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Transnational crime and the interface between legal and illegal actors : the case of the illicit art and antiquities trade

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Citation
Tijhuis, A. J. G. (2006, September 6). *Transnational crime and the interface between legal and illegal actors : the case of the illicit art and antiquities trade*. Wolf Legal Publishers. Retrieved from https://hdl.handle.net/1887/4551

Version:	Corrected Publisher's Version
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Downloaded from:	https://hdl.handle.net/1887/4551

Note: To cite this publication please use the final published version (if applicable).

Transnational crime and the interface between legal and illegal actors

The case of the illicit art and antiquities trade

PROEFSCHRIFT

ter verkrijging van
de graad van Doctor aan de Universiteit Leiden,
op gezag van de Rector Magnificus Dr. D.D. Breimer,
hoogleraar in de faculteit der Wiskunde en
Natuurwetenschappen en die der Geneeskunde,
volgens besluit van het College voor Promoties
te verdedigen op woensdag 6 september 2006
klokke 13.45 uur

door

Antonius Johannes Gerhardus Tijhuis

geboren te Borculo
in 1976

Promotiecommissie

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Dit boek werd vervaardigd door Wolf Legal Publishers (WLP).
Een handelseditie zal bij Wolf Legal Publishers verschijnen.
ISBN 10: 90-5850-195-7; ISBN 13: 978-90-5850-195-0

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CHAPTER 1

INTRODUCTION

Between 1998 and 2000 more than five hundred French castles and museums were robbed under the direction of one man, Cornelius M., a Dutch antiques dealer based in Belgium. He instructed robberies in all parts of France and organized the smuggling of objects to the Netherlands and Belgium. At least forty times a lorry filled with antique clocks, statues, furniture and jewels made its way from France to the border region between Belgium and the Netherlands. In November 2001, the driver of these transports was arrested with the booty of sixteen robberies in his lorry. Two days later, Cornelius M. was arrested and the police found more than a thousand stolen objects at his house. The robberies started around the time when Cornelius M. left prison in 1998. He went to prison in 1996 after he had been sentenced for receiving stolen antiques. In 2002 he was sentenced again to fourteen years in prison after he had been extradited to France in 2001. Through Cornelius M., the stolen antiques from France were sold to private collectors and other dealers in Belgium, the Netherlands and other countries and thus eventually filtered into the legitimate market.[1] *Although exceptional for its scale, cases like this one have been occurring for at least four decades. In March 2005, another Dutch dealer, Simon V., was sentenced to five years in prison for complicity in twenty-eight burglaries and thefts in churches from the North of France.*[2]

In 1992, a Viennese court gave a life sentence to Udo Proksch, for six-fold murder as well as six-fold murder attempt. He had been the pivotal figure of the Club 45, an elite society of high-ranking Socialist politicians, civil servants, business people, arms traffickers and others. In 1977, he chartered the freighter M.S. Lucona that allegedly carried parts of a uranium processing plant. The heavily insured ship sank in the middle of the Indian Ocean, following an unexplained explosion, killing six of its twelve crew members. Proksch' prosecution was actively blocked for more than ten years by several key Socialist politicians. Finally, the 'Lucona Scandal' was brought to light, leading to the suicide of the Secretary of Defense as well as to the chairman of parliament and the Secretary of Home Affairs stepping back. The same Secretary of Defense was also instrumental in another project set up by Proksch. Together with a several Club 45 members, Proksch planned to establish a war museum. The Secretary of Defense approved the gift of everything from tanks and jet fighters to rocket launchers. Before an actual building was found, to exhibit all these objects, Proksch had given most of it to Polisario in the Western Sahara and sold

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1 Judgment of the Montbrison Court, File no. 02/01050, March 6th 2003; C. Naber (2000) 'Recidivist uit Retie liet zigeuners zeshonderd kastelen plunderen' *De Morgen*, December 9th.

2 'Un néerlandais condamné à cinq ans de prison pour vols d'objets d'art' *Agence France Presse*, March 31st 2005; Berkhout, K. & J. Wevers (2005) 'Hoe Nederlanders Frankrijk leegroven' *NRC Handelsblad*, October 14th.

the remainder in the Middle East. If it would not be for his war museum or sunken freighter, Proksch would be known for allegedly being the kingpin of Austrian based techno-banditry, that is the smuggle of technological knowledge and high-tech materials to the Eastern Bloc (Naylor, 2001:44-45; Pretterebner, 1989).[3]

This study focuses on the interfaces between legal and illegal actors engaging in transnational crimes. These interfaces can be quite complex as the cases of Udo Proksch and Cornelius M. illustrate. Due to this complexity, such cases and the related interfaces cannot be caught easily with clear-cut and mutually excluding categories like 'transnational (organized) crime' versus 'legitimate' businesses and government agencies. The boundaries between transnational crime, terrorism, corporate crime and state crime fade away as one focuses on such concrete cases. As the rest of this study will show, the characteristics of these cases appear to be far more representative of transnational crimes in general than usually assumed.

The interface between legal and illegal actors, within the context of transnational crime, is a research topic that has not been studied systematically. That is not to say that this topic has been neglected in studies of transnational crime. In studies of transnational crime, the interface between legal and illegal actors is usually discussed, although mainly as a side-issue (Farer, 1995; Ryan & Rush, 1997). In some case studies, the interface between certain legal and illegal actors takes centre stage (Block & Weaver, 2004; Kochan, 2005; Paoli, 1995). However, such case studies do not provide a more systematic and comparative perspective.

For a number of reasons, a study that focuses solely on interfaces can be an important and necessary addition to the existing criminological studies. The first reason has to do with the mentioned lack of systematic studies of the interfaces between legal and illegal actors. The second reason has to do with the observation mentioned above. By studying interfaces between legal and illegal actors, the rather thin boundaries between transnational crime, corporate crime and other types of crime become clear. Only after these boundaries are crossed, or even leveled, transnational crimes can be understood from a broader perspective. From such a perspective, transnational crimes are always taking place against a specific background of economic factors, state policies and legislation, as well as other factors. Thirdly, a systematic study of interfaces can help to indicate the different types and causes of interfaces that can be found in different types of transnational crime. Finally, as the role of legal actors with all kinds of transnational crimes is clarified, more effective legislative and policy instruments can be designed to counter this role.

The first half of this study will be based on the literature on transnational crimes. The second half will describe the empirical research of the illicit art and

[3] For a summary of Proksch' endeavors see: http://en.wikipedia.org/wiki/Udo_Proksch (Visited, October 21st 2005).

antiquities trade that was done specifically for this study. The illicit art and antiquities trade was chosen for several reasons. On the one hand because it is a type of crime that is known for its interfaces between legal and illegal actors and on the other hand because empirical studies of this type of crime have been scarce, especially from a criminological perspective.

In the following sections of this chapter, the research questions and definitions that will guide this study will be explicated. The data sources of the empirical study and the definition of transnational crime used in this study will only be pointed at briefly. In chapter 2, the definition of transnational crime will be further discussed and the data sources will be discussed in detail in chapter 6. Furthermore, this introduction will outline the topics of the different chapters. Finally, some background will be provided with respect to the study of transnational crime and the interfaces between legal and illegal actors.

1.1 Research questions

Criminological studies of transnational crimes have focused on a range of research topics. Among the most important are those that try to shed light on the way transnational crimes are organized. For example, the way people involved are organizing themselves, in criminal organizations, networks or incidental partnerships. Or the methods of smuggling and the routes used between different countries. Usually, studies of transnational crimes deal with one particular type of transnational crime or with a particular ethnic group. Sometimes, studies aim specifically at a particular ethnic group engaged in a particular transnational crime (e.g. Chin, 1999; Soudijn, 2006; Zaitch, 2002).

As was pointed out above, this study will solely focus on the interfaces between legal and illegal actors in transnational crime. Four main research questions will guide this study. Apart from these questions, others will be developed along the way. As soon as these additional questions arise, they will be integrated in the study. The first main research question is:

- What kind of interfaces can be found between legal and illegal actors in transnational crimes?

The aim of this research question is the development of a typology of interfaces between legal and illegal actors. Such a typology should cover all main types of interfaces between legal and illegal actors. This means that on the one hand, not every conceivable type should necessarily be integrated in a typology, while on the other hand the typology should not be so general that it is actually meaningless. Furthermore, the different types should be independent of particular transnational crimes. In such a way, cases involving different types of crime but similar types of interfaces can be compared. The analysis of such a typology will start with an existing typology that was developed by criminologist Nikos Passas.

The second research question is:

- How can the transformation in legal status of certain transnational activities be explained?

Transnational crime is often understood simply as organized crime involving more than one country. In that case, it involves an activity that is criminal in all countries involved. However, transnational crime can also involve an activity that starts as legal but becomes illegal at some stage, or the other way around. The second research questions aims at this transformation in legal status. This transformation needs to be explained to fully understand the occurrence of certain interfaces in these transformations, and the actors involved in these interfaces. Furthermore, explanation is wanted because the possibilities of these transformations probably cause several types of transnational crime to occur significantly less than they actually do. The two cases at the beginning of this chapter can illustrate this. The many works of art and antiques that were stolen in France under the direction of Cornelius M. were subsequently filtered into the legitimate market in the Netherlands, Belgium, and other countries. Udo Proksch arranged the opposite trajectory with the state-owned arms that ended on the black market.

The first two research questions aim at the interfaces between legal and illegal actors in general. The third research question aims at one particular type of transnational crime: the illicit art and antiquities trade. This type of transnational crime will be studied empirically. The empirical study is used to gauge the typology and model developed in the first half of the book in which the first two research questions are treated. The empirical study, therefore, is not a goal by itself, but is meant to establish the usefulness of the models developed in the first half of the book. As will be explained more extensively later, this particular type of crime was chosen for two reasons. First of all because it is known for its many interfaces between legal and illegal actors. Secondly because it has hardly been studied empirically by criminologists. The third research question is:

- Does the interface typology provide an analytical tool to describe the interface between legal and illegal actors in the illicit art and antiquities trade?

To answer this research question, a number of sub-questions need to be answered. First of all, what kind of interfaces between legal and illegal actors can be found in the illicit art and antiquities trade? Secondly, which interfaces are covered by the interface typology and which are not? Thirdly, do the interfaces which are not covered by the typology suggest new additional types of interfaces that should be added to the typology?

The fourth and last research question is:

- How can the transformation in legal status in the licit and illicit art and antiquities trade be explained?

When the second research question has been answered on the basis of the literature on transnational crime, the fourth main question will focus specifically on the art and antiquities trade. Can the general explanation be used for this particular trade also or are additional explanations required?

In addition to the four research questions, the concluding chapter will deal with the questions as to what recommendations can be made for future studies as well as policy-making. Ideally, the insights gained from criminological studies can help to design policies and strategies to counter transnational crimes and the interfaces between legal and illegal actors.

1.2 Definitions and data sources

Several concepts need to be defined before they will be further explored in the chapters hereafter. First of all, a definition of transnational crime is needed. In this study the following definition will be used:

Transnational crime is conduct, which is criminalized in at least one of the jurisdictions concerned and jeopardizes the legally protected interests in more than one of the jurisdictions concerned or in one jurisdiction while it is similar to acts which jeopardize the legally protected interests in most countries

This definition is a slightly adjusted version of a definition used by Nikos Passas and will be further discussed in chapter 2. As this definition is not purely legal, it can cover the situations pointed at above, in which the same activity is legal in one place and illegal in another. Furthermore, this definition also includes types of terrorism that involve more than one country.

Besides transnational crime, *interface* is the key word in this study. This term is used for the manner in which legal and illegal actors collaborate or collide in transnational crimes. The term *interface* captures the ways in which legal and illegal actors are connected. Interface does not have one fixed meaning but can have different meanings depending on the context in which it is used. The term may be used to point at the boundary between two bodies, or the place at which independent and often unrelated systems meet and act on or communicate with each other. Furthermore, instead of a boundary, an interface may also be a third machine or person through which the other two are connected with each other.

The main theme of this book is the interface between legal and illegal actors in transnational crime. However, the analyses of these interfaces will always start from particular instances of transnational crime, and not from particular actors. The definition of transnational crime that is used here does not discriminate between legal and illegal actors. This can help to evade a certain bias that can be

found in some studies of transnational crimes. These studies restrict transnational crime to the illegal (cross-border) activities of criminals, by definition not being legal businesses or governments. In case legal businesses or governments are involved in these criminal activities, it is assumed to be a matter of incidental corruption or unintended complicity.

This study is based on a number of data sources. The first part will be primarily based on a study of the existing literature on transnational crime. Besides the literature, I will use media reports and reports from government agencies as well as from international organizations. The second part, dealing with the illicit art and antiquities trade, is based on a range of specific data sources. First of all, data was gathered from a study of official files from the Dutch Inspectorate of Cultural Heritage. Furthermore, data was gathered from several foreign official sources: the art unit of the French police and the art unit of the Italian military police. Apart from that, interviews were held with officials from other foreign government agencies. In addition to these official sources, reports from regular as well as specialized media were used to gather data. Furthermore interviews were held with art dealers, archaeologists and other actors in the art world. Finally, studies of specific parts of the illicit art and antiquities trade are used as far as they are available. Chapter 6 will discuss all mentioned data sources in more detail.

1.3 Plan of the book

Chapter 2 will start with the first research question. Starting-point is a typology of interfaces developed by criminologist Nikos Passas. This typology will be analyzed and revised with an adjusted typology as result. Thereafter, chapters 3 and 4 will focus on the second research question. These chapters will discuss certain types of individuals, organizations, and jurisdictions that can function as interface by themselves, instead of being one side of an interface between two actors. An analytical model to understand this role of individuals, organizations, and jurisdictions as interface will be developed in chapter 5.

The chapters 6 to 9 will focus on the illicit art and antiquities trade. Chapter 6 will start with an outline of the data sources that were used. Thereafter, chapter 7 will introduce the illicit art and antiquities trade, explaining the different parts of the trade. Chapter 8 will focus on the illicit art trade and chapter 9 on the illicit antiquities trade. This illicit art and antiquities trade will be studied empirically to see whether the typology and the analytical model can be used to describe and understand a particular transnational crime in practice

Following the discussion of the study of the illicit art and antiquities trade, chapter 10 will summarize the conclusions from the whole study. Furthermore, it will provide recommendations for both future academic studies as well as public policies.

1.4 The rise of (the study of) transnational crime in perspective: the 1990s and beyond

Transnational crime has always existed but the active academic interest in this phenomenon is relatively recent. It used to be seen as simply a part of the field of 'organized crime' as far as this involved cross-border activities. The fall of the Iron Curtain played a major role in changing the way transnational crime was perceived by criminologists as well as law enforcements agencies, intelligence agencies and other state actors. In several articles, reports and statements, transnational crime was portrayed as a new and global threat. Both the general process of globalization, as well as the demise of Communism in Eastern Europe and the Soviet Union, supposedly caused this type of crime to rise and eventually threaten both the economies as well as the democratic systems of the developed countries. In 1993, Godson and Olson published their study *International Organized Crime: Emerging Threat to US Security*. They argued among other things that organized crime undermined democratic institutions in key areas of the world and eroded US alliances and coalitions (1993:i). A year later, US Senator John Kerry summarized his views in an easy one-liner "Organized crime is the new communism: the new monolithic threat".[4] Kerry was not a newcomer to this topic as he wrote a US Senate report on the BCCI scandal that showed, among other things, how this bank was involved in, and connected with, several transnational crimes like illicit arms deals, money laundering and financing terrorism (Kerry Report, 1992). In the same year of Kerry's remarks on organized crime, journalist Claire Sterling published her book *Thieves' World* in which she outlined a global conspiracy between criminals from Italy, Colombia, Russia and other places.[5] Sterling's book was regularly referred to by criminologists and others in later publications on transnational crime. Furthermore, in February 1996, when President Clinton placed his updated National Security Strategy before congress, for the first time, he recognized "Fighting International Organized Crime" as a national security issue facing the United States (Lupsha, 1996:21). Around the same time, two academic journals were established that focused particularly on (transnational) organized crime. In 1995, *Transnational Organized Crime* was founded and some time later the journal *Trends in Organized Crime*. The latter journal explicitly presented its central theme as one that threatened the integrity of local institutions and national governments (Block, 1999:220-221).

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4 L.A. Horvitz (1994) 'FBI Enters Global Battle on Organized Crime' *Washington Times*, 19 July, p. A9.

5 Sterling had written about terrorism and crime for decades when she published this book. When she died a year afterwards, a tribute was held in the US Senate (June 22nd 1995). See also: B. Barnes (1995) Claire Sterling, Investigative Writer, Dies, *The Washington Post*, June 18th.

In response to these doom-scenarios, Western governments felt the need to adjust their law enforcement techniques to fight this new threat. In the US, these concerns were raised during a conference with the striking title *Global Organized Crime: The New Empire of Evil* (Raine & Cilluffo, 1994). Inspired by their American counterparts, European law enforcement agencies increased their use of special investigative methods, for example with undercover operations and the use of criminal informants. Soon these new methods led to major scandals as it turned out that these methods were not completely compatible with the existing systems of law (Van de Bunt et al., 2001; Van Calster & Vander Beken, 2004:9).

In Belgium and the Netherlands, these scandals led to the establishment of parliamentary enquiry commissions to investigate these police methods. The Dutch parliamentary inquiry commission asked four criminologists to study and describe the mentioned police methods as well as the current status of organized crime in the Netherlands. The result was an extensive report that dealt for a significant part with different types of transnational crime that (for a minor or major part) took place in the Netherlands (Fijnaut et al., 1996).[6] In the period following this report, a range of criminological studies looked at different topics in the field of (transnational) organized crime. A number of these studies used official sources that were relatively easy to access. The Belgian enquiry commission was a smaller version of the Dutch commission. Its influence on later studies was also less because the openness of official agencies for criminologists was far less than in the Netherlands.

Following the increased interest in transnational crime in the US and Europe, the United Nations adopted the *Convention Against Transnational Crime* in the year 2000. It came into force on September the 29th 2003 and 106 states are currently party to the convention.[7] After the adoption of this convention, transnational crime still frequently figured in government reports in Europe and the US, as well as in other publications, until the terrorist attacks of 2001 caused a significant change of attention and priorities. One of the latest multilateral initiatives occurred in October 2003 when the United Nations Convention against Corruption was adopted. This is one of the bases of legislation against corruption and similar behavior. Since then only 34 countries became party to this convention. None of the major industrialized countries, except for France, have become party and the Convention that has entered into force on December 14, 2005.[8]

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6 A full text version of the report is available online at: http://www.burojansen.nl/traa/index.htm (Visited October 24th 2005). It contains over 5500 pages. For an English summary see: Fijnaut et al. (1998).

7 See: http://www.unodc.org/unodc/en/crime_cicp_signatures.html (Visited October 24th 2005).

8 See: http://www.unodc.org/unodc/en/crime_signatures_corruption.html (Visited October 24th 2005).

Since 9/11, terrorism has clearly become the primary security concern in the US, and to a lesser extent in Europe. It is understood as a specific type of transnational crime in this study, as far as it involves more than one country. However, in public discourse and policies, terrorism is understood as a particular phenomenon, independent and something different as 'ordinary' crimes as well as 'ordinary' warfare. In its consequences for public policies, new legislation and law enforcement methods, terrorism has clearly exceeded transnational crime. The first major legislative initiative was the US Patriot Act in 2001. Since then, far-reaching new legislation has been enacted in the US as well as elsewhere. According to many observers, these new laws have seriously compromised the constitutional rights of citizens in the US (Kroes & Janssens, 2004). The same can be said of many legislative initiatives in European countries. Part of these initiatives concern law enforcements methods have been invented or legalized in the 'war against terrorism'. Several parallels can be found with the previous handling of transnational crime, as well as specific 'wars' that predated the current war on terrorism, for example the 'war on drugs' during the last decades and the 'war on terrorism' under President Reagan during the 1980s. One of these parallels concerns the derailed law enforcement methods. Furthermore, the invasion of Iraq was for a part made acceptable to the (American) public on the basis of the systematic insinuation that the former regime was connected with the September 11th attacks, although officially, the war was justified by the claims of 'weapons of mass destruction' that later turned out to be unfounded. Finally, in all wars, very similar rhetoric could be found whether the actual threat concerned terrorism, drugs or transnational crime.[9]

Although (transnational) terrorism is considered as a type of transnational crime in this study, the analyses in this book will be based primarily on the literature and study of types of transnational crime that are usually described as (transnational) organized crime, (transnational) corporate crime or (transnational) state crime. Nevertheless, several examples of terrorism in Europe and elsewhere will be used for the analyses of the interface typology and its extensions.

1.5 General assumptions about transnational crime

A number of assumptions about transnational crime can be found in many of the mentioned publications. The most important assumptions are: (1) transnational crime is primarily a new phenomenon that arose in the 1990s, (2) for a large part connected with large-scale criminal organizations that often have a specific ethnic background, (3) and regularly work together with criminal organizations in other countries, while transnational crime is (4) primarily caused by the process of

[9] Especially, the wars on terrorism under President Reagan and Bush show a range of similarities in language. See e.g. Richard Jackson (2005).

globalization during the last three decades and (5) infiltrates legitimate businesses and governments.

Some of these assumptions were already mentioned before. Hereafter, these assumptions will be used for reflection, although very briefly, on the phenomenon of transnational crime. On closer look, these assumptions do not always seem to be rational, although actual changes have taken place with respect to transnational crime. The assumptions seem to confirm Letzia Paoli's observation that the perception of (transnational) organized crime is polluted by a moral panic, and "issues shaped by moral panic are not likely to be handled in a rational, matter-of-fact way" (2002:52). To be sure, the assumptions should not be seen as elements of a standard perspective on transnational crime. However, each of the assumptions can be found to some extent in many studies of transnational crime. For that reason it is useful to explicate these assumptions before one starts to study a particular research topic within the field of transnational crime.

1.5.1 Transnational crime as a new phenomenon

The first assumption that seems to underlie many discussions of transnational crime is the assumption that one is dealing with a relatively new phenomenon. In the old days, organized crime took care primarily of the local and national markets in illegal goods like drugs, gambling and prostitution. Nowadays, organized crime has gone global and illegal goods are traded globally, like legal merchandise, on a massive scale. This assumption fails to recognize the fact that transnational crime has existed as long as there have been different nations. Furthermore, this does not only involve crimes that no longer occur, like the slave trade from Africa to the US. It also involves some crimes that are often seen as relatively new, like human trafficking or cigarette smuggling. An interesting study on human trafficking, from this perspective, is Edward Bristow's narrative of the international traffic of Jewish women for prostitution in *Prostitution and Prejudice: The Jewish Fight against White Slavery 1870-1939* (1982). He describes the massive trade in Jewish women from regions in Poland, Russia and the Austrian-Hungarian Empire, to destinations in Africa, Asia, the US, Brazil and Argentina from the 1870s to the 1930s. A careful look at the literature on transnational crime shows that this type of crime is anything but new, although its transnational character may have increased together with legitimate activities across borders. Furthermore, studies of transnational crime in the past are available for every reader willing to look for them.[10] An interesting parallel can be drawn here with the new interest in terrorism. The type of terrorism that

[10] For the illicit drugs trade see e.g. Block (1979, 1989) and McCoy (1971); for the illicit trade in art and antiquities see e.g. Chamberlin (1983), Meyer (1973) and Middlemas (1975); for the illicit arms trade see e.g. Brogan & Zarca (1983) and Naylor (1987, 2001); for illegal migration or smuggling of humans see e.g. Lucassen (1998) and Soudijn (2006).

defines the contemporary concept of terrorism for most observed, has many variations in both past and present.[11] Furthermore, several European countries have for decades experienced serious form of terrorism.

