN) is a regional intergovernmental law enforcement network designed to combat wildlife trafficking in Southeast Asia. Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Vietnam and Thailand are member countries (ASEAN–WEN 2014).

investigation of wildlife crime carries less prestige and status, and is even perceived as a ‘career sideliner’ in the Southern African context (Interviews with regional law enforcement officials, 2012 and 2013).

182. While ranked as the 4th most lucrative illegal trade in the world, law enforcement officers seconded to wildlife investigations are perceived to draw the shorter straw in comparison to getting called up to international, regional desks or units that deal with drug trafficking, human and gun trafficking or other “hard crimes” that have “human” victims (forgetting that there have been several hundred human victims – poaching suspects and rangers who have been killed in the wildlife ‘wars’ in Southern Africa). Due to the involvement of transnational organized crime networks in wildlife trafficking with links to “other hard crimes”, as well as the high death rate of poaching suspects killed in conservation areas (Interview with law enforcers, 2013), this perception is starting to change. Curiously, financial investigators are never involved in investigations relating to the predicate offences. However, their input and assessment of evidence found at crime scenes could provide important data for forensic audits and investigations (e.g. receipts or bank statements).⁴⁵

5.7 Legal framework

183. All member countries indicated to have laws that criminalize poaching, smuggling/trafficking, possession of protected wildlife and wildlife products. Furthermore, most countries indicated that they had laws that enabled the transfer or extradition of persons suspected to have been

⁴³ The Lusaka Agreement Task Force is the enforcement arm of the ‘Lusaka Agreement on Co-operative Enforcement Operations Directed at Illegal Trade in Wild Fauna and Flora’. The agreement followed working group meetings between eight southern and eastern African countries, CITES, Interpol, the US Fish & Wildlife Service and lawyers of the Foundation for International Environment Law Development and formal inter-governmental negotiations under the auspices of the United Nations Environment Programme (UNEP). The agreement has been categorized as a UN treaty (Environment) and entered force in 1996. There are currently seven parties to the agreement: the Republic of Congo (Brazzaville), Kenya, Lesotho, Liberia, Tanzania, Uganda and Zambia. Ethiopia, South Africa and Swaziland are signatories (Lusaka Agreement on Co-operative Enforcement Operations Directed at Illegal Trade in Wild Fauna and Flora 2014).

⁴⁴ Research reports often cite an annual turnover of 8 to 10 billion US \$ in illegal wildlife markets, a figure extrapolated from a 2003 media report (Colombo 6 September 2003) and interviews with the US conservation NGO Coalition against Wildlife Trafficking (CAWT) by Jeremy Harken for a report commissioned by the US research and advocacy organization Global Financial Integrity (Harken 2011: 11). While the figure appears to have no scientific base – and admittedly, illegal markets are notoriously difficult to quantify and the annual turnover is more than likely much higher than the cited figure (the 2013 turnover of rhino horn derived from the 1004 poached rhinos in South Africa, calculated at an average weight of 4 kg per horn, 2 horns per animal at the price of US \$ 65 000/kg exceeds half a billion Dollar) – the figure has been used widely to underline the importance and serious ‘threat level’ of wildlife crime.

⁴⁵ Research for the previous paragraphs emanates from Hübschle’s doctoral dissertation. (Hübschle 2016).

involved in wildlife crimes. It should however be noted that in Mozambique, the law that criminalises the illegal possession and trading of protected wildlife products was only enacted in June 2014. Annexure A of this report presents a detailed analysis of the relevant laws in ESAAMLG member countries.

184. It is clear that land tenure and ultimate ownership of a country's wildlife resource is an important element in determining how wildlife and the use of wildlife is regulated (See annexure B of this report). Legal hunting definitions vary; this is because wildlife and tenure conditions differ strongly among the countries.

185. Although most acts specifically make reference to CITES, and by doing so indicate that they regulate wildlife in accordance with that agreement, there are different approaches to how and when species' statutes are revised. Harmonising the status of individual endangered species between neighbouring countries could improve efforts to protect them.

186. In light of offences and prescribed penalties, most countries provided the nature of punishment that applies to offenders. The penalties range from 6 months to life imprisonment and/or fines;

187. In view of conventions, twelve member countries have ratified and domesticated the CITES Convention. In addition, the majority of the member countries have also signed other conventions which assist in combating crimes relating to wildlife. Included in the conventions, are the following:

- a. Eleven countries reported to have ratified the Vienna Convention, 1988;
- b. Eleven countries reported to have ratified the United Nations Convention against Transnational Organized Crime, 2000;
- c. Twelve countries reported to have ratified the United Nations Convention against Corruption, 2003; and
- d. Ten countries reported to have ratified the Terrorist Financing Convention, 1999.

188. Some of the member countries did not provide reasons for not ratifying certain conventions. The study also noted that there was one member country, which, at the time of writing this report had not ratified any of the above mentioned conventions.

189. Most countries indicated that there were areas in their respective legal frameworks that needed improvement to enhance compliance and effective implementation of the FATF Standards and thus also enhances effectiveness of wildlife crime combating efforts in their jurisdictions.

5.8 Customs and cross border movements

190. With regard to laws that prevent and criminalize the trafficking of rhino horns, elephant tusks or parts of other endangered (or protected) wildlife, most of the countries indicated that they have criminalized such acts.

191. In addition, most countries indicated that customs officials in their jurisdictions are empowered to search, investigate, detain illegal consignments and arrest suspects of illegal wildlife trade.

192. The following are common measures in place, at various points of entry/exit, aimed at minimizing the risk of wildlife and wildlife products trafficking:

- a. Joint border patrols with other LEAs;
- b. Risk based verifications of imports and exports;
- c. Physical inspections of shipments;
- d. Customs clearance of goods and currencies; and
- e. The use of sniffer dogs and scanners by LEAs

193. The above measures are also supplemented by, amongst others, army patrols, intelligence information systems and public awareness campaigns.

194. Except for Malawi, the other member countries did not indicate knowledge of the existence of unofficial points of entry or exit (porous borders). Malawi indicated to have unofficial points of entry along the northern parts of the country i.e. Land border port in the northern corridor of Malawi (Songwe).

195. In order to minimize trafficking of illegal wildlife and wildlife products at entry and exit points, most countries have put in place the following measures:

- a. Alerts for reported poaching incidents;
- b. Joint investigation task forces on the prevention of illegal wildlife trade; and
- c. Intensified searches aimed combatting illegal trafficking of wildlife products.

5.9 Challenges and proposed remedies

5.9.1 Challenges

196. The study found the following as common challenges faced by various combating authorities including Customs officials, FIUs, LEAs in the ESAAMLG member countries:

- a. Inadequate or no reports and other information being escalated to various authorities concerning wildlife and other related predicate offences;
- b. Inadequate specialised training and expertise in the investigation of wildlife and other related predicate offences;
- c. Inadequate financial or other resources to enable proper capacity building and execution of duties;
- d. Inadequate coordination and cooperation between domestic agencies;
- e. Complications arising from the transnational nature of wildlife crimes;
- f. Varying operating standards, and powers of individual FIUs/LEAs;
- g. Varying levels of maturity of FIUs in Africa and Asia and their involvement in transnational crimes;
- h. Lack of awareness amongst stakeholders on the role of FIUs;
 - i. FIUs can solicit intelligence from other FIUs abroad on behalf of local LEAs and other relevant stakeholders;
 - ii. Assist LEAs and other relevant stakeholders with domestic requests for information and intelligence gathering;
 - iii. Depending on the powers of the FIU, partake in joint investigations with other LEAs;
 - iv. Assisting LEAs and other relevant stakeholders by highlighting trends and methods relating to financial crimes.
- i. Competing priorities in the respective countries;
 - i. Inadequate coordination and cooperation with international agencies/stakeholders;
 - ii. Allocation of resources;
 - iii. Dual criminality, e.g. jurisdictions which have not criminalised activities relating to rhino horns or elephant ivory;
 - iv. Differing quality and credibility of information exchanged;
 - v. Late or no responses to requests; insufficient/low quality of responses; unduly rejected requests;
 - vi. Lengthy and complicated (time-consuming) procedures for implementation of MoUs and other agreements on international cooperation;
 - vii. Language barriers making communication more difficult

- viii. Lack of commitment of requested countries to provide responses, e.g. ESAAMLG member countries requesting for information from developed countries.
- j. Failure to bring wildlife crimes kingpins to justice (due to various factors including corruption);
- k. Wildlife crimes being considered to be of low priority when compared to other crimes.

5.9.2 Factors contributing to the challenges

197. In view of the above, countries have also indicated the following as primary reasons that have led to the above mentioned challenges encountered by LEAs, FIUs and customs officers:

- a. Inability to deal with emerging criminal networks in wildlife crimes (due to various reasons including lack of resources, ineffective investigations, poor combatting laws etc);
- b. Limited ability to prudently, effectively and adequately detect and provide effective combating measures, to the next level of the investigation;
- c. Ineffective execution of the customs mandate, where smugglers leave with wildlife and related products. This is exacerbated by large cargo moving through customs, all of which cannot be subjected to screening and scanning controls. It was further found that the sealed cross-border container traffic is rarely subjected to search by authorities in transit countries. Even containers originating from within the same state are not necessarily searched, as some exports are not liable to export tax. Only taxable exports generally attract inspection to verify declarations;
- d. Inadequate communication within a jurisdiction and between various jurisdictions;
- e. Lack of information sharing mechanisms and coordination of operations
- f. Lack of intelligence gathering about the kingpins;
- g. Lack of commitment by LEAs to pursue kingpins related to wildlife crime syndicates.
- h. Corruption and abuse of office by Government authorities in dealing with wildlife matters;
- i. Disruption caused by frequent transfers of law enforcement agents investigating wildlife crimes, due to the application of “one size fits all’ transfer policies.

