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### Transnational environmental crime in the Asia Pacific: an 'un(der)secritized' security problem?

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## Transnational environmental crime in the Asia Pacific: an ‘un(der)securitized’ security problem?

*Lorraine Elliott*

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**Abstract** While other forms of transnational crime in the Asia Pacific have been securitized – that is, represented by policy elites and security actors as crucial or existential threats to national and regional security – transnational environmental crime has been un(der)securitized. It warrants little mention in regional security statements or the security concerns of individual countries. Yet the consequences of activities such as illegal logging and timber smuggling, wildlife smuggling, the black market in ozone-depleting substances and dumping of other forms of hazardous wastes and chemical fit the (in)security profile applied to other forms of transnational crime. This article surveys the main forms of transnational environmental crime in the Asia Pacific and assesses the ‘fit’ with a ‘crime as security’ framework. It shows that transnational environmental crime generates the kinds of ‘pernicious effects ... on regional stability and development, the maintenance of the rule of law and the welfare of the region’s people’ that the ASEAN Declaration on Transnational Crime identified as matters of serious concern. The analysis draws on securitization theory to understand the lack of a ‘securitizing move’ and to explain why security elites do not believe the problem warrants serious attention. The possibilities explored here include intellectual inertia, confusion about referent objects, institutional incapacity, mixed policy signals and the exclusion of environmental expertise from a closed community of security elites.

**Keywords** Securitization theory; transnational crime; environmental crime; illegal logging; wildlife trafficking; ODS smuggling.

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## Introduction

Environmental degradation and resource decline are important policy challenges for the Asia Pacific. While the economic, social and ecological consequences usually dominate policy discussions, there is a growing recognition that environmental challenges complicate security issues as well. Most commentaries on regional security make some reference to non-military or transnational security concerns and most make a passing reference to environmental degradation. The literature on 'environmental security' as a conceptual addition to the security lexicon and an admittedly contested policy issue in the Asia Pacific is well established.<sup>1</sup> The debates about the tensions between a soft-realist variant of environmental security and a more critical security studies inspired model that takes people or communities or societies (or even ecosystems) as the referent for insecurity and challenges the adequacy of state-centric models need not, therefore, be rehearsed in any depth here.<sup>2</sup>

Rather than revisit the existing literature about environmental security, this article focuses on one aspect of the environmental security challenge – transnational environmental crime (TEC) – that has fallen out of regional security debates or, more to the point and somewhat surprisingly, was never there in the first place. Commentary on the security consequences of other forms of transnational crime is now incorporated in regional security declarations and agreements. Transnational crime has, in effect, been 'securitized' – declared to be a security issue – although this is uneven in breadth (the range of issues) and depth (the extent to which making security claims about transnational crime translates into actual policy responses).<sup>3</sup> Yet the problem of transnational *environmental* crime and illegal resource activity in the Asia Pacific is rarely mentioned in this context.<sup>4</sup> In comparison with other forms of transnational crime, TEC has not been securitized. One purpose of this article is to ponder why this might be so.

Exploring the 'why' requires some prior attention to the 'what' of environmental crime and its security consequences. This article therefore begins with an overview of the main forms of transnational environmental crime in the region. To counter the argument that TEC has not been securitized because there *are* no (in)security consequences similar to those alleged for other forms of transnational crime, the second section then considers the possible security impacts of such activity. The approach to securitization used here focuses mainly on the 'speech act' or the 'securitizing move' – the discursive step by which actors offer up an issue area in security terms – rather than the full gamut of what Buzan *et al.* (1998) call 'successful securitisation' that involves claims for emergency or extraordinary measures and acceptance of these claims by the 'relevant audience' (which could be elites or the wider public). The discursive concern is not whether a referent object is *actually* threatened such that its continued existence in its present form is brought into doubt but whether problems are conceptualized or presented

in those terms by actors who are in an authoritative position to do so, most commonly 'political leaders, bureaucracies, governments, lobbyists and pressure groups' (Buzan *et al.* 1998: 40–1). However, an empirical investigation of the nature and insecurities of actual threats is important for two reasons. First, the declaration that something is a security problem is more likely to be accepted, and therefore lead to successful securitization, when the securitizing actors can support and legitimize their claims with 'evidence'. Second, the securitization of other forms of transnational crime in the region has relied on this evidentiary mode of argument. Using a metric drawn from the 'transnational crime as (in)security' literature, the second section shows that the security consequences of illegal and criminal cross-border environmental and resource activity are, by most measures, as serious as those of other forms of transnational crime in the region. The third section canvasses regional security responses and demonstrates that transnational environmental crime has been 'undersecuritized' by regional elites, compared with other forms of transnational crime, and offers some preliminary thoughts about why this might be so.<sup>5</sup>

### **Transnational environmental crime: global and regional**

Environmental crime and illegal resource activity constitute a particular dimension of the non-compliance and enforcement problem that is central to the global politics of the environment. Where an activity is regulated or prohibited under the terms of a multilateral environmental agreement (MEA) – such as the trade in protected species or hazardous waste – signatory governments are expected to enact legislation that gives effect to that agreement and establishes penalties and sanctions for violation of that legislation. Other forms of illegal resource and environmental activity are defined primarily by domestic legislation and may well, therefore, be illegal or prohibited in one country but not in another – the use of genetically modified organisms is one such case. Still others – and illegal logging is perhaps the best example here – have become internationally 'criminalized' in normative terms through soft-law declarations, private international regulation and national legislation which establishes categories of illegality in individual jurisdictions.<sup>6</sup>

As the discussion below shows, environmental crime has become increasingly transnationalized in the terms suggested by the UN Convention against Transnational Organized Crime which defines transnational criminal activity in jurisdictional and process terms. A crime is transnational if it is committed in more than one state; is committed in one state but a substantial part of its preparation, planning, direction or control takes place in another state; is committed in one state but involves an organized criminal group that engages in criminal activities in more than one state; or is committed in one state but has substantial effects in another state (United Nations General Assembly 2000: article 3).<sup>7</sup> The main areas of environmental crime are:<sup>8</sup>

- the smuggling of plants and animals (dead or alive) or parts thereof in contravention of the 1972 Convention on International Trade in Endangered Species (CITES);
- the illegal extraction, exploitation and smuggling of natural resources including timber resources and oceans resources;
- the illegal movement and dumping of hazardous and other wastes (sometimes referred to as 'waste tourism' (van der Meer 1992)) in contravention of agreements such as the 1989 Basel Convention and the 1972 London Dumping Convention;
- the smuggling of illegal pollutants, including those specified under the 1987 Montreal Protocol on ozone-depleting substances (ODS), the 1998 Rotterdam Convention on Prior Informed Consent which covers various hazardous chemicals, and the 2001 Stockholm Convention on Persistent Organic Pollutants;
- the illegal use of genetic resources which are removed from indigenous habitats without permission or licensing and the possibility of a black market in genetically modified products or genetic materials such as those stored in tissue banks.