Although transnational crime in general thus seems to be far less 'new' than sometimes assumed, it should not be forgotten that significant changes have taken place with regard to certain aspects of transnational crime. The global role of criminals from the former Soviet Union, as well as the countries in Eastern Europe is a real and largely new phenomenon (Kochan, 2005).[12] They have become active in for example human trafficking, drug trafficking and protection rackets. In Europe, the role of these criminals has been described by the annual reports of the German *Bundeskriminalamt* (BKA)[13] as well as academic publications (Galeotti, 2002; Nožina, 2004). In the US, the focus has been primarily on Russian criminals active in the US and elsewhere (Finckenauer & Voronin, 2001; Williams, 1997).

1.5.2 Large-scale (ethnically defined) criminal organizations as typical manifestation of transnational crime

The second assumption holds that transnational crime is for a large part connected with large-scale criminal organizations with a definite ethnic background. This ethnic background can for example be Russian, Italian, Colombian or Turkish.[14] According to Peter Lupsha "most transnational organized crime groups have a single ethnic character or national identity root, with cells inserted into nation-states, where aspects of their criminal enterprises take place" (1996:22). This observation can be found in many discussions and with that, according to Paoli and Fijnaut, the debate on organized crime has come full circle. Until the 1960s, the 'alien conspiracy model' was the primary model to understand organized crime.

> "The 'illegal enterprise model was developed in the 1970s to criticize this 'alien conspiracy' model but, 30 years after, some of its later followers – by the very use of economic tools – have ended up subscribing to one of the

[11] Furthermore, an interesting body of literature exists on this type of crime and the role that some states have played to support it. See for example: Morstein (1989), Naylor (1987, 2001), Adams (1986), James (2003), De Kock (1998).

[12] This is not to say that criminals from these countries did not play a role before 1989. Bovenkerk pointed at the criminals send abroad by the Yugoslav secret service before 1989 (Bovenkerk, 2003). Furthermore, government agencies and companies from East-Germany and some other countries have been involved in particular transnational crimes. These will be further discussed in chapters four, five and eight.

[13] The reports can be found at the BKA website: www.bka.de.

[14] For an analysis of the relationships between ethnicity and transnational crime see e.g. Bovenkerk (1998); Bovenkerk, Siegel & Zaitch (2003).

> basic tenets of such a theory: namely, the rise of large scale bureaucratic organizations…" (Fijnaut & Paoli, 2004:30).

With regard to the rise of such large scale bureaucratic organizations, kind of multinational criminal organizations, Paoli points at two important paradoxes. First of all,

> "the provision of illegal commodities mainly takes place in a 'disorganized' way and, due to the constraints of products illegality, no immanent tendency towards the development of large-scale criminal enterprises within illegal markets exist." Secondly, "some lasting large-scale criminal organizations do exist, however, such as the Italian Cosa Nostra and N'drangheta (…) Although these groups are usually presented as the archetype of organized crime, they are neither exclusively involved in illegal market activities, nor is their development and internal configuration the result of illegal market dynamics" (Paoli, 2002:52).

1.5.3 Collaboration between transnational criminal organizations as a way to divide the criminal underworld

In addition to the previous assumption, some authors argue that these criminal multinationals are collaborating and divide the world of illicit activities between themselves. Thomas Naylor summarizes the assumption held by these authors with his observation that "If the 1950s and 1960s were an era when the principal enemy facing the West was supposedly monolithic international communism or the infamous Com-intern, in the 1980s and 1990s the real threat has become a sort of Crime-intern" (1995a:38). Criminological studies of the last decade have not produced any substantial evidence to validate this assumption. As far as large-scale organizations do exist, and as far as they may collaborate, they are just a part of a wide range of actors involved in transnational crimes. Far more important than these organizations are all kinds of networks and loose collaborations of criminals, organizing transnational crimes like drug trafficking and cigarette smuggling.

1.5.4 Globalization as the primary cause of transnational crime

The fourth assumption holds that the general process of globalization of the last decades provides the major explanation for the rise of transnational crime. Due to market liberalizations and the declining importance of borders between countries, transnational crime has increased dramatically. This assumption to some extent simplifies the causes and developments of transnational crimes. It was already pointed out that transnational crimes have always occurred. They do not, however, only occur because people, goods and services *can* cross borders. They

only cross borders when there is a reason for it. This may be that certain goods are available in some countries and not in others (despite demand for them), or that price differences make smuggling lucrative. If such a reason exists, the increased transport opportunities and trade flows can make the traffic easier.

However, some aspects of globalization can in fact decrease the causes for transnational crime. Market liberalization, for example, led to deregulation of capital flows in many countries. This led to the automatic decrease in capital flight, as many activities that were once labeled as capital flight are now legal financial transactions across international borders. On the other hand, many transnational crimes are caused or at least stimulated by countries that maintain different legislation with respect to certain commodities. The present scale of cigarette smuggling, for example, could not be imagined when similar countries would not maintain such large differences in taxation. Furthermore, trade barriers and subsidies, set up by the European Union, cause all kinds of fraud and smuggling activities. Harmonization of legislation between countries, as part of a process of globalization, could undo at least part of the negative externalities (like transnational crime) of the process of globalization.

1.5.5 Transnational crime as cause of criminal infiltration of legitimate businesses and governments

The last assumption about transnational crime is that this type of crime infiltrates legitimate organizations as well as governments. This is one of the reasons why democratic governments and legitimate corporations are threatened. Despite this perceived threat, not much proof has been produced during the last decade large-scale infiltration by transnational criminals indeed occurs. In fact, this should not cause too much of a surprise. Many transnational crimes can be executed without any substantial infiltration or corruption (see e.g. Huisman et al., 2004; Van de Bunt & Kleemans, 2004; Zaitch, 2001). Evading law enforcement is often easier than trying to corrupt them. Furthermore, many services provided by legitimate companies and government agencies can be used by criminals without this being noticed by the companies and agencies. For most transnational crimes, one can probably draw the same conclusion as Alan Block drew about the trade in illegal drugs: "the relationship between nation-state security and narcotics-driven corruption is primarily a Third-World problem" (Block, 1999:222).

To argue that the infiltration as meant above is not a very common phenomenon is not to argue that legal and illegal actors can and will not be connected to all kinds of transnational crimes. However, many of the interfaces between legal and illegal actors are clouded by the scope of transnational crimes that is discussed in many studies and government reports. They usually focus on criminals engaged in drug trafficking, human smuggling and other well-known crimes. Other crimes, around which at least as many interfaces can be expected, are often neglected or excluded through definitions that exclude transnational

crimes committed by legal actors or in which these actors play important roles. For those reasons, the crimes committed by large corporations (like cigarette producers or banks) or state agencies (like intelligence agencies) are not included in the discussions about infiltration or other interfaces between legal and illegal actors. Nevertheless, a number of studies can be found that focus on these crimes and provide insights in these interfaces (e.g. Block & Weaver, 2004; McCoy, 1972; Naylor, 1987, 2001; Paoli, 1995; Passas & Goodwin, 2004; Von Bülow, 2003). In the following chapters the focus will be as much on these other types of transnational crime as on the more common types like drug trafficking and human smuggling or trafficking. Chapter 2 will start with a discussion of a typology of interfaces between legal and illegal actors in transnational crime.

CHAPTER 2

INTERFACES BETWEEN LEGAL AND ILLEGAL ACTORS: FROM BRICKS TO THE BAHAMAS

2.1 Introduction

In this chapter interfaces between legal and illegal actors will be viewed from several angles that will also be used in the following chapters. As was pointed out in the introduction, the interfaces between legal and illegal actors in transnational crime have not been systematically and empirically studied. However, a typology of interfaces was developed in several papers by criminologist Nikos Passas. He initially outlined a typology of interfaces in a paper for the *National Research Council* (NRC, Passas, 1998). In 2002 he published a new version of this typology, a chapter in a book entitled: *Upperworld and Underworld in Cross-Border Crime* (Passas, 2002). This book was edited by Petrus van Duyne, Klaus von Lampe, and Nikos Passas (Van Duyne et al., 2002). In 2003, Passas published the latest version of his paper in the *Security Journal*. This latest version will be used for our analysis in this chapter.

The typology serves several different purposes. First of all, it provides an analytical tool to describe interfaces between actors independent of the type of crime or the actors involved. This enables a comparison of interfaces in cases that may involve totally different crimes and perpetrators. Furthermore, it helps to organize data and serves heuristic purposes. In this study, the focus will be on the typology as an analytical tool to describe types of interfaces between legal and illegal actors. It needs to be stressed that the analysis here will thus be more limited and at the same time more in-depth than envisaged by Passas. More limited because it only uses the typology as a descriptive analytical tool and more in-depth because it attempts to define the typology more precise for this specific purpose.

Following a discussion of Passas' typology of interfaces, a revised typology and an extension of the typology will be outlined. From the perspective of the typology, there are always two actors that collide or collaborate. The type of collaboration or collision is labeled with one of the interface types. On the one hand one will have a legal actor and on the other hand an illegal actor. This is also the perspective on interfaces that can be implicitly or explicitly found in most studies on transnational crime. However, this does not say anything about the criminal nature of the activities that these actors are involved in. Usually, both legal and illegal actors are involved in criminal activities. However, in some cases, the interface between two actors is not primarily a certain interface as relationship, but an interface as a concrete intermediary person, organization or jurisdiction. This extension of the typology thus involves three different levels.

First of all, the role of certain individuals in transnational crime will be looked at. Thereafter, the role of legitimate organizations as interfaces between legal and illegal will be discussed. Finally, the role of jurisdictions as interfaces will be discussed. These different extensions share one core characteristic. They act as a lock through which activities are either legalized or instead become illegal. Therefore, they will be discussed as variations of a new analytical model to understand a part of the legal–illegal interface. In chapters 3 and 4, each variation will be analyzed in depth with a number of case studies. In chapter 5, a new analytical model will be developed that simplifies the role of these actors as interface.

2.2 Passas' typology of interfaces

2.2.1 A definition of transnational crime

Before the typology of interfaces will be discussed, the definition of transnational crime used by Passas should be presented. In the original paper for the NRC, the following working definition of (transnational) crime was presented:

> "misconduct that entails avoidable and unnecessary harm to society, which is serious enough to warrant state intervention and similar to other kinds of acts criminalized in the countries concerned or by international law (…) What makes crime transnational is that offenders or victims find themselves in – or operate through – different jurisdictions" (Passas, 1998:3).

This definition was neither entirely legal nor sociological. Thereby it evaded the drawbacks of a solely legal definition although at the same time it seemed to incorporate a moral or political element. The phrases 'avoidable and unnecessary harm' and 'serious enough to warrant state intervention' can be tricky when used in an empirical study. In Passas' most recent work on interfaces, the term cross-border crime is used instead of transnational crime with another definition:

> "cross border crime is conduct, which jeopardizes the legally protected interests in more than one national jurisdiction and which is criminalized in at least one of the states concerned" (Passas, 2003:20)

With this definition, most values that might creep into a definition are probably evaded. However, in some instances such a definition, if taken literally, would leave out some examples of conduct which are usually seen as cross-border or transnational crime. Passas did not mean his definition to be taken literally but the aim here is to design a definition that is inclusive even if taken literally. In many instances of what is usually interpreted as transnational crime, one of the countries involved has been chosen for the very reason that certain conduct does

not jeopardize the legally protected interests and is not criminalized in one of the jurisdictions involved. In that case, legally protected interests are taken literally. In that case, some of the examples of transnational crime would not necessarily fit the above definition. Tax evasion, capital flight and the use of child labor do not by definition jeopardize the legally protected interests in more than one jurisdiction. Furthermore, many transactions in the illicit art and antiquities trade provide additional examples. Many works of art that are not allowed to leave their source country end up in places like Switzerland or Hong Kong because their presence there does not intervene with any legally protected interests in those jurisdictions. The same goes for many examples for what is commonly regarded as money laundering. When the destination or source country of certain capital flows is for example Panama or the Bahamas, one will easily evade the above definition if there are only two countries involved. For many other transnational crimes, the same problem can be illustrated. If one takes the UN list of transnational crimes as a starting point, one can mention (at least): computer crime, theft of intellectual property, illicit traffic in arms, terrorist activities, and environmental crime. The disadvantages of the definition might be cured by a variation of an element from the old definition "similar to other kinds of acts criminalized in the countries concerned." The variation on this element might be "or in one jurisdiction concerned while it is similar to acts which jeopardize the legally protected interests in the majority of countries." This would lead to a less readable but not much longer definition:

> *Transnational crime is conduct, which is criminalized in at least one of the jurisdictions concerned and jeopardizes the legally protected interests in more than one of the jurisdictions concerned or in one jurisdiction while it is similar to acts which jeopardize the legally protected interests in the majority of countries*

While including some transnational activities that preferably would fall within this research, this definition would bring back some of the subjectivity of the first definition. Although illicit activities under international law can be more or less defined, how can the other activities objectively be described? Somehow, one needs to define activities that on the one hand can be easily organized legally, using a number of loopholes in the international economic and legal system, while on the other hand some consensus exists that they are in fact illegal. At this point, no definition seems to be at hand which evades all the problems, while incorporating everything we should like to define as illegal and transnational. This might also explain the fact that there still is no official juridical meaning of the term transnational crime, as pointed out by Gerhard Mueller in his discussion

on the definitions and concepts of transnational crime (Mueller 2000).[15] In the following chapters, the above definition will be used as working definition.

2.2.2 Legal and illegal actors

A crucial characteristic of all the mentioned definitions is that it does not separate between crimes committed by legal businesses or state actors, and crimes committed by other actors. The reason for this inclusive definition lies in the fact that many activities preferably defined as transnational crime are in practice organized by, or with, legal actors. Therefore, every definition which draws a clear-cut line between organized crime and for example corporate crime will be hard to justify on an empirical basis.

However, the use of an inclusive definition of transnational crime can also complicate the discussion on interfaces. When a more limited definition is used, transnational crime is simply cross-border crime committed by organized criminals. In case legal actors would get involved with these criminals, a legal–illegal interface would exist by definition. It is then assumed that these legal actors are less import than the 'real' criminals. However, in case one incorporates the crimes committed by legal actors, two problems arise. First of all, these crimes are often not committed in collaboration with illegal actors but with other legal actors. Secondly, one has to decide whether the legal actors as organizational entities, engaged in transnational crime, should be called legal at all. Especially when these actors are convicted of acting as a criminal organization (like e.g. in the Netherlands) or are convicted under certain RICO provisions (in the US), there are grounds to call them 'illegal' or to be more specific 'criminal'.[16] As can be illustrated by two simplified arguments, the mentioned problems cannot easily be solved. With respect to (originally) legal actors committing transnational crimes, one can argue that these actors should be viewed as legal, despite their illegal activities and possible conviction as criminal organization. This has the advantage that one does not ignore the fact that often part of the activities of the company or state institution was legal.[17] However, when this legal actor committed crimes in collaboration with other legal actors, there is no legal–illegal interface. This would leave out a large number of examples of transnational crimes like cigarette smuggling, trafficking of toxic waste and the illicit arms trade.

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15 To be sure, such a legal definition is not a necessity for a criminological study. However, if an accepted legal definition would be available, it would make comparative studies easier and the use of data from law enforcement agencies more useful.

16 For a discussion of the role of corporations as criminal actors see e.g. Punch (2004); Van de Bunt & Huisman (2004).

17 Often this 'part' will mean the major part of the activities of that state institution or company. However, in some cases this part can be a rather minor part, for example in case of some intelligence agencies or financial institutions.

On the other hand, one could call 'legal' actors illegal when they are engaged in transnational crime. Especially when these actors are convicted, this seems to be a sensible solution. However, this would create more or less the same problem. In case a so-called illegal actor committed his crimes together with other criminals, there is strictly speaking no legal–illegal interface. When for example a cigarette producer cooperates with smugglers, this would fall outside a study of interfaces because they would be both seen as 'illegal'. The same goes for crimes committed by legal actors. As they would be also defined as 'illegal' the moment they engage in crimes, there would be no interface anymore. One could also demand a conviction as 'criminal organization' before calling a legal actor 'illegal'. However, this would make the range of cases one can study depend on the successes and priorities of the criminal justice system. It is not hard to imagine that, for example, intelligence agencies will never be convicted as 'criminal organizations', despite their involvement in illegal arms deals or drug trafficking.

For the moment, the conclusion seems to be that a strict definition of actors engaged in transnational crime does not bring much clarity. However, in an attempt to create some order into this elusive topic, some basic assumptions should be outlined. As far as transnational crime is concerned, the definition of this phenomenon is based on certain activities which fall within the given categories. Within this domain of crime, actors are defined by their 'official' status to begin with. That means, legitimate state agencies, private companies and private non-profit organizations are defined as legal actors, and others defined as illegal or criminal actors. Specific exceptions to this rule will be discussed later.

Despite this inclusive definition of transnational crime and the flexible use of the concept of interfaces, there are some clear limitations. Many cases that have transnational characteristics do not fall into the category of transnational crime. Often the actor, for example a multinational corporation, operates in numerous jurisdictions. However, this does not make all the crimes the corporation engages in by definition transnational crimes. Furthermore, when companies or state-actors commit transnational crimes by themselves, without any connection to other legal or illegal actors, the interface can be lacking. However, in most cases there will at least be an indirect relationship with other actors. Besides these two technical limitations, one important additional limitation exists. As far as can be judged from studies on transnational crime, reports in the media, and popular accounts, important differences seem to exist between different countries or regions, with respect to transnational crime and the involvement of legal actors. Despite an inclusive definition of transnational crime, the number of legal actors that are found to be directly or indirectly involved is probably more limited in the Netherlands if compared with for example Italy, Russia or Turkey. This was illustrated by the Dutch Parliamentary Inquiry Committee on Police Methods in 1996 (Fijnaut et al., 1996, 1998), as well as more recent studies (Kleemans et al., 2002; Zaitch, 2001). However, this should not lead to ignorance with respect to the exceptions to this rule.

2.2.3 Enterprise crime, political crime and hybrid crime

Passas distinguishes between three kinds of transnational crime: enterprise crime, political crime and a combination of the two, hybrid crime. This distinction is based on different motivations for transnational criminals. According to Passas, this distinction is important for both theoretical and policy reasons. Firstly, no complete account of the root causes of such crimes can be offered without an account of motives. Secondly, different types of policy interventions would be required for long-term effective solutions. It can be hypothesized that each of these three types fosters different kind of associations between legal and illegal actors (Passas, 2003:22). The three different types will be briefly described using excerpts from Passas article. Thereafter, the potential use of these types in this study will be discussed.

Enterprise crime refers to criminal acts carried out within an entrepreneurial structure, motivated primarily by financial gain. This is by far the most common type. Illegal actors of this type take advantage of the demand for certain goods and services. At the other end of the legal–illegal continuum, the criminal activities of legitimate actors may reflect the organizational skills or level of their corporations. Since these actors are legal, their offences are quite often of a predatory nature. In this light, there is little surprise when legitimate and illegal entrepreneurs act together (Passas, 2003:22).

Political crime refers to transnational crime that is motivated by political or religious goals. The main goal ranges from overthrowing the government to political independence or land rights. When it comes to political transnational crime, we should expect connections with political and government agents and agencies. Typical examples can be found in cases of states accused of supporting terrorism (Passas, 2003:23).

Hybrid crime amounts to a combination of enterprise and political crime. It may be that financial and political motives are of almost equal importance (Passas, 2003:23).

It can be rather illuminating to point at the different goals of transnational offenders, like Passas does with the above three types. It stresses the wide scope of transnational crime, beyond the constraints of transnational illegal markets. Furthermore, for heuristic purposes, this distinction can be useful to understand these distinct types of crime as well as to raise new research questions. However, in this study the aim of the typology analysis is more limited, as was pointed out before. Furthermore, the definition of transnational crime used here already incorporates these different types and the rest of this study will draw sufficiently on all three different types. Besides that, the different goals do not necessarily lead to different interfaces. They will lead to interfaces between different actors but that does not mean that different types of interfaces are found between these actors. For these reasons, the distinction between different types of transnational crime will not be used in this study.

2.2.4 Antithetical interfaces

Among the legal and illegal actors engaged in transnational crimes, several types of interfaces can be found. Passas divides these in two broad categories: antithetical and symbiotic interfaces. The different types are presented in figure 1. The distinction between antithetical and symbiotic can be compared with the distinction between parasitical and symbiotic interfaces described by Bruinsma and Bovenkerk, and the developmental model described by Lupsha, from the predatory stage, through the parasitical stage to the symbiotic stage (Bruinsma & Bovenkerk, 1996; Lupsha 1996). However, in contrast to Lupsha, Passas does not describe a developmental process from antithetical to symbiotic but rather two different types of relationships between legal and illegal enterprises.

Figure 1 shows the antithetical interfaces on the left. There are four different antithetical interfaces: the *antagonistic*, *injurious*, *predatory,* and *parasitical* interface. The arrow on the left shows the direction of the relationships between the legal and illegal actors. The antithetical interfaces aim at situations where the illegal actor is harming the legal actor in some particular way. On the right are eight different symbiotic interfaces: *outsourcing*, (*systemic-*) *synergy*, *legal actors committing organized crimes*, *legal interactions*, *funding*, *collaboration*, *reciprocity*, *co-optation*. The arrow in the middle of the symbiotic interfaces points in two directions because the relationships between the legal and illegal actors are not restricted to one-way relationships.

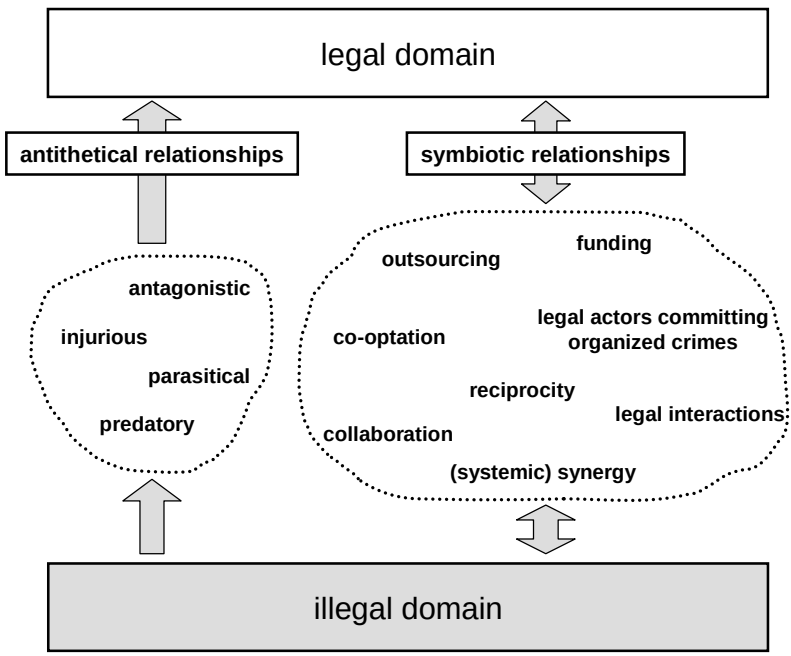

figure 1: Passas´ interface typology

In the paragraphs below, the different types of interfaces will be discussed one by one. First, Passas' description of the interface will be given. Thereafter, the interface will be discussed. The discussion will focus on the analytical validity of the different types as well as the empirical examples provided by Passas.

Antagonistic relationships

> "Antagonistic relationships obtain when there is competition between legal and illegal actors. Actors may be vying for market share acting independently, as in the case of state-run lotteries, casinos, and illegal gambling operations. Similarly independent is the antagonistic relationship between crooked financial institutions on the internet or offshore offering illegal services to clients who would otherwise do business with conventional banks (e.g. the European Union Bank in the Caribbean). In the political, ideological or religious spheres, the competition may be for legitimacy. Actors may seek to gain popular support and following in the same geographic area by legal and criminal means. Illustrations of such antagonisms can be found in political conflicts, such as those in Northern Ireland, the Middle East, former Soviet Republics, Angola, Peru, parts of Northern India or Sri Lanka" (Passas, 2003:24).