5.9.3 Proposed ways to respond to the challenges: remedies

198. In addressing the indicated challenges, the following measures are proposed in order to enhance the efficiency and effectiveness of operations to combat wildlife crimes:

a. Resourcing:

- Capacity building across all levels in combating wildlife crimes (from game rangers to private land owners, customs officials, affected communities etc);
- Training and technical assistance to ESAAMLG member country FIUs on how to deal with wildlife crimes cases. This should be aimed at capacitating FIUs to understand how they can get involved proactively, to add value to LEA investigations, without compromising their (FIU) position (as opposed to waiting for wildlife crime reports from LEAs, which are not forthcoming as per findings in this report);
- Practical on the job training (OJT), where LEAs are shown how to conduct financial investigations and other such non theory training (e.g. tracing transactions and assets, linking evidence to develop leads or scenarios etc.);
- Allocating adequate budgetary resources; and
- Allocating adequate human resources.

- b. Signing of MoUs among relevant stakeholders to enable coordinated efforts in wildlife crime combating,
- c. Revision of laws to incorporate international standards to enhance combatting efforts;
- d. Conduct public awareness raising campaigns on AML/CFT related issues;
- e. To conduct NRAs with the scope also covering the wildlife sector and using results thereof to guide wildlife crime combatting strategies at all levels;
- f. Enhancing political will to support combating of wildlife crimes and wildlife policy development through involvement of high public offices.

CHAPTER VI – CASE STUDIES

6 Case studies: Methods used in poaching, smuggling and trading of wildlife parts and some notable preventative measures

6.1.1 Case study 1

On 07 February 2013 at Groblersbrug Border Post when a police official was doing his daily search routine at the entrance side of the border gate where all vehicles and trucks are searched for any illegal items which are smuggled in the country. There was a truck that arrived with scrap metal and it was also searched. During the search the police identified boxes of cigarettes and a small box which was containing 18 rings and 15 blogs of worked ivory product which were hidden within the scrap metal. There were three occupants in the truck who alleged that they were not aware of the ivory since they are not the ones who loaded the truck in Zimbabwe and that they were going to meet the owner of the truck in Bruma, Johannesburg. The confiscated ivory's weight was 8.5kg which amounts to about R179 350.00. All the above-mentioned persons were arrested and detained at Tomburke Police Station as per Case no. 14/02/2013.

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| Key: | The need to check or search all cargo passing through border posts |
| Offences: | Attempting to smuggle the wildlife products from Zimbabwe into South Africa |
| Smuggling methods: | Road/drive through borders |
| Nationality of persons Involved: | Zimbabweans |
| Sector involved: | Dealing in scrap metal |
| Jurisdiction: | South Africa and Zimbabwe |
| Detective method: | Checking cargo in trucks at border posts to detect protected wildlife products that may be hidden in cargo |

6.1.2 Case study 2 (Three case studies from Macao-China)

Case study A (Macao)

Macao customs officers seized 92 kgs of Ivory at Macao International Airport in May 2001. The items were concealed inside a package, and declared to be stone products. The route started from Africa (Rwanda) to Thailand, then from Bangkok to Macao by air. There was possibility of the trafficker intending to smuggle the products to Mainland China using Macao as an intermediate destination or transit point.

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| Key: | The is need for airport authorities/customs to check or search traveller's backpacks/luggage |
| Offences: | Attempting to smuggle the wildlife products to Asia. Falsely declaring items as stone products. |
| Smuggling methods: | Air/flight, using various transit points. From Rwanda to Thailand, then Bangkok and to mainland China via Macao |
| Nationality of persons involved: | Not stated |
| Sector involved: | Not stated (apart from smuggling through customs) |
| Jurisdiction: | Rwanda, Thailand, Macao, China |
| Detective method: | Checking the declared products to see if what is declared is indeed what is being transported. |

Case study B (Macao)

The Customs Officers discovered four suspected ivory products (about 5.5kg) in a parcel; Civic and Municipal Affairs Bureau and DSE examined the products and confirmed the items to be ivory products. After investigation, it was revealed that the subject from China requested his friend from Swaziland in Africa to send the ivory products to a recipient in Macao, who then sent the ivory back to China to the subject for medical purposes. DSE rendered the penalty to the subjects in accordance with the law, the ivory products were forfeited by the authorities and it was suggested that the products be destroyed.

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| Key: | The need for airport authorities/customs to check or search cargo send across jurisdictions |
| Offences: | Attempting to smuggle the wildlife products to Asia by sending same via air, to someone in Macao, who will then send same to the recipient in mainland China. Also falsely declaring items as stone products. |
| Smuggling methods: | Air/flight, using various transit points. From Swaziland to Macao, then to mainland China via Macao |
| Nationality of persons Involved: | Chinese (Not stated if the person who send from Swaziland was a Swazi national) |
| Sector involved: | Not stated (apart from the attempted smuggling through customs) |
| Jurisdiction: | Swaziland, Macao, China |
| Detective method: | Checking the declared cargo/sent items to see if what is declared is indeed as it is stated. |

Case study C (Macao)

Two subjects from South Africa came to Macao by jetfoil from Hong Kong International Airport. During the customs check, it was discovered that the two subjects carried 583 ivory semi-finished items without a licence from Macao. The semi-finished items were disguised as chocolate in order to deceive the Macao Customs Officers, but it was in vain. After examination and legal procedures, the two subjects were proved to be illegally importing ivory semi-finished products though the subjects gave no response and explanation. They were punished with penalties in accordance with the law. At the same time, the ivory semi-finished products were declared forfeited by the authorities and to be further destroyed.

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| Key: | The need for airport authorities/customs to check or search the luggage and backpacks of travellers to ascertain that what is declared is indeed true. |
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| Offences: | Attempting to smuggle the wildlife products to China, from South Africa, via Macao by falsely declaring what they are carrying as chocolate. |
| Smuggling methods: | Air/flight, using various transit points. From South Africa to Macao, then to mainland China via Macao |
| Nationality of persons Involved: | Not stated |
| Sector involved: | Not stated (only indications of attempts to smuggle through customs) |
| Jurisdiction: | South Africa, Macao, China |

6.1.3 Case Study 3

Lulu Tian (Chinese National) OR Tambo 99/6/2011; Case number: 1SH 121/11; The accused was arrested at OR Tambo International Airport on his way to Port Elizabeth in possession of 18 pieces of jewellery made out of elephant ivory. He was convicted on the 20/7/2011 in terms of Section 57(1) of Act 10 of 2004: Possession of elephant ivory and sentenced to R 15 000/3 years of imprisonment.

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| Key: | The need for airport authorities/customs to check or search traveller's backpacks |
| Offences: | Attempting to smuggle the wildlife products to a destination within South Africa |
| Smuggling methods: | Air/flight |
| Nationality of persons Involved: | Chinese |
| Sector involved: | Not stated (only indications of attempts to smuggle through customs) |
| Jurisdiction: | South Africa |
| Detective method: | Checking the luggage of travellers to detect protected wildlife products that may be carried |

6.1.4 Case Study 4

S v Richard Nevhulaudzi: Makhado CAS 377/08/09; Case number RC 136/09; Louis Trichardt, Charge: contravention of section 41(1) (a) of Act 7 of 2003(the Limpopo Environmental Management Act). A member of SANPARKS received information (tip-off) that suspects were trying to sell elephant tusks. An application in terms of section 252(A) was made to conduct a trap. Authority was granted from the Director of Public Prosecutions, North Gauteng. On 25/08/2009 the accused met with the undercover agent. The accused tried to sell 4 pieces of elephant tusks. Initially, the accused requested R100, 000.00 for the tusks. After negotiations the deal was clinched at R17, 000.00. Thereafter the accused was arrested. The incident was recorded on video and audio. The tusk weighed 8.748 kilogram. The value was established at R 8,177.62. Accused pleaded guilty. He was sentenced to 4 years imprisonment without the option of a fine on the 25/10/2010.

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| Key: | The community members giving tip-offs to LEAs, LEAs applying to courts for orders to set traps |
| Offences: | Attempting to trade in wildlife products locally |
| Nationality of persons Involved: | South Africans |
| Sector involved: | Not stated (only indications of attempts to sell ivory locally) |
| Jurisdiction: | South Africa |
| Detective method: | Tip off which informed the LEAs to set a trap |

6.1.5 Case Study 5 (various cases with similar smuggling methods)

S v Jiaxiang Xu (Chinese National) OR Tambo CAS 203 /12/2010; Case nu: 1SH 241 /2010, the accused was arrested at OR Tambo International Airport with 4 small elephant ivory blocks in his possession. He was on his way to Hong Kong. He was convicted on 17/1/2011 in terms of section 57(1) of Act 10 of 2004 and in terms of section 83(b) of Act 91 of 1964 and sentenced to R 15,000.00 or 3 years imprisonment. A further 3 years imprisonment suspended for 5 years on certain conditions

S v Wensi Teng (Chinese National) OR Tambo CAS 206/1/2011; Case nu: 1SH 13/2010 the accused was arrested at OR Tambo International Airport in possession of jewellery made out elephant ivory. He was on his way to Hong Kong. Total weight of the said items was 7.5kg. He was convicted in terms of sec 57(1) Of Act 10 of 2004: possession of elephant ivory and in terms of sec 83(b) of Act 91 of 1964 and sentenced on 10/2/2011 to pay R60,000.00 or 4 years imprisonment of which R30,000.00 or 2 years imprisonment were suspended for 5 years on certain conditions.