TEC is most often conceptualized as a form of enterprise crime in pursuit of profit, characterized by high returns and low risk, or as a means of avoiding excise, taxes and high disposal costs. It is increasingly systematic; the most lucrative areas of environmental crime are marked by official corruption, money laundering and the involvement of organized crime groups.<sup>9</sup> TEC serves also to generate 'venture capital' for other illicit activities such as drugs and arms, and often involves parallel trafficking, that is using the same smuggling routes for different goods, combining illegal shipments, or using ostensibly legal shipments such as wildlife to conceal other forms of illegal goods.<sup>10</sup>

There is little doubt that TEC is one of the fastest growing areas of illegal activity and one which now constitutes a significant proportion of the trade in resources and environmental goods. Approximately 25 per cent of all trade in wildlife is thought to be illicit. Illegally harvested and smuggled timber is an increasingly significant component of the international timber trade. Some figures suggest, for example, that over half the tropical timber imported annually into the European Union alone has been logged illegally (International Centre for Trade and Sustainable Development 2004: 2). At the height of the global black market in ODS in the mid-1990s, between 16,000 and 30,000 tonnes of illegal CFCs (chlorofluorocarbons) were traded each year in contravention of the Montreal Protocol (UNEP 2001: 3). Overall, the illegal environmental trade is estimated to be worth US\$22–31 billion a year (or more) to criminal syndicates around the world (Lauterback 2005). Interpol and the G8 have valued the global illegal wildlife trade alone at US\$10–20 billion a year, ranking with drug smuggling and arms trafficking as major black markets in production terms. The profits can be high even

for small-scale operations. Individuals of some species (ranging from exotic parrots to rare orchids and snowdrops) fetch large sums on the black market. Ounce for ounce, for example, rhino horn can be more valuable than gold or class A drugs (Anon. 2002b).<sup>11</sup> Contraband CFCs have been described as 'rivalling cocaine as among the most profitable illegal imports crossing US borders' (Schmidt 2004: A97). As well as generating profit for organized crime, TEC results in revenue losses for legitimate producers. The World Bank calculates, for example, that timber-producing countries in the developing world lose something between US\$10–15 billion a year because of illegal logging on public land (World Bank 2006: xi). This pattern of scope and reach, smuggling, corruption and organized criminal activity applies as much to the Asia Pacific as to other parts of the world, as the discussion below reveals.

### ***Illegal logging in the Asia Pacific***

Illegal logging in the region involves a range of 'chain of custody' practices: extraction and harvesting crimes, processing crimes, and transportation crimes. Extraction crimes – which include harvesting in contravention of national law, logging without a licence or with a fraudulent licence, or logging inside protected areas – may well outstrip legal harvesting. Between 51 and 80 per cent of timber taken in Indonesia is thought to be illegally logged: the equivalent of 33 million cubic metres of illegally harvest round wood is smuggled out of Indonesia a year and about 300,000 cubic metres of merbau logs are smuggled from Papua *each month*. In Cambodia, the proportion of illegal harvesting could be as high as 94 per cent of all logging (Brack 2005: 29). As much as 95 per cent of wood exported from Burma to China may come from illegal sources (Global Witness 2006). Illegal logging is also extensive in Laos, Thailand and the Philippines. Timber is smuggled from source countries to major regional hubs such as Singapore, South Korea and China (the largest consumer of stolen timber in the world), processed or relabelled as legally harvested product (timber laundering) and then often re-exported outside the region to the United States and Europe among other destinations.<sup>12</sup> Customs seizures of illegal timber have increased since the hardwood species ramin was made subject to import and export controls under appendix III of CITES but the impact has not been extensive. The 155,000 cubic metres of smuggled timber seized by Indonesian officials in 2005 makes only a minor dent in the trade compared with the 3.6 million cubic metres of round wood alleged to be moved illegally from Papua alone each year (Anon. 2006).<sup>13</sup>

The illegal timber trade is supported by other forms of illicit and criminal activity: bribery and fraud; money laundering; violence and at times murder.<sup>14</sup> The extent of the trade would be impossible without a well-organized network of shipping companies and agents, brokers and middlemen in places such as Singapore, Malaysia, Hong Kong and China who support relabelling,

processing and transportation crimes. 'Several major syndicates' are thought to be in operation (see Newman and Lawson 2005: 17), involved in chartering cargo vessels, faking documents, issuing letters of credit and forging connections between buyers and sellers.<sup>15</sup> The attraction for criminal gangs is that, despite the size of the product, timber smuggling is easier than drug smuggling.<sup>16</sup> The returns are high, the risk of capture low, and the penalties often minimal. Corruption is also endemic in the illegal timber trade. This ranges from petty corruption of police and customs officials who might destroy evidence or knowingly issue false transportation documents through to financial involvement at the highest levels of political elites and military forces in countries such as Indonesia (see EIA/Telapak 2002; International Crisis Group 2001), Burma and Laos (Siem Bok 1999) and Cambodia (Global Witness 2007).<sup>17</sup>

### ***Wildlife trade in the Asia Pacific***

Wildlife trade constitutes a second substantial illegal economy in the Asia Pacific, with Southeast Asia alone thought to be responsible for about a quarter of the world's illegal wildlife trade (Lin 2005: 201). Customs seizures give evidence of the range of wildlife smuggled into and through the region: ivory, marine turtle eggs, pangolins, freshwater turtles among others. While there is some opportunity poaching, wildlife smuggling syndicates are now active in most areas of the trade. Some of this involves stealing to order for private collectors, zoos, and medical and research laboratories. The trade is also driven by the demand for exotic meats in niche markets such as Japan, South Korea and Thailand and by a sustained market for traditional Asian medicines (TAM) even though, as Hayman and Brack (2002) point out, animal products constitute less than 10 per cent of the components of TAMs (and endangered species less than 3 per cent).