The antagonistic interface as developed by Passas is analytically useful to clarify the relationship between legal and illegal actors in many situations of transnational crime. There are many situations where local political groups are linked to cross-border criminals. Recent conflicts, like the war in former Yugoslavia, have shown intricate links between governments and organized crime (e.g. Kelly et al., 2005; Thamm, 1999). According to some authors these links should not be seen as atypical examples, but rather as a common version of modern wars (Crefeld, 1998; Rufin, 1999). Many illicit trades also involve antagonistic relationships. The smuggling of arms, antiquities, and untaxed cigarettes leads to competition between legal and illegal actors.

However, some of the examples mentioned above do not fit the definition of this interface. The reason is the absence of a transnational character. Gambling, for example, is not by definition a transnational activity. The same goes for political conflicts, although there will often be connections with actors abroad. If so, these need to be made explicit; otherwise the examples seem to involve merely national crimes. Especially during the Cold War, both the US and the Soviet Union supported all kinds of foreign political organizations that were either legitimate political actors or 'terrorists' or 'insurgencies' according to the authorities in the countries concerned.

Predatory and parasitical interface

> "The relationship is predatory when the aim or effect is to destroy or bleed to death an organization, for example to control and fraudulently bankrupt a business. The relationship is parasitical when the aim is to preserve the viability of the target, such that illegal benefits can be extorted on a more or less regular basis. For example triad members selling protection to Asian business owners; or surplus line insurance companies selling a mixture of sound and bogus policies to foreign institutions keen to enter the US market" (Passas, 2003:25).

These two interfaces described by Passas have some overlap with each other and potentially with other interfaces. The *aim* of preserving the viability of the target does not rule out that the *effect* may be that the target is destroyed or bleed to death. Furthermore, the aim may be to destroy the target while the effect may be that the target survives. For these reasons, I suggest a more limited definition of the predatory interface. The predatory interface involves relationships in which the aim is to destroy or bleed to death an organization.

Empirically, it is harder to find examples of this interface than of the antagonistic interface. Passas does not mention empirical examples of the predatory interface and this may suggest the rare occurrence of this interface. Attempts to destroy or bleed to death organizations are not by definition transnational if they occur. In some cases there may be some link to activities or policies abroad of legal actors. In the 1980s, a range of incidents of arson at stores owned by SHV (a Dutch company) by a left-wing terrorist organization (RARA) in the Netherlands forced the company to stop doing business in South Africa. However, it can be questioned whether this should be designated as an example of a predatory interface or rather as injurious or parasitical. The aim is not primarily to destroy the legitimate actor involved but rather to blackmail this actor to force the actor to change its policies.

The parasitical interface can be used to interpret cases of extortion. On a local level, many examples of criminal organizations, like the mafia in the US or Italy, can be pointed at that extort legitimate enterprises (see e.g. Jacobs, 2001). However, in this study it should be evident that such cases have some transnational connections. Triad members selling protection to Asian business owners does not by definition involve transnational crimes.[18] Even if there is indeed a transnational element, this crime will often involve actors from the same ethnic background. Within that context the denotation 'transnational' loses some of its meaning. The report of the parliamentary inquiry commission in the Netherlands described how different Chinese groups on the one hand violently

[18] The debate on the precise nature and importance of the Triads will be left aside here. See further: Bresler (1981) and He (2003).

fought each other, while on the other hand were involved (among many other things) in extortion of Chinese restaurant owners and other Chinese businesses (Fijnaut et al., 1996). A similar situation of rather 'national' transnational crime can be found with some instances of terrorism. During the 1980s a number of terrorist attacks was performed in the Netherlands by the Provisional Irish Republican Army (PIRA) and ETA. In 1979, the British ambassador in The Hague was shot outside his official residence. In 1988, the PIRA performed two attacks on British subjects. In the city of Roermond, a vehicle with three British military was shot at and left one of them dead. In Nieuw Bergen, a car bomb killed two members of the British army. Finally, in 1990, two Australian tourists, driving a car with British number plates, were shot in Roermond (Muller, 1994:382–383). During 1989 and 1990, the ETA performed a range of attacks on Spanish objects and subjects. In October 1989, the car of the Spanish consul in The Hague was destroyed by a bomb. During the same month, bombs exploded at two Spanish institutions in The Hague. In December 1989, three grenades were fired at the residence of the Spanish ambassador in The Hague. Finally, in June and July of 1990, two office buildings in Amsterdam, that housed Spanish companies, were heavily damaged by explosives (Muller, 1994:385–386).

Injurious interface

> "Injurious relationships occur when actors undermine, attack or harm each other. This is typified by groups, which may sabotage a foreign corporation they consider as exploitative or corrupt. Another example is when offenders commit robbery in order to finance a guerrilla. The above injurious and antagonistic interface may overlap in practice: a combination of antagonistic and injurious relationship is when activists employ violent means against the state, its symbols or citizens" (Passas, 2003:25).

The injurious interface to some extent includes all other antithetical interfaces. All antithetical interfaces involve situations where actors harm or attack each other. Therefore, for analytical purposes, either the injurious interface should be defined more narrowly or the other interfaces should be eliminated. As there are wide differences between the relationships that can be understood as antithetical interfaces, it seems most productive to define the injurious interface more narrowly, while leaving the other interfaces intact. For that reason I define injurious interfaces as: interfaces that involve actors that harm, attack or undermine each other, in other ways than covered by the predatory, parasitical or antagonistic interface.

With respect to the examples mentioned in the quote above, the transnational nature of the crimes needs some explication. Groups that sabotage a foreign corporation are in principle involved in mere (local) vandalism. The fact that a corporation operates in more than one country does not mean that any illegal

acts against, or by, this corporation involves transnational crimes. The offenders who commit robbery to finance a guerrilla are not engaged in transnational crime as long as robbery and guerrilla take place in the same country.

2.2.5 Symbiotic interfaces

Outsourcing

> "Outsourcing refers to a division of labour between legal and illegal actors, where one party offers specialized services to the other. This mainly covers cases where the 'dirty work' is done by 'criminals', while the main benefit is reaped by a legal actor. It can be a one-off or a continuous relationship between a client and a provider. The dirty work may be delegated to actors outside an organization or agency for reasons of convenience, efficiency or plausible deniability. The blame is thus externalised, if the misdeed or the offenders are ever discovered (e.g. Iran-Contra and other intelligence-related activities, such as the use of death squad by the Turkish government against Kurd nationalists (Bovenkerk & Yesilgoz, 1998); use of agents or subsidiaries to bribe foreign officials in order to avoid scrutiny under the law). In the above cases, legal actors are the clients. The reverse, however, is also possible. Legal actors may provide financial or other support to criminal groups. It is possible that only one of the parties is aware of the quasi-contractual relationship. The Abu Nidal organization, for example, has used a network of legitimate companies whose proceeds financed terrorist activities without the knowledge of the managers and workers of these companies" (Passas, 2003:25).

This interface involves a relationship between legal and illegal actors that can be found very frequently in studies of transnational crime. It is analytically clear. Besides the examples mentioned above, numerous other examples can be found in the field of intelligence organizations and the international arms trade as well as the transnational trade in, and disposal of, toxic waste. One can also imagine examples of legal actors providing specialized services to criminals. The trafficking of human beings from China to the US depends largely on the services of state officials, delivering passports and exit permits (Zhang & Gaylord, 1996; Ghosh, 1998). The last example mentioned by Passas does not seem to fit the definition of this interface. In case of legitimate companies used to raise funds in a legitimate way although for a terrorist organization this can hardly be seen as 'dirty work' that is outsourced. This example can probably better be interpreted as an example of the funding interface that will be discussed hereafter.

Collaboration

> "In case of collaboration, the links become stronger and more direct as legal and illegal enterprises or actors work together for the commission of the same offence. For instance, police officers may work with drug traffickers or an art gallery owner may fence stolen cultural property. Under this category, we can also examine various types of professionals – such as lawyers, politicians, accountants, bankers or casino managers – who knowingly offer their services to criminal operators." (Passas, 2003:26)

Collaboration, like outsourcing, is a type of interface that can be found very often in studies on transnational crime. Analytically this interface is clear as well. Nevertheless, the last examples mentioned above, about professionals offering their services, do not by definition fit the definition of collaboration. These professionals basically offer specialized services to criminals and would rather be examples of outsourcing than collaboration. If these professionals are really working together with their clients, this can be defined as collaboration. The only exception could be the politicians. One could imagine that politicians might sometimes sincerely share the goal of the criminals and are more than providers of a particular service. For example when terrorist groups have legal counterparts in politics they can help each other. Whether one chooses to refer to these examples only as collaboration or also as outsourcing depends on the inclusiveness of the definition of outsourcing. When outsourcing is supposed to consist of situations where criminals do the 'dirty work' for legal actors, the mentioned examples of collaboration are clearly different from outsourcing. However, one could question the difference between the two. What distinguishes the criminal who specializes in the disposal of toxic waste for legal actors, from the lawyer who specializes in the disposal of black money in tax havens for criminals? Often, he will do the same thing for legal companies. Surely in that case, this would also be called 'dirty work'. Furthermore, as the definition of transnational crime does not discriminate between legal and illegal actors, there is no ground to treat them differently here.

Co-optation

> "In this category, there may be some arm-twisting or voluntary interactions. So, while it involves mutual benefits, there are uneven power relations between the parties. For example, a deal may be struck for a company to operate unimpeded in a country or at all, if a government agency is allowed to monitor its computers and collect information on its clients. For example, BCCI has been accused of being a bedfellow of intelligence services in several countries. Some BCCI managers have argued that this was the only way

> BCCI could hope to survive and do business internationally…" (Passas, 2003:26)

Co-optation can be a useful concept to distinguish some relationships from collaboration or outsourcing. Many examples can be mentioned of transnational corporations engaged in some kind of transnational crime, like for example money laundering, cigarette smuggling, and smuggling toxic waste. Soudijn described a case of a high-placed customs official at Paris airport who enabled the smuggling of at least 30 illegal Chinese immigrants by a smuggling organization.

> "This official had officially been appointed to prevent illegal immigration to the United States and Canada. By virtue of his position, he consulted regularly with Embassy personnel and the US customs authorities. He even had the right to deny migrants permission to continue their journey if he had any doubts" (Soudijn, 2006:69).

For each illegal immigrant that was smuggled he was paid a fee of $ 2,000. Due to the uneven power relations, this case can be understood with the co-optation interface, instead of cases of corruption where the power relations between parties are more even. Those latter cases are better understood with the reciprocity or outsourcing interface. However, the examples provided by Passas do not always speak for themselves. In case transnational corporations engage in illegal activities abroad this does not by definition involve transnational crimes, although it does in many cases.

Reciprocity

> "This is the case when there are consciously mutual benefits between the legal and illegal actors (e.g. legal brothel manager working with smugglers or aliens). This type included possibly the most common interface, whereby legitimate or conventional actors are the clients for goods and services offered by criminals (e.g. drugs, gambling, weapons, prostitutes, etc). Other examples of reciprocity include dictators or government officials, who receive rich commissions and kickbacks in exchange for favours to transnational corporations. The latter are then allowed to exploit the land, people or entire country for financial benefits (..). Similar offers of safe haven and protection are made to illegal entrepreneurs and criminal organizations too (examples may be found in Bolivia, Aruba, Italy or Russia)" (Passas, 2003:26).

The reciprocity interface has one major analytical problem, similar to the injurious interface discussed above. The definition of the reciprocity interface covers almost all other symbiotic interfaces because these interfaces involve situations of mutual benefits that both actors are aware of. The only exception is

the synergy interface that will be discussed hereafter. To distinguish between reciprocity and the other interfaces, the definition should be more restricted. I therefore suggest the following definition: reciprocity than aims at interfaces involving situations of conscious mutual benefits, not covered by any of the other symbiotic interfaces.

The empirical examples mentioned by Passas illustrate the overlap between the different interfaces. A brothel manager working with smugglers of aliens, for example, can also be interpreted as outsourcing. The smuggler of aliens is providing the specialized service of illegally delivering women for the brothel. Dictators or government officials, who are well rewarded with commissions and kickbacks in exchange for favors to transnational corporations, can best be seen as examples of co-optation relationships. Moreover, although committed by transnational actors, these examples do not involve transnational crimes by definition. When commissions lead to an unlimited permit to harm the environment, this may cause environmental crimes in several countries. However, paying commissions only to be able to operate in a country, without any further benefits, does not by definition constitute a transnational crime. It may do so when actors come from particular countries with legislation against paying such commissions, but most countries do not have such legislation.[19] Of course, the permission to operate in a country may lead to opportunities which are not available at home, but which are standard practice in the host country. In that case, one could argue whether opportunities like child labor lead to the conclusion that the transnational corporation (TNC) does anything illegal? However, this might be a somewhat contrived argument. As Michalowski and Kramer argue:

> "The differences in the laws of the home and host nations, and the ability of the TNC's to influence the legal climate in host countries, renders the laws derived at the level of nation-states an unsatisfactory basis for determining the scope of criminological research on TNC's" (Michalowski & Kramer, 1987:34)

The observation of Michalowski and Kramer will be further discussed in chapter 4 where the role of jurisdictions and other geographically defined entities is analyzed. That chapter will show how activities which would normally be defined as transnational crime in a particular country; both according to the definition used here as well as to the laws of the country concerned, are *de facto* legalized by the policies of the government of this country.

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[19] On October 31st 2003, the United Nations Convention against Corruption was adopted. This is one of the bases of legislation against corruption and similar behavior. Since then only 34 countries became party to this convention. None of the major industrialized countries, except for France, have become party.

(Systemic) Synergy

> "We can speak of synergy when legal and illegal actors benefit each other while they go about their business independently promoting their interests and objectives. The practical effects of synergy are similar to those of outsourcing. In this case, however, there is no conspiracy or client-provider relationship. The synergy is the consequence of structural factors. There may be no knowledge, intent or reasonable suspicion of such a link (in some cases, suspicions may be 'cured' by efforts to avoid any knowledge). Legitimate actors merely reap benefits from others' criminal activities. For example, financial institutions in the West may receive from overseas substantial funds that are the proceeds of crime. In such cases, the laundering has taken place elsewhere, and intermediary transactions have hidden the traces of illegality.(…) The smuggling of cigarettes across borders in order to avoid taxes and customs dues ultimately helps tobacco companies sell cheaper products to their clients and thereby increase their market share, which in the end creates an elaborate underground economy. (…). The reverse is also possible. That is, criminal actors can benefit from the activities and practices of legal actors. For instance, secrecy jurisdictions and tax havens do not serve only the criminals. If that were the case, there would be little resistance to calls for action against such jurisdictions (or indeed, the very existence of such jurisdictions)" (Passas, 2003:26-27)

This situation extends the range of interfaces to a large number of legal actors. Casino's, lease companies, banks, insurance companies, and cigarette producers are among the actors that are connected with numerous illegal actors through the synergy interface.

The synergy interface is analytically clear. However, in practice, as with most other interfaces, it can be hard to draw a line between synergy and some other interfaces. In particular outsourcing and collaboration are sometimes hard to separate from synergy. The international smuggling of cigarettes shows the different variations. Cigarette producers know that in general a certain amount of their products is smuggled around the world and that they benefit from this smuggle. In case of some specific countries, where taxes are extraordinary high (absolute or relatively), smuggling becomes impossible to ignore for producers. Synergy starts at this point and moves in the direction of collaboration as relations between smugglers and producers become tighter. An example of a case between synergy and collaboration is the export of cigarettes from British producers to Andorra. Between 1993 and 1997 exports skyrocketed from 13 million to 1,520 million packets. Even taking into account sales to tourists in this tax haven, there's no way that the 60,000 inhabitants of Andorra could get through those

quantities.[20] It is without much doubt that those cigarettes are re-exported to Britain and the producers are aware of this and are consciously involved in supplying large smuggling networks. Actual cooperation was proven in a lawsuit against the Canadian branch of Reynolds Tobacco. They admitted to be involved in setting up a smuggling line between the US and Canada.[21]

Funding

> "Funding relationships are also possible, with legitimate organizations providing, knowingly or not, essential financial support for the operation of criminal groups. A recent example is provided after the September 11, 2001 attacks on the USA by agencies around the world, which are looking for charities and other legal entities (e.g. farming businesses) that may have fuelled the Al-Qaeda network" (Passas, 2003:27)

It seems that funding should be split in two to avoid overlap with outsourcing, or outsourcing should be defined more narrowly. In case legitimate organizations unknowingly provide financial support for criminal groups, the same situation appears as in the example of the Abu Nidal organization. According to Passas, this was an example of outsourcing. However, the relationship can also be described as parasitical. In my view, it seems not fully consistent to label extortion of money from a legal organization in case of terrorist groups as outsourcing, when in any other situation this simply means parasitical behavior. In case the legitimate organization knowingly and willingly provides financial support, one can argue about the precise interface. In case they both share the same goal, it can be called collaboration. When their goals differ, it might also be called collaboration but one can prefer funding to emphasize the separation of tasks and possible goals. As a theoretical example, one can even imagine an individual or corporation that funds terrorism to make money with it. In that case they purchase large amounts of stock options, while knowing that a planned terrorist attack will strongly disturb stock markets as well as other markets.

Numerous charities that directly or indirectly support terrorist organizations can also be understood with the funding interface. Some charities have for example supported the IRA or Provisional IRA (Hachey et al., 1996; Tupman, 1998a, 1998b).

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[20] See further: Rowell, A. & C. Bates (2000) Tobacco smuggling in the UK, *Action on smoking and health* http://www.ash.org.uk/html/smuggling/html/uksmuggling.html#_Toc495558652 (Visited July 23rd 2005).

[21] J. Gatehouse (1998) 'RJR Reynolds pays $15M in fines after subsidiary helped smugglers' *National Post*, December 23rd; US Department of Justice (Press Release) 'R.J. Reynolds affiliate pleads guilty, pays $15 million in criminal fines and forfeitures as part of cigarette smuggling operations' December 22nd 1998 see: http://www.usdoj.gov/opa/pr/1998/December/605usa.htm (Visited, October 24th 2005).

Legal interactions

> "No criminal actor commits only and always crime. Diversification is required not only for money laundering purposes, but also for the reduction of risk and maximization of benefits. Some may do so in order to leave the life of crime eventually, others seek protective shields, while still others strive for respectability. So they all have legal aspects or faces (e.g. Cali drug traffickers). Inevitably, then, they interact with conventional actors" (Passas, 2003:27).

The examples of legal interactions illustrate the diverse nature of activities and relationships of criminal actors. It underlines the necessity to look at such criminal actors as parts of a wider social environment of which legal actors are integral parts. However, it is not fully clear how this interface can analytically add something to the others. Basically, there is an interface but no transnational crime in case of legal interactions. The example of money laundering is an exception here because it is not legal. Therefore it should fall under the type of outsourcing, collaboration or synergy. In case illegal actors invest in legitimate organizations this is either illegal (and thus involving one of the other interfaces) or it is legal because the funds have been successfully laundered before (and thus there is no legal–illegal interface anymore). For the reasons mentioned here, this interface will be left out of the revised typology that will be drafted at the end of this chapter.

Legal actors committing organized crimes

> "In this instance, there is no interface between legal and illegal actors. Rather, legal actors engage in well-organized and sophisticated crimes on their own; legal actors behave in a typical illegal-actor fashion" (Passas, 2003:27)

Legal actors that commit organized crimes are crucial to a good understanding of the interfaces between legal and illegal. Many of such actors will be discussed in chapters 3 and 4, and in chapters 7 to 9. However, analytically this interface seems to be inconsistent or at least unnecessary within the general typology of interfaces and the definition of transnational crime which is used. This definition does not discriminate between legal and illegal actors. Therefore, the crimes by legal actors do not need any specific attention. Furthermore, as Passas mentions, there is no interface between legal and illegal here.

2.2.6 Conclusion section 2.2: the interface typology

The typology discussed above, provides an analytical tool to interpret a wide range of relationships between legal and illegal actors. Most of them cannot be

defined meticulously and a thin line separates some interfaces from others. However, each interface aims at a particular kind of relationship between legal and illegal and concrete examples were mentioned in the text. Some of the interfaces appeared to be not fully consistent with the typology, in particular *legal interaction*s and *legal actors committing organized crime*. The funding interface partly overlaps with the parasitical interface, as far as the legitimate organization does not know or is opposed to the tapping of funds from its resources. Furthermore, as far as the legitimate organization voluntarily funds the criminal organization, there seems to be a situation of collaboration. However, one can prefer to use the funding interface for situations where the legitimate actor voluntarily funds the criminal actor but does this for the pursuit of another goal. The revised typology of interfaces is given in figure 2.

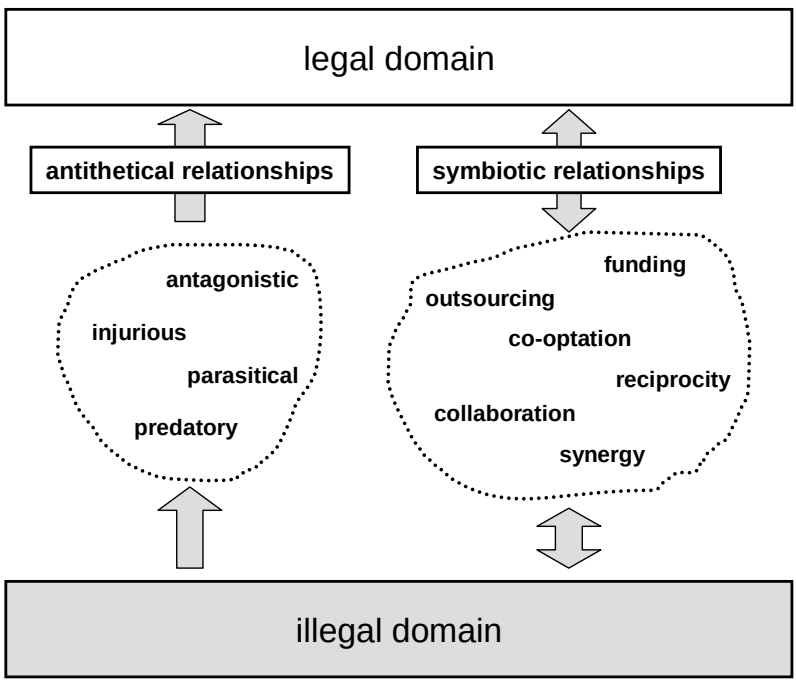

figure 2: the interface typology

The remaining four antithetical and six symbiotic interfaces provide a framework to define and understand examples of interfacing relationships in the literature on transnational crime or in empirical studies. Nevertheless, many objects of study cannot be related to only one interface. Often, one can discern several different interfaces in one case. This is especially true for large cases like the BCCI affair and the Banco Ambrosiano case that will be discussed in chapters 3 and 4.

2.3 Three extensions of the interface typology: individuals, organizations, and jurisdictions as interface

Many legitimate organizations maintain different interfacing relationships with numerous illegal actors (or did so in the past). Examples that can be mentioned here are intelligence agencies like the CIA or financial institutions like the BCCI (Block & Weaver, 2004; Passas, 1996). In addition to these actors there are single individuals that act as intermediaries between legal and illegal actors. Many can be found in the illicit art trade, but also in the arms trade or in the toxic waste trade (Gerstenblith, 2004; Phytian, 2000; Szasz, 1986). Finally, at a macro level, one can understand whole countries as interfacing structures between legal and illegal or hinges between the legal and illegal side of transnational deals in arms, art, cigarettes or waste (Blum et al., 1998; Bülow, 2003).

From this perspective, the typology of interfaces consists of a number of bricks with which the overall legal–illegal interface is build. Hereafter, an attempt will be made to show how some bricks can be organized on a number of different levels. On each level the same process can be found. This process involves a transformation of legal into illegal activities or a transformation of illegal into legal activities. All three variations consist of an important addition to the typology of interfaces. They will be briefly outlined here while a detailed discussion will follow in chapters 3 (on individuals and organizations) and 4 (on jurisdictions). Chapter 5 will use the analyses from chapters 3 and 4 to develop an analytical model of these individuals, organizations, and jurisdictions as interface. Thereafter, one particular field of transnational crime, the illicit art and antiquities trade, will be studied to see whether the typology and its extension help us to understand the legal–illegal interface.