S v Lin Wenzhu (Chinese National) OR Tambo CAS 210/1/2011; Case nu: 1SH14/2010, the accused was arrested at OR Tambo International Airport in possession of elephant ivory artefacts. He was convicted on a charge of fraud and in terms of sec 57(1) of Act 10 of 2004 and sentenced on 14/3/11 to R10,000.00 or 3 years imprisonment. A further 4 years imprisonment was suspended for 5 years on certain conditions.

S v Mahn Thuong Tran, OR Tambo CAS 37/12/2011, 2SH 291/2011: The accused was arrested with 2 rhino horns and various ivory items in his possession whilst transiting through RSA from Mozambique to Vietnam. He was charged on two counts of contravening Sec 57(1) of NEMBA and on 18/05/2012 was sentenced to R 200,000.00 or 3 years imprisonment and a further 4 years were suspended for 5 years on conditions.

Hu Zhao (Chinese); OR Tambo CAS 56/08/2012; Case number: 1 SH 165/2011: The accused was arrested at OR Tambo International in possession of 14 pieces of ivory and 3 lion teeth. He was convicted on the 13/8/2012 as follows: Count 1: Contravention of section 57(1) of Act 10 of 2004: possession of 14 pieces of ivory. Count 2: Contravention of section 57(1) of Act 10 of 2004: possession of 3 lion teeth and was sentenced on the on 13/8/2012 to R20,000.00 or 3 years imprisonment

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| Key: | The need for airport authorities/customs to check or search traveller's backpacks |
| Offences: | Attempting to smuggle the wildlife products to Asia (China, Hong Kong, Vietnam etc) |
| Smuggling methods: | Air/flight |
| Nationality of persons Involved: | Mostly Chinese and other Asian nationals |
| Sector involved: | Not stated (only indications of attempts to smuggle through customs) |
| Jurisdiction: | South Africa and attempts to smuggle to Asian countries |
| Detective method: | Checking the luggage of travellers to detect protected wildlife products that may be carried |

6.1.6 Case Study 6 (summary of various cases from Zambia)

In May 2014, a consignment of elephant tusks was detected via a scanner at Kazungula border post in Zambia. The consignment was intercepted by the customs authority and handed over to the Zambia Wildlife Authority (ZAWA).

Furthermore, on 11 June 2014, customs officers intercepted four pieces of elephant tusks through a compliance inspection conducted by customs authority. This incident was also at Kazungula border post.

In light of the aforesaid, most countries further indicated that when customs officials get a tip-off or information regarding potential illegal trafficking/smuggling of wildlife, the information is cascaded to all customs officers at exit and entry points and incidents are put on high alert. Similarly other law enforcement agencies like the police and military also patrolled the borders once alerted.

Generally, countries indicated that in cases where rhino horns, elephant tusks, or parts of other protected wildlife or wildlife products that were illegally trafficked through the respective points of entry and exit, the following actions were taken to understand how customs controls failed to detect such illicit activity;

a. Investigations were instituted to establish circumstances under which the consignment was cleared, identify persons involved and gather all the necessary evidence;

b. Appropriate actions were taken against customs official if found to have assisted in the crime;

c. Weaknesses identified were addressed to avoid similar occurrences in future.

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| Key: | Coordination of efforts between various LEAs |
| Offences: | Poaching and attempting to smuggle the wildlife products out of the country |
| Smuggling methods: | Road/drive through borders |
| Jurisdiction: | Zambia |
| Sector involved: | Not stated (only indications of attempts to smuggle through customs) |
| Detective method: | The use of scanners at border posts to scan cargo and detect protected wildlife products in cargo |

6.1.7 Case Study 7

In the case of the XAYSAVANG Network, Mr Chumlong Lemtongthai was convicted for violations of the National Environmental Management: Biodiversity Act and violations of the Customs and Excise Act. He was a suspect at “Level 4” of the organized criminal syndicate involved in smuggling ivory. The XAYSAVANG Network physically brought cash into the country. Some of the passengers apprehended at OR Tambo International Airport brought undeclared currency. These suspects were arrested and convicted. The cash was forfeited to the state. Mr Lemtongthai also used various bankcards from banks in Bangkok, Thailand to physically draw cash from an ATM at Caesar’s Palace Casino, close to the airport. This place was chosen due to good physical security for the ATMs at the casino. Money was also transferred to a bank account in Dubai where his “business partner” Mr Marnus Steyl and his brother conducted business. Money was transferred from Lemtongthai’s bank account in Bangkok to the Bank of Athens account of Mr Marnus Steyl.

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| Key: | The need for airport authorities/customs to check |
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or search the luggage and backpacks of travellers to ascertain that declarations are as expected. This was a known criminal network involved in wildlife crimes which had entered the country with undeclared large sums of cash and was drawing some cash locally from a casino ATM to fund wildlife crimes.

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| Offences: | See above. |
| Smuggling methods: | Air/flight. Funds to fund their activities was brought in cash, while some of it was remitted from Dubai and withdrawn from local ATM. |
| Nationality of persons Involved: | South Africans and Thai nationals |
| Sector involved: | Not stated (only indications of moving large sums of money by those known to be involved in wildlife crimes) |
| Jurisdiction: | South Africa, Dubai, Thailand |

6.1.8 Case 8

S v J Nyirenda

The accused was arrested at Beitbridge border post whilst crossing the border from Zimbabwe in a Citi liner bus to RSA. Four tusks, 2kgs of ivory, valued at R 1,600.00 were found hidden underneath some luggage. He was convicted and sentenced to R 8,000.00 or 4years imprisonment.

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| Key: | The need for border authorities/customs to check or search the luggage and backpacks of travellers to detect any undeclared wildlife products. |
| Offences: | Attempting to smuggle the wildlife products to South Africa. |
| Smuggling methods: | Moving products from Zimbabwe to South Africa using public transport by road. |
| Nationality of persons Involved: | Zimbabwe |
| Sector involved: | Not stated (only indications of attempts to smuggle through customs) |
| Jurisdiction: | South Africa, Zimbabwe |

6.1.9 Case 9

S v Sydney Matthews Cas Vioolsdrift 27/11/2012

In November 2012, Sydney Matthews from Cape Town was caught smuggling the following reptiles from Namibia to South Africa: three (3) Horned Adders (*Bitis caudalis*), three (3) Zebra spitting Cobras (*Naja nicricinta*), and one (1) Common Tiger snakes (*Telscopus semiannulatus*). He was convicted on 26 March 2013 for contravening the Northern Cape Conservation Act, section 26(1)(b) and section 4 of Act 9/2009. On the 26/03/13 he was sentenced to: R 5,000.00 or 90 days imprisonment plus R 20,000.00 or 9 month imprisonment suspended for 5 years.

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| Key: | The need for border authorities/customs to check or search the luggage and backpacks of travellers to detect any undeclared wildlife products. |
| Offences: | Attempting to smuggle the wildlife products to South Africa. |
| Smuggling methods: | Moving products from Namibia to South Africa using public transport by road. |
| Nationality of persons Involved: | Not stated |
| Sector involved: | Not stated (only indications of attempts to smuggle through customs) |
| Jurisdiction: | South Africa, Namibia |

6.1.10 Case 10 (two cases of traditional healers found in possession of protected wildlife products)

Case A

State v Charles Kenny – Parkroad CAS 1107/5/2010: The accused is the owner of a shop in Bloemfontein called Momezulu Traditional Healer. The sentences imposed on counts 2 and 3 are the highest sentences imposed for these offences in the Free-State to date. He pleaded guilty on the 27th of August 2012 on the following counts: 1. C/s 57(1) of The National Environmental Management: Biodiversity Act, No 10 of 2004 – Restricted

Activity with a TOPS species to wit: Ivory shavings to the value of R37,67 (31,4 grams); Piece of an otter skin; Piece of a cycad; Piece of a crocodile skin; A python skin; Piece of a leopard skin; Several pieces of Sun-gazer skins (Ouvolk); 18x pieces of Merwillia Plumbea plant species. 2.C/s 40(1)(c) of The Nature Conservation Ordinance, No 8 of 1969 – possession of animal products without a permit to wit: Shell of a Mountain Tortoise (Geochelone paradalis or Bergskilpad); Hide of an Aardwolf. 3. C/s 33(1) of The Nature Conservation Ordinance, No 8 of 1969 – possession of protected plant materials, to wit: 281 strings of Helichrysum (“Mpepa” / Sewejaartjies) 15 pieces of Dioscorea (Olifantsvoet) 85 bulbs of Wild Pineapple; 14 bulbs of Boophone sp (Poison Bulb / Seeroogbome). He was sentenced on the 22/08/2012: 1. R300,000.00 or 3 years imprisonment suspended for 4 years. 2. R100,000.00 or 1 year imprisonment suspended for 4 years. 3. R100,000.00 or 1 year imprisonment suspended for 4 years.