The expansion of the region's transport infrastructure has provided more opportunities for the movement of illegally sourced wildlife. High levels of illegal cross-border trade in wild species have been recorded in the tri-border area of Cambodia, Laos and Vietnam (see Thomson 2002: 11). Singapore and Hong Kong have become major transit points. There is a growing illegal trade from China into the countries on its Himalayan borders – Nepal, India and Pakistan – involving threatened species such as the Tibetan antelope, the giant panda and the Saker Falcon (Li *et al.* 2000). Rhino horn and tiger parts are traded across the Sino-Burma border. Bear populations in East Asia have been the victim of the demand for bear gall bladder in the TAM pharmacopoeia.<sup>18</sup> The black market extends to even larger species. Live Indo-Chinese tigers as well as tiger parts are smuggled through Thailand (EIA 2001). Documentation is forged or altered in cases where concealment is clearly difficult, with elephants and komodo dragons being traded illegally from Indonesia to countries such as Argentina, China, Germany, France and Mexico.

Smuggling regional wildlife can be a profitable business. For example, Chinese three-striped turtles (used in TAM as well as favoured as pets) can be purchased in Laos for as little as US\$75–260, exchange hands in Hong Kong for US\$1,000 and sell in the United States via the Internet for US\$2,200 a pair (Cook *et al.* 2002: 18). A Chinese alligator can fetch up to US\$15,000. The aggregate figures are staggering. To take just one example, the revenue and profits for wildlife smuggled through Vietnam are estimated at US\$66.5 million and US\$21 million a year, respectively (cited in Lin 2005: 203).

### ***The trade in hazardous pollutants and waste***

The region has become a hub for the black market in ODS. China is a major source of counterfeit CFCs and Southeast Asia a major trade route. Illegal CFCs can be moved easily through Singapore, for example, to countries outside the region – to Nepal as a staging post for smuggling CFCs into India, or to South Africa (see EIA/Telepak 2003: 2). The profits can be high. A 30-pound cylinder of CFCs can be bought in China for approximately US\$40 and sold on the US black market for up to US\$600 (Schmidt 2004: A97). As with other forms of transnational environmental crime, it seems highly likely that organized criminal groups are involved in pollutant smuggling in the region.

The extent of the illegal waste trade in the region is less clear than the evidence for ODS, but the documentation of individual cases suggests that there is regular illicit activity. In December 1996, used lead acid batteries were exported from Australia through Singapore for recycling and recovery operations in the Philippines in contravention of both the Basel Convention and Australian domestic legislation (although the subsequent court case determined that this was a negligent contravention rather than criminal activity). In 1998, between 3,000 and 4,000 metric tonnes of toxic waste from a Taiwanese petrochemical company were found in an open dump in Sihanoukville, Cambodia.<sup>19</sup> In January 2000, Japanese industrial waste-processing company Nisso Ltd was caught trying to dump 2,700 tons of infectious medical waste in the Philippines (see Schmidt 2004: A101).<sup>20</sup> Other kinds of wastes are also traded illegally, or at least dubiously, into the region. China, for example, remains a centre for recycling e-waste even though such shipments into the country are banned and are illegal under the Basel convention. Schmidt (2004: A101) suggests that European, Russian and Japanese crime groups have established an illegal market for hazardous waste in Asia, often in conjunction with money laundering and arms sales.

### **Transnational (environmental) crime as a security threat?**

Serrano suggests that, as a general phenomenon, ‘transnational crime has risen to new stardom in the wars of international security rhetoric’ (Serrano 2002: 13). For some, ‘international organized criminal activity poses

a threat to world security ... analogous to acts of aggression' (Guymon 2000: 56). While few commentators go quite that far, except perhaps in their claims about terrorism, most argue that transnational crime, and organized crime in particular, should be taken seriously on the security agenda to the extent that 'the struggle against ... transnational crime [is argued to be] the defining security concern of the twenty-first century' (Galeotti, cited in Emmers 2003: 421). While the focus on the speech act in securitization theory suggests that security is socially constructed through discursive claims by elites or authoritative actors, in practice much of the security/securitized discourse in the region also involves claims about the actual security consequences that arise from particular 'threats'. One important question for this article, therefore, is whether transnational environmental crime generates the *same or similar kinds* of security concerns that elites in the region have claimed for other forms of transnational crime. There are two steps here: first, identifying the security 'metric' that has been attached to transnational crime and, second, assessing whether TEC fits this metric. The literature on transnational crime draws on two approaches to non-traditional security although in practice the boundaries are sometimes blurred. The first – widening – explores the threat posed to the state and, by extension, to societies from sources other than military ones (a non-traditional threat to a traditional referent object). The second approach – deepening – introduces non-traditional referents by considering the consequences for economic and human security and, in the case of TEC, ecological security.

From a statist perspective, transnational crime can constitute an alternative, albeit illicit, form of authority. Guymon suggests that three components of state sovereignty and authority are either challenged or made vulnerable by transnational crime: the 'control of borders, the monopoly on the use of violence for enforcement, and the power to tax economic activities within state borders' (Guymon 2000: 56). Castle adds to this the 'maintenance of the core values of a society' including the rule of law and the existence of a fair and open marketplace (Castle 1997: 6). Security is undermined, he argues, in situations where the state is 'unable to enforce its own laws in particular regions' or where a region is 'beyond effective state control' (Castle 1997: 6). In effect, transnational crime, and organized crime in particular, undermines a government's ability to govern.

