

SPECIFIC CRIME MARKETS

THEME SUMMARY

Specific crime markets include visa and migration fraud, environmental crime and intellectual property crime.

Visa and migration fraud presents a continued threat to the Australian community as well as to national security interests. Serious and organised crime groups exploit the Australian visa and migration system, engaging the services of professional facilitators to enable entry into Australia. Visa and migration fraud is highly profitable and closely linked to both identity crime and cybercrime.

Environmental crime is diverse in nature and encompasses several crime markets. Transnational organised crime syndicates and opportunistic individuals exploit these markets, which are characterised by high profit margins and low detection rates. The cost of environmental crime in the global context continues to rise, with far-reaching environmental, financial, security and social implications. Technological developments in encrypted communication and the availability of illegal online marketplaces continue to enable transnational environmental crime.

Piracy and counterfeiting are serious international issues, and many countries including Australia commit significant resources to combating them. The main forms of intellectual property crime in Australia are the importation of counterfeit goods such as clothing and the domestic manufacture of goods that infringe copyright.

VISA AND MIGRATION FRAUD

Exploitation of Australia's visa and migration program presents an ongoing threat to Australia's border. Manipulation of Australia's visa and migration system may occur through a range of fraudulent, exploitative or non-compliant activities. These include:

- visa application fraud
- travel document fraud, including identity fraud
- visa non-compliance
- labour exploitation.

Visa and migration fraud occurs when a visa is issued on false or fraudulent grounds (visa application fraud), or when an illegitimate or illegal visa or passport is acquired (travel document fraud). Travel document fraud can also involve the fraudulent use of legitimate documents to obtain a visa or for travel. If false or fraudulent documents are used in an attempt to conceal the true identity of persons entering or leaving Australia, there is a potential impact on Australia's national security. A prominent feature in visa and migration fraud is the increasing involvement of serious and organised crime groups, who seek to exploit the Australian visa and migration system in order to facilitate criminal activities onshore.

Permanent visa fraud may occur through contrived marriages. Strategies to mitigate fraudulent partner sponsorship arrangements include a data-matching program between the Department of Human Services and the Department of Immigration and Border Protection (DIBP) to detect fake marriages, and legislative changes under the 'paying for visa sponsorship' framework.³⁴

CASE STUDY: VISA FRAUD INVOLVING CONTRIVED MARRIAGE SCAM

A registered migration agent and his wife, a marriage celebrant, were convicted in early 2017 for organising a visa scam involving 16 fake marriages between Australian women and Indian men. One witness testified to paying between A\$35,000–\$40,000 in fees to the migration agent and to the Australian woman he married in the scam. Both offenders received custodial sentences.

Visa non-compliance typically involves a breach of visa conditions, commonly for financial gain or to remain in Australia; it may also enable other migration threats, including labour exploitation.

Visa manipulation is a common feature of organised crime groups and businesses involved in the exploitation of labour. Visa holders may find they are exploited by such groups who employ them outside of their visa conditions with the threat of their visas being cancelled should these breaches be reported to the authorities. In June 2016, an Australian company was penalised for forcing four overseas workers, who were employed under the temporary skilled visa program, to return a portion of their fortnightly wages in cash and to work overtime without pay, while being threatened with dismissal and deportation. Taskforce Cadena was established by the Australian Government in June 2015 to target and disrupt criminals organising visa fraud, illegal work and the exploitation of foreign workers. It is a joint agency initiative between the DIBP—led by its operational arm, the ABF—and the Fair Work Ombudsman.

Significant Investor and Premium Investor visa programs present opportunities for transnational organised crime groups to launder illicit wealth. The complexity of establishing and verifying the source of funds received from offshore applicants means that a Significant Investor or Premium Investor visa may be used as a means to legitimise wealth and achieve permanent residency in Australia.

Serious and organised crime groups as well as individual actors continue to exploit vulnerabilities within the migration system to obtain entry to Australia. Migration agents may be wittingly or unwittingly utilised as professional facilitators of this activity.

Visa and migration fraud is intrinsically linked to identity crime and cybercrime, and is likely to increase in sophistication with advances in technology.

³⁴ Civil and criminal penalties can be imposed for offering, providing or receiving a benefit in return for visa sponsorship.

PEOPLE SMUGGLING

People smuggling is a global issue exploiting the most vulnerable of people. It can have wide ranging effects including the loss of human life, human rights abuses, threats to security and corruption. The involvement of transnational organised crime groups in people smuggling continues to grow in response to the ongoing demand for these services. Transnational organised crime groups generate significant profits facilitating the illegal movement of people. They may also use their people smuggling networks more broadly to support other criminal activities, including illicit drug and weapons trafficking as well as terrorism.

People-smuggling investigations impacting Australia involve collaboration with international partners to disrupt domestic and international organisers, facilitators and financiers. Historically, the most visible form of people smuggling to Australia occurred via the maritime stream. Operation Sovereign Borders has significantly disrupted maritime people-smuggling ventures to Australia.

ENVIRONMENTAL CRIME

Environmental crime encompasses a diverse range of crime types including:

- illegal trade in protected flora and fauna
- illegal harvesting and trade of timber and forestry products
- pollution caused by dumping hazardous waste
- illegal trade in ozone-depleting substances
- illegal, unreported and unregulated fishing (IUU).

Environmental crime can be complex and difficult to measure, with the cost increasing on a global scale. A 2016 joint Interpol and United Nations Environment Program report³⁵ estimated the global annual cost of environmental crime at US\$91–258 billion, an increase of 26 per cent since 2014. Assessed as the world's fourth-largest crime sector in terms of profit generation, environmental crime has far-reaching implications including the cost to future generations through the loss of natural resources and ecosystems, the loss of government revenue, the undermining of legitimate businesses, and threats to security in vulnerable regions. Criminal involvement ranges from opportunistic individuals and personal collectors of protected flora and fauna to sophisticated organised crime groups seeking to capitalise on the high profits and low detection rates.