Case B

S v N Sipho Phutaditjaba (SA citizen) CAS 318/2/10; The accused was convicted in terms of Section 57(1) of NEMBA for muti, crocodile, leopard, cerval cat, python and was fined R 5,000.00 or 8 months imprisonment on the 27/02/10.

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| Key: | Traditional healers, Africans, were found in possession of protected animal products and were accordingly sentenced. |
| Offences: | See above. |
| Smuggling methods: | No smuggling, simply possession. |
| Nationality of persons involved: | South African |
| Sector involved: | Indications of traditional medical practitioners involved in dealing of protected wildlife and wildlife products |
| Jurisdiction: | South Africa |

6.1.11 Case 11

S v Cheng Jie Liang (Table view CAS 316/09/2012 (counts 1 and 2); Table view CAS 463/09/2012 (count 3) Police received information that abalone was being processed, moved, stored at a storage facility. On 14/9/12 the accused, Mr Cheng Jie Liang, a Chinese National was arrested. The accused was observed at the storage facility and was apprehended, the vehicle was searched and keys were found in the car. The vehicle, a white Audi is registered to Mr Mingshu Wu. He was taken back to the storage facility and Ms Kapp confirmed that the Accused was there and was one of the persons who regularly visited the storage facility. The keys opened units 12 and 349. According to Kapp, Unit 12 is registered in the name of Mr Mingshu Wu and Unit 349 is registered in the name of Mr Chih-Fung Lu. It was discovered that it was not abalone, but rather ivory - which was confiscated. Units were searched, ivory and pieces of tusks were found in boxes and some items hidden in big drying ovens in the unit. The ivory was identified as African Elephant (*Loxodonta africana*) ivory and the estimated value is R 21,150,353.60. The accused was unable to produce documentation for the possession of the ivory. The accused was arrested. The accused's cell phone was also confiscated and analysed. Furthermore, the Accused's fingerprints were also found on the boxes, containing the Ivory. His cell phone had images/photos of Ivory tusks, which appear to be the same as the seized items. A few days later, the police decided to remove the dryers from the units and discovered more ivory.

Count 3: On the 20/9/12 the police received information that ivory was stored at a residential property in Table view. They obtained search warrants for flat A1101 and garages 29/28, 32 and 33. Mr Moi-Wing Ng, aka Tom arrived whilst the police were present. According to him, the flat was his father's. He had keys to the flat, nothing was found. In garage 32, the police recovered shark fins. Flat A1101 and garage 32 are linked to Mr NG Wang Hong. In garage 29/28, police discovered a VW Kombi, in that vehicle the police recovered abalone. The vehicle is registered in the

accused's name. This garage is linked to flat B903, registered to Ms Liu Haiying. Nothing was found in garage 33. The abalone was seized. He was charged for the possession of the abalone. The abalone was found in a vehicle registered to the accused and his fingerprints were found on the boxes. The movement control system indicated that Mr Wu left the country a few weeks prior to Mr Liang's arrest. Mr Liang had Mr. Wu's vehicle and Mr. Liang's vehicle was parked in a garage that is linked to Mr Ng. Charges were as follows: Count 1 & 2: Possession of elephant ivory without documentation; contravention of section 42(1)(b) of Ordinance 19 of 1974, being in possession respectively of 995.027kg and 6.933kg of ivory. Count 3: possession of abalone in terms of Section 44(2) of the MLRA, 1138 dried abalone with a weight of 116.5 kg.

On 5/9/14 he was sentenced to: count 1 and 2 for Ivory, 10 years direct imprisonment, 3 years of which were suspended on condition that he pay R5 million to CARA and Cape Nature in equal proportion. On count 3 for abalone, 2 years direct imprisonment, sentences not to run concurrently. (The accused was convicted in 2004 in Germiston. He was sentenced to a R80,000.00 fine or 12 months imprisonment and a further 12 months suspended for 5 years.)

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| Key: | The LEAs got a tip-off that Abalone was being illegally processed and stored. Sting operations uncovered more wildlife crimes committed by legitimate business. |
| Offences: | Dealing in and possession of abalone and elephant ivory hidden under the pretext of dealing in frozen foods. |
| Smuggling methods: | No smuggling indications as there was only possession of protected wildlife products and species. |
| Nationality of persons Involved: | Chinese nationals |

Sector involved: Not stated (only indications of business men involved in other types of businesses also illegally dealing in protected wildlife products)

Jurisdiction: South Africa

6.1.12 Case 12

S v Thi Phuong Nguyen and another (Vietnamese); OR Tambo International Airport CAS 286/1/2014. This prosecution also relates to section 57(1)(A) which was amended to allow for prosecutions where the accused is still in transit with endangered species or derivatives without the necessary permits and has not entered the Republic. These accused were importing ivory from Angola to the value of approximately R1.3 million which weighed 147.71 kg. They were arrested whilst in transit from Angola to the East and without the necessary documents to be legally in possession of - and transporting the set ivory, in light of international requirements for trade in ivory. Sentence was: R 50,000.00 or 3 years imprisonment.

Key: Legislation was amended to accommodate intervention efforts of LEAs, for goods still in transit.

Offences: Attempting to smuggle the wildlife products from Angola to the East via South Africa.

Smuggling methods: Air/flight, using various transit points. From Angola to Asia via South Africa

Nationality of persons Involved: Vietnamese

Sector involved: Not stated (only indications of attempts to smuggle through customs)

Jurisdiction: South Africa, Angola and China

6.1.13 Case 13

Fall Solibou (Senegalese Citizen) OR Tambo 164/07/2011; Case number: 1SH 49/11, The accused was arrested at OR Tambo International Airport in possession of handbags, belts and purses made out of crocodile leather without being in possession of a permit. The accused was convicted in terms of section 98 of the Nature Conservation Ordinance Act, Act no. 12

of 1983: Possession of crocodile leather without a permit and sentenced on the 11/8/11 to R5,000.00 or 3 years imprisonment. The items to the value of approximately R40,000.00 were forfeited to the state.

Key: An African arrested at the airport for being in possession of protected wildlife products without a permit. Airport and customs officials need to check the luggage and backpacks of travellers to ascertain that persons travelling with certain protected wildlife products have the necessary permits to do so.

Offences: Attempting to smuggle the wildlife products from South Africa.

Smuggling methods: Air/flight

Nationality of persons Involved: Senegalese

Sector involved: Not stated (only indications of attempts to smuggle through customs)

6.1.14 Case 14

S v Khumalo and Zakes Mda (case currently in court, names changed and sensitized)

CASE NO 14/2/2013. Charge: possession of 2 rhino horns.

Summary: The section ranger in the Crocodile Bridge section of the Kruger National Park (KNP) recovered the carcass of an adult white rhinoceros in the Sheeli concession area. It looked like the animal died of natural causes but two sets of spoor leading to the animal and the realization that both horns were removed sometime after the animal passed away arose suspicion. The area in which the carcass was found is only accessible by guests and employees of the Sheeli Lodge. Initial investigation pointed to an employee of Sheeli who requested for two days leave earlier the same morning. The suspect's vehicle was noticed in a nearby town and was stopped. The owner of the vehicle was driving the vehicle. Nothing was found in the vehicle but a set of rhino horns were recovered hidden in the bushes alongside a nearby river. These horns were wrapped in a blanket that belonged to Sheeli Lodge. The suspect was a field guide employed by Sheeli Lodge and further investigation also implicated the head field guide of

the area. Other suspects managed to flee before they were detained but they left their vehicle which was later confiscated. A search of the first suspect's rooms at Sheeli led to the discovery of knives and an axe that was suspected to be used by the suspect to remove the horns of the animal. During a physical fit it was later confirmed that the horns recovered were indeed that of the animal found by the Section Ranger of Crocodile Bridge section.

Key: Game rangers and those entrusted with safety and security of wildlife are involved in poaching of rhinos and dealing in rhino horns.

Offences: Rangers attempting to trade in wildlife products.

Smuggling methods: Not yet clear at the time of arrest

Nationality of persons Involved: South Africans

Sector involved: Not stated (only indications of employees, tasked with protecting wildlife, who may have been involved in wildlife crimes)

6.1.15 Case 15

S v Bongani and Another (case currently in court, names changed and sensitized)

CASE No 02/04/2014; illegal hunting (1 rhino), dealing in rhino horns, possession of illegal fire-arms, and possession of ammunition, using vehicle without consent and fraud.

Summary: Accused number one is a tour guide in the Kruger National Park (KNP) and accused number two is a worker at the water purification plant in KNP. Accused number one took a group of tourists on a game drive and spotted a rhino. After the game drive he collected accused number two and they went to poach the rhino. The horns were removed from the KNP in the same vehicle and sold to a person outside the KNP. The DNA in the vehicle matched with the carcass DNA.

Key: National park employees entrusted with safety and security of wildlife are involved in poaching of rhinos and dealing in rhino horns.

Offences: National Park employees poaching rhinos and attempting to trade in wildlife products.