Transnational criminal activity takes advantage of 'weak governments, corruption and nepotism' (McFarlane 2001: 5). Widespread corruption undermines the credibility and functioning of law enforcement agencies, the judiciary and the legal system. The state is also made insecure when the agents of the state are either unable to resist or are actively involved in organized crime and illegality. The involvement of politicians and business, bureaucratic and military elites and lesser officials in sustaining illicit markets constitutes 'shadow states' (see Duffy 2005) that subvert the usual practices of state-based governance. In the most extreme cases of high-level corruption

and personal patronage, the state itself no longer functions in the Weberian sense as a provider and guarantor of public goods but as a 'protection racket' that sustains private appropriation and rent-seeking.<sup>21</sup>

Transnational crime is implicated in the deepening of non-traditional insecurities, although the connection between transnational crime and human (in)security is a complex one. In already vulnerable societies and polities, criminal groups and the victimization and violence that can accompany activities such as drug smuggling, arms smuggling and people trafficking can pose a serious threat to individual security and to the security of local communities. Individuals and communities are also the victims of the effects of illegal commodities such as drugs or arms and, for women and children in particular, of human trafficking. Yet, at the same time, some forms of illegal activity may be the only means of survival for some in the face of poverty. As Peter Andreas suggests, 'in many places . . . the criminalized economy has been a crucial source of both revenue and employment' (Andreas 2002: 37–8), although this can also increase vulnerability to the more organized and systematic forms of criminal activity.

In the Asia Pacific, regional declarations attest to these concerns. The authoritative statements that are adopted in both official and second-track contexts constitute a form of discursive securitization of transnational crime by policy elites over time.<sup>22</sup> In the Joint Communiqué of the 29th ASEAN Ministerial Meeting in July 1996, ministers identified transnational crime as a possible threat to the political, societal and economic security of the ASEAN nations. The ASEAN Declaration on Transnational Crime adopted a year later referred more specifically to the 'pernicious effects . . . on regional stability and development, the maintenance of the rule of law and the welfare of the region's people'. The Declaration proclaimed that transnational crime 'undermines civil society, distorts legitimate markets and destabilizes States' (ASEAN Secretariat 1997: preamble). The 1999 Plan of Action to Combat Transnational Crime publicized the region's concerns about the potential for transnational crime to undermine the ASEAN objective of making South-east Asia a prosperous and peaceful community. The Chairman's statement following the 8th meeting of the ASEAN Regional Forum (ARF) advised that 'Ministers recognised that the transnational crimes could not only have potentially serious impacts on regional peace and stability, but also pose a threat to the national economic development and social well-being of all states' (ASEAN Regional Forum 2001: para 26) although most of the ARF's work has focused on counter-terrorism. In sum, as Hernandez and Pattugalan put it, 'transnational crime [is now seen as] a major threat to domestic security, inter-state relations and global security' (Hernandez and Pattugalan 1999b: ii).

Is this framework of threat and insecurity that invokes state, economic and human referents also relevant to transnational environmental crime? Some of the insecurities are specifically environmental. The longer-term impacts of illegal resource extraction and smuggling of prohibited or regulated

goods (whether wildlife or chemicals) are as much environmental as they are economic or political. Illegal logging takes place in some of the region's most vulnerable forests and is a major driver of deforestation which is occurring at a rate far higher than elsewhere in the world. The ecological consequences include soil erosion, changes to local climate and water retention patterns, and increased susceptibility to flooding and landslides. Timber smuggling and the illegal trade in wildlife destroy habitats, exacerbate species endangerment and contribute to loss of biodiversity. Smuggling CFCs and other prohibited or regulated pollutants undermines global attempts to manage problems such as ozone depletion or chemical pollution. Dumping hazardous and toxic wastes poisons water tables, river systems and local ecosystems. The (in)security consequences of TEC are not, however, limited to the environmental sector. Rather, they play out against the same kinds of concerns articulated in regional claims about other forms of transnational crime.

### ***State security***

The most orthodox of the concerns with state security remains the potential for conflict between countries. Actual conflict over transnational environmental crime is unlikely. Political dispute, sometimes accompanied by an occasional military deployment or show of force, is much more likely. China and Indonesia, for example, found themselves in dispute following Indonesian Navy seizures of consignments of illegal logs en route to China. Malaysia and Indonesia have had a number of disagreements over illegal logging and problems of cross-border incursions. Troops have been deployed in mainland Southeast Asia to protect borders regions against illegal logging and timber smuggling. While illegal fishing has not been explored extensively in this article, it is perhaps the exemplar case in which disputes over access to and authority over resources are 'interactive with . . . threat perceptions' (Ganesan 2001: 520).<sup>23</sup> Transnational environmental crime has also generated funds to *sustain* regional conflict. Illegal logging and smuggling across the Thai–Cambodian border was a major source of funding for the Khmer Rouge, and control of logging concessions and illegal logging remains a major source of income for both the Burmese regime in its fight against insurgency and for those insurgency (or liberation) groups as well.<sup>24</sup>

The kinds of illegal transnational environmental trade documented above challenge the extent to which states in the region are able to control transactions across their borders. This is a threat to the condition of *effective* sovereignty that Buzan and Wæver define as central to the existence of a state (Buzan and Wæver 1997: 242). These are not occasional movements of goods: smuggling of timber and wildlife is a daily occurrence with large quantities of contraband being moved by truck, barge and ship. Indeed, border control over these shipments is often non-existent for both land and sea borders. The incursions involve not only the smuggling of commodities. Chainsaw operators or wildlife poachers themselves move across borders

(from China into Burma, or from Malaysia into Indonesia) to 'steal' timber or endangered species.

Criminal gangs and the 'chain of custody' syndicates involved in transnational environmental crime in the Asia Pacific also threaten the state through challenging techniques of governance. As with other forms of transnational crime, the patterns of bribery and corruption associated with transnational environmental crime undermine good governance, corrode the institutions of the state and compromise core values such as democratic processes and the rule of law. Local crime groups or (otherwise) legitimate companies that are heavily involved in illegal environmental activity are able to establish effective control over local communities. They constitute an alternative form of authority that 'take[s] advantage of corrupt officials and politicians as well as weak governmental institutions and law enforcement agencies' (Emmers 2002: 6). Violence in support of transnational environmental criminal activity often functions at a local level to intimidate villagers into compliance or, occasionally, to eliminate those who resist environmental exploitation. Where the illegal resource industry is 'protected and sometimes even organized by corrupt elements in the civil service, security forces and legislature' as the International Crisis Group has reported for Indonesia (2001: 1) or Global Witness (2007) for Cambodia, the 'shadow-state' syndrome is well advanced.