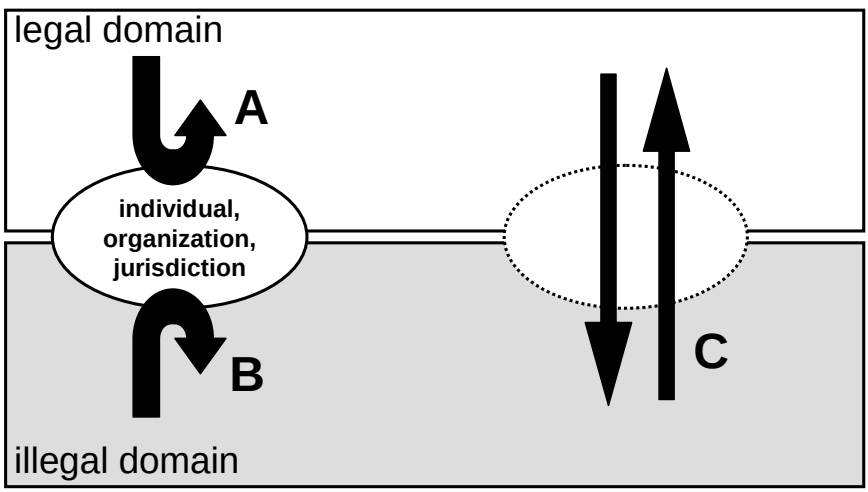

figure 3: individuals, organizations and jurisdictions as interface

In Figure 3, the role of individuals, organizations, and jurisdictions is shown. Normally, interfaces are considered to be located between legal actors on the one hand and illegal actors on the other hand. The typology discussed above provides labels to distinguish the different interfaces between these legal and illegal actors. However, often individuals, organizations or jurisdictions can be seen as located between the legal domain on the one hand and the illegal domain on the other hand. Through these entities, activities either become legal or instead illegal. The organization can for example be a bank through which criminal funds are laundered, or a state that officially acts as end-user for arms that are ultimately destined for an outlawed destination. Depending on one's point of view, one could label the arrows next to A (connecting the legitimate organization with the legal actor) or B (connecting the legitimate organization with the illegal actor) as examples of interfaces from the typology. Besides that, one could also label both sets of arrows as interface. However, this seems to be inconsistent as ideally there can only be one line separating legal from illegal. As will be argued in the next chapter, neither perspective does really catch the reality of many cases, like for example BCCI. The arrows at both sides of the circle are actually part of an activity that runs from legal to illegal or the other way around. The large arrows next to C illustrate this fact.

2.3.1 Solo in transnational crime

One of the major issues in the study of transnational crime concerns the organization of crime. A range of ideas can be found from Donald Cressey's idea of large hierarchically organized criminal groups to Peter Reuter's idea of disorganized flexible illegal markets (Cressey, 1969; Reuter, 1983). During the 1990s, the idea of transnational crime as a sort of multinational (criminal) organization became popular. Whereas in the 1960s, organized crime was understood as a sort of criminal IBM; during the 1990s organized crime was by some others pictured as a criminal version of the flexible and powerful multinational corporation (Sterling, 1994; Williams, 1994).

Besides this strong current, other ideas about structures in organized or transnational crime can be found in the literature. One of the competing perspectives is based on network theories. The number of articles and studies on networks in transnational and organized crime has significantly increased in recent years. In the Netherlands, a number of authors have used network theories to enrich studies on organized and transnational crime, primarily based on police files (Kleemans et al., 1998, 2002; Bruinsma & Bernasco, 2004).

Despite the differences between the mentioned approaches, they have at least one crucial element in common. All different approaches tend to focus on actors instead of activities. They differ with respect to the assumed structure of these actors. The actual objects of study are partly defined by the expectation to find structures like criminal organizations, criminal networks, or mafia like groups.

Furthermore, one tends to focus primarily on 'real' criminals. Criminal elements within state institutions, legal companies or other non-criminal entities are seen as exceptional phenomena outside the scope of organized crime, or as facilitators helping out their criminal clients without being part of the actual organization of crime. Through definitions of organized, white-collar, and corporate crime, boundaries tend to be drawn between activities that can hardly be separated in practice without bringing arbitrary elements into these definitions. The given tendency can be opposed by looking primarily at activities instead of actors. In the words of Dwight C. Smith:

> "The observer who looks first at events and then at the persons associated with them is more likely to adopt a scientific, value-free and causal analytical style. The observer who defines a universe by the people it contains is more prone to bias and nontestable assumptions – in short, to conclusions that are based more on ideology than on logic" (Smith, 1991)

When the focus is shifted to activities, the whole subject of interfaces tends to shift from the sideline to the centre, because many illegal markets have only vague boundaries with the legal upper world. However, this is not to say that all different actors are no longer relevant to discuss. On the contrary, without actors it is impossible to discuss the illegal activities and especially the way in which they sometimes get laundered or instead become illegal. What is meant here is that it should be activities that define the field of study and thereafter one should look at the actors involved to describe and analyze these activities. As soon as one shifts the focus from actors to activities, the role of a number of independently operating individuals can be given a proper place within the whole of transnational crime. In a number of transnational crimes, these individuals play a crucial role which is clearly different from the typical criminal organizations. Pointing at these individuals is not meant to be an argument opposing any theory of structures of transnational crime. To the contrary, any argument to support one particular type of structure as typical for transnational crime, or a specific transnational crime, would again mean a focus on actors.

The remarks about actors may seem to contradict with the previous discussion in which legal and illegal actors were used. However, two things need to be separated clearly here and in the following chapters. The definition of transnational crime does not discriminate between 'legitimate' and 'criminal' actors but simply focuses on criminal activities in different jurisdictions. This definition guides the types of activities that will be used in this study to elaborate on interfaces. However, the individuals, organizations, and other entities involved in these activities are still labeled as legal or illegal. The reason for this artificial distinction is the fact that only by using this distinction, one can show most clearly how legal and illegal are intertwined in practice.

The interest in the role of individuals has been lacking in most studies for a number of reasons. First of all, organized crime research and more recently transnational crime research, has often been primarily dealing with large structures that were mentioned before. This can be partly explained by the types of transnational crime that have been of primary importance to the criminal justice system and most criminologists. In recent years many research projects have focused on smuggling of humans and related topics (Soudijn, 2006; Staring, 2001; Van Dijk, 2002).[22] At the same time, drug trafficking and dealing has been a major topic for criminologists for years (Korf, 1993; Bovenkerk, 1998; Klerks, 2000, Zaitch, 2001). Most other types of transnational crime enjoy much less interest: the illegal arms trade, the trade in 'blood' diamonds, the trade in toxic waste, the illegal art and antiquities trade, and until recently the smuggling of cigarettes.

All this seems to distract the attention from the main topic here, the role of independently operating individuals in transnational crime. However, this topic is directly related to the above in two ways. First of all, the role of the mentioned individuals is especially present in the description of types of transnational crime that fall outside the focus of most criminological studies of transnational crime. Secondly, these types of crime are known for their connections with legal actors, governments as well as corporations (Block & Weaver, 2005; Kochan, 2005; Naylor, 1993, 2001; Peleman, 2002; Pretterebner, 1989). Therefore, from a perspective of interfaces, these crimes are particularly relevant.

The individuals have different roles with different transnational crimes. One role is to act as black market brokers for legal actors, or between legal actors. These legal actors use the broker because for some reason they cannot organize the illegal activities themselves. Examples can be found in the arms trade, where arms are exchanged between states, terrorist groups, opposition movements or other actors (Morstein, 1989; Naylor, 1995b). The broker finds ways to arrange this exchange, evading embargoes, export regulations, international treaties, and other inconvenient provisions which are officially binding the legal actors, and benefiting the innovative illegal actors. In chapter 3, this example and others will be discussed in more detail, using a number of examples from the illegal trade in art, arms and toxic waste.

2.3.2 Legitimate organizations as interface

In the situation described above, the broker acts as an interface between the legal actor and the black market in for example arms, art or diamonds. For some reason, legal and illegal actors are unable to do business without getting

[22] Judging from recent criminological studies, as well as media coverage of smuggling of humans, trafficking, and related topics, it seems as if migration is nowadays primarily of interest as a criminal phenomenon. For a more philosophical approach see for example Hedetoft & Hjort (2002); Schlesinger (2004).

themselves into legal difficulties, or at least into embarrassing situations. Partly the opposite situation can be found with a number of legitimate actors. These actors do business with illegal actors as supple as with legal ones. However, their status is perfectly legal, as is usually their appearance. The transactions with both sides of the law are not unrelated, but are part of a process whereby illegal goods are transformed into legal merchandise. Whereas the dealer in 'hot' items is able to get rid of them at the backdoor, the items are perfectly legal when they go through the frontdoor to the customers. Analogous to the laundering of money, these goods are in a way laundered so that they can enter the legal trade again, and be sold for regular prices which are usually substantially higher than at the black market. The legitimate actor can be described as an interfacing organization between the legal and illegal domain.

These legitimate organizations provide an open gate for illegal actors to get their goods into the legal market, laundering them in the process. The trade in so-called 'blood' diamonds can serve as an example here (NIZA, 2001; Tailby, 2002). Besides different markets in which goods are laundered, one can point at the primary laundering business, money laundering. This activity is usually seen as an organized crime itself, and is of crucial importance to many transnational criminals (Beare, 2003; Blickman, 1997; Naylor, 1996; Passas, 1995). While there are many ways for criminals to launder the proceeds of their crime themselves, the banking sector is probably responsible for the biggest share of the business. In some cases, the activities of these banks have become public and led to major scandals. Examples are the Nugan Hand Bank, Banco Ambrosiano, the BCCI and the European Union Bank (Blum et al., 1998; Henry, 2003; Kwitny, 1987; Paoli, 1995; Passas, 2001). Recently, new examples were added to this list in relation with money laundering practices by Russian criminals and US banks (Kochan, 2005; Block & Weaver, 2004).

Finally, there is the specific role of intelligence agencies. Though these agencies do not directly fit in the category of organizations mentioned before, their role is in a way comparable. Intelligence agencies often provide an intermediary structure or interface between all kinds of criminals and state officials (Auchlin & Gaberly, 1990; Block & Weaver, 2004; Bülow, 2003; McCoy, 1972; Naylor, 2001; Roth, 2000).

2.3.3 Jurisdictions as interfaces

In the previous paragraph, some holes in the fuzzy boundaries between 'upper world' and 'underworld' were discussed. Interfacing organizations show the permeable boundary between legal and illegal. They make clear that, in addition to incidental interfaces between legal and illegal actors, there are in fact organizations that provide more or less institutionalized interfaces. However, despite the often impressive scale of illegitimate activities around these organizations, one can move beyond this level with regard to interfaces. Beyond

individual organizations, there are numerous jurisdictions that can be seen as macro-level interfaces. As there are 'holes' in economic branches like the art trade or the banking industry, there are also whole jurisdictions that serve as 'holes' in the global system. For the illegal trade in arms, a range of countries are relevant which can provide satisfactory end-user certificates or other services for 'hot' deals. An example is Singapore, which "would long ago have sunk into the sea, had it actually kept all the weapons its officials had signed for" according to a standing joke in the arms trade (Naylor, 1995b). Naylor discusses the activities of a Swedish arms producer that used both Swiss bank secrecy as well as the services of Singapore as official end-user of its arms, to keep the business running against all national and foreign regulations. In connection with Belgium he writes:

> "(Belgium) earned a triple notoriety – the products of its own industry were available essentially on a come-on, come-all basis; it played host to a large assortment of traffickers in other countries' weapons; and it was the world centre for the organization of the mercenary forces that were doing so much to drive up the demand for the equipment being offered." (Naylor, 1995b)

Besides suitable territories for all kinds of products, there is a market for convenient banking services. This market provides an effective hole in the regular banking structures around the world. All kinds of exotic places like the Cayman Islands, the Bahamas or closer to home, Switzerland and Liechtenstein, have an enormous potential to provide both legal actors as well as transnational criminals with essential services (Block & Weaver, 2004; Kwitny, 1987; Naylor, 1987). According to Jack A. Blum:

> "the Cayman Islands are the world's fifth-largest banking centre. The Islands are home to 520 banks and more corporations than people. The Netherlands Antilles are the fourth largest source of foreign investment in the United States. The British Virgin Islands are home to nearly 180,000 corporations" (Blum, 1999).

The role of these territories is an issue which runs through accounts of all kinds of different transnational crimes. Not only to launder the proceeds, but to assist in the operation of these crimes. Despite the ease with which funds are laundered through these jurisdictions, it should not be forgotten that in absolute numbers, most laundering probably still takes place in the US and the UK as well as other highly regulated economies.

The typology of interfaces at the beginning of this chapter can be applied to these territories or states in the same way as to the interfacing organizations described earlier. Between actors in these countries and actors in the rest of the world, all kinds of symbiotic or antithetical interfaces can be distinguished:

outsourcing, collaboration, and reciprocity. On a more abstract level, the synergy interface is omnipresent. The legal trade in arms, art, cigarettes, and diamonds is benefiting from the activities of illegal counterparts that are facilitated by actors in the discussed territories, even if they are not involved in them. It increases the market for all these commodities, while they (the legal actors) do not bear the risks of the increase as far as it is a result of criminal actions.

2.4 Conclusions

This chapter started with a discussion of the typology of interfaces developed by Passas. He defined a typology with four antithetical and eight symbiotic interfaces between legal and illegal actors. Each type from the typology was described and discussed. As a result, I decided to leave two symbiotic interfaces out of the typology. The definitions of the other interfaces were clarified although the boundaries between the different types cannot be drawn meticulously in practice. However, each type aims at a distinct type of relationship between legal and illegal. All types together provide an analytical tool with which the legal–illegal interface can be described in all kinds of situations, for all kinds of different crimes. Therefore, the typology provides at least an analytical tool to describe different relationships between legal and illegal actors.

However, beyond the particular interfaces between a single legal and illegal actor, I have argued that one can look at interfaces at a number of other levels. First of all, there are categories of individuals who act as intermediaries or brokers between legal and illegal actors. Secondly, there are legitimate organizations that connect the legal and illegal part of transnational transactions. Meanwhile, these individuals or organizations launder the merchandise which is the subject of the transaction. The legitimate organizations can be seen as an interfacing organization between the 'upper world' and 'underworld'. With this, they can be understood as holes in the boundaries between the legitimate and illegitimate part of a line of business. Thirdly, there are territories, or even whole states, that also provide loopholes in the international system. These territories can be seen as macro-level interfaces between different legal and illegal actors.

In the following chapters, the different extensions of the typology will be discussed in more detail. In chapter 3, individuals and legal organizations are discussed as interface between legal and illegal actors. Chapter 4 will focus on jurisdictions as interfaces. Thereafter, the findings from these chapters will be used to develop an analytical model, the so-called *lock model*, with which to understand the role of 'institutionalized' interfaces. In chapters 6 to 9, the empirical study of the illicit art and antiquities trade will be described and used to test the findings from the previous chapters. Finally, chapter 10 will summarize the conclusions from the whole study and formulate recommendations for future criminological studies as well as public policies.

The new typology and the lock model should be seen as an instrument useful for ordering, classification, and description of observations and data in the field of transnational crime. As such, it is not meant to be, presently, a theory producing hypotheses on how the world of transnational crime functions, but as a classification instrument, helping to understand and describe what is happening there. Testing a classification typology boils down to investigating whether it is indeed useful for the function it has to serve: understanding and describing the structure and functionality of interfaces in a field not well researched up to now. The degree to which the typology succeeds in producing a comprehensible overview of that field is the yardstick against which we measure the quality of the typology.

CHAPTER 3

INDIVIDUALS AND LEGITIMATE ORGANIZATIONS AS INTERFACE

In the previous chapter a new the typology of interfaces was developed based on the analyses of the interface typology of Passas with which chapter two started. Many concrete examples of a number of different interfaces between legal and illegal were given. On both sides of the line between legal and illegal, the actors involved are usually 'organizations' in one way or another. To be sure, organizations are not meant in a traditional sense here. They also include loose networks of criminals. These criminal organizations or networks usually consist of groups of people who are engaged in some transnational crime together, that does not consist of only a one-off collaboration.

In addition to the fact that actors are usually seen as organizations, the interfaces are thought to be *between* legal and illegal actors. They are thus interpreted as a relationship, for example, the interface between arms producers and rebel groups in some far away country. Or the interface that exists between an international bank and a drug dealing criminal organization. In these cases, the interface is something which links the two actors. One could also see it as something *in between*, something which does not constitute a part of either the legal or illegal actor.

Against this idea of an interface *between* actors, another idea was suggested in the previous chapter. This idea consists of actors *as* interface, in addition to interfaces *between* actors. An actor as interface can be imagined on at least three levels: individuals as interface, legal organizations as interface and jurisdictions as interface. In this chapter the focus will be on individuals and legal organizations as interface. However, it should be stressed that the different levels can hardly be separated. Individuals, organizations, and jurisdictions are mutually facilitating deals that would otherwise be impossible. The first part of this chapter will focus on individuals and the second part on legal organizations.

3.1 Individuals as interface

When can individuals be understood as interfaces? Usually, individuals will be part of either the legal or the illegal part of an interfacing relationship. However, they can also be part of both worlds in certain specific configurations. They combine regular connections with legal and illegal actors. As far as their dealings with legal actors are concerned, they act as legal actors themselves. This can either be under the cloak of a legal enterprise or when they act as private persons without known criminal background. As far as the dealings with criminal actors

are concerned, they act as criminal actors themselves. This can be for example as buyer of 'blood' diamonds or smuggled cigarettes.

The fact that individuals can take another form in another setting is nothing new of course. Historian Mark Haller (1990) pointed at the different roles played by a range of individuals that were linked with each other in both legal as well as illegal enterprises. These individuals combined legal businesses in one sector with an illegal business in another sector. However, the roles of individuals that are analyzed in this chapter are different in at least one respect. In each case, the individual plays the different roles in the same type of business. For example, he buys stolen or outlawed goods in one country and sells them legally in another country. As a result of the somewhat schizophrenic character of the discussed individuals, the interface between legal and illegal cannot be solely positioned between this individual and his legal or illegal counterpart. The interface actually coincides with the individual. It is through the individual that goods are laundered from the black market to the legal trade, or fluently migrated from a legal market to a black market.

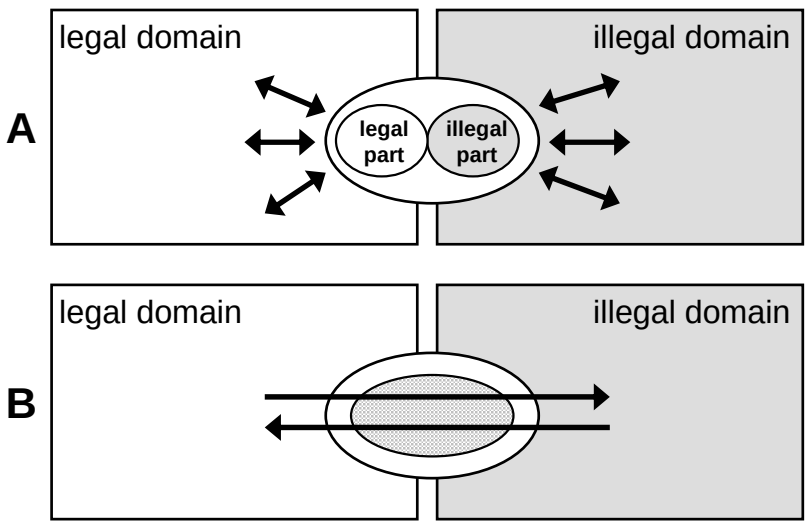

figure 4: different views of the same individual acting as interface between legal and illegal
A) individual relationships between criminal acting as a businessman (legal part) or on the black market (illegal part)
B) the same criminal as physical connection between the legal and illegal domains

It has to be stressed that the idea of individuals as an interface is not an alternative for the types of interfaces described in the previous chapter. An individual can be seen as an interface under very specific circumstances, in addition to being involved in a number of interfacing relationships. Usually, one can discern two levels of interfaces. First of all, a number of concrete relationships between the

individual and legal and illegal actors around him. These relationships can be described with the typology of the previous chapter. Secondly, the individual as interface through which an illegal input is laundered into legal goods or services. The different abstraction levels are represented in the figure above.

In situation A and B the individual is represented by the circle. The first circle contains the 'legal' and 'illegal' part of the individual and the relationships between these parts and other actors in the legal and illegal domain. All relationships can be designated by one of the interfaces from the interface typology. At the same time, these relationships together show how the individuals act as interface by themselves. An example from the (conflict) diamond trade can illustrate both situation A and B.

A diamond merchant has a legitimate business in Belgium where he sells diamonds in his store. He buys a part of his merchandise legally at diamonds auctions in Israel and India. Another part of his merchandise is bought directly in Africa in a source or transit country, or from a particular source, that is boycotted by the United Nations. This part of the trade consists of what is usually described as conflict diamonds. As private person he regularly travels to this country to buy diamonds there in contravention of this international boycott. Thereafter, he will take the diamonds back to Belgium or use an African smuggler to do this for him. Sometimes, they will have to bribe officials at the airport before they can board their flight back to Belgium without any further red tape. At other times they obtain so-called Kimberley Process certificates, also with sufficient bribes. In many cases they may just take the diamonds with them, hidden in cloth or in a double bottom suitcase. In Belgium he mixes his new merchandise with the merchandise from legitimate channels like the diamond auctions. Thereafter, the diamonds are sold to regular customers or to other dealers who may or may not know the illegitimate source of the diamonds.

In terms of the interface typology, a number of concrete interfaces can be distinguished here. The arrows in situation A visualize these interfaces. The dealer and the African supplier of diamonds share a symbiotic relationship. Depending on the exact division of labor between them, this relationship can be designated as either reciprocity, collaboration or outsourcing. The dealer, or the smuggler that he hires, also share a symbiotic relationship with the official at the airport. Depending on the even or uneven power between them, this can either be co-optation (with the official as the most powerful) or reciprocity (in case of more or less even power). The same goes for the relationship between the dealer and the provider of the Kimberley Process certificates. As soon as the diamonds are in Belgium, they are sold to individual customers or other dealers. The relationship between the dealer and an individual customer, or between the dealer and another dealer, can be designated as reciprocity. Finally, synergy exists between the dealer, together with all other dealers involved in the import and sale of conflict diamonds, and the overall market. This market benefits and

ultimately depends upon the input of conflict diamonds, as well as diamonds from legitimate sources.

A critical reader can argue that several of the above interfaces are in fact no legal–illegal interfaces at all. The relationship between the dealer and his suppliers in Africa is an interface between two illegal actors. At the same time, the relationship between the dealer and his customers and the diamond market in general is the relationship between a legitimate businessman and other legal actors or entities. As soon as one understands the inconsistencies in the above described example, one can start to come to grips with the analytical conception of an individual *as interface* instead of an individual as one end of a *relationship called interface*. When the relationships in the illegal domain and the relationships in the legal domain are connected and run through the same individual, this individual can be seen as the interface. Besides being the interface between the legal and illegal domain on an abstract level, all kinds of concrete interfaces can be designated. Some of them are between legal and illegal actors, but not all of them are.

In situation B there is no further specification of the individual as interface between the legal and illegal domain. To be sure, situation A and B are really the same. The difference is one of perspective, not an empirical fact. In situation A, all the different relationships are visualized by the arrows on both sides of the individual and the individual is portrayed as a combination of an illegal and legal part. In situation B, the individual is portrayed as one actor on the imaginary line between legal and illegal. Through this individual, transnational criminal activities are laundered.

In practice, most diamonds will thus make it to the official market in numerous devious ways. As soon as they are sold on one of the large diamond auctions or by dealers in Antwerp or elsewhere, they have been effectively laundered. This may be done with the knowledge or even active involvement of these actors, but it may also be done before.[23] In the next sections, a number of examples of 'interfacing' individuals will be discussed. Thereafter, two models of these individuals will be developed.