Smuggling methods: Not yet clear at the time of arrest

Nationality of persons Involved: South Africans

Sector involved: Not stated (only indications of national park employees who have defeated their obligations to protect wildlife by committing wildlife crimes)

6.1.16 Case 16

United States District Court, E.D. New York. March 2012:

On December 5, 2011, Lin Feng Xu pleaded guilty to two counts. Count One: Alleged that on September 17, 2011, Xu, together with others, within the Eastern District of New York and elsewhere, fraudulently, knowingly, and intentionally concealed and attempted to export from the United States elephant ivory, in violation of 18 U.S.C. § 554. Count Two: Alleged that on the same date, within the Eastern District of New York and elsewhere, Xu, together with others, knowingly and intentionally traded in elephant ivory, in violation of 16 U.S.C. § 1538(c).

Key: The need for border authorities/customs to check or search the luggage and backpacks of travellers to detect any undeclared wildlife products.

Offences: Attempting to smuggle the wildlife products from the U.S.A.

Smuggling methods: Attempting to move protected wildlife products from the U.S.A to other destinations by air.

Nationality of persons Involved: Not stated.

Sector involved: Not stated (only indications of attempts to smuggle through customs)

Jurisdiction: U.S.A

6.1.17 Case 17

United States District Court, N.D. Florida, Pensacola Division.

November 12, 2013:

During the time period relevant to this case, the defendant, Charles Kokesh, was a resident of New Mexico. In 2006, he imported two African elephant tusks from Namibia. The tusks were trophies from a hunting safari that he had previously taken in that country, and there is no dispute that they were lawfully acquired and legally imported into the United States. Several years later, in November 2011, the defendant contacted an acquaintance, Duke McCaa, Sr., a federal licensed firearms dealer located in Gulf Breeze, Florida, about the possibility of him selling the tusks or using them to barter for guns. Because he had seen the defendant's name on the internet as having been under indictment for a crime (later determined to be a matter of mistaken identity), McCaa believed it was against the law for the defendant to purchase firearms. He then contacted a special agent with the Bureau of Alcohol, Tobacco, and Firearms ("ATF"), who, in turn, after hearing about the tusks, contacted a special agent with the Fish and Wildlife Service ("FWS").

Key: Citizens across the world being aware of wildlife crimes and acting accordingly when the need arises. Legally obtained wildlife products can be used unlawfully.

Offences: Attempting to barter wildlife products for guns.

Smuggling methods: None

Nationality of persons

Involved: Not stated but appear to be Americans

Sector involved: Weapons dealers

Jurisdiction: U.S.A and Namibia

6.1.18 Case 18

Anahad O'Connor. U.S. Accuses 6 smuggling Disguised Elephant Ivory. New York Times. 3 December 2008⁴⁶.

According to a criminal complaint unsealed in the United States District Court in Brooklyn, investigators tracked the ring for more than two years, using close surveillance, infiltration by undercover agents and examinations of bank, phone and shipping records. The investigation involved agents of the United States Fish and Wildlife Service, Immigration and Customs Enforcement and the Department of Homeland Security.

Investigators said they discovered eight shipments of highly valued ivory to the United States, one of which a trafficker was paid USD 15,000.00 to bring from Cameroon. They said that the ivory in just one shipment was worth USD 165,000.00.

“It is expensive in Africa,” one of the six accused people, Bandjan Sidime, 36, a native of Guinea, was recorded as saying, according to the complaint: “Always the ivory price go up like a diamond, like gold, all the time. It changes every day.”

Mr. Sidime said the ivory was so expensive, in part, because getting it out of Africa meant bribing so many people along the way, the complaint said.

Rather than seize all the illegal shipments when they arrived at Kennedy, investigators let some of the hidden ivory, detected by X-rays of the art objects, go through and tracked them as they were delivered to various locations in New York. Besides Mr. Sidime, officials arrested Kemo Sylla, 32, a native of Liberia; Seidou Mfomboutmoun, 35, from Cameroon; Mamadi Doumbouya, 39, a native of Ivory Coast; and Drissa Diane, 43, and Mamadou Kone, 43, all of whom are naturalized United States citizens.

⁴⁶ The New Times report titled: U.S. Accuses 6 of Smuggling Disguised Elephant Ivory
Accessed from:
<http://www.nytimes.com/2008/12/04/nyregion/04ivory.html?adxnnl=1&adxnnlx=1400011446-xjvfXMSGEkwfFOEfbf+9lg>

All the ivory was imported through John F. Kennedy Airport in Queens, New York, disguised as African handicrafts and wooden instruments. The six defendants received sentences ranging from one year of probation to 14 months' incarceration. A number of the defendants were also ordered to pay fines to the Lacey Act Reward Fund, which supports efforts to enforce the Lacey Act.

| | |
|-------------------------------------|---|
| Key: | The need for border authorities/customs to check or search the luggage and backpacks of travellers to detect any disguised wildlife products. |
| Offences: | Smuggling the wildlife products to the U.S.A. |
| Smuggling methods: | Moving protected wildlife products from West Africa to the USA, disguising them as African handicrafts and wooden instruments. |
| Nationality of persons Involved: | West Africans and naturalised U.S citizens |
| Sector involved: | Not stated (only indications of smuggling through customs) |
| Jurisdiction: | USA and West Africa |

6.1.19 MORE CASES REFLECTING ADDITIONAL METHODS USED TO TRAFFIC WILDLIFE PRODUCTS

Research conducted by TRAFFIC Bulletin (2009 –March2014) showed the following seizures which further present methods used (e.g disguising) to smuggle wildlife products:

- On 1 April 2011, customs officials seized 2,033 kg of ivory that had been hidden among hundreds of boxes of frozen mackerel on a boat at Bangkok port. This shipment, apparently from Kenya, was reported to be the largest in the country during that year;
- On 6 May 2011, Customs officials at the port of Hai Phong, Vietnam, acting on information, discovered nearly 600 kg of tusks hidden in a shipping container of rubber from Tanzania. The suspects had placed the ivory in the tanks by cutting them open and soldering them shut. The container had been labelled for temporary import, and was already registered for re-export to China by a Vietnamese company in the neighbouring province of Quang Ninh;
- On 26 November 2011, authorities in Nairobi seized a container, holding ivory disguised as soapstone carvings, from a depot. The shipment, destined for Hong Kong, comprised 25 elephant tusks and 61 tusk pieces. The source of the shipment was unknown;
- On 3 December 2011, the Kenya Wildlife Service (KWS) seized 465 ivory tusks that had arrived in Mombasa Port from Nairobi on 28 November 2011, again declared as soapstone. Before it was impounded, KWS had tracked the consignment for three weeks. The source of the tusks could not be immediately established, but the shipment was reportedly bound for Cambodia;
- Ivory is sometimes transported to Cape Town by air for cutting and onward shipment. On 29 February 2012, officials from the Border Control Unit at Cape Town International Airport detected a consignment of ivory that had arrived in four boxes from O.R. Tambo International Airport, Johannesburg. The shipment was allowed by

Revenue Service officers to continue its journey to a city business premises, closely monitored by enforcement officials, which in turn led to the discovery of a larger number of ivory products. The confiscated items remained unquantified but were substantial and included whole tusks and several bags of cut ivory as well as ivory necklaces and bangles. A machine to cut ivory was also found. A Chinese national was arrested;

- On 14 September 2012, officials seized 62 pieces of elephant ivory (255 kg) at Jomo Kenyatta International Airport. Preliminary investigations indicated that the shipment had been bound for Kuala Lumpur, Malaysia, via Doha, Qatar. Declared as avocados, the consignment had been sprayed with pepper and tobacco in an attempt to avoid detection by sniffer dogs.

7. CONCLUSION

The majority of ESAAMLG member countries have vast resources in wildlife, which, during the last few years have seen unprecedented targeting by both individuals and syndicates involved in poaching and other illegal wildlife activities. The transnational nature and complex organization of criminal operations in wildlife crimes were noted as key challenges which the relevant combating authorities need to match, if gains of criminal syndicates are to be reversed and African wildlife preserved.

It is evident from this study that the ESAAMLG region is vulnerable to money laundering activities emanating from wildlife crimes, which are escalating at an alarming rate. The escalating rhino and elephant poaching activities in particular are presenting a challenge to authorities, as this study has shown inadequacies in preservation and combating efforts. Inadequate wildlife crime combative efforts are, amongst others attributed to insufficient resources for various combating stakeholders and drawbacks in international and domestic coordination and cooperation.

Though it is expected that FIUs, which are suitably positioned to help LEAs with matters relating to illicit financial flows and other tactical and operational combative efforts, play a more significant role in providing financial intelligence relating to wildlife crimes, the study revealed that FIUs felt excluded from strategic, tactical and operational efforts to combat wildlife crimes. This is an indication of limited cooperation amongst various authorities and coordination of combative efforts domestically.

The escalating rate of wildlife crimes, particularly for rhino and elephant poaching may result in the extinction of some species in the near future. Amongst others, this could deprive member countries of national revenue generated by having this wildlife in our jurisdictions, the employment created by same and a host of other developmental and ecological benefits associated with the targeted wildlife species. This therefore calls for ESAAMLG member countries to reconsider their anti-wildlife crime policies and strategies in view of best practices highlighted in this report and other similar publications. In the same vein, it has to be said that as long as the demand for protected wildlife products in areas such as Asia and U.S.A remains high, criminal syndicates will continue to engage in wildlife crimes to meet such

demand. This report therefore concludes by urging consumer jurisdictions of such illegal wildlife products to enhance efforts to combat trafficking of these products and the resultant laundering of the proceeds by introducing a much tighter legal framework to deal with wildlife crimes and also promoting awareness on the dangers there jurisdictions are creating to the ESAAMLG wildlife and Africa as a whole through offering of markets and selling of wildlife products from the poached animals which have become so endangered as to near extinction.