### ***Economic security***

In the framework outlined above, the power to tax economic activities, generate revenue and minimize economic externalities is a feature of both state and economic security. Environmental crime and illegal resource activity threaten legitimate companies, impede the development of free markets and can undermine investment. Governments and communities are robbed of revenues, resources and benefits. The Indonesian government estimates that illegal logging results in an annual loss in revenue of about US\$3 billion (Anon. 2006). The direct losses from illegal logging and unreported timber processing to East Kalimantan alone are counted at US\$100 million a year (Anon. 2004: 1). The National Resilience Institute estimates that all forms of illegal environmental activity in Indonesia resulted in losses to the Indonesian treasury of more than US\$8 billion a year in 2003, representing almost 40 per cent of the expected domestic revenue for the year and three times the amount allocated to servicing foreign debt (cited in Guerin 2004). It is not just that revenue is lost to government coffers. As suggested above, often it becomes a source of private gain for ruling elites and creates a shadow economy that competes with and distorts the legitimate economy.

As well as these direct costs to economic security, transnational environmental crime generates indirect, intangible and hidden costs through the loss of future resource revenue, the costs of soil erosion, loss of biodiversity and water services, or the financial impacts of floods that are the side-effects

of extensive and so-often illegal deforestation and resource exploitation. The free functioning of the market which, in neo-liberal economic terms at least is also crucial to economic security, is also compromised by illegal environmental activity. For example, the sale of cheap (because illegal) timber from Kalimantan and Sumatra into China, Malaysia and Hong Kong has depressed the value and quantity of official timber exports by as much as one million cubic metres a year according to the Indonesia wood panel industry association APKINDO (see EIA/Telapak 2000: 7). Legitimate and legal timber companies simply cannot compete.

### ***Human security***

The human security consequences of transnational crime are usually expressed in rather generic concerns about the 'welfare of the region's people' (as the ASEAN Declaration on Transnational Crime put it). Individuals and communities are made insecure in a number of ways by illegal resource extraction or the illegal dumping of pollutants and waste – through the direct impact of environmental destruction, through the loss of livelihoods and income associated with resource loss, and through the practices of exploitation and intimidation that often accompany transnational environmental crime. The extensive destruction of forest lands from illegal logging undermines the lives and life-choices of communities that rely on the forests for shelter, for food, for medicines and for cultural and spiritual identity. Indigenous communities are often particularly vulnerable to the kinds of human rights abuses that come with the involvement of outsiders in illegal and legal resource extraction, whether timber or wildlife. Hazardous and toxic wastes, including e-waste, expose local communities and those working in the recycling industry to levels of contaminants which bring high and often long-term health risks. The involvement of criminal groups or the military in illegal resource extraction and transnational environmental crime often goes hand in hand with violence, threats or other forms of coercion that create insecurity not just for individuals but for local communities. Local communities are often induced into complicity in illegal logging at source, either through being forced to relinquish community forestry concessions or work as illegal chainsaw operators, although they rarely share in the economic profits. A cubic metre of illegal merbau at point of import into China is worth US\$240, for example, but local loggers receive just US\$11 a cubic metre. Illegal logging also depresses wages and working conditions for workers in the legal industry and workers involved in the illegal industry are often in an even worse position because of their weak or non-existent bargaining power.

### **Regional responses: securitization and (under)securitization**

The adoption of policy initiatives on transnational environmental crime and illegal resource activity has generally been an ad hoc and uneven process,

characterized by problems of institutional incapacity and policy lag. Nevertheless, there is a slowly growing network of national policies and nascent regional programmes that focus on both the law enforcement and environmental dimensions of illegal resource activity. For the most part, however, these policies have not been incorporated into regional programmes on transnational crime of the kind referred to above.

National initiatives have included the establishment of enforcement units and the adoption of various kinds of action plans. The Philippines government now has a 'forestry czar' with a mandate to address illegal logging. The Malaysian government has established a logging task force. In February 2005, the Indonesian government established a joint operation, codenamed Hutan Lestari, to crack down on illegal loggers in Papua, Kalimantan and Sumatra (although as this joint operation involves the police, military, prosecution service and investigators from the forestry ministry, all of whom have at some stage been involved in the illegal trade, questions have been raised about its long-term likelihood of success). At the CITES meeting in Bangkok in 2004, then Thai Prime Minister Thaksin Sinawatra called for a crime-fighting initiative in the Asia Pacific region to combat the illegal wildlife trade and to complement the work of the national CITES management authorities. His pledge to create such a unit in Thailand was fulfilled by the Thai Central Investigation Bureau in February 2006. A wildlife crime unit has also been established in Taiwan. Despite these policy initiatives, environmental crime does not attract the same kinds of criminal penalties as other forms of illegal activity involving commodities such as drugs or arms.<sup>25</sup>

Some bilateral agreements have been adopted in an attempt to manage the cross-border aspects of illegal resource and environmental trade. China and Indonesia, for example, signed a Memorandum of Understanding on timber trafficking in 2002 although implementation has been slow. Japan and Indonesia have adopted a similar Memorandum. The need for multi-lateral and multi-sector responses to problems that have regional reach is also now being given some practical effect in programmes and initiatives designed to deal specifically with the cross-border crime-fighting and law enforcement aspects of problems such as illegal logging and the wildlife trade. The East Asia Forest Law Enforcement and Governance (FLEG) process, part of a global multi-stakeholder initiative, was initiated in Bali in 2001. The Bali Declaration sought immediate action to 'intensify national efforts, and to strengthen bilateral, regional and multilateral collaboration to address violations of forest law and forest crime', in particular 'illegal logging and associated illegal trade and corruption and their negative effects on the rule of law' (FLEG 2001: 1).<sup>26</sup> The ASEAN Regional Action Plan on Trade in Wild Fauna and Flora 2005–2010, announced after the 13th meeting of CITES in Bangkok in October 2004, set out to develop effective and enforceable legislation to implement the CITES agreement. It calls for the establishment of national inter-agency committees and for better networking among law enforcement authorities in ASEAN. The Plan also