Environmental crime in Australia is seen principally in the trade of illegal wildlife and in incidents of IUU fishing. Native vegetation clearance and water theft have previously been recognised as additional environment crime types unique to Australia. Serious organised crime involvement in environmental crime in Australia is currently unknown, with individuals and smaller networks more commonly reported. Technological developments including encrypted communications, online marketplaces and use of bitcoin currency continue to enable crime in this sector.

³⁵ Nellemann, C; Henriksen, R; Kreilhuber, A; Stewart, D; Kotsovou, M; Raxter, P; Mrema, E; and Barrat, S. (Eds) 2016 *The Rise of Environmental Crime – A Growing Threat to Natural Resources, Peace, Development and Security*, United Nations Environment Programme and RHIPTO Rapid Response – Norwegian Center for Global Analyses, p.7.

The illegal trade of wildlife and CITES³⁶ products is highly profitable, estimated to cost US\$7–23 billion per year globally. It is also linked to the decline of many endangered species. A domestic and transnational market currently exists within Australia, although available data on seizures is limited. The trade is bi-directional: Australian native species are in demand overseas, and there is a market for exotic species in Australia. Interest in this market from serious and organised crime groups is likely to grow, given the high profitability and increased opportunities to trade globally through encrypted communications and via the darknet.

CASE STUDY: AUSTRALIAN MAN ARRESTED FOR ILLEGAL WILDLIFE TRAFFICKING

In March 2017, a joint operation between the AFP and the Department of Environment and Energy resulted in the arrest of a Sydney man who was charged with 41 offences relating to illegal wildlife trafficking. Investigators seized six packages destined for Sweden containing more than 40 native Australian lizards. The offender also allegedly imported 16 packages from Thailand containing over 200 animals.

Illegal, unreported and unregulated fishing is sometimes linked to other transnational organised crimes including drug trafficking, human trafficking and migrant smuggling. Incidents of IUU fishing in Australia target high-value species. Regular surveillance patrols and monitoring of Australian waters led to a significant decrease in IUU fishing apprehensions over the last decade, with 17 apprehensions in 2015–16.

CASE STUDY: SIX TONNES OF SEA CUCUMBER SEIZED

In June 2016, two Vietnamese fishing vessels were apprehended approximately 600 kilometres north-east of Cairns, Queensland within the Coral Sea Commonwealth Marine Reserve. Approximately six tonnes of sea cucumber were located on the vessels and the 30 crew members pleaded guilty and were convicted for breaking Australian fisheries and environmental laws. Penalties included suspended jail sentences ranging from two months for the crew members to five and seven months for the masters of the vessels. The two fishing vessels operated by the convicted illegal fishermen were confiscated by the Australian Fisheries Management Authority and destroyed in Cairns.

Significant increases in the global cost of environmental crime were identified within the illegal harvesting and trade of timber sector. The majority of this crime type is trade-related, characterised by practices such as under-reporting of export volumes, tax evasion, bribery, and altering of species names to co-mingle legal and illegal commodities.

³⁶ Convention on International Trade in Endangered Species of Wild Fauna and Flora.

Australia is primarily a destination country for illegal timber, with previous estimates suggesting up to 10 per cent of imported products contain illegal timber. Reporting indicates small-scale illegal logging was occurring within the Australian sandalwood trade. The Australian Government continues to establish guidelines with source countries³⁷ to ensure businesses apply due diligence in relation to timber importations through compliance assessments.

Australia is currently an exporter of hazardous waste, in particular e-waste. Illegal domestic dumping of e-waste is an ongoing problem. The extent of organised crime involvement in this market is unknown, but there have been reported incidents of organised crime involvement in illegal dumping of hazardous building materials and other waste.

The global trade in illicit ozone-depleting substances (ODS) has been reduced by the successful *Montreal Protocol on Substances that Deplete the Ozone Layer*. Internationally, the illegal trade in hydrochlorofluorocarbons continues to develop. It is unclear if a market in ODS exists in Australia.

Environmental crime is a diverse and expanding crime market that is both profitable and transnational in nature. The impacts of environmental crime can be long-lasting, and in some instances irreversible.

INTELLECTUAL PROPERTY CRIME

Intellectual property (IP) crime including piracy, counterfeiting and theft of IP continues to be a significant issue within Australia and overseas. Data published in 2016 by the Organisation for Economic Co-operation and Development (OECD) and the European Union's Intellectual Property Office estimated the global value of counterfeit goods in 2013 to be US\$461 billion, with China listed as the top producer of counterfeit goods. In October 2016, counterfeit skincare goods to the value of A\$150,000 marked with the 'Australian Made' logo were intercepted by the DIBP on a shipment from China.

Instances of cyber-enabled IP crime continue to be detected. For example, in the 10-month period to March 2016, online brand protection and domain name management specialists NetNames removed 2,163,694 counterfeit Billabong Group brand items from online channels.

CASE STUDY: DIRECT IMPACT OF IP THEFT ON AN AUSTRALIAN BUSINESS

Adelaide-based communications, metal-detection and mining technology firm Codan was subjected to IP theft after Chinese hackers stole designs for metal detection units in 2012. The impact of this breach led to the company's net profit falling from A\$45 million in the 2012–13 financial year to A\$9.2 million in the 2013–14 financial year.

³⁷ Australia had country-specific guidelines with Canada, Finland, Indonesia, Italy, Malaysia, New Zealand, Solomon Islands, and Papua New Guinea as of March 2016.