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ANNEXURE A:

OVERVIEW OF THE NATIONAL WILDLIFE CONSERVATION LAWS IN THE EIGHT FOCAL COUNTRIES

| | Botswana | Kenya | Mozambique | Namibia | South Africa | Tanzania | Zambia | Zimbabwe |
|-----------------|---|--|---|---|--|---|------------------------------|--|
| Law Name | Wildlife Conservation and National Parks Act, 1992 and currently under revision (there is currently a temporary moratorium on hunting except on private game ranches) | Wildlife Conservation and Management Act, 2013 | Law 16 / 2014 of 20th June: protection, conservation, restoration and sustainable use of biological diversity and areas of conservation | Nature Conservation Ordinance No 4, 1974 (Controlled Wildlife Products and Trade Act, 2008) | National Environmental Management: Biodiversity Act 10 of 2004, and associated regulations, norms and standards, and species lists | Wildlife Conservation Act No 5, 2009 Forest Act, 2002 Tourist Hunting Regulations, 2015 | Zambia Wildlife Act 12, 1998 | Parks and Wildlife Act, 2011 Protection of Wildlife (Indemnity) Act, 2014 Trapping of Animals (Control) Act |
| Law Date | 1992 | 2013 | 2014 | 1974 | 2004 | 2009 | 1998 | 2011 |
| Poaching | Not defined | "illegal hunting, illegal capturing and illegal harvesting of any wildlife but does not include the control of | Not specifically defined | Not defined | Not specifically defined, but described under definition of "restricted activity" | Not specifically defined, but described in terms of various offences such as hunting without permits | Not specifically defined | Not specifically defined nor is word poaching used; however, list of offences describe such acts; also details of unlawful hunting |

| | Botswana | Kenya | Mozambique | Namibia | South Africa | Tanzania | Zambia | Zimbabwe |
|----------------------------------|--|--|---|--|---------------------------------------|---|--|--|
| | | species widely and commonly regarded as pests or vermin, as listed in a schedule of this Act" | | | | | | described under Evidence and Presumptions |
| Illegal trade in wildlife | Not defined | Not defined | Not defined | Defined within context of CWPTA text | Not defined | Defined as any trade in violation of CITES | Not defined, but section on prohibited dealings in trophies | Not defined, but activities described under Evidence and Presumptions |
| Protected species | Listed in regularly revised schedules | Listed in regularly revised schedules | Listed in Annexures | Listed in regularly revised schedules (both acts) | Listed in regularly revised schedules | Listed in attached schedules, can be amended through declaration by the Minister | By statutory order | Listed in schedule, which can be revised by statutory order |
| Legal hunting definition | Clearly defined, and conditions, locations and permits described | Not defined as currently not allowed, with exceptions for research offtake, cropping, culling and some species being game ranches, (also | Not specifically defined, but acceptable methods are described, and hunting to be done in accordance with regulations | Clearly defined, and conditions, locations and permits described | Not defined | Not specifically defined, but conditions and permit system clearly described in Tourist Hunting Regulations | The act of hunting described - but not in terms of legality: "to kill, to capture and includes the doing of any act immediately directed at killing or | The act of hunting described - but not in terms of legality: "a) to kill, injure, shoot at or capture; or (b) with intent to kill, injure, shoot at or |

| | Botswana | Kenya | Mozambique | Namibia | South Africa | Tanzania | Zambia | Zimbabwe |
|----------------------------|---|---|---|------------------|---|--|---|---|
| | | as a result of HWC) | | | | | capturing" | capture, to wilfully disturb or molest by any method; or (c) with intent to kill, injure, shoot at or capture, to lie in wait for, follow or search for". |
| Hunting of elephant | Yes, with license and in accordance with CITES, and ivory to be marked and registered to owner. (Current hunting ban) | No, and listed under Category A (most severe) due to critically endangered status | Not explicitly discussed, implicit in context of endangered species | Yes, with permit | Yes, with licence and subject to conditions | Not clear, but appears to be inferred yes, with permit – however, elephant does not currently appear in list of species in Tourist Hunting Regulations | Not explicitly discussed, but inferred Yes, with permit and subject to provisions of the Act, but dependent on change in designation of status to / from "protected animal". (Hunting bans) | Yes, with permit |
| Hunting of rhino | No unless in extenuating circumstances, and horns to be | No, and listed under Category A (most severe) due to | Not explicitly discussed, implicit in context of endangered | Yes, with permit | Yes, with permit | Not clear, but appears to be inferred yes, with permit – however, rhino | Not explicitly discussed, inferred no (Set 133) | Not for trophy hunting, but with permit for scientific / educational / |

| | Botswana | Kenya | Mozambique | Namibia | South Africa | Tanzania | Zambia | Zimbabwe |
|-------------------------------------|---|--|---|--|---|---|---|--|
| | submitted to DWNP | critically endangered status | species | | | does not currently appear in list of species in Tourist Hunting Regulations | | conservation purposes, and with permit |
| Provisions for anti-poaching | Yes, but only phrased in terms relating to contraventions of the Act (i.e. hunting without necessary permissions) | Yes, explicit | Not defined, however, officers are allowed to carry firearms in the course of their duty in accordance with statutory regulations | Explained in context of duties of nature conservators | Not defined | Yes, with the first listed objective of the Tanzania Wildlife Protection Fund to be to support anti-poaching operations; also provisions for the Wildlife Protection Unit | Addressed under 'enforcement' | Not defined |
| Export and import of animals | Only in accordance with CITES, and with permit | Only with permit issued by KWS (CITES not mentioned except in definitions) | As determined by the competent authorities, and in keeping with CITES | Covered in both the Nature Conservation Ordinance and the Controlled Wildlife Products and Trade Act, 2008 - established for | In accordance with a series of provisions, and by permit only | Live animals are covered under the description of "trophy", therefore import / export appears possible with a trophy dealer's license | Act provides for the implementation of CITES. Live imports are possible within provisions of the act, and with written permission | Not clear, as Act talks of buying and selling, but does not specifically talk in terms of export/import. |

| | Botswana | Kenya | Mozambique | Namibia | South Africa | Tanzania | Zambia | Zimbabwe |
|--|--|---|---------------------------------|--|---|--|--|---|
| | | | | CITES implementation | | | and/or permit | |
| Export and import of ivory/horn | In accordance with CITES, and weight, mark and number to be placed on item | Only with permit issued by KWS (CITES not mentioned except in definitions), also specific reference to listed species | Not defined beyond above phrase | Yes, with permit | Yes, with permit, and proper marking (or microchip) | Yes, in accordance with trophy dealer's license | Yes, both are listed as 'prescribed trophies', and any sale must be done through a transfer of certificate of ownership, or if importing, through immediate examination and registration | Not clear, as Act talks of buying and selling, but does not specifically talk in terms of export/import. However, buying and selling of registered items with permit is permitted |
| Ivory ownership | Can be legal, with proper registration | Not addressed | Not discussed | Can be legal, with proper registration (CWPTA) | Not clearly articulated, but inferred from TOPS regulations | Yes, after registration and with proper certificate | Yes, with certificate of ownership | In accordance with any regulations relating to registration, marking and certificates of ownership |
| Rhino horn ownership | Not legal | Not addressed | Not discussed | Can be legal, with proper registration | Yes, with permit | Yes, since the definition for trophy explicitly includes rhino | Yes, with certificate of ownership | In accordance with any regulations relating to |

| | Botswana | Kenya | Mozambique | Namibia | South Africa | Tanzania | Zambia | Zimbabwe |
|-----------------------------------|---|--|---|--|---|---|--|---|
| | | | | (CWPTA) | | horn, but still with registration and certificate as for ivory | | registration, marking and certificates of ownership |
| Presumpti on of offence | Possession or being in same location of item without a license; carrying a loaded weapon on land without landowner's permission | Extensive list of defined offences, relating to hunting, trade, unauthorised presence on protected area land | Not presumed, but offences listed in section on Infractions and Sanctions | Possession of any controlled wildlife product without permit (CWPTA) | Not presumed, but conditions of offence clearly described in TOPS regulations | Although not presumed, it is noted that the burden of proof in respect to legality hunting or capture lies with the person charged. Beyond this, offence is not presumed, but offences are described in detail throughout the act | Described, plus failure to comply with an order, or failure to stop at checkpoint, or failure to comply with sections in the act | Carrying a loaded gun on land without a hunting permit, possession of wildlife or wildlife product without a permit or certificate, or otherwise in terms of section on Evidence and Presumptions |
| Notes | "Temporary" moratorium on all hunting except on game ranches starting 2014 | | | | | Does exclusion of Zanzibar create a loophole for ITW? | | Pangolin listed in Sixth Schedule (specially protected) |
| Lead authority on wildlife | Department of Wildlife and National Parks | Kenya Wildlife Service | Conservation Area Management Council (Os | Nature Conservation Board | Department of Environmental Affairs | Wildlife Division | Zambia Wildlife Authority | Parks and Wild Life Management |

| | Botswana | Kenya | Mozambique | Namibia | South Africa | Tanzania | Zambia | Zimbabwe |
|--|-----------------|--------------|---|----------------|---------------------|-----------------|---------------|-----------------|
| | | | Conselhos de Gestão das Áreas de Conservação) | | | | | Authority |