anticipated an ASEAN CITES Enforcement Taskforce (now established as the ASEAN Wildlife Enforcement Network) to exchange information and to coordinate regional participation in Interpol's Wildlife Crime Working Group.<sup>27</sup> ASEAN's Strategic Plan of Action on Forestry for 2005–2010 established two cooperation programmes that address, respectively, the trade in illegal wood products and CITES wildlife issues, although neither programme uses the words 'transnational crime'. In April 2005, UNEP's Regional Office for Asia and the Pacific (UNEP/ROAP) and the Regional Intelligence Liaison Office of the World Customs Union (RILO/AP), currently based in Beijing, signed an agreement to enhance coordination on environmental crime and implement Green Customs initiatives in the Asia Pacific with a particular focus on the black market in ODS and other prohibited chemicals. In August the same year, the multi-stakeholder Asian Environmental Compliance and Enforcement Network (AECEN) was established, as a component of the International Network on Environmental Compliance and Enforcement (INECE), to enhance national compliance capacity.

While the criminal, law enforcement and border management problems of TEC have clearly reached the public policy agenda, environmental crime is almost never mentioned in regional programmes and declarations on security and transnational crime. The 29th ASEAN Ministerial Meeting (AMM) in 1996 did include environmental crimes among a list of crimes to which attention *should* be given. Despite this injunction, the various communiqués, agreements, action plans and work programmes that come from ASEAN's Senior Officials Meeting on Transnational Crime (SOM-TC) and Ministerial Meetings on Transnational Crime (AMM-TC) contain almost no reference to transnational environmental crime. The December 1997 ASEAN Declaration on Transnational Crime does not include environmental crime among those crimes with whose 'pernicious effects' it is concerned. TEC does not feature in the ASEAN Manila Declaration on the Prevention and Control of Transnational Crime (1998). Nor does it seem to have been on the agenda of the ASEAN Chiefs of Police (ASEANAPOL) conferences. The ASEAN Plan of Action to Combat Transnational Crime notes that the region has had to deal with 'many new forms of organised crimes that transcend national borders and political sovereignty' (ASEAN Secretariat 1999) but does not include environmental crimes among them. The Work Programme to Implement ASEAN's Plan of Action to Combat Transnational Crime, adopted by the second annual ASEAN Senior Officials Meeting on Transnational Crime in Kuala Lumpur in May 2002, addresses eight types of crime that fall under the Plan of Action – environmental crime is not among them.<sup>28</sup> The 2002 Declaration on the Conduct of Parties in the South China Sea anticipated cooperation among the parties on transnational crime problems such as trafficking in drugs and arms. There is no specific reference to environmental trafficking. Track II processes such as the Council for Security Cooperation Asia Pacific (CSCAP) have also paid little attention to environmental crime,

despite a long-standing concern with 'significant transnational crime trends which affect security in the Asia Pacific region as a whole'.<sup>29</sup>

There are some occasional examples of cross-referencing between environmental crime and other forms of transnational crime, or between environmental crime and regional security. Indonesia's money-laundering legislation, for example, explicitly refers to tracking funds from illegal logging (Anon. 2006: 74). The Indonesian government included the illicit trade of illegally logged timber in its contribution to the Annual Security Outlook prepared for the 12th ASEAN Regional Forum meeting in 2005 but was the only country to do so. In its section on conflict prevention, ASEAN's Vientiane Action Programme (VAP) refers to the importance of regional cooperation to combat transnational crime and other transboundary problems, but makes no mention of any particular crimes. The programme does point to the importance for building a strong socio-cultural community of environmental sustainability, protecting species and managing forests. The detailed programme areas of the VAP suggest also that combating illegal logging and tackling illegal traffic of dangerous wastes is central to developing an *economic* community but falls short of making claims about what this might mean for security.

For the most part, then, transnational environmental crime has not been securitized in the way that other forms of transnational crime in the region have. In terms of the securitization literature, there are few 'speech acts', despite the fact that the insecurity consequences are at least as challenging as those that are claimed by elite 'securitizing actors' for other forms of cross-border illegal activity.

### ***Explaining (under)securitization: some possibilities***

If, as John McFarlane points out, 'many countries [in the Asia Pacific] now regard transnational crime . . . as a national security issue' (McFarlane 2001: 3), why is transnational environmental crime undersecuritized in the Asia Pacific compared with other transnational crime sectors? Some general thoughts are offered here, in anticipation of further research into this puzzle. Transnational environmental crime is not '[brought] into being as a security situation' (Williams 2003: 513) because no one is *successfully* representing it as such. The first step in this process of representation requires that the relevant (securitizing) actors believe that a problem requires urgent attention or that it constitutes an existential threat to some recognized security referent. Despite official commitment to comprehensive security and despite the securitization of other forms of transnational crime, security actors in the Asia Pacific are generally wary of incorporating non-traditional considerations such as environmental ones into the security agenda. To the extent that it is recognized as a form of *transnational* criminal activity at all, it is likely that environmental crime is not perceived to be of the same gravity as other forms of transnational crime. While these are serious forms

of transnational crime, they are rarely taken seriously by relevant security actors.

One reason is that these are new and poorly understood policy challenges compared with other forms of transnational crime. Indeed, McFarlane points out that the whole issue of transnational crime was 'considered marginal to the regional security agenda' (McFarlane 2005: 301) until the mid-1990s, so perhaps it is not surprising that environmental crime remains undersecuritized. There is also confusion among security actors about the referent object of TEC compared with other forms of transnational crime such as arms smuggling, drug trafficking or people trafficking where the security impact on individuals, communities and the state appears more straightforward. This intellectual inertia and confusion is compounded further by problems of institutional capacity. Agencies involved in law enforcement, border control and intelligence have been hard pressed to deal with other aspects of transnational crime, let alone add one more issue area to their responsibilities. Perceiving these problems primarily in environmental rather than security terms also tends, as Lin points out, 'to reduce its importance on national policy-making agendas . . . resulting in fewer resources and less attention being committed to it' (Lin 2005: 192).