3.1.1 Case studies of individuals as interface

A number of concrete examples can elucidate the notion of individuals as interface between legal and illegal actors engaged in transnational crime. The examples will first be described and secondly discussed in terms of interfaces. The first person to discuss is Monzer Al Kassar. Since the 1970s this Syrian has been a major arms dealer, and connected to a number of terrorist groups as well as the illegal drug trade (Brunwasser, 2002; Morstein, 1989; Naylor, 2001; Wood &

[23] A range of reports by *Global Witness* provides in-depth coverage of all areas where conflict diamonds are mined and the illicit trade connected with these areas (Global Witness, 1998; 2003; 2004a; 2004b).

Peleman, 1999). Secondly, Victor Bout, a Russian businessmen and former KGB agent, will be looked at. Since the end of the Cold War he has played a significant role in the illegal arms trade in Africa and Asia (Kochan, 2005; Verlöy, 2002; Wood & Peleman, 1999). The third individual is Fouad Abbas, a major wholesaler in drugs for the Benelux and other regions, as well as a diamond dealer in Belgium (De Stoop, 1998).

Monzer Al Kassar

The first person here is the Syrian national Monzer Al Kassar, described by the US Drug Enforcement Administration as one of the most important figures in the international drug trade (Wood & Peleman, 1999). The US Senate investigation on BCCI Affairs referred to Al Kassar as a 'Syrian drug trafficker, terrorist and arms trafficker' (Wood & Peleman, 1999). This sums up most of his activities from the 1970s onward into the 1990s, although in the US he is mainly known for his role in Iran Contra affair. However, his range of activities in many fields in a number of countries during more than two decades is covered by numerous academic and non-academic authors (Brunwasser, 2002; Morstein, 1989, Naylor, 2001; Roth, 2000). It is almost impossible to sum up his major actions with a brief summary. However, a few should be mentioned both because they are relevant by themselves, as well as because they point out crucial characteristics of many individuals like the ones discussed here. Al Kassar should not be seen as a unique person but merely as an example. Other arms dealers can be mentioned that have a lot in common with Al Kassar, like for example the Armenian/Lebanese Sarkis Soghanalian and the Saudi Adnan Khasnoggi.

Al Kassar started his career with stealing cars and using them to smuggle drugs. He was convicted for drug dealing in Paris in 1979 and ran into trouble for more of the same crime several times (Morstein, 1989:60). However, he was involved with drug traffickers in several other ways both before and after that date. He was sought by Interpol for swapping weapons supplied by the Italian mafia for drugs in 1977 (Morstein, 1989; Wood & Peleman, 1999). The deal involved terrorist groups who supplied drugs to an Italian mafia organization. They marketed the drugs in Italy and connected Al Kassar with Italian arms producers who were willing to send weapons to terrorists. Al Kassar organized the whole scheme and got a part of the money involved although he sympathized with the terrorists. Besides his connection with Middle Eastern drug producers, he allegedly was the investor behind at least one major Dutch wholesaler in drugs, according to the detailed account of events by Morstein (1989:172-174). When this wholesaler was arrested in June 1986 in Morocco he allegedly sent a message to Al Kassar that he should get him out of prison or else end up there himself (Morstein, 1989:189). However, a personal attempt by Al Kassar to set

him free failed.[24] In the same month Al Kassar's connection with terrorist organizations in the Middle East was legally proven when he was convicted in his absence by a Paris court. Because of his active involvement in a Palestinian terrorist organization he was sentenced to eight years in prison. Despite this sentence, Al Kassar later brokered a deal with the French government when a number of French hostages had to be freed in Lebanon. Al Kassar arranged the release of the hostages in exchange for French arms for Iran (Morstein, 1989:244). Besides the French, the CIA allegedly contacted Al Kassar for the same purpose. If Al Kassar would assist in freeing the hostages in Lebanon, the Americans would allow Al Kassar to continue his drug transports from the Middle East to the United States via Frankfurt in West-Germany (American Radio Works, 2005; Lee & Solomon, 1990).[25]

Despite his sympathies for the mentioned organizations and his involvement in the drug trade, his core business was arms. Al Kassar was under investigation in Switzerland for violating the arms embargo on Croatia and Bosnia-Herzegovina. He brokered a deal in which officially arms from the Polish state arms producer Cenrex were exported to the defense ministry of Yemen (Brunwasser, 2002; Naylor, 2001:346). In 1992 the arms, 27 containers, were shipped by a Honduras registered ship and docked at Ceuta (a Spanish territory in Morocco) for supplies. From Ceuta the ship headed not for Yemen, but instead for Reijka, Croatia, where it unloaded. In the same year, Al Kassar undermined the UN arms embargo against Somalia. From the same sources in Poland he planned a shipment to this war-torn country. This time, the end-user certificate was signed by Latvian authorities who were given a share of the arms shipment before it departed for Somalia (UN, 2003:19-20).

Furthermore, Al Kassar was involved in the Iran Contra affair and in the sale of weapons to Libya in 1983. To be sure, he did not only sell arms to organizations or states he sympathized with or did not care about. An example of this is the fact that he sold arms to both Iraq and Iran during the 1980s. He purchased his arms in several European countries like Spain, Portugal, Austria and Poland (Morstein, 1989).

To be effective in his work, Al Kassar managed to create a legal cover for many of his activities. In Austria he grounded a legitimate trading company

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[24] Eighteen months later he was paroled at the birthday of the Moroccan king. Several years ago, he was sentenced to another year in prison in the Netherlands because of his smuggle of about thousand kilos of hashish from Spain to the Netherlands (Eerenbeemt, 2003). At the time of writing (2005) he is awaiting his sentence in the US for his role in wholesale trafficking of XTC. See: Eerenbeemt, M. van den & K. van Keken (2005) 'Charmante leugenaar is justitie niet altijd te slim af' *De Volkskrant*, October 11th.

[25] These events again were allegedly connected with the bombing of Pan Am flight 103 above Lockerbie in Scotland. Aboard this flight was a regular courier for Al-Kassar's drug running operation, as well as several CIA officials who were on their way to the US to tell their superiors about Al-Kassar's role (American RadioWorks, 2005; Lee & Solomon, 1990).

together with his brother. Furthermore, he allegedly obtained a significant share in a commercial bank in Spain during the 1980s. Furthermore, he grounded his own airline, Jet Air. Besides using the airline himself, a number of Austrian politicians were regular customers. Through Udo Proksch, who will be discussed in chapter 4, he was introduced to many Austrian politicians in the so-called Club 45 in Vienna. This elite network will be discussed in the chapter on states because of its relevance for the subject of the legal–illegal interfaces. Besides the legitimate businesses, Al Kassar organized some sort of legal immunity for himself. At different times he had at his disposal a diplomatic passport of Yemen and Argentina, a fake passport of Morocco and a special Syrian pass (Morstein, 1989; Naylor, 2001). In addition to this, he enjoyed active protection of the Syrian government and local authorities in Spain. Furthermore, he was rather well-connected in Argentina for some time during the time of the presidency of Menem, which left him with an Argentine passport (Romero, 2002:298). When Al Kassar tried to obtain the Austrian nationality, one of the major Austrian arms producers send a letter of recommendation to the authorities although the attempt finally failed. Finally, Al Kassar was said to be well connected behind the Iron Curtain, in particular in the German Democratic Republic and with its deputy minister of foreign trade, Schalck-Golodkowski[26] and in Poland (Morstein, 1989). During the Swiss investigation into the alleged sanctions-busting in Yugoslavia, Al Kassar explained in 1993 that he was a diplomatic representative from Yemen in Poland which seemed to confirm his Polish connection (Brunwasser, 2002).

From a perspective of interfaces, the case of Monzer Al Kassar is too diverse to describe in full. Al Kassar had different types of relationships with a range of intelligence agencies, arms producers, terrorist groups, heroin producers, military officials, and politicians. Although he allegedly smuggled heroin during the 1970s and 1980s, his core business was the arms trade. In this trade, his role as interface was clear in a number of cases. Each time he organized schemes in which arms from legitimate companies, or from the stocks of East Bloc states, were shipped to outlawed destinations or organizations. The arms were thus in fact funneled from the legitimate source onto the black market and further to the outlawed destination or organization. Because of Al Kassar's role, the different parties

[26] Not much is known about this relationship. The only account of events is provided by Morstein who wrote his book before 1989. This organization of this enterprising East-German minister was also engaged in smuggling a range of commodities like toxic waste, oil and stolen and confiscated art (Von Bülow, 2003). During the 1970s and 1980s, the Stasi-controlled Kommerzielle Koordinierung (KoKo), or Commercial Coordination, led by Schalck-Golodkowski, raided the homes of an undetermined number of wealthy GDR citizens, taking jewelry, works of art, stamp collections, and other valuables. Schalck-Golodkowski was to funnel more than DM50 million into the beleaguered East-German economy each year. Almost all of the property, the value of which historians have been unable to determine, was first 'sold' to KoKo's holding firm Art-and-Antiquities-GmbH before flowing into West-Germany (Bischof, 2003; Blutke, 1990). This will be further discussed in chapter 8.

involved did not have to deal with each other directly. Furthermore, with end-user certificates from countries that were in fact not end-users of the arms, Al Kassar provided legitimate destinations for the legitimate sources of the arms involved. This case study thus shows the opposite mechanism as the one mentioned above, involving the trade in conflict diamonds. Whereas the conflict diamonds were laundered and funneled in the legal market, the arms were taken from the legal market or source to the black market.

Victor Bout

The second person to discuss is Victor Bout. He is native of Tajikistan, who uses several aliases and graduated in 1991 from Moscow's Military Institute of Foreign Languages which left him reportedly fluent in six languages (Kochan, 2005; Niekerk & Verlöy, 2002; Verlöy, 2002). Although Bout is discussed in this chapter, he is the middle of a range of legitimate companies, and employees. His empire is a maze of individuals and companies, which employs some 300 people and owns and operates some 40 to 60 aircraft, including the largest fleet of Antonov cargo planes in the world, according to an investigation by the International Consortium of Investigative Journalists (ICIJ) (Niekerk & Verloy, 2002). However, he is discussed here because it is only Bout himself who is the constant factor in all activities, and who is the sole architect of all schemes. Nevertheless, one could also choose to discuss him within the context of the legitimate organizations that are the topic of the next chapter. Like Al Kassar, he should not be seen as a unique person in this business although he is presently probably one of the most active and successful.

Bout made use of the large stock of arms in the former Soviet Union. After the demise of Communism, these stocks, as well as those in East European countries like Bulgaria became available for arms dealers like Bout (Naylor, 1998; Wood & Pelemans, 1999).[27] Such dealers funneled these arms to the black market where they were sold to guerilla movements, boycotted governments and other outlawed destinations.

Not all of Bout's activities were illegal. On the one hand, he was allegedly involved in the (legal) trade in all kinds of commodities as well as transport services. On the other hand he was engaged in arms deals that might have been very risky but nonetheless legal. In 1993, for example, Bout funded the Transavia Export Cargo Company, which flew Belgian peacekeepers to Somalia as part of operation Restore Hope, the US-led famine relief effort. In 1999, he flew platoons of Pakistani UN peacekeepers to East Timor. Around the beginning of the 1990s, he regularly organized arms shipments from Eastern Europe to Afghanistan. Bout had struck up a friendship with Ahmed Shah Massoud, the

[27] For a discussion of the important role of Bulgaria in providing arms for conflict areas in Africa see: Howe (2004).

renowned commander of what later became the Northern Alliance (the resistance movement against the Taliban) and who was assassinated by Al Qaeda on September 9, 2001. Supplying the Taliban or any of the other groups was not actually illegal under international law during the 1990s. The UN only put an embargo on arming the Taliban on December 19, 2000 (Kochan, 2005:40).[28]

Bout became a major player in the illicit arms trade in 1995 when he started working from Ostende, Belgium, where he stayed until 1997 (Wood & Peleman, 1999). In March 1995, Bout and a business partner founded the Trans Aviation Network Group (TAN). TAN was based in Ostende as well as in Sharjah in the United Arab Emirates. Since 1995 Bout has been involved in a long list of arms trafficking operations to numerous embargoed African countries like Angola, Sierra Leone, and Liberia. As soon as he came to the attention of law enforcement agencies, he did not let the arms be flown directly from Eastern Europe to Africa. They would first fly from Eastern Europe to Sharjah. There the arms would be combined with legitimate merchandise and directed to major African airports. As soon as the planes arrived at these airports, the arms disappeared. They had been dropped off secretly along the way in rebel controlled territories. In 1996, Bout registered an airline, Air Cess, in Charles Taylor's Liberia. A year later, he had to leave Belgium after pressure from human rights groups. Thereafter, the United Arab Emirates became the primary base of operation. According to the United Nations, almost all of Bout's companies operate out of the United Arab Emirates. Companies registered in Swaziland, the Central African Republic, Liberia, and Equatorial Guinea used Sharjah airport as an 'airport of convenience'. In May 1997, Bout extracted President Mobutu from Zaire when rebels seized control of the country. In August of the same year Bout rearranged the documentation of part of his fleet, creating Air Cess Swaziland (Pty), registered in Swaziland. Some of the planes that had been registered in Liberia were registered on the Swaziland aviation register, with the tails repainted accordingly. In reality Air Cess Swaziland operated from Pietersburg, South Africa, until Bout was pressured out of the country by both the authorities as well as local motorcycle gangs (Kochan, 2005:40-46). South Africa was not the only country that Bout had to leave. In Central Africa, a corrupt director of civil aviation had registered dozens of planes from Centrafrican, an airline that had only a license to operate three small aircraft. The airline was owned by three companies from Gibraltar and these companies were owned by Bout and a business partner. In January 2000, the president of the Central African Republic discovered this fraud and closed down Centrafrican and de-registered its planes. Bout was sentenced to two years in absentia although a special court nullified this sentence three months later (Kochan, 2005:49-50).

[28] Bout has also been accused of arming the Taliban regime in Afghanistan. These allegations, however, have never been proven.

One of the primary destinations of arms shipments brokered by Bout during 1997 and 1998, were the UNITA rebels in Angola. Bout,

> "supplied UNITA with $14 million worth of arms through a company he established in Gibraltar, called KAS Engineering. The arms included 100 anti-aircraft missiles, over 6,000 anti-tank rockets, 20,000 mortar bombs, as well as cannons, assault rifles, and a mind-boggling amount of ammunition, enough to keep a huge army going for several years, which is exactly what it did. Al this weaponry came from Bulgaria" (Kochan, 2005:45).

Bout used end-user certificates from Togo that later turned out to be forgeries. They were, however, based on a genuine end-user certificate given to UNITA by the Togolese authorities in 1997.

Bout not only catered for outlawed rebels but also worked for several governments. Among them was the Rwandan government. Bout's aircraft were used to transport coltan and cassiterite, two locally-mined minerals illegally plundered in the Democratic Republic of Congo by the Rwandan authorities (Kochan, 2005:48).[29]

In early 2001, Bout relocated from Sharjah to neighboring Ajman, where he set up office in the Chamber of Commerce and Industry Building (Niekerk & Verloy, 2002).

From the information available on Bout's activities, some interesting parallels can be drawn with Al Kassar. Niekerk and Verlöy, in their article on Bout, write that:

> "Although intelligence documents reveal that Bout is 'under investigation in a number of western countries' and that 'Interpol has opened a file on him', Bout continuous to operate freely, shuttling between the United Arab Emirates, Russia, Central Asia and Africa's war zones" (2002:3).

Al Kassar's biography written by Morstein, showed exactly the same situation for Al Kassar during the 1980s. In that last case, it could be largely explained why nobody interfered with Al Kassar's entrepreneurial activities. A mixture of political friendships, blackmail and corruption ensured his continuous freedom, although he was officially sentenced to prison terms several times. It still has to be explained whether Bout's successes until about 2004 has been primarily a

[29] Coltan is a key element in cell phones, computer chips, nuclear reactors, and PlayStations. The market for the mineral has greatly increased in recent years, exacerbating conflict in Congo. It illustrates that diamonds and oil are not the only commodities fuelling civil wars. Cassiterite is a tin oxide mineral that is also used as a gemstone and collector specimens when quality crystals can be found. See also: H. Vesperini (2001) 'Congo coltan's rush' BBC News, August 1st, http://news.bbc.co.uk/2/hi/africa/1468772.stm (Visited October 24th 2005).

symptom of a bankrupt system of controls on the transnational trade in arms, or the result of political protection like in Al Kassar's case.

Since the war in Iraq started, reports have been surfacing connecting Bout with the war efforts. According to several sources, the US and UK have been using his extensive mercenary services in Iraq (Godoy, 2004; Remy, 2004).[30] Furthermore, according to journalist Jean-Philippe Remy:

> "By virtue of his participation in the Liberian drama and his violation of the embargo that prohibited arms exports there, Viktor Bout was up till now subject to two types of United Nations sanctions, prohibiting him from foreign travel and planning a freeze of his foreign assets. Now Viktor Bout's situation is about to change. Although the United States, involved in the Liberian dossier, had committed to make sure those responsible for the atrocities committed during the country's civil war were punished and promised a reward for whoever should deliver Charles Taylor to international justice, it 'is working to erase the name of the arms merchant from the list of people subject to sanctions,' a diplomatic source asserts." (Remy, 2004).

When two US Cabinet members, the Deputy Secretary of Defense and the Deputy Secretary of State, were questioned by the Senate Foreign Relations Committee on these and other allegations they indicated to be unaware of Bout's role in Iraq and would further look into the matter.[31] Nevertheless, since May 2004 reports about Bout's involvement in Iraq keep appearing in the US and other media (Daly, 2004; Isikoff, 2004).[32] According to a report in the *Los Angeles Times*: "Planes operated by Irbis and Air Bas flew at least 142 times into Baghdad International Airport after the Iraq invasion, Air Force fuel records show. The planes shuttled in supplies and personnel for the U.S. military, Federal Express and the American contractor KBR".[33] Finally, in April 2005, the US imposed financial sanctions on companies aligned to Victor Bout.[34] It remains to be seen whether this means that none of Bout's companies will operate in Iraq or Afghanistan anymore.

From a perspective of interfaces Bout's activities are even harder to describe that those of Al Kassar. In a relatively short period of about twelve years, Bout

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30 The sources are allegedly French and other unspecified diplomats.

31 Hearing of the Senate Foreign Relations Committee, May 18, 2004; Subject: Iraq: The way ahead. Chaired by Senator Richard Lugar. See: http://feingold.senate.gov/statements/04/05/2004622A35.html (visited July 27th 2005).

32 Braun, S., J. Pasternak & T.C. Miller (2004) 'Blacklisted Russian tied to Iraq deals – the alleged arms broker is behind four cargo firms used by US contractors, officials say' *Los Angeles Times*, December 14th.

33 Ibid..

34 Braun, S. 'The US freezes the assets of 30 firms and four people linked to Russian Victor Bout' *The Los Angeles Times*, April 27th.

operated in dozens of countries. He was involved in practically all armed conflicts in Africa during the 1990s and thereafter. To some extent he was a typical post-Cold War figure. His business was supplied by the superfluous Soviet stocks of arms, and benefited from the freedom of operation during this period. During the Cold War, many arms deals were in some way controlled or sanctioned by the two superpowers, but thereafter it seemed to some extent a free for all, that is, for characters like Bout (Brogan & Zarca, 1983; Naylor, 1998; Wood & Pelemans, 1999).

All kinds of interfacing relationships with heads of state, rebel groups, arms providers and others enabled Bout to build up his global enterprise. Most of the time, political actors outsourced their arms purchases to Bout. Sometimes Bout's transport companies shipped arms and returned diamonds or other commodities from conflict zones. This resulted in still other interfaces, such as reciprocity between Bout and the purchases of these conflict diamonds and synergy between the activities of Bout and the overall legitimate diamond market. Furthermore, a co-optation interface can be found between Bout and local authorities in many countries. The unlawful registration of dozens of planes in the Central African Republic was just one example.

Besides the individual interfaces, Bout served as an interface by himself. Through Bout and his different partners, arms were funneled onto the black market while conflict diamonds were ultimately added to the legitimate market. Although many other examples can be discussed besides Bout, he is at least exceptional for the scale and efficiency with which he operated.

Fouad Abbas

The last person to discuss here had strong links with both Belgium and the Netherlands. The Pakistani drugs and diamond dealer Fouad Abbas had his base of operation in Antwerp, Belgium, from the late 1980s to the mid-1990s (Brouwer, 1996; Roox, 2001; Stoop, 1998). Abbas moved to Belgium when his enterprises in Dubai went into serious trouble after the war between Iraq and Iran broke out. In Antwerp he grounded TTS Diamonds and rapidly established a network of businesses. At the height of his power, he had diamond companies in Antwerp, Geneva, London, Tel Aviv, and Bombay. Furthermore, he exploited a diamond mine in Guinea and had other enterprises and real estate in the UK, Canada, the US, Singapore and Pakistan (Roox, 2001).

Besides his diamond business, he became a major player in the drug trafficking business in Europe. He made use of his connections to a number of large Pakistan producers of hashish, under whom Ayub Alfridi. Abbas was said to have closed a deal with two major importers of hashish in the Netherlands. Between 1987 and 1994 Abbas brokered deals amounting to 400 tons of hashish. The profits from this trade formed part of the explanation of Abbas' successes in the diamond business, which was at the same time used to launder the money.

Through a bank in Antwerp, Abbas was able to transfer huge amounts of money all over the world. According to Schaap (1999:70), Abbas was able to funnel more than 48 million Dutch guilders into his accounts at this bank during the period from March 1989 to February 1992. The cashier at the bank became an instant millionaire, until the bank went bankrupt and he went into prison for months, together with the bank's president.

Abbas' activities in Belgium went fine as long as he could rely on his contact with high placed officials, among which the head of the Antwerp drug squad. However, at some point Abbas these officials ran into trouble themselves and Abbas soon afterwards. To save himself from Belgium law enforcement, he closed a deal with the Dutch authorities to testify against Johan V., in addition to a payment of 2 million guilders to the Dutch tax authorities. However, this only saved him for some time. After having moved to England, he was extradited by the UK to Belgium on money laundering charges.

From a perspective of interfaces, Abbas differs in one important respect from Al Kassar and Bout. Abbas did combine the purely illegal drug trade, with the in principle legal diamond trade. However, because these trades were strongly connected in Abbas' case, his dealings are discussed as a case study here. He did not 'launder' his drug business or 'blacken' his diamond business, but used the legal trade to launder the proceeds from his illegal trade. To operate with relative impunity he exploited his high-level political and criminal contacts.

3.1.2 Common characteristics

The individuals described here seem to be unique in a number of ways. However, there are some general characteristics that many of them share. These characteristics can explain why they are able to connect legal and illegal in such a successful way.

The first characteristic that all the discussed individuals have in common is their base of operations in at least two different countries. Al Kassar, for example, operated from Austria, Spain and Syria. Besides simply staying in these countries, they have a well-developed network of relations which helps them to do business from these countries. Furthermore, most of the individuals discussed or mentioned here possess at least one foreign passport besides the passport of their state of origin. Bout is known to possess a range of passports and the same is true for Al Kassar, which seriously impeded any effort to arrest the latter (if any country was willing to do so). Of course, possession of several passports can hardly be said to be unique among transnational criminals. However, these passports are often false and therefore of limited use. The passports that were mentioned here are real and (at least in the case of Al Kassar) diplomatic passes, which cannot be compared to regular passes.