For the other ESAAMLG member countries, the following laws are in place:

- **Angola:** Decree on Soil, Flora and Fauna Protection, No 40.040 of 1955. Includes protected species lists, hunting regulations. Under review by FAO (SAIEA, 2009), as draft Forest, Wildlife and Protected Areas Law of 2006 (Cirelli & Morgera, 2009).
- **Ethiopia:** Forest and Wildlife Conservation and Development Proclamation No 192 of 1980, Wildlife Conservation Regulations of 1972 and 1974. List categories of protection for different species, and set out conditions for legal hunting, as well as provisions for possession, trade and import and export of trophies (de Klemm & Lausche, 1986) Under review as of 2013 (UNDP, 2013) Also, a 2014 National Ivory Action Plan for Ethiopia, issued by Ethiopian Wildlife Conservation Authority in 2014.
- **Lesotho:** Environment Act of 2001, Historical Monuments, Relics, Fauna and Flora Act of 1967. No specific provisions relating to hunting, whether legal or illegal, and no reference to trade (Cirelli & Morgera, 2009)
- **Malawi:** National Parks and Wildlife Act of 1992, with Control of Trophies and Trade in Trophies Regulations of 1994. Hunting prohibited inside reserves, but game and hunting licenses can be issued for other areas. Trophy dealers' license required, and possession, sale and purchase of specimens of protected species is an offence, unless the specimen has been lawfully taken and a certificate of ownership is in place (Cirelli & Morgera, 2009).
- **Mauritius:** Wildlife and National Parks Act of 1993. Hunting is allowed. Wildlife amendment regulations of 1996

and 1998 allow for trade according to CITES, and with appropriate permits. (FAOLEX online database)

- **Rwanda:** *Production, commerce, détention et transformation des produits végétaux, d'élevage, de chasse et de pêche* - 1948. A short proclamation, that allows the governor-general to regulate production and trade of natural resources, include hunted wildlife (viz “*le chasse*”). (FAOLEX online database)
- **Seychelles:** Closest match on wildlife conservation found was with Birds Eggs Act – originally from 1933 with various amendments, but more recent and relevant is the Customs Management Act of 2011, which place restrictions on import and export of a range of goods, including species listed under CITES. (FAOLEX online database)
- **Swaziland:** Game (Amendment) Act of 1991. Regulates and describes legal and illegal hunting and possession of trophies. (FAOLEX online database)
- **Uganda:** Wildlife Act (cap 200 of 2000) allows for legal hunting through permits (Cirelli & Morgera, 2009).

In a recent study, the Law Library of Congress prepared a comprehensive report assessing seven African countries in terms of their legal framework and methods for enforcement – five of these are ESAAMLG member countries. The executive summaries for each member country’s assessment are presented below⁴⁷.

⁴⁷ The full report can be downloaded from: <http://www.loc.gov/law/help/wildlife-poaching/index.php>

Botswana – Law Library of Congress Assessment

“Botswana has a robust regulatory regime governing the conservation and management of its wildlife. This regime bans poaching as well as trade in animals, trophies, meat, and articles made out of trophies without the proper permits or in violation of the terms of a license or permit. Violation of any of the applicable laws entails various forms of penalties including fines, prison terms, forfeiture of tools used in the commission of a crime as well as the fruits of the crime, and revocation of licenses. Offenses involving certain vulnerable animals and recidivism result in greater penalties.

Although the principal enforcer of the regulatory regime is the Department of Wildlife and National Parks (DWNP), the Botswana Police Service (BPS) and the Botswana Defence Force (BDF) also share enforcement responsibilities. The DWNP and the BPS enjoy wide search and seizure powers and focus on local enforcement, while the BDF’s role is by and large directed at cross-border crime syndicates, intelligence gathering, and working in coordination with institutions of neighbouring states, including conducting joint sting operations” (Law Library of Congress, 2013: 1).

Kenya – Law Library of Congress Assessment

“Kenya has in place a comprehensive legislative framework that criminalizes not only wildlife poaching but also importing, exporting, dealing in, and transferring illegal animal trophies. Penalties for violations of the substantive laws and required legal procedures consist of fines, prison terms, and forfeiture of tools used in committing a crime, as well as the fruits of the crime themselves.

While certain aspects of enforcing the substantive laws are shared across several government institutions, it is the Kenya Wildlife Service (KWS), an institution with full prosecutorial powers that bears the primary responsibility for wildlife law enforcement.” (Law Library of Congress, 2013: 30)

Mozambique – Law Library of Congress Assessment

“Specific laws regulate hunting in Mozambique. Those laws permit hunting in determined areas, require hunters to obtain a license, and protect some animals. Violations of the regulations are punishable with a fine and compensatory measures aimed at repairing the damage caused. The Penal Code punishes with three days in prison and a fine a person who hunts in areas where hunting is not permitted, uses prohibited means, or enters into areas for the purpose of hunting without the consent of the owner. Wildlife trafficking, however, is not criminalized.

Storage or transportation of, or trade in, forest and wildlife resources requires an authorization and must follow the conditions established by law. The Ministry of Agriculture and Rural Development is responsible for the administration, management, and monitoring of activities involving the use of forest and wildlife resources and their ecosystems in the national territory.” (Law Library of Congress, 2013: 35)

South Africa – Law Library of Congress Assessment

“Pursuant to the South African Constitution, legislative jurisdiction regarding the conservation and management of wildlife in South Africa is a concurrent function of the national and provincial governments.

The applicable national legislation, the National Environmental Management: Biodiversity Act (NEMBA) prohibits certain activities defined as “restricted activities,” including hunting, selling, transferring, importing, or exporting any threatened or protected animals without a permit. In addition, it imposes further restrictions with regard to particularly vulnerable animals, including absolute bans on hunting and certain hunting methods.

Enforcement of the NEMBA and its subsidiary legislation is primarily the function of the Environmental Management Inspectorate, an organization made up of a network of national, provincial, and municipal government officials. The inspectorate enjoys wide-ranging authority, including inspection, search and seizure, and arrest powers. The South African Police Service (SAPS) also performs some key enforcement functions.” (Law Library of Congress, 2013: 41)

Tanzania – Law Library of Congress Assessment

“Tanzania has a highly fragmented national wildlife management and conservation regulatory regime in which three

different laws control poaching: the Wildlife Conservation Act (WCA), the National Parks Act (NPA), and the Forest Resources Management and Conservation Act (FRMCA). All three criminalize poaching and prescribe an assortment of penalties for poaching-related offenses, which are by and large tied to the types of animals involved in the offending.

With regard to the issue of trafficking, the WCA appears to be the sole controlling legislation.

The enforcement mechanisms for these laws are divided across several organizations that cover specific areas of the country. These include the Wildlife Authority, the Forest Authority (Zanzibar), and the Board of Trustees of the Tanzania National Parks. While all three have sweeping search, seizure, and arrest authority, only the latter two enjoy prosecutorial powers.” (Law Library of Congress, 2013: 50)

ANNEXURE B

INTERNATIONAL AND REGIONAL FRAMEWORK FOR CONTROLLING WILDLIFE TRADE

Looking beyond the national level laws, international and regional agreements are an important part of the enabling environment for cooperation and collaboration in combating wildlife poaching, the illegal trade in wildlife and links to money laundering and organised crime. Most of the organisations and their various multilateral and bilateral agreements are focused on economic development. Given the economic basis for much of the wildlife poaching occurring in the region, and the direct and indirect impacts of wildlife poaching and the illegal trade in wildlife on national economies, these agreements represent opportunities for supporting ESAAMLG's efforts to reduce these activities and their links to money laundering.

International agreements

Importantly, all ESAAMLG member countries are party to CITES, with several countries part of the initial ratification in the 1970s, and others joining later (e.g., Angola – 2013). CITES was set up to regulate international trade to ensure that such activity does not threaten the survival of plant and animal species through a system that is based on the assessment of the level of protection that each species needs. Although the focus was initially on establishing cross-border cooperation of regulated trade, increasingly there is emphasis on ensuring that unsustainable exploitation does not take place (CITES Declaration, CITES Strategic Vision: 2008-2020).

The Convention on Migratory Species appears to be a missed opportunity for several ESAAMLG countries (particularly those highlighted in red in the table below). One of the key instruments of this convention relates to elephants, which regularly cross borders between member countries, and where levels of protection may vary from country to country.

Other agreements do not specifically focus on wildlife trade, but through the commitments to conservation of species and

ecosystems, they provide additional opportunities for collaboration in combatting illegal use of wildlife (see table below).