Securitization is also 'structured by the differential capacity of actors to make socially effective claims about threats' (Williams 2003: 514). This capacity relies, in turn, on the ability to mobilize expert knowledge into the security sector and, as van Munster argues, 'on the social position and authority of the securitizing actor' (van Munster 2005: 3). Successful securitization requires that the claims of existential threat are accepted by the relevant audience. Elite perceptions dominate the Asia Pacific security landscape. The regional experience of discursive securitization confirms that 'something is [constructed as] a security problem when *elites* [the securitizing actors] declare it to be so' (Wæver 1995: 55; emphasis added). In line with Hansen's prediction for non-democratic systems, the relevant audience is also unlikely to be 'the entire population . . . [but] much smaller, restricted to the power elite' (Hansen 2000: 289). Three relevant points arise from this issue of elite dominance. First, those who might seek to 'speak' the security of TEC and to identify threats that arise from it (existential or otherwise) are not part of this particular security elite in the Asia Pacific. Those who are most knowledgeable about these challenges are found in resource and environmental ministries, in non-governmental organizations, in regional organizations and, to some lesser extent, in those agencies responsible for customs and border control. Despite their expert knowledge in the environmental sector, they are either not taken seriously or authoritatively within the community of security actors or there is simply insufficient interaction between the two communities of policy actors. The intellectual wariness works both ways: those who pursue improved public policy responses to transnational environmental crime may well be reluctant to use the language of security which is associated with the intrusion of security agencies into society. Second,

securitization 'presupposes the existence of a situation in which speech is indeed possible' (Hansen 2000: 285). Those who are most affected by the insecurities of environmental crime – the poor in both rural and urban areas, women, and indigenous peoples – are those who are least in a position to 'speak' the security impact of environmental crime, either because they are marginalized from political decision making and from security elites or because they are physically intimidated and prevented from expressing their concerns. Third, there is also the possibility of active elite resistance or attempts to keep the issue off the policy agenda, including the security agenda. Securitizing environmental crime could 'inject urgency into [the] issue and lead to a mobilisation of political support and a better deployment of resources' (Emmers 2002: 6). The extent of ruling elite, business and military involvement in illegal resource and environmental trade (and its adjacent activities such as money laundering), suggests that there might be little incentive among those who could influence the securitization of TEC to do so.<sup>30</sup>

This confusion and resistance is not helped by what could be characterized as policy incoherence at the international level. As well as the relevant Conventions explored above (CITES, Basel, Rotterdam and Stockholm) there is a range of international, multilateral and multi-stakeholder (public-private) initiatives on illegal environmental trade and resource activity.<sup>31</sup> Compared with international law in other areas of transnational crime such as drug smuggling or people trafficking, most fall outside a law enforcement framework.<sup>32</sup> Rather, they rely on procurement, certification, import/export controls and monitoring. Other processes send mixed messages on how seriously the international community takes transnational environmental crime. CITES, for example, does not impose criminal sanctions but relies on states parties to do so. The preamble to the UN Convention against Transnational Organized Crime suggests that the Convention should constitute an effective tool against criminal activities such as illicit trafficking in endangered species of wild flora and fauna. However, transnational environmental crimes fall outside the serious crimes framework defined in the Convention. National legislation rarely imposes the penalties of four or more years imprisonment for activity such as timber smuggling or wildlife smuggling that are required to count as a 'serious crime' under the Convention. Even then, few countries in the region are parties to the Convention although a number have signed but not yet ratified.<sup>33</sup>

### **Some concluding notes**

The discussion in this article was initiated by a particular puzzle about the apparent non-securitization or, at very least, undersecuritization of transnational environmental crime in the Asia Pacific. The puzzle arises because other forms of transnational crime which generate similar patterns of insecurity have been taken up by security elites and represented as matters of concern for states in the region. The possible explanations for this situation

explored in the third section of the paper focus on understanding one step only of the securitization process, the discursive step in which relevant actors represent or construct a particular problem in security terms. This phase of what is a much larger project generates at least three consequent research purposes. The first derives from some of the limitations of securitization theory itself – it focuses primarily on theorizing successful securitization and deducing, from this, the necessary conditions for such outcomes. Non-successful securitization is assumed, therefore, to arise because these conditions are lacking. That, in effect, is the interpretive approach applied here to TEC. The next step is to conduct a more detailed empirical study of security elite perceptions of transnational environmental crime in the Asia Pacific to verify, adjust or reject such hypotheses.

The second research theme focuses on regional policy responses to the challenges of transnational environmental crime, irrespective of whether or not these have been securitized. Theoretical propositions about discursive securitization – the speech act – are basically agnostic on the *effectiveness* of actual policy responses. Given the serious nature of the problems, more research needs to be done to conceptualize, map and assess regional governance on transnational environmental crime. The third research purpose links these theoretical and policy considerations. While the focus here is on showing how TEC generates security concerns and pondering why, therefore, such activities have not been securitized, further work is required on whether securitization of TEC on such terms is to be recommended. Critics of securitization as a process (rather than of the theory itself) have noted that it anticipates a suspension of democratic practices and a privileging of particular forms of expert knowledge that runs counter to policy making that is open, measured and allows space for debate and contestation (see, for example, Aradau 2004; Williams 2003). Despite the ‘tactical attractions’ of securitizing an issue (Buzan *et al.* 1998: 29), the move from normal politics to security politics runs the risk of narrowing the policy focus to one of defence against threat rather than one which seeks to address the causes of insecurities. Such a narrowing may well be counter-productive in responding to the challenges of transnational environmental crime in the Asia Pacific.