A second characteristic which some of the individuals share is the ability to arrange all kinds of political protection, or compel a passive stance by means of direct or indirect blackmail. Part of this is simply corruption, but it in the case of Al Kassar, Bout and, to a lesser degree, Abbas; it developed way beyond ordinary bribes or kickbacks. Being unassailable for law enforcement is clearly something different from mere corruption as far as European countries are concerned. The primary example here is Al Kassar who, for example, closed a deal with the French government. While being sentenced to eight years in Paris, he negotiated without any problem with the French authorities and several opportunities to arrest Al Kassar were ignored. In general, Al Kassar was rather well-connected in Austrian politics and through his business interests in Spain. In the Middle East, Al Kassar was directly connected to the Syrian government, and his relation with the Yemen authorities was good enough to be provided with a diplomatic passport

A third characteristic is the knowledge and use of the financial system and the mobilization of numerous legitimate companies. As with the other characteristics, this is not claimed to be unique for transnational criminals. However, the scale and sophistication of this factor differs for most criminals. Whereas criminals often have to rely on the knowledge of others to use the opportunities of banks, foreign registered companies, and tax havens, the persons discussed here were to some degree experts on these matters themselves. However, the relative risk involved in financial operations is illustrated by the fact that both Abbas and Al Kassar ran into legal trouble not because of their core business (arms and drugs) but because of their trail in the financial system. It indicates the strategic importance of adequate knowledge and use of the financial system, to operate effectively as a criminal or to be able to track them down as law enforcement agency.

The last important characteristic is related to the types of crime. In most cases, the type of crime or one of the types involved consists of crimes where goods are laundered in some way or another. This can be facilitated by inconsistencies between legislation in the countries involved in transnational crime. The best examples here are the arms trade and the trade in conflict diamonds.

3.1.3 Brokers in transnational crime

One can distinguish two types of brokers in transnational crime. First of all, brokers that close deals between actors in different countries that cannot deal with each other directly. It may be that national law, international law, UN resolutions or other provisions stand in the way of a scheme. In that case a way has to be found to proceed with the deal without any of the actors getting into legal or political difficulties. By nature, a broker does not personally buy illegal goods or services, but functions as an intermediary for buyer and seller. As with other types of brokers in the legal economy, he gets a cut from the deal as

commission. This might be a substantial part of the total sum of money or goods involved.

Whereas the first type of brokers starts from the assumption that the broker is really on his own, the second type incorporates the realities of cases that do involve a range of people or organizations. Often, brokers employ many people at specific stages of their activities. Furthermore, part of the business of such a broker may be legitimate. As was mentioned before, Victor Bout can be understood to be such a broker. His empire is a maze of individuals and companies, which employs some 300 people and owns and operates some 40 to 60 aircraft. On first sight, entities like this one look more like a huge criminal organization than a small brokering firm. However, there is a number of reasons for setting this type of criminal entity apart from well-known models like the transnational criminal networks, or criminal organizations. First of all, despite the potentially large number of people involved, their ties with the broker and his activities are very loose. For every new project, the broker decides which people to hire, and what kind of routes, means of transportation etc. to use. This implies an important difference with for example criminal networks. Although they are also known for their relative flexibility, they usually aim at a rather specific transnational smuggle, along one or more specific routes (see e.g. Auchlin & Gaberly, 1990; Bernasco & Bruinsma, 2004; Chin, 1999). Secondly, whereas criminal networks and organizations often have a transnational base because of the different people in different countries involved, the broker is really footloose himself. His base in several countries is at the same time part of the explanation of his capabilities to close complicated deals and connect legal and illegal entities in a smooth way. Thirdly, the broker can to some degree be compared to the strong leader of a criminal organization. Both have considerable power and lay down the course of action of the organization. However, whereas the leader of a criminal organization can often be replaced without the disintegration of the organization, this does not hold for the broker. He is a necessity for two reasons. First of all, there are usually hardly any people who are around him all the time who could try to step in his place. Secondly, and most importantly, the broker commands the ability to close difficult deals in which he has to operate both as a criminal and as a business man and has to have a huge network of relevant people with governments, large companies, as well as with other criminals.

3.1.4 Transnational (criminal) dealers

Besides the two types of brokers, one can distinguish so-called transnational (criminal) dealers. They share some characteristics with the brokers, like for example their base of operation in more than one country. Furthermore, through their activities they connect illegal with legal markets and launder their merchandise in the process. As opposed to most brokers, they have steady patterns of activities. They restrict themselves to the trade between two or three

particular countries, and usually do not divert to other fields of crime. From this perspective, some parallels can be drawn with transnational criminal networks. However, besides differences in structure, an important characteristic of the dealers is the fact that they are able to launder their merchandise, whereas criminal networks usually operate in purely illegal markets, like drug trafficking.

Examples of this type of dealer can be found in the trade in conflict diamonds, toxic waste or the illicit art and antiquities trade, where major inconsistencies in legislation between source and market countries create an arena where these dealers can operate in both the legal and illegal domain. The trade in conflict diamonds is particularly interesting because it is also indirectly or directly linked with other types of crime, like the illicit arms trade, money laundering and tax evasion. A number of publications shed some light on this relatively unknown field of crime (Fijnaut, 2002; Kochan, 2004; NIZA, 2001; Peleman, 2002; Tailby, 2002).

The dealers operate alone or primarily alone. The dealers are transforming the legal status of their merchandise while they smuggle it from source to destination country, or organize this smuggling operation. This means that they act as interfaces by themselves, despite numerous individual relationships with other legal or illegal actors.

3.1.5 Conclusion section 3.1: Individuals as interfaces

In the above sections, the role of a specific category of individuals in transnational crime was discussed. These individuals are able, in different ways, to function as interfaces themselves, instead of being solely engaged in interfacing relationships with other actors. To be sure, one can discern all kinds of interfacing relationships between these individuals and others, if one looks at the level of the typology developed in chapter 2. However, as was argued here, on a more abstract level, the interface is located 'within' the individual. As soon as one comes to grips with this concept, the legal–illegal interface in transnational crimes like arms trafficking, and the illicit trade in art and antiquities, can be more fully understood. These are crimes where the illegal character is not primarily dependent on the goods involved but on the status of the actors involved and the jurisdictions in which one deals. Out of all the examples –discussed and otherwise – one can develop two types: the transnational broker and dealer. The first type can be divided again in two sub-types.

3.2 Legitimate organizations as interface

In the following sections the focus will be on a particular kind of legal organization. These organizations can be a part of the private sector or the administrative machinery of states. They play a role which can be compared to some extent to the role of the individuals discussed in the sections above. To

explain this role, the next section will start with a discussion of a number of case studies. The choice of cases is partly based on the availability of sufficient and reliable sources to back up the crucial elements which are relevant for the topic at hand.[35] However, many other cases could have been chosen. The aim of the case studies is to analyze the same mechanism that was analyzed above. This mechanism transforms legal activities into illegal activities and the other way around. Finally, the conclusion will try to clarify the interconnectedness of individuals, organizations as well as jurisdictions as interfaces.

3.2.1 Case studies of legitimate organizations as interfaces

In this section, a number of organizations will be discussed that can be understood with the analytical model in which legitimate organizations are the embodiment of the legal–illegal interface. Half of the cases consist of financial institutions, reflecting the importance of financial infrastructure for transnational crime as well as the transnational crimes committed by financial institutions themselves. The cases are derived from rather different periods and places. They can illustrate a point which has been discussed before. The suggestion that transnational crime is for a large part a recent phenomenon – connected to the fall of Communism and the recent trend of globalization – is hard to maintain against the background of historical data. The same goes for the legal–illegal interface and the specific case studies discussed here. As Alan Block puts it "…much of the social scientific literature dealing with organized crime suffers from a particular kind of ahistoricism that critically weakens arguments about the nature of organized crime" (Block, 1994: ix).

International Overseas Service

In the late 1950s, Bernie Cornfeld established *Investor Overseas Services* (IOS). His idea was to help people in countries with non-convertible currencies to move their money offshore. To enable this goal he set up a number of mutual funds and banks. These funds and banks were structured to take full advantage of lax security laws, tax breaks for offshore corporations, and a mix of jurisdictions to stymie potential litigants and investigators (Blum, 1999). To potential customers, IOS offered a mix of two products. First of all, it offered investments in mutual funds that invested in the US stock market, an opportunity that was beyond the reach of potential customers in most parts of the world. Secondly, it offered the chance to move funds into a Swiss bank, which could be practical for several

[35] This does not mean that there are absolute guarantees for the accuracy of the mentioned cases. The reader is provided with references to all the sources and has to judge for him/herself. Especially in this sub-field of criminology one cannot restrict oneself to sources which can always be verified personally if one would wish to do so. At least, this is the opinion of the author as was discussed in the introductory chapter.

reasons like evading taxes, preventing confiscation and protecting against inflation. In practice, things were often combined. IOS would smuggle the funds of a customer out of the country and move them into a Swiss bank account. Thereafter, an investment in one of the IOS mutual funds would be made with the money from the Swiss bank account (Raw et al., 1971). The mutual funds were established in unregulated tax havens, mostly Panama and the Bahamas, and managed in Switzerland. Because the transfer of funds out of the customer's country was usually illegal, IOS knew that most of its customers would in general not take action against the company in their home countries.

From the moment IOS started an ever-growing army of mutual funds salesmen literally went all over the globe. Cornfeld went looking for crooked money on the assumption that the dirtier the funds invested in his stocks, the less likely they were to be withdrawn in a hurry (Naylor, 2001:101). The most important markets were in South America and Europe. Ever more customers were tempted to trust their savings to the IOS salesmen. Meanwhile IOS invested the pool of hundreds of millions of dollars in a rather different way than it told its customers. A huge part of the money went to the salesman and all his superiors. This pyramid of people was growing all the time, as salesmen were allowed to attract salesmen themselves. Another part went into investments in companies which were partly owned by IOS members. Often these investments ended up total failures. To some extent, the whole organization was operating a huge Ponzi scheme which could only continue as long as ever more new customers filled the gaps left by bad investments and the huge overhead. During the late 1960s, country after country in South America kicked the IOS salesmen out of the country or arrested them (Raw, 1971).[36] These countries saw their economies threatened by massive capital flight helped by the army of salesmen from Cornfeld's organization. This turned out to be the beginning of the end. Thereafter, IOS started to run into trouble in other markets also. Finally, IOS was sold to the company to Robert Vesco, a New Jersey businessman. Vesco was able to drain a substantial part of all the funds that were still left in IOS, according to the most popular estimates about $260-300 million, by turning the mutual funds into closed-end funds and subsequently plundering them through a series of shell companies and accounts scattered around the world (Blum, 1999; Herzog, 1987; Hutchison, 1974).[37]

The relationships which IOS developed with a number of actors can be understood from a perspective of legal–illegal interfaces. Between IOS and the customers for which it either laundered or 'criminalized' funds, an *outsourcing* or

[36] Brazil was one of those countries. In 1966, Brazilians sent more money abroad than all the new foreign investment and foreign aid brought in (Henry, 2003). In that year the police, assisted by others, raided the offices of IOS in seven cities, arresting thirteen salesmen and seizing files on ten thousand clients (Hutchinson, 1974:70).

[37] For a discussion on the actual amount that was stolen by Vesco, Herzog's book on Vesco provides the best overview.

reciprocity interface can be pointed at. Outsourcing occurs when a division of labor between legal and illegal actors exists in which one actor offers specialized services to the other. Reciprocity aims at the interface where mutual benefits exist for legal and illegal actors. In the case of IOS, one could say that the reciprocity interface does exist because mutual benefits are exchanged. However, it is the legitimate organization that primarily offers the services instead of some 'regular' criminal. Depending on concrete individual cases, one can label the relationship between IOS and its customers and partners as either outsourcing or reciprocity.

Through time, this relationship of reciprocity or outsourcing evolved into one which was merely *predatory*. In this case, it seems that the members of IOS's leadership fraudulently bankrupted their own company. However, the predatory interface aims at someone from outside the company who manages to bankrupt it, whereas in this case the company bankrupts itself and, thereby, its customers. A major part of the invested funds from customers was either grabbed by IOS or stolen by Robert Vesco, who bought the residual of the once successful corporation (Hutchinson, 1974; Herzog, 1987).[38] At the same time, *synergy* existed between several actors. In this case, the large-scale smugglers of funds and the banks and banking system in Switzerland and some other jurisdictions benefited each other, as well as the US stock market which was injected with extra funds that would otherwise stay in the home countries of IOS customers.

The above conclusions about the interfaces around IOS point at an important characteristic which is shown by this study in many empirical examples. When two actors are connected within the framework of transnational criminal activities, there will be a certain type of interface most appropriate to describe the relationship. Often this relationship will be called, for example, outsourcing or reciprocity. However, at least two other types of interface may often accompany the 'basic' interface type connecting the two actors. First of all, relationships may have a different meaning when looked at over time. The relationship that started out as a kind of outsourcing may in the end turn out to be more of a predatory or parasitical interface. That is, whereas the relationship was supposedly symbiotic, it turns out to have been (or have become), antithetical. Secondly, the 'basic' interface between two actors will often imply other interfaces with third parties or entities. These third parties or entities will be connected with the two actors through a relationship that can be labeled as synergy or antagonistic.

IOS can serve as an introduction to the other case studies as it shows most of the elements that will resurface with every new case. Hereafter, a number of banks will be discussed that served as an embodiment of the legal–illegal interface. It should be stressed that these banks are only examples that have been chosen here for practical reasons. Many other cases could be mentioned, several

[38] The various authors that have written about IOS differ (substantially) in their estimate of the health of IOS at the time Vesco moved in and bought the IOS.

of which have became public only recently (Block & Weaver, 2004; Kochan, 2005).

Banco Ambrosiano

On August 6, 1982, the Italian Treasury Minister Beniamino Andreatta announced the compulsory administrative liquidation of the Banco Ambrosiano. The largest bank collapse since World War II was a fact. A month earlier, on June 18, the lifeless body of Roberto Calvi, the former president of the Banco Ambrosiano, had been found dangling beneath Blackfriars Bridge in London (Paoli, 1995).[39]

The Banco Ambrosiano was originally founded in 1896 as a Catholic bank to provide an alternative to the large (non-Catholic) Italian banks. During the 1960s and 1970s, Roberto Calvi tried to transform the sober Italian commercial bank into a top-level international merchant bank. He purchased a network of corporations and banks in Luxemburg, Switzerland, Nicaragua, and the Bahamas. With this, the bank had a stable base in Europe and Latin America. In Nicaragua it opened a branch in Managua to facilitate exchange control evasion, political pay-offs and arms trafficking in Italy and abroad. It for example helped Nicaraguan president Somoza to buy weapons and his supporters to create offshore retirement accounts. Furthermore, Banco Ambrosiano closely collaborated with the Instituto per le Opere di Religione (IOR), or the Vatican bank. As there were no customs checks between Italy and the Vatican, Italian money could easily circumvent the tight Italian exchange controls by going through the IOR. As far as there were any barriers, Calvi was able to neutralize these through corrupt political contacts. With this network that combined fiscal advantages, bank secrecy rules and freedom from regulation, the Banco Ambrosiano had a magnificent instrument for illegal capital movements (Naylor, 1987:81-82; 2001:200; Trepp, 1996). As a result, Banco Ambrosiano developed into a meeting point for Cosa Nostra members, Colombian drug traffickers, white-collar criminals, secret Masonic lodges, and the IOR.

Clear proof of the fact that Banco Ambrosiano was not merely corrupted from the outside but rather itself a centre of corrupt relationships, was provided in the initiatives of its president towards the Italian establishment. As president of the Ambrosiano, Roberto Calvi consistently financed political parties: PSI, PSDI

[39] The Calvi's death has been subject to many speculations. In October 2002, a forensic report confirmed that he was murdered and in March 2004, four suspects were on trial for the murder. 'Mafia squad probe Calvi bag theft' *BBC News*, http://newsvote.bbc.co.uk (June 29, 2004); Hooper, J. & P. Willan (2004) 'Four go on trial for murder of God's banker' *The Guardian*, March 17, www.guardian.co.uk/italy/story (Visited August 8th, 2004); Hours before Calvi was found, his secretary, Graziellla Corrocher, fell – or was pushed – out of the window of the Ambrosiano building's fourth floor.

(and even the PCI)[40]; party newspapers and individual politicians; private and state enterprises; Latin American dictators, as well as revolutionary guerrillas; bank accountants, managers, auditors and whoever else he thought could be helpful in fostering or hiding the bank's illegal activities (Procura della Repubblica di Milano, 1988 cited in Paoli, 1995:354).

From a perspective of legal–illegal interfaces, Ambrosiano provided a number of examples on different levels. Between the bank and its numerous customers, all kinds of relationships can be distinguished. Some of them consisted of large scale money laundering operations which can be understood as a situation of *outsourcing* or *reciprocity* between the criminal with his unaccounted-for income and the bank. Not only did the Ambrosiano 'wash' the profits of Sicilian Mafia families, but it was also involved in money laundering operations world-wide: in 1984 the Operation 'Greenback' task force revealed that since September 1981 about US $34 millions had been clandestinely exported from the United States, placed in foreign financial centers and then reunited in a Banco Ambrosiano Overseas Limited of Nassau account on behalf of the Columbian drug trafficker Gabriel Abuchaibe. The sums then traveled back to the US, allegedly as investments of Panamanian companies (Paoli, 1995). Operation Greenback gave a clear idea of how serious the involvement of the Banco Ambrosiano was in international money-laundering; the amounts involved were in fact huge. Besides the outsourcing interface, one can point at a *funding* interface between Banco Ambrosiano and the ultra-secret, ultra-rightist Masonic lodge Propaganda-Due, or P2 as it is usually called. Banco Ambrosiano financed part of the activities of P2. This Masonic lodge interfaced with European right-wing political and paramilitary organizations in such 'Masonic' activities as international arms trafficking (Naylor, 1987:84). Before 1974, the lodge tried to undermine the liberal democratic institutions in Italy and parts of South America and to replace them with corporatist political systems inspired by Mussolini and Juan Peron. To attain these goals, the members of P2 encouraged capital flight to put downward pressure on the lira; during the resultant financial chaos, the funds illegally moved out of Italy would be brought back again to buy strategic parts of the Italian economy. Furthermore, terrorist outrages from both extreme 'right' and extreme 'left' were fomented (Naylor, 1987:85). After 1974, P2 infiltrated all facets of Italian public life: the state, the judiciary, the secret services, and the military. However, it did not completely abandon terrorist tactics. Research by Charles Raw and later Gian Trepp has shed new light on the links between Ambrosiano, the P2, and its leader Licio Gelli (Raw, 1992; Trepp, 1996). According to Raw, Calvi had to pay a heavy price for the services of Gelli and others. The total sum of payments from Ambrosiano to Gelli between 1976 and 1981 are estimated at 250 million dollars. To organize these funds, Gelli and Calvi robbed the Italian

[40] Italian Socialist Party (PSI), Italian Democratic Socialist Party (PSDI) and Italian Communist Party (PCI)

state with the help of corrupt politicians and leading civil servants. The primary victims were the state oil company ENI and the Banca Nazionale del Lavorno or BNL bank.

In terms of interfaces, several other relationships can be discerned here. Through P2, Banco Ambrosiano was also *funding* terrorist organizations. Terrorist acts subsequently stimulated a further growth of capital flight. Therefore, a relationship of *synergy* existed between the terrorist activities and the capital flight services of the Banco Ambrosiano and with the banking systems of Switzerland, Luxemburg, and other convenient destinations of Italian funds. At the same time, the influx of mafia funds into the Banco Ambrosiano indirectly helped to foster the goals of the P2. Between ordinary customers of the Banco Ambrosiano, who wanted to hide their financial resources from the Italian tax authorities and save them from the weak lira, a relationship of *reciprocity* existed. However, with the benefit of hindsight, the same relationship could be understood as either *parasitical* or *predatory*. Banco Ambrosiano was in practice looting not only the state oil company's funds, but also the funds from ordinary customers. As was mentioned with IOS, what differs about this parasitical interface is the fact that a legitimate organization again plays the role of criminal instead of the role of victim. As was the case with IOS, and with Nugan Hand and BCCI (as will be discussed later) the operations of Banco Ambrosiano also had some things in common with the Ponzi scheme mentioned before. Due to this similarity, one can also define the situation around Ambrosiano as predatory or parasitical. In the long run, the relationships between Ambrosiano and some of its customers and shareholders led to huge losses for the latter thanks to the fraudulent schemes of Ambrosiano. Finally, one could easily add other interfaces to the list, depending on the combination of actors involved.

Besides these individual interfaces, which are pointed out above, one can argue that a more abstract legal–illegal interface can be found in the Banco Ambrosiano itself. It functioned as an intermediary between organized crime figures, terrorists, banks, businesses and ordinary citizens. The bank was a cross-road of legal and illegal actors involved in both legal and illegal activities. Criminal funds were laundered through the bank and funds from legitimate sources illegally fled Italy's territory. Therefore, in the same way as the individuals discussed in the previous chapter, the bank functioned as an interface itself on a more abstract level.

Nugan Hand Bank

Some years before Banco Ambrosiano collapsed, another bank imploded after a similar bloody incident; this time in Australia. In January of 1980, two patrolling policemen found Frank Nugan, co-founder and president of the Nugan Hand Bank, sitting in his car along the road. On closer inspection, he was covered in

blood and killed by a rifle which was still in his hands, suggesting he had killed himself (Kwitny, 1987:19-20).

Despite the distance between the Banco Ambrosiano and Nugan Hand Bank, a number of parallels can be drawn between the two cases. First of all, they had similar structures partly founded in several bank secrecy jurisdictions. Secondly, both utilized high-level connections in political and intelligence circles; and finally, both organizations acted as interfaces in themselves.

Starting in the late 1960s, the Australian Frank Nugan and the American Michael Hand started to do business through what was to become a range of companies (some of them banks) in Australia, South-East Asia, and elsewhere. At the beginning of the 1970s, they founded the Nugan Hand Bank. The background of the different managers of Nugan Hand banks revealed close links with the CIA and the American army. The offices in Washington, Taiwan, Hawaii, Manila, and Saudi Arabia were run by high-profile former CIA or US Army members (Chambliss, 1988). Other offices were set up in Bangkok, Chiang Mai, Singapore, Hong Kong, and the Cayman Islands (Kwitny, 1987).

The bank offered a number of services to its clients. First, it moved or laundered the profits of a range of drug traffickers. Jonathan Kwitny provided a list of drug clients in his book on Nugan Hand. In one of the best-known cases, Nugan Hand allegedly financed one shipment of drugs as well (Kwitny, 1987:229-230). Besides drug clients, Nugan Hand helped ordinary customers move their savings out of the reach of the Australian tax authorities. At the same time it moved criminal illicit funds earned in Asia to Australia. In both directions, Nugan Hand was able to circumvent the tight exchange controls in place at the time. Finally, it helped expatriates working in Saudi Arabia to illegally move their income out of the country on a massive scale. The bank was able to collect all the funds in the first place because of the high-profile former CIA and US Army characters leading the Nugan Hand branches.

Besides banking services, Michael Hand was allegedly involved in arms sales to South Africa in 1975, or attempts to sell arms (Kwitny, 1987). During that period, the CIA tried to prop up the UNITA forces in Angola after the Portuguese lost control and the civil war escalated (Davis, 1978; Wright, 1997). At the same time, the white Rhodesian government was trying to suppress the two 'terrorist' movements trying to topple the minority rule in their country (Flower, 1987; Stockwell, 1978; Wright, 1997). Finally, as the Nugan Hand staff might suggest, the bank allegedly had strong links with the CIA and moved funds of the agency to several troubled regions. The CIA connection was especially sensitive in Australia where they had funded a campaign that slandered the left wing prime-minister who left office some time later (Chambliss, 1989; Kwitny, 1987).

The relationships between the Nugan Hand Bank and its customers can be divided into several interfaces. Most relationships can be caught under the heading of either *outsourcing* or *reciprocity*, like the relationship between the bank

and the customers trying to evade tax authorities, exchange controls, and the peering eye of the justice department. *Collaboration* between the CIA and Nugan Hand seemed to be present all the time although it was hard to prove this through official Australian investigations and the work of specialized research journalists in the field of organized crime, like Jonathan Kwitny. A situation of *synergy* existed between the illegal activities of Nugan Hand's customers and the offshore banking system. On the other hand, an *antagonistic* interface existed, by definition, between the activities of Nugan Hand (and similar organizations) and the legal economies of the countries from which it facilitated massive capital flight operations. Finally, in a way there was also a *parasitical* or *predatory* interface between the bank and the customers that lost their savings with the collapse of Nugan Hand. As was pointed out with respect to the IOS, these interfaces will often appear over time. As the whole Ponzi-like scheme collapses it turns out that the assumed symbiotic relationship between customer and bank has been or has turned into an antithetical interface – that is, something resembling a predatory interface.

Part of the reason for the huge losses of the bank was the fact that Nugan Hand did not do much banking in the way that most banks do. It did not seriously invest or loan the deposits of its customers and therefore made heavy losses on the payment of interest to customers.

Similar to the Banco Ambrosiano, the Nugan Hand Bank can be seen as an interface in itself. It enabled cross-border tax evasion, money laundering, and capital flight for a range of customers. Through the Nugan Hand Bank, illicit funds were laundered and licit funds were illegally moved across the border. In that way, aside from all mentioned interfaces between particular actors, Nugan Hand functioned as interface by itself.

Bank of Credit and Commerce International

The collection of cases in this chapter started with Bernie Cornfeld and his International Overseas Services (IOS). At the time when Charles Raw, Bruce Page, and Godfrey Hodgson published their book on Cornfeld and IOS, another financial institution was founded that would lead to a crash twenty years later (Raw, Page & Hodgson, 1971). In 1972, Agha Hasan Abedi founded the Bank of Credit and Commerce International (BCCI) with nominal headquarters in Luxembourg. Capital came from the Bank of America and several rich Arabs, and especially from the emirate of Abu Dhabi. Abedi dreamed of creating a genuinely international bank to serve business in the developing world that the big American, European and Japanese institutions neglected (Naylor, 2001). To attain these goals, a rather complicated corporate structure was developed, making use of the many advantages that bank secrecy laws and tax havens had to offer. After 1972, BCCI expanded rapidly, initially helped by the oil boom that was just starting. The bank spread around the world and at its peak operated in

73 countries and employed over 14,000 people of 83 nationalities, although top managers were chiefly of Pakistani origin (Passas, 1993a, 1995).

Besides the purely legal activities of BCCI, it engaged in many activities that were either illegal in themselves or facilitated the illegal operations of others. An impressive list of such activities is given by Naylor (2001:69–71). Among other things, BCCI

> "aided capital flight, engaged in bribery. Laundered drug money, assisted quota busting, abetted maritime fraud, facilitated techno-banditry and financed arms trafficking. It helped military dictators and commodity traders loot Nigeria's oil wealth. It bribed Peruvian central bank officials to get them to deposit the country's foreign exchange reserves in BCCI. It handled narco-payoffs in Panama. It ran tax evasion schemes for Asians in Britain and exchange control scams for people in India and Pakistan" (Naylor, 2001:71).

Many things about BCCI are still unknown but even the things that are known cannot be briefly summarized in terms of individual interfaces. However, the types of interfaces mentioned in the figure below will not need much explanation. *Synergy*, *co-optation*, *reciprocity,* and *predatory* or *parasitical* behavior can be found within many activities of BCCI. However, some important conclusions should be drawn from this case and the ones before. It is tempting to look at these cases as unique and dramatic incidents which were largely solved by the disappearance of these organizations. As the phrasing above suggests, the examples cannot be seen as mere incidents. As Passas argued about BCCI, they can to some extent be seen as a *Mirror of Global Evils* instead of the 'source of global evil' (Passas, 1993a). These global evils show a remarkable durability and return as central themes in accounts of all these scandals as well as attempts to come to grips with the interrelatedness of transnational crime, economic and physical warfare, corporate crime and state crime (Auchlin. & Gaberly, 1990; Block, 1991; Bovenkerk & Yesilgöz, 1998; Bülow, 2003; Henry, 2003; Kwitny, 1987; McCoy, 1972; Naylor, 1987, 1996, 2001; Passas, 1993b, 1995; Pretterebner, 1989; Roth, 2000; Trepp, 1996). If anyone would be tempted to ascribe the interrelatedness to the inconsistencies caused by the Cold War or the pre-neoliberal era, it suffices to point at the startling number of incidents and scandals that continue into the present. Recently, an informative account of this was written by former banker James Henry in *The Blood Bankers: Tales from the Global Underground Economy* (2003).[41] Furthermore, Kochan (2005) as well as

[41] Since then a new scandal broke in Lebanon where the Al-Madina Bank collapsed. This bank was allegedly involved in the laundering of billions of dollars for the Russian mafia, Saudi associations as well as the former Saddam Hussein's regime and Syria intelligence agency (Gambell & Abdelnour, 2004). Despite numerous newspaper reports on Al-Madina, there is not yet enough credible information available to discuss this bank here as a case study. See also: 'Lebanese bank chief sues Syria official' *News Arab World*, Aljazeera

Block and Weaver (2004) have studied some recent scandals at large established US banks during the 1990s.[42] Besides the criminal nature of the activities of these banks, they were also related to typical transnational 'organized criminals' from Russia, Mexico, and elsewhere.

One of the mentioned evils is the network of secrecy jurisdictions and tax havens around the world. This will be discussed in more detail in the next chapter. Here it suffices to point out the importance for the subject at hand. In almost every case study discussed, these havens and secrecy laws were crucial in facilitating the transnational criminal activities. Another evil is political unrest or outright (civil) war causing all kinds of evils by itself. Unrest leads to capital flight and war stimulates both the arms trade as well as illegal markets with which to finance it. The installment of sanctions often makes this situation even worse and more profitable for the actors involved. An account of this is provided by Naylor in his *Economic Warfare: sanctions, embargo busting and their human cost* (2001). The fact that the decisions of public officials in both developing and developed countries are more than incidentally for sale to the highest bidder plays a major role in both banking scandals and arms deals. Finally, the tremendous pool of hot money from drug trafficking, capital flight and other sources that seeks both discretion and profitability is another evil.

The Dutch 'Coffee shop'

Most of the organizations discussed here have developed relationships with drug traffickers in some way or another. This might be by providing money laundering services, as in the case of Nugan Hand Bank and Banco Ambrosiano, or through direct involvement in drug trafficking operations. However, a specific Dutch phenomenon can be added here; the so-called 'coffee shop'. This is not just one specific organization, like the ones discussed above, but a type of organization that has thousands of examples in the Netherlands. To understand the relevance of the coffee shop here, the Dutch context needs to be clarified. For years, the Netherlands have maintained a rather unique legal regime for so-called 'soft-drugs'. Soft-drugs are drugs like cannabis and hashish, as opposed to hard-drugs like cocaine and heroin. Soft-drugs are not only different from hard-drugs because of their less serious impact on users, they are also different legally. MacCoun and Reuter clarify the situation in their comparative study of drug policies and practice (MacCoun & Reuter, 2001:238-264). Dutch law, in compliance with international treaty obligations, states unequivocally that cannabis is illegal. However, since 1976 the Dutch have maintained a formal written policy of non-enforcement for violations of possession or sale of up to 30 grams of cannabis. In 1995, this threshold was lowered to 5 grams in response to

Net, May 19th 2005, http://english.aljazeera.net/NR/exeres/6F3DA399-F395-4F23-B1DE-6F526BFCE05F.htm (Visited November 3rd 2005)

42 These scandals were also investigated by the US Senate in 1999 and 2001.

domestic and international pressures. Retailers are allowed to maintain a trade stock of 500 grams. However, enforcement against wholesalers and traffickers who surpass the limit is still in place.[43]

Retailing soft-drugs is for a major part done through the so-called *coffee shops*. However, as a result of the policy described above, the wholesalers who are supplying the coffee shops are left what they are everywhere: criminals who, if caught, will be prosecuted. At the borders, shipments of drugs are regularly intercepted by customs, while local production of drugs (in excess of allowed amounts for personal use) is actively countered. Therefore, in practice these coffee shops function as the interface between the legal and illegal flow of this type of drugs.

The retailers (coffee shops) can be connected with the traffickers in several ways. Depending on the nature of the relationship between the two, the interface can take the form of collaboration, reciprocity or outsourcing. When the coffee shop can be seen primarily as one of the customers of the wholesalers, one could either call this *outsourcing* or *reciprocity*. When the wholesaler and coffee shop are strongly connected, *collaboration* seems to be a more appropriate label. In its most extreme form, wholesaler and retailer are in fact parts of the same organization. In that case, the coffee shop is just the legal part of a criminal organization that covers the whole trajectory from import to retail sale. At least one example of such a combination can be named. In the 1980s, Steve Brown, a Dutch (American born) former student of law headed the so-called *Happy Family* in Amsterdam. The *Happy Family* consisted of a foundation subsidized with public funds and running a chain of relief centers for teenage drop-outs. The relief centers in practice functioned as coffee shops where the use and sale of cannabis was presented as part of the treatment of the problematic youngsters (Van Hout, 1995).[44] For years, a large organization could grow that combined both the wholesale and the retail level in the cannabis trade. With that, it combined both its legal and illegal side. At the beginning of the 1990s, Brown's empire crumbled and disappeared due to his destructive passion for cocaine, gambling, and women. In 1993, he acted as crown witness in the trial against Martin Hoogland, the convicted murderer of Klaas Bruinsma, usually seen as the most important drug dealer ever in the Netherlands.

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43 For an extensive explanation of the Dutch policy see: 'Drugs policy around the world – The Netherlands' *Drug Policy Alliance* http://www.drugpolicy.org/global/drugpolicyby/westerneurop/thenetherlan (Visited November 3rd 2005).

44 In addition to Van Hout's book, Brown wrote a book about his life himself.: Steve Brown (2001) Steve Brown, Drugsbaron in spijkerbroek (Elmar, Rijswijk). The Parliamentary Inquiry Committee on Organized Crime in the Netherlands also contains some brief remarks on the *Happy Family* (Fijnaut & Bovenkerk, 1996). In December 1999 an attempt to kill Brown failed. According to the Dutch authorities, another murder attempt was planned in the Summer of 2005 but did not happen. Since then he lives abroad. See: Middelburg, B. & P. Vugts (2005) Hasjbaas doelwit Angels' *Het Parool*, October 29th

The relationship between the coffee shop and its individual customers can be labeled as *reciprocity*. A situation of *synergy* exists between the transnational trafficking of cannabis and several legal actors. By legalizing the retail part of the cannabis trade, the Dutch government has created a source of revenue out of this transnational illegal trade. The coffee shops are accountable for taxes, as are all legal enterprises. Finally, one could even argue that the tourist sector is benefiting from foreigners from neighboring countries that are attracted by the free availability of cannabis. This is especially so in cities located in border regions with Germany and Belgium, like for example Maastricht, Arnhem, and Enschede.

Besides the relationships with a range of potential actors, the coffee shops themselves function as interface between the illicit drug trade and the legal retail of so-called soft-drugs. At the end of this chapter, the coffee shop will be further discussed and used as an example for a particular type of organization that functions as interface.

Noraid

The coffee shop as interface partly finds its inverse form in a totally different organization. Through the coffee shop, a limited number of transnational drug traffickers provide drugs for large numbers of individual customers who can legally buy their drugs. In the case described hereafter, numerous individuals support a legal organization that supports several terrorist organizations.

In 1970, Irish Northern Aid (NORAID) was established in the United States. It was initially set up to support IRA prisoners. From its foundation until the Good Friday Accords in 1998, Noraid has supported both the IRA and the Provisional IRA with funds (Hachey et al., 1996; Tupman, 1998a, 1998b).[45] It is often alleged that Noraid also directly supported the (P)IRA with arms, but proof of this allegation, and discussion of this topic, is hard to find in criminological studies. In public, Noraid claims to support only humanitarian causes and it collects funds from ordinary US citizens. However, according to Hachey:

> "Throughout the 1970s and early 1980s, courts in the United States and Canada tried a number of Noraid officials for arms offences. Some received suspended sentences others were jailed (…) Noraid was also condemned by the U.S. Bureau of Alcohol, Tobacco and Firearms, which, together with other federal agencies, helped to secure the indictments of people who were transporting guns into Northern Ireland" (Hachey et al., 1996:252).

[45] It is not fully clear what the role of Noraid has been since 1998 and the discussion here is therefore restricted to the period before 1998.

Considering the history of arms offences, the above mentioned citizens actually supported the terrorist organizations through Noraid, a legal organization.[46] Since 1986, Noraid has allegedly moved in the direction of a more moderate approach. According to Stack and Hebron "Traditionalists within the Noraid, and Sinn Fein movement in Ireland, did not approve of these developments which led to a split that prompted Michael Flannery, the founder of the Noraid, to resign from that organization" (Stack & Hebron, 1999:64). In 1989, a new organization was founded, the Friends of Irish Freedom, "composed of Noraid dissidents who supported a military approach to Northern Ireland. The Friends stuck to fund-raising and, it appears, some gun running to Northern Ireland" (Stack & Hebron, 1999:64-65). Despite the rift within Noraid, the allegations against this organization keep appearing, whether they are founded or not. According to Anne Applebaum "As recently as 1999, long after the IRA had declared its cease-fire, members of an IRA group connected to an American organization, the Irish Northern Aid Committee (Noraid), were arrested for gun-running in Florida".[47]

Noraid and similar organizations can thus be understood an interface between individual citizens in the US, or elsewhere, and the terrorist (P)IRA in Northern Ireland. The relationships between the citizens and NORAID and the (P)IRA can be labeled as *funding*. The relationship between Noraid and the (P)IRA can also be described as *outsourcing* to some extent.

Both the (P)IRA and Noraid are part of a broader Republican Movement, together with for example Sinn Fein, the women's movement, social clubs, Gaelic Sports associations, the Catholic ex-Servicemen's Association, prisoner's support organizations and various businesses (Tupman, 1998b). Furthermore, within Ireland and probably abroad, organized crime and parts of the Republican Movement are often intertwined. The purpose of discussing Noraid lies in its role as interface between the general public of supporters and the terrorist elements in the Republican Movement, notably the IRA and PIRA.

The Noraid case of not only particularly interesting from a perspective of interfaces, but also in relation with public policies to fight terrorism. Since 2001, the US government has put pressure on other governments to devise strict policies against terrorism, and the funding thereof. However, some authors have pointed at the lack of US interest in organizations like Noraid, especially before 9/11. According to Lutz "Unlike some other groups supporting dissidents or terrorists in other regions or countries, the US has failed to crack down on organizations with links to the IRA" although this is possible under US law (Lutz, 2004:179). Applebaum pointed at numerous ways in which the IRA and its cause received all kinds of (moral or material) support from Irish groups,

46 The official activities of NORAID are described on its website, http://www.inac.org/ina/contact.html (Visited August 7th 2005).

47 Applebaum, A. (2005) 'The Discreet Charm of the Terrorist Cause' *The Washington Post*, August 3rd.

individuals and even Members of Congress in the US.[48] In his discussion of the US clampdown on terrorist financing, Kochan cites the head of the UK Office of fraud and money laundering who made a likewise argument:

> "It (the US prior to 9/11) did little or nothing about the Northern Irish Aid Committee (NORAID), long suspected by the UK security services and police of providing funding for weapons and bombs to the PIRA – a claim that NORAID has denied. When the UK unsuccessfully tried to extradite PIRA prison escapees and suspected bombers from the USA they were deemed to be 'freedom fighters' and not terrorists…" (cited in Kochan, 2005:242).

The CIA and other intelligence agencies

While discussing the coffee shop phenomenon, the *Happy Family* was briefly mentioned. They were able to develop an organization that controlled both a wholesale and a retail trade in drugs in the Netherlands. Part of the development costs were unintendedly provided by the local government in the form of subventions for youth centers. This meant that public funds were actually used to finance transnational crime for the benefit of a small group of crooks.

The opposite version is told by the often-quoted study of Alfred McCoy, *The Politics of Heroin in Southeast Asia* (1971). In this study, he outlined the role of the CIA in the opium trade in South-East Asia. According to McCoy, the CIA developed close links with the opium growers and their marketers. The CIA provided the opium-growing feudal lords in the mountains of Vietnam, Laos, Cambodia, and Thailand with transportation for their opium via Air America, the CIA airline in Vietnam (Chambliss, 1989). Air America regularly transported bundles of opium from airstrips in Laos, Cambodia, and Burma to Saigon and Hong Kong (Chambliss, 1977:56). The proceeds of these criminal activities were used to fund several covert operations.

In the 1980s, the proceeds of illicit arms sales to Iran were used to finance support for the Contras in Nicaragua which ultimately led to the Iran-Contra scandal (Block, 2000; Williams, 1994). The involvement of the US in Nicaragua was so serious that this country later successfully sued the US for launching attacks and causing substantial damage. Tens of thousands of people died as a direct or indirect result of the US support for the Contras. In November 1986, the International Court in the Hague found the US liable for several clear violations of international law – notably for launching an unprovoked war not justified by any 'right of self-defense'. The Court suggested that the resulting property damage was on the order of $17 billion. But the Reagan administration

[48] Ibid.

declined to appear in court and refused to recognize the judgment (Henry, 2003:196).[49]

At the same time, the Contras and the CIA caused another scandal. It turned out that not only were Contra members heavily involved in the drug trafficking, but the CIA played a crucial facilitating role here. From the very start of the US involvement in the war in Nicaragua, the CIA knew that the Contras were planning to traffic in cocaine in the US (Henry, 2003).[50] It did nothing to stop the trafficking and, when other government agencies began to probe, the CIA impeded their investigations. When Contra money-raisers were arrested, the agency came to their aid and retrieved their drug money from the police (Cockburn & St. Clair, 1998).

In the first two cases, criminal activities were used to raise funds for state-policies which could not be endorsed overtly and legally. In many cases, the same outlawed goals will be directly funded with public money. This happened in numerous operations all over the world. It would require a study in itself to describe all the cases, but one was already mentioned above. In Angola, the CIA worked side by side with the South African secret service and army to back up UNITA with arms and funds (De Kock, 1998; Wright, 1997). The support was outlawed soon after the civil war started in 1975 but lasted almost continuously until after the South Africans left and the Cold War ended (Matloff, 1997; Tvedten, 1992; Wright, 1997). The support for UNITA consisted of activities which would be called transnational crime or terrorism if they were committed by private persons. It consisted of illicit arms deals, money laundering and, depending on the political point of view of the observer, funding of terrorism or freedom fighters. Even after the end of the Cold War, the US kept funding UNITA. In the fiscal year 1992, $30 million in covert funding was funneled to UNITA through the CIA (Wright, 1997). From the perspective of the US administration this funding was completely logical as it in fact countered what they perceived as a terrorist threat. In a speech on South Africa by President Reagan, he recalled that:

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[49] With respect to the US intervention in Nicaragua and other places, Noam Chomsky argued that the US policies can be described as terrorism by a definition used by the US Department of Defense: "calculated use of unlawful violence to inculcate fear; intended to coerce or intimidate governments or societies in pursuit of goals that are generally political, religious, or ideological." According to Jenkins, in his study of images of terrorism, the reference to 'international terrorism' by the US is merely a kind of leftwing urban legend (Jenkins, 2003:21). Nevertheless, whether the covert and overt interventions of the US in places like Nicaragua, Angola, or Iraq, should be defined as pre-emptive strikes against terrorist or other evil actors, or as terrorist acts themselves, they have resulted in far more casualties that the terrorism directed against the US in the last two decades (see e.g. Henry, 2003; Naylor, 2001; Wright, 1997).

[50] As the CIA's inspector general later admitted in 1998, the agency made sure to get a statement from the US Department of Justice in 1982, waiving the CIA's duty to report drug trafficking by any Contra contractors (Henry, 2003:196).

> "…there is the calculated terror by elements of the African National Congress: the mining of roads, the bombings of public places, designed to bring about further repression, the imposition of martial law, eventually creating the conditions for racial war (…) the South African government is under no obligation to negotiate the future of the country with any organization that proclaims a goal of creating a Communist State, and uses terrorist tactics to achieve it" (quoted in Crocker, 1992:323).

In the case of Nicaragua, the CIA made itself complicit in the drug trafficking activities of the Contras. Although it did not directly launder the drug trade or its revenues, it did actively oppose law enforcement efforts against this trade. For this reason, this example of CIA involvement in transnational crime cannot be used as an example of the CIA as an 'interface organization'. Nevertheless, it is relevant to note the co-optation interface that existed during a considerable period between the drug traffickers and the CIA.

Besides these large-scale cases, one will often read about individual cases against drug traffickers or money launderers in South America or the Caribbean which are blocked by the CIA. Often, one of the persons involved turns out to be a CIA agent or the agency fears that a trial will harm its interests in another way. Judging from most of the American and Dutch literature on transnational crime, it seems that the CIA is, or was until recently, the only example of an intelligence agency that often finds itself involved in transnational criminal activities. However, other examples from agencies in Europe and elsewhere can be added to the list. In fact, the only exceptional characteristic of the CIA seems to be that it ends up in the main stream literature at all. Auchlin and Gaberly analyze some cases of large-scale cigarette smuggling in Europe during the 1970s and 1980s. Some of the main characters were allegedly agents of the *Bundesnachrichtendienst*, the German intelligence agency (Auchlin & Gaberly, 1990).[51] Bovenkerk looked at the role of Tito's secret service in Yugoslavia. He described how this agency facilitated the development of a Serbo-Croatian speaking underworld in Western Europe in the 1970s and 1980s (Bovenkerk, 2003). Numerous examples can be drawn from the history of East Bloc secret services engaged in both smuggling activities and so-called techno-banditry or the illicit gathering of Western technology (Bülow, 2003; Naylor, 2001; Pretterebner, 1989). Besides these specific examples, many can be found in the

[51] Besides the involvement of the intelligence agency, this case is interesting because it sheds light on the long history of large-scale cigarette smuggling in Europe. Most accounts of this type of crime solely focus on the recent history of cigarette smuggling by some large cigarette producers and their criminal allies in the US, Canada, and elsewhere. Rather remarkable is the discussion about many traffickers moving to Switzerland, avoiding the heat in the US. The study by Auchlin and Gaberly shows that Switzerland has been a centre of this trade for at least thirty-five years.

range of publications by Tom Naylor and others (Morstein, 1989; Naylor, 1987, 1993, 2001; Roth, 2000).

In the next section, an analytical model will be developed in which organizations act as interface between legal and illegal actors. It is inspired on the examples discussed in this chapter.

3.2.2 Legitimate organizations as interfaces

The previous sections focused on legitimate organizations as interfaces. These organizations can, under specific circumstances, have a comparable role as individuals. Some examples were discussed in the previous sections. These examples can be drawn from a wide range of legal and illegal economic branches. The legitimate organization as interface role is not connected with specific crimes or branches but with the way the organization is able to take an intermediary position with respect to one or more transnational crimes. The organization is able to have normal relationships with both legal and illegal actors and engage in both legal and illegal activities. What is meant by 'normal' is that these relationships are in a way on the same level. Therefore, when such a legitimate organization is collaborating with drug traffickers it does not mean that the drug traffickers are corrupting the legitimate organization. That is, the relationship should not be seen as primarily one-way. The drug traffickers and the organization do business as they would do if there were no difference in 'legality' between the two.[52] Often, illegal goods will be laundered, or instead become illegal, though the organization.

In both the legal and illegal domain, the organization is dealing with third parties on the same level. The relationships with these third parties can be described with the interface types from the general typology. Most of the discussed organizations had a diverse range of interfaces in both the legal and illegal domains. On a more abstract level, they are an interface themselves.

The legitimate organization as interface has two variations. First of all, the legitimate organization that can be seen as an extension of a criminal organization or network of organizations or individuals. It is called the 'coffee shop model', inspired by one of the case studies discussed above. The legal organization can be seen here as the beginning or end of a transnational criminal network. The second model concerns the legitimate organization that is fully independent but has multiple links with both legal and illegal actors. It is called the 'Ambrosiano model', inspired by the other example discussed in the previous sections. Both models will be analyzed in the next sections. It has to be stressed that they are

[52] This does not mean that the illegal character of some transactions or products is not relevant in causing the relationship. Consider the difference between a bank that is offered a certain amount of money from a legitimate source and one from an illegitimate source. Often, the bank will be able to earn an interesting provision for moving and/or laundering the funds with an illegitimate source whereas the legitimate funds will be far less lucrative.

meant as analytical models and not exact illustrations of everyday life. Furthermore, they are only inspired by the case studies, not exact copies.

3.2.3 The coffee shop model

The first model consists of legal organizations that can be seen as the end or beginning of a transnational criminal network through which something gets laundered or becomes illegal. Three of the examples discussed in the first section can be understood with this model. A coffee shop can be seen as the end of the trajectory through which cannabis moves from a producer in a source country to the end user in the Netherlands.[53] The products are bought from one or a couple of wholesalers and sold to a coffee shop that sells it again to numerous individual consumers. The figure below can be used as a model for the situation described. It shows the basic mechanism, although other variations are possible. The legal organization may be funded from one source (for example a national government) and aim its illicit activities at numerous actors.

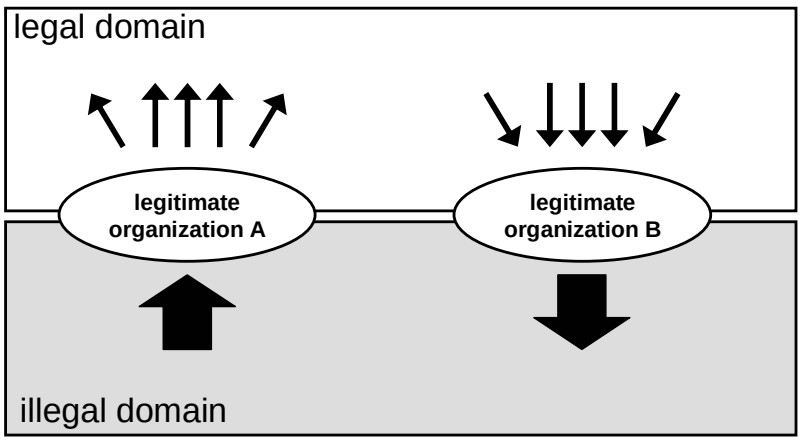

figure 5: legitimate organizations as interfaces: the coffee shop model

The opposite situation was illustrated by the Noraid example. In this case, numerous legitimate sources are aimed at one organization that funnels the money (or part of it) to the terrorist organizations abroad. The increased focus on terrorism since 9/11 has stressed the importance of charities like Noraid that fund, or allegedly fund, all kinds of terrorist organizations.

[53] This does not hold for cannabis grown in the Netherlands itself, although the process of laundering is the same. For the Dutch production and trade, see e.g. Bovenkerk (2001).

3.2.4 The Ambrosiano model

This model involves organizations that do not depend on a specific type of transnational crime or a specific branch. The legal organization was set up at some stage to engage in regular (legal) activities and can extract enough revenues from these activities to stay in business or attract enough legitimate goals to be maintained as part of the administrative machinery.

The organization has multiple relationships with all kinds of actors, many of whom may not be involved in transnational crimes. In the figure below, all the different relationships are shown.

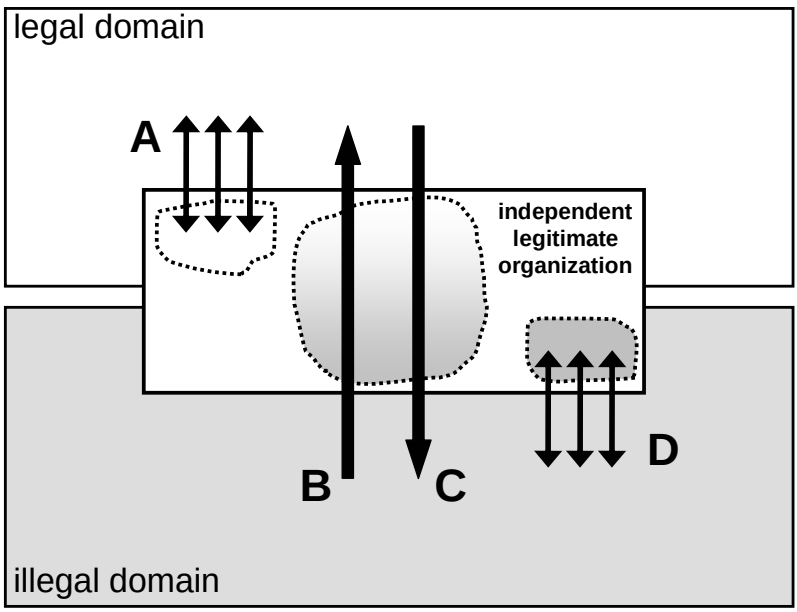

figure 6: legitimate organization as interface: the Ambrosiano model

The arrows next to the A connect legitimate customers with the organization. Together they are engaged in legitimate transactions without any connection to illegal activities. The opposite situation is illustrated by the arrows besides D. Illegal actors are engaged in transactions with the organization without any connection to legal activities or laundering. A legal–illegal interface can be distinguished, but the organization itself does not function as an interface between legal and illegal.

Situations B and C are the ones that are relevant from the perspective of organizations as interfaces. Actors in the legal and illegal domain are connected with each other through the legitimate organization that launders the goods or services involved, or on the contrary 'makes them illegal'. Diamonds may be laundered through one of the twenty-one official auctions worldwide (or

'cleaned up' by wholesalers ahead of this auction). The difference with the type of individual dealers that may fall in the other category discussed before is the fact that these auctions do not depend on the trade in conflict diamonds. On the contrary, most of the diamonds will be from legitimate sources and the auction can lack any active knowledge of the inflow of conflict diamonds. Many other examples of laundering can be found with any of the banks that were discussed above. Furthermore, as opposed to laundering activities, funds actually become illegal in many instances. Governments that pay for illegal covert operations through these banks or terrorists who receive funds from legitimate sources use criminalized funds. As a result of the actual laundering or blackening that occurs through the legitimate organization, these organizations can be seen as the embodiment of the legal–illegal interface.

3.2.5 Conclusion section 3.2: legal organizations as interface

In the previous sections, a number of case studies were used to analyze the role of legitimate organizations as interfaces. While discussing these case studies, an important conclusion about the use of the interface typology emerged. The relationship between two actors can be, or be defined, completely different, depending on the point in time or the level of abstraction. Through time, relationships which are initially interpreted as, for example, outsourcing can be interpreted as predatory or parasitical in a later stage. This means that symbiotic interfaces may later (or at the same time depending on one's perspective) be defined as antithetical. Sometimes this means that the true nature of an interface can only be established at a later point in time and often this means that symbiotic interfaces over time turn into antithetical.

Furthermore, besides the interface between the two actors, a separate interface can be distinguished with numerous third parties or entities. Usually this will involve either synergy or antagonistic interfaces.

The role of legitimate organizations as interface has several variations. The two main types were called the *coffee shop model* and the *Ambrosiano model*. The coffee shop model aims to understand organizations that are part of a network or organization through which transnational criminal activities take place. The legitimate organization is either the beginning or the end of this network or organization. Without the illicit activities, the organization would not or could not exist. This is a clearly different from the Ambrosiano model. This model aims at organizations that were established for regular business or government purposes. Somewhere in their existence, these organizations developed into organizations involved in many illegal activities. However, they maintain both their legal status as well as multiple relationships with legal actors engaged in legal activities.

Finally, the overall picture should not be forgotten. Both the legal organizations as well as the individuals discussed in this chapter often rely on the

opportunities offered by the global network of tax havens and the blessings of bank secrecy laws. In the next chapter, these phenomena will be discussed in detail. It will be argued that the legal–illegal interface will often be comprised of an intricate web in which individuals, organizations, and jurisdictions or territories are working together.

CHAPTER 4

JURISDICTIONS AND OTHER GEOGRAPHICALLY DEFINED ENTITIES AS INTERFACE

4.1 Introduction

In this chapter, the focus will be on jurisdictions and other geographically-defined entities. In many instances, they play the same role of interface through which the legal status of transnational activities is transformed.

In the following sections, the role of jurisdictions as interface will be discussed. Besides the jurisdiction as interface, two variations will be discussed in this chapter because they (like jurisdictions) can be characterized by a specific geographical scope. On the one hand certain state policies and on the other hand networks of corruption that function as *de facto* interfaces. These variations are to some extent combinations of the individuals, organizations, and jurisdictions as interface.

The variations mentioned above will be discussed in a number of case studies that partly fit in the analytical model of a jurisdiction as interface. The choice of cases is based on the availability of sufficient and reliable sources to back up the crucial elements which are relevant for the topic at hand.[54] While discussing individual cases, the basic interfaces from the typology will no longer be identified. Chapter 3 explained how the interfaces from the typology can be distinguished in individual case studies while at the same time individual or legal organizations can act as interface by itself.

4.2 Jurisdictions and other geographical entities as interfaces I

In the previous chapter, a number of individuals and organizations were discussed that function as interfaces. This meant that through those organizations, activities were transformed as far as their legal status was concerned. This process does not involve some magic trick. It merely involves the use of a number of opportunities which are available for transnational criminals involved in some illicit activity. One of those opportunities is the difference in legislation between states. This may involve jurisdictions where legislation is lacking on topics like money laundering, capital flight, arms trafficking or smuggling of art and

[54] This does not mean that there are absolute guarantees for the accurateness of the mentioned cases. The reader is provided with references to all the sources on which the account here is based and has to judge for him/herself. Especially in this sub-field of criminology one cannot restrict oneself to sources which can always be verified personally if one would wish to do so. At least, this is the opinion of the author as was discussed in the introductory chapter.

antiquities. It can also involve jurisdictions with legislation that actively creates opportunities which might be used by criminals (besides being used for perfectly legitimate purposes). The best known jurisdictions are the so-called tax havens and secrecy jurisdictions which can be found all over the world.[55] However, despite their importance, they are just part of a much larger number of states which can be seen as havens in particular areas of the licit and illicit economy. Many countries which are usually seen as highly regulated and serious in enforcing laws against transnational crime have failed to regulate particular areas and thereby enable criminals to use their territory as an interface.

When jurisdictions function as interfaces, this means that the role as interface is in fact institutionalized for particular types of offences. Therefore, it does not depend on concrete cases where corrupt individuals or organizations enable relationships between legal and illegal. For the simple reason that specific legislation is lacking (or on the contrary, exists), some usually illicit activities can turn from illegal into legal. Besides these institutionalized interfaces, one can discern *de facto* interfaces. These interfaces are the result of networks of corruption between all kinds of actors like politicians, criminals, intelligence agents, and businessmen. Through these networks, transnational crimes are *de facto* legalized in at least the home jurisdiction or another geographically defined area. Between the jurisdiction as interface and the corrupt networks as interface, one can discern another type. This involves jurisdictions that function as *de facto* interfaces because the laws prohibiting certain transnational activities are systematically nullified, without an actual corrupt system which can be held responsible. There usually is no conspiracy to hush up or authorize illicit activities, but the consequences are actually the same.

The analyses of jurisdictions as interface has some characteristics in common with the concept of "criminogenic asymmetries" that was developed by Nikos Passas. This concept refers to "structural discrepancies, mismatches and inequalities in the realms of the economy, law, politics, and culture" (Passas, 1999b:3). According to Passas, these asymmetries can cause crime in three ways: by fuelling the demand for illegal goods and services; by generating incentives for people and organizations to engage in illegal practices, and by reducing the ability of authorities to control crime (1999b:3). The role of jurisdictions as interface can be understood as a result of asymmetries in the realm of the law and politics.

[55] The best known tax havens and secrecy jurisdictions include: Aruba and the Netherlands Antilles, the Bahamas, the Bermuda Islands, the Cayman Islands, the Channel Islands, Cyprus, Guernsey, Hong Kong, Liechtenstein, Luxembourg, the Isle of Man, Mauritius, Panama, Switzerland, and the British Virgin Islands. Long lists of countries are provided by the G7 Financial Action Task Force, the Financial Stability Forum, and the OECD, see Sofus (2003). It should be noted with these lists that, as far as for example money laundering is concerned, 'regular' developed countries in Europe, North America, or South-East Asia, are at least as important as the small jurisdictions that are often associated with money laundering and other financial crimes. See for example US Senate (1999, 2001).

However, the discussion of criminogenic asymmetries focuses primarily on the asymmetries as causes of transnational crimes whereas this chapter focuses on these asymmetries themselves and the way in which these asymmetries enable the change in legal status of certain activities. This is both an important theoretical as well as a practical difference. Many asymmetries can be pointed out that are a major cause of transnational crimes, without actually involving any interfaces as meant in this chapter. Examples can be found in the field of drug trafficking, the smuggling of small arms, and smuggling of humans.

Together with criminogenic asymmetries, Passas discusses the so-called "crime without law-breaking", referring to the article by Kramer and Michalowski (1987) mentioned in chapter 2. "Transactions criminalized in various parts of the world can be concluded in countries that allow or welcome them. Transactions can be structured so that no country's laws are broken although the final outcome is clearly unethical or 'criminal'." (Passas, 1999b:9). These transactions share some elements with the transactions discussed in this chapter, as well as with those in chapter 4. However, in our analyses transactions do break the laws of at least one of the countries involved. Nevertheless, they are laundered through individuals, organizations, and jurisdictions as interface. Therefore, they will in the end be 'legal' and no longer break any laws.

In the following paragraphs, the three variations of jurisdictions and other geographical entities will be discussed in a number of empirical examples. First of all, tax havens and related jurisdictions will be discussed, which play an important role in both purely financial crimes as well as other crimes. Secondly, the arms trade will be looked at, to illustrate the *de facto* interface without some conspiracy-like situation. Finally, an Austrian and an Italian case are used to illustrate both variations mentioned above, as well as the role of individuals and organizations as interfaces.

4.3 Tax havens, bank secrecy jurisdictions and offshore financial centers

The first category of jurisdictions consists of jurisdictions that share the most important elements of tax havens, bank secrecy jurisdictions, and offshore financial centers. In practice, these terms are often used interchangeably, but they are by no means synonymous for the same phenomenon. Before the use of these jurisdictions as interfaces is discussed, they will be briefly described without discussing them in depth. In practice, each jurisdiction will have another mix of elements of the different types, like for example an instant-corporation business, guaranteed anonymity of shareholders, etc.[56]

There are numerous definitions of tax havens and these definitions define different sets of jurisdictions as tax havens. At least three factors are usually associated with tax havens. The first factor is low, or no taxes on at least one

[56] For an extensive outline of the different havens see Doggart (2002); Blum et al. (1998).

important category of income.[57] A second factor is political stability.[58] The third factor is expertise. There must be a framework of proven business expertise. Besides these factors there are additional factors, depending on the needs of a particular tax fugitive. Double-taxation agreements (or their absence), availability of labor, and cost of living are a just few examples. For criminal purposes, there are some related factors that are of great importance. Three of them will be briefly discussed here: bank secrecy, offshore banking, and the availability of flexible and anonymous legal entities.

To some extent, bank secrecy is available in almost all developed countries (Blum et al., 1998). That means that laws exist that guarantee the basic confidentiality of bank data to others. The US, for example, has the Bank Secrecy Act, although this has little in common with the type of bank secrecy that is discussed here. Bank secrecy jurisdictions involve more than common secrecy provisions. In these jurisdictions, bank secrecy laws are more extensive and often use criminal law provisions to enforce them. Furthermore, secrecy is also guaranteed towards government agencies, both foreign and domestic. This means for example, that these jurisdictions will not help foreign governments who are after their citizens, who have moved their capital to that particular jurisdiction and who evade taxes this way.

Banks or other financial institutions operating offshore are institutions that, while legally domiciled in one jurisdiction, conduct business solely with non-residents. These institutions are exempt from a wide range of regulations normally imposed on 'onshore' institutions: their transactions are often tax-exempt, they are not encumbered by reserve requirements, they are free of interest-rate restrictions and often, though not always, exempt from regulatory scrutiny with respect to liquidity or capital adequacy (Blum et al., 1998:37).

Finally, the so-called instant corporation business is an important ingredient for many jurisdictions. As the term indicates, these companies can be established instantly. Furthermore, the costs are usually rather limited, in comparison with most developed countries.[59] In addition, the shareholders of these companies can often remain anonymous. For criminal purposes, the instant corporations offer an

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57 This clearly differs from the notion that the tax burden in general is low or negligible in tax havens. This is clearly a simplification, often made by politicians for their own purposes. The average tax burden of the 24 tax havens examined by *The Economist* was 26% of GDP in 1999 (Doggart, 2002:10-11). American OECD member countries (Canada, Mexico, US) had an average of 27,5% whereas Pacific OECD (Australia, Japan, New Zealand, South Korea) had an average of 28,8%. The real outlier here is the EU, with an average of 41,3% in 1999.

58 The importance of political stability can be illustrated with many examples. Lebanon suffered from the internal and external conflicts with neighbors and likewise confidence in Panama as financial centre suffered from its political problems.

59 Many examples of this business can be found on the internet. Companies in a dozen jurisdictions offer everything that can be imagined as far as corporations are concerned. As extra service, some countries offer residence permits for investors for relatively low (for Western standards) amounts of money invested.

additional opportunity. One can purchase an instant-bank in one of several jurisdictions offering such facilities. With this, one partly conceals a money trail by making sure the money flows through this bank and subsequently winds up in the bank, with no record of these transactions left behind (Blum et al., 1998:19).

As was said above, the mentioned factors or ingredients are mixed differently in every jurisdiction. Some might have it all, and some only one of them. For criminal purposes, several ingredients can be combined, depending on the activity one is involved in. Many of the illicit activities by the organizations and individuals discussed in the previous chapter were indeed enabled by these ingredients.

Before the BCCI and Nugan Hand made the best of the opportunities of the available tax havens, Bernie Cornfeld already showed the potential of these jurisdictions to engage in activities which would be otherwise illegal or impossible (Blum, 1999; Herzog, 1987; Raw, 1971). Despite the unique scale at which Cornfeld operated, his use of tax havens was also nothing new at the time, that is, during the 1960s. In response to asset freezes and heavy taxes during World War I, the machinery evolved to move money covertly and hide wealth. In the 1920s and 1930s this development continued rapidly. During the post-war decades, Liechtenstein introduced its instant corporation business, and it drafted legislation that imposed heavy penalties for revealing information about companies. Switzerland passed its bank secrecy laws. its bankers began using professional couriers to ferry clients' cash and valuables past neighboring countries' customs officials and developed techniques such as anonymous mail drops (Naylor, 2001:18). One of the well-known criminals that used the opportunities offered by jurisdictions like Switzerland was Meyer Lansky. He

> "exploited Swiss liberality with an innovative scheme he called 'loan-back'. Couriers carried cash from the US to Switzerland to escape the US tax net. (…) The money returned to Lansky's accounts in the United States, without the US authorities realising that it was taxable" (Kochan, 2005:xix).

Whereas the examples discussed in the previous chapter thus have precedents from earlier eras, the present shows that new scandals emerged afterwards. The BCCI and Banco Ambrosiano scandals both led to stricter rules in the global financial system, outlined by the supervisors of central banks convening in Basle, Switzerland (Doggart, 2002:77). However, new scandals emerged after the increased regulation was enacted. BCCI followed Ambrosiano and the European Union Bank of Antigua followed BCCI when it collapsed in July 1997. The European Union Bank was a perfect example of the way in which the offshore banking jurisdictions and bank secrecy havens facilitate criminal activity (Blum et al., 1998).

For the time being, there is no reason to assume that the combined opportunities offered by the jurisdictions mentioned will be substantially limited

or altered in the near future. That does not mean that nothing will change. On the contrary, a constant change can be observed, stimulated by different forces. Many jurisdictions change their systems to comply with the demands made by the international community.

The UN conventions on transnational organized crime, the financing of terrorism and corruption are also significantly altering this situation. Nevertheless, it remains to be seen how much this will affect daily business. By combining several jurisdictions, one usually does not have to depend on one jurisdiction to get all the services one needs. On the other hand, many jurisdictions compete with each other to be the most attractive place for investors, tax refugees, criminals, or other clients valuing privacy for several reasons. This implies a development in the opposite direction as the case of Switzerland showed.

4.4 Jurisdictions and other geographically defined entities as interface II

The description above showed the important characteristics of tax havens and related jurisdictions and mentioned some well-known cases that were discussed in the previous chapter: the BCCI, Banco Ambrosiano, Nugan Hand Bank and the European Union Bank affairs. Although these cases all involve banks that are now, with the benefit of hindsight, seen as rogue banks, it has to be stressed that many well-known (still active) global banks are also using the same structures. Recently, James Henry, a former banker turned research journalist, wrote an extensive account of the activities of these banks during the last decades (Henry, 2003). A number of case studies from the last fifteen years are provided by Kochan (2005) and Block and Weaver (2004). The banking activities involve, among other things, the financing of huge infrastructural projects in developing countries. These projects are accompanied by substantial kickbacks to politicians involved, often paid through offshore bank accounts, and sometimes these projects do not result in any actual building at all with a billion dollar debt as only lasting evidence. Other examples are the laundering of funds for Russian criminals that appeared in the US after the demise of the Soviet Union, and the stashing of billions of dollars from a range of corrupt dictators and other politicians around the world.

The cases in chapter 3 illustrated how specific jurisdictions can play a role with different types of transnational crime. At the same time, it showed how organizations, jurisdictions, and specific individuals were combined to enable transnational crimes which sometimes involved the transformation of transnational crimes into legal activities or the other way around.

The process can be illustrated with the proceeds of a wholesale importer of cocaine. This importer receives huge amounts of cash as income unaccounted for. To turn this cash into funds that are rightfully his, he starts by smuggling the cash to a bank secrecy jurisdiction in the Caribbean. There he opens a bank

account held by a corporation which he founded in another jurisdiction where shareholders are granted absolute anonymity and an instant-corporation manufacturing business exists. From the first bank account, the funds may be moved through an additional number of accounts. Finally, it will either be lent to the importer, through a so-called loan-back structure, or it will be returned to him through false invoicing. In the latter case, cross-border trade is imitated in which the importer makes substantial profits which he can account for in his own country. Depending on the amounts of money involved and the attention that a particular individual enjoys from law enforcement agencies, the number of layers in a laundering structure can be extended or restricted. If necessary, extra instruments which can be used include international business corporations (IBC's), trusts or a Liechtenstein *anstalt*.[60] It is even possible to add a personal offshore instant-bank that will be eliminated if a law enforcement agency attempts to work itself through all the layers.

Instead of laundering, funds or goods can also be made illegal. The best known examples can be found with structures to evade taxes. The principles used may be very similar, although the effect is the opposite of money laundering operations. Whereas money laundering involves the creation of a seemingly legitimate source for unaccounted income, tax evasion involves minimizing the income accounted for generated from legitimate sources.

Besides tax evasion, and sometimes together with it, capital flight functions in the same way. This used to be one of the most important transnational crimes in monetary terms. However, its scale and scope has lowered during the last twenty years due to deregulation of cross-border financial transactions in numerous countries. From a perspective of interfaces, this provides an interesting case study. Many activities and actors that were seen as transnational crime and criminals twenty years ago are now transformed into legitimate businesses and businessmen.

Cigarette-smuggling often involves the same use of tax havens and often consists primarily of tax evasion (Beare, 2002; Hudgins, 1998; Saba et al., 1995). Cigarettes are legal goods which are smuggled for the simple reason that there are significant differences in taxes levied by different states. Any combination of states can trigger smuggling and this will not necessarily be done through a 'cigarette-haven'. However, tax havens and bank secrecy jurisdictions might offer such a haven because they do not consider cigarette smuggling a crime and do not cooperate with other states who are seeking to fight the large-scale smuggling. To be more precise, these states do not consider tax evasion in other jurisdictions a crime that should be fought within their own jurisdiction and for that reason, cigarette smuggling (being a kind of tax evasion) is not considered a crime. Therefore, these jurisdictions can be used as intermediary locations in the

[60] Such an *anstalt* is a particular type of entity similar to a trust. However, whereas one officially loses control when a trust is used to park funds, an *anstalt* can run a corporation which turns over its profit to the