In addition to these formal agreements, there have been several international conferences, summits and round tables where national leaders have made commitments to combat illegal trade and to promote the protection of vulnerable species. However, such declarations tend to be non-binding and do not always lead to implementation or adoption of measures by individual governments. Recent events include:

- Kasane conference on the illegal wildlife trade, March 2015 (ESAAMLG attendees: Angola, Botswana, Ethiopia, Kenya, Malawi, Mozambique, Namibia, South Africa, Tanzania, Uganda, Zambia and Zimbabwe)
- London conference on the illegal wildlife trade, February 2014 (ESAAMLG attendees: Angola, Botswana, Ethiopia, Kenya, Malawi, Mozambique, Namibia, Rwanda, Tanzania, Uganda and Zambia)
- Paris round table on combating poaching and the trafficking of endangered species, December 2013 (ESAAMLG attendees: Botswana, Comoros, Mauritius, Seychelles, Swaziland, Tanzania and Uganda)
- New York high-level discussion on poaching and illicit wildlife trafficking — a multidimensional crime and a growing challenge to the international community, organized by Gabon and Germany, September 2013
- Marrakech declaration - a 10-point action plan to combat illicit wildlife trafficking, May 2013 – organised by the African Development Bank

Attendance at and participation in these meetings suggests that the environmental and wildlife authorities of those ESAAMLG member countries with significant wildlife population are already engaging on the challenge from their own perspective of wildlife conservation. This means that from within that sector, political will exists to support ESAAMLG efforts.

Indication of ESAAMLG member countries' participation in international agreements

| | Convention on International Trade in Endangered Species (CITES), 1975 | Convention on Biological Diversity, 1992 | Convention on Migratory Species, 1979 | African Convention on the Conservation of Nature and Natural Resources, 1968, revised 2003 | World Heritage Convention, 1972 | Ramsar Convention, 1971 |
|--|--|---|--|---|--|--|
| ESAAMLG countries with substantial wildlife populations and most challenged by wildlife poaching | | | | | | |
| Botswana | Accession, 1977 | Ratification, 1995 | | Signatory | Acceptance, 1998 | Accession, 1996 |
| Kenya | Ratification, 1978 | Ratification, 1994 | Party | Signatory | Acceptance, 1991 | Accession, 1990 |
| Mozambique | Accession, 1981 | Ratification, 1995 | Party | Signatory | Ratification, 1982 | Accession, 2004 |
| Namibia | Accession, 1990 | Ratification, 1997 | | Signatory | Acceptance, 2000 | Accession, 1995 |
| South Africa | Ratification, 1975 | Ratification, 1995 | Party | Signatory | Ratification, 1997 | Signature without reservation as to ratification, 1975 |
| Tanzania | Ratification, 1979 | Ratification, 1996 | Party | Signatory | Ratification, 1997 | Accession, 2000 |
| Zambia | Accession, 1980 | Ratification, 1993 | | Signatory | Ratification, 1984 | Accession, 1991 |

| | | | | | | |
|--------------------------------|--------------------|--------------------|-------|-----------|--------------------|--------------------|
| Zimbabwe | Accession, 1981 | Ratification, 1994 | Party | Signatory | Ratification, 1982 | Accession, 2013 |
| Other ESAAMLG countries | | | | | | |
| Angola | Accession, 2013 | Ratification, 1998 | Party | Signatory | Ratification, 1991 | |
| Ethiopia | Accession, 1989 | Ratification, 1994 | Party | Signatory | Ratification, 1977 | |
| Lesotho | Ratification, 2003 | Ratification, 1995 | | | Acceptance, 2003 | Accession, 2004 |
| Malawi | Accession, 1982 | Ratification, 1994 | | | Ratification, 1982 | Accession, 1996 |
| Mauritius | Ratification, 1975 | Ratification, 1992 | Party | | Ratification, 1995 | Ratification, 2001 |
| Rwanda | Accession, 1980 | Ratification, 1996 | Party | | Acceptance, 2000 | Accession, 2005 |
| Seychelles | Accession, 1977 | Ratification, 1992 | Party | | Acceptance, 1980 | Accession, 2004 |
| Swaziland | Accession, 1997 | Ratification, 1994 | Party | Signatory | Ratification, 2005 | Accession, 2013 |
| Uganda | Accession, 1991 | Ratification, 1993 | Party | Signatory | Acceptance, 1987 | Accession, 1988 |

Indication of ESAAMLG member countries' participation in regional agreements

| | COMESA | SADC Member | EAC Member | African Ministerial Conference on the Environment (AMCEN) | Lusaka Agreement on Cooperative Enforcement Operations Directed at Illegal Trade in Wild Fauna and Flora (1992) | Agreement for the Establishment of Southern African Centre for Ivory Marketing (SACIM), 1991 [Southern African Convention for Wildlife Management] |
|---|---------------|--------------------|-------------------|--|--|---|
| ESAAMLG countries with substantial wildlife populations and most challenged by wildlife poaching | | | | | | |
| Botswana | | X | -- | X | | X |
| Kenya | X | -- | X | X | Member state | |
| Mozambique | | X | | X | | |
| Namibia | | X | | X | | X |
| South Africa | | X | | X | Signatory | |
| Tanzania | | X | X | X | Member state | |
| Zambia | X | X | | X | Member state | X |
| Zimbabwe | X | X | | X | | X |
| Other ESAAMLG countries | | | | | | |
| Angola | | X | | X | | |
| Ethiopia | X | | | X | Signatory | |

| | | | | | | |
|-------------------|----------|----------|----------|----------|---------------------|----------|
| Lesotho | | X | | X | Member State | |
| Malawi | X | X | | X | | X |
| Mauritius | X | X | | X | | |
| Rwanda | | | X | X | | |
| Seychelles | X | X | | X | | |
| Swaziland | X | X | | X | Signatory | |
| Uganda | X | | X | X | Member state | |

Brief summary of the role and objectives of such regional agreements

Southern African Development Community

The Southern African Development Community (SADC) has emerged as an effective body cooperating on many aspects of sustainable development, with several transboundary initiatives relating to the environment. Critically, it brings together 7 of the 8 ESAAMLG countries (Kenya is part of the East African Community) that have substantial wildlife populations and for whom poaching and ITW are a major concern. Importantly, its members have signed the Protocol on Wildlife Conservation and Law Enforcement, a key regional agreement facilitating collaboration in and harmonisation of approaches to conservation and environmental protection.

Case study: Protocol on Wildlife Conservation and Law Enforcement (1999)

The Protocol is the instrument through which member countries acknowledge the importance of sustainable use of wildlife in their jurisdiction. It promotes the harmonisation of legal instruments for wildlife; and establish management programmes for wildlife – such as creating the cooperative conditions for transfrontier parks. In addition, the protocol calls for the creation of a regional database of wildlife status and management. It also establishes institutional arrangements for the Protocol's implementation, specifying committees and units, a schedule of meetings, and each division's functions. Importantly, the protocol is meant to promote capacity building in wildlife management, and aspect that may have some overlap with ESAAMLG's concerns in this regard.

East African Community

The East African Community (EAC) came into being some 7 years after SADC. Of the ESAAMLG members, Kenya, Tanzania, Rwanda and Uganda are part of the EAC. Because only 2 of these countries have major wildlife populations, it may provide less of an opportunity than SADC for shared mobilising around poaching and ITW.

The adoption of a protocol on the environment and natural resources by the EAC has been hampered by Tanzania taking issue with some aspects of the document due to contradictions and overlaps with other protocols being worked on.

African Ministerial Conference on Environment

The African Ministerial Conference on Environment (AMCEN) was established about 20 years ago, primarily to give advice on environmental protection as a means to ensuring long term sustainability and the provision of basic human needs. It also serves to guide African countries' positions on various international environmental agreements – particularly the various UN conventions.

According to the Canadian organisation International Institute for Sustainable Development's website, AMCEN's main focus is on:

- “providing continent-wide leadership by promoting awareness and consensus on global and regional environmental issues, especially those relating to international conventions on biodiversity, desertification and climate change;
- developing common positions to guide African representatives in negotiations for legally binding international environmental agreements;
- promoting African participation in international dialogue on global issues of crucial importance to Africa;
- reviewing and monitoring environmental programmes at the regional, sub-regional and national levels;
- promoting the ratification by African countries of multilateral environmental agreements relevant to the region; and
- building African capacity in the field of environmental management.”

Lusaka Agreement

The Lusaka Agreement on Co-operative Enforcement Operations Directed at Illegal Trade in Wild Fauna and Flora came out of a meeting of 8 African countries in 1992. This agreement led to the establishment of a task force that still remains a central organising body in Africa's fight against wildlife crime. The task force is a permanent institution that facilitates member countries through its multi-national membership in their efforts to follow up on ITW (see some examples cited in this report).

One of the task force's focal areas is capacity building for specialised training. For example, they have given training in intelligence gathering and investigating to law enforcement officers – and this task force could also be a point of collaboration for ESAAMLG members.

Southern African Centre for Ivory Marketing

The Southern African Centre for Ivory Marketing (SACIM) was established in 1991 as a board for marketing ivory and other elephant products. SACIM came about when Botswana, Malawi, Zambia and Zimbabwe – all of whom have fair to large elephant populations – saw the need to regulate trade in these products, particularly in terms of agreement of trade restrictions. SACIM also has as an objective to gather information on the conservation and management of elephants. SACIM has been a platform for mutual bargaining at CITES to have its countries' elephant populations down listed. However, the main focus had been on the re-opening of a legal trade or market in ivory – a proposal that was refused in 1992 by the majority of CITES members (Dickson and Hutton, 2013). As a result, the agreement is largely dormant, but it is important to acknowledge its existence (NB also the 2008 legal ivory sale)