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## Notes

- 1 See, for example, Dupont (1998, 2001), Elliott (2002a, b, 2007a) and Barnett (2001).
- 2 See Haque (2001) and Elliott (2007b).
- 3 For more, see Emmers (2002, 2003), McFarlane (2005) and Hernandez and Patugalan (1999a).
- 4 The exception is illegal, unregulated and unreported (IUU) fishing and poaching which is usually raised in the context of maritime cooperation.
- 5 An important caveat applies to this investigation. The discussion here makes no particular claims about whether TEC *should* be securitized. Nevertheless, there is an interesting debate to be had about whether the logic of exceptionalism that accompanies the emergency measures associated with full securitization is appropriate for dealing with transnational environmental crime.
- 6 Some endangered timber species are listed under CITES appendices.
- 7 Other approaches to TEC rely on a consequentialist definition. Duncan Brack (2002: 143) suggests that environmental crime is international or transnational when the deliberate flouting, by individuals and companies, of environmental laws and regulations for power and profit has transboundary or global *impacts*. A third body of literature defines eco-crimes not in terms of law enforcement but in terms of harm and particularly harm to the environment (in effect, crimes against the environment); see, for example, Walters (2006) and Halsey (2004).
- 8 Although it is not covered here, other more localized forms of cross-border environmental crime would include problems such as sand smuggling between Indonesia and Singapore, which allegedly involves organized crime syndicates; see Anon. (2002c).
- 9 See, for example, Cook *et al.* (2002), Zimmerman (2003), Warchol (2004) and G8 Environment Ministers (1999). TRAFFIC International, on the other hand, has suggested that organized criminal activity within the illegal wildlife trade is relatively rare (Anon. 2002a).
- 10 For example, smuggled turtles and marijuana have been found in the same illegal shipments (*BBC News* 1998). Live snakes have been found stuffed with condoms full of cocaine (Anon. 2002b). For other examples see also van Note (2002), Zimmerman (2003), Cook *et al.* (2002) and Hayman and Brack (2002).
- 11 A kilo of rhino horn can trade for as much as US\$30,000 on the Asian market; see Warchol (2004: 59).
- 12 The Environmental Investigation Agency has identified China as the largest consumer of stolen timber in the world; see Newman and Lawson (2005).
- 13 There have been some suggestions that Indonesian Navy seizures of illegal timber ships have as much to do with underpaid bribes, or trumping bribes to disrupt competing operations, as they do with genuine interdiction (Newman and Lawson 2005: 8).
- 14 Bribery and corruption sometimes go to the highest levels. Ferdinand Marcos is reported to have accepted payoffs of more than US\$1 billion from Japanese timber companies when he was president of the Philippines (see van Note 2002).
- 15 An Indonesian forestry ministry official has referred to the powerful businessmen involved in the timber smuggling industry as 'slippery as eels in a pond of lubricating oil' (cited in Guerin 2004).

- 16 Undercover operations conducted by the London-based Environmental Investigation Agency and Jakarta-based Telapak have caught smugglers and brokers on tape making such claims on more than one occasion.
- 17 Otherwise legitimate timber companies – such as Asia Pulp and Paper – are also reported to be involved in illegal harvesting; see Yoon (2004) or any of the reports produced by EIA/Telapak or by Global Witness.
- 18 While some of the bear populations in Asia – the Sun Bear, the Sloth Bear, the Asiatic Black Bear and the Brown Bear (as well as the Giant Panda which is not relevant for TAM) – are banned from international trade under CITES, hunting them or farming live bears is not always illegal in East Asia.
- 19 Following rumours that the material was radioactive, 10,000 people sought to flee the region and eight were killed in a subsequent riot.
- 20 The shipment involved 122 containers. The cost of repatriation for the Japanese government was estimated at over 100 million yen (the company president had reportedly gone missing); see Anon. (2000).
- 21 For an explanation and examples of the ‘shadow state’, see Le Billon (2000), Nest (2002), Reno (2000) and Global Witness (2007).
- 22 In practice some issues such as drug smuggling, arms smuggling and terrorism attract more policy attention than adjacent issues such as corruption which go to the heart of domestic governance.
- 23 The Indonesian government has cited illegal fishing (and the economic losses associated with this) as a major reason for seeking to strengthen its naval capabilities. Illegal fishing is a continuing source of tension between Thailand and its neighbours, particularly Malaysia, involving naval and border patrol activity on both sides. Shots have, on occasion, been fired.
- 24 The evidence is mixed on what happens when conflict is contained by ceasefire agreements. There is some evidence that illegal logging and smuggling actually increases in Burma because both sides are more easily able to access forest lands for illegal harvesting (see Talbott and Brown 1998: 54). On the other hand, Global Witness (2006) has reported a near standstill in logging in regime-controlled areas and those controlled by Kachin state ceasefire groups in northern Burma.
- 25 An attempt by the government of President Megawati Sukarnoputri to bring illegal logging into the serious crimes category failed because making it a capital offence, punishable by death, was thought a step too far by parliamentarians and NGOs alike.
- 26 The FLEG East Asia process involves a Task Force and an Advisory Group and periodic meetings with the support of international partners such as ASEAN and APEC. Not all countries in the region are part of the FLEG process: Malaysia, Singapore and Thailand are notable non-participants.
- 27 This is helped by the fact that all ten ASEAN countries are parties to CITES.
- 28 The eight areas of transnational crime are: drug trafficking, trafficking in persons, sea piracy, arms smuggling, money laundering, terrorism, international economic crime, and cyber-crime.
- 29 The report of the 2nd meeting of what was then a CSCAP Study Group identified a number of areas of transnational crime but environmental crime was not among them.
- 30 Buzan *et al.* refer to these as the ‘functional actors’ in the securitization process – those who can affect the dynamics of a sector without being its agents or referents (Buzan *et al.* 1998: 36).
- 31 Examples include the Forest Law Enforcement and Governance (FLEG) initiative, the Voluntary Partnership Agreements established by the European Union, the OzonAction Network, the Coalition Against Wildlife Trafficking (CAWT), and the Global Forest & Trade Network, to name just a few.

- 32 In 1994, Interpol established an environmental crimes committee with two working groups, one on wildlife crimes and one on pollution crimes, and developed the 'ecomessage' reporting system to generate a database on international environmental crime.
- 33 China, Malaysia, the Philippines, Lao PDR, Cambodia and Burma are parties to the Convention; Japan, South Korea, Indonesia, Vietnam, Singapore and Thailand have not yet ratified the Convention. North Korea, Mongolia and Brunei have not signed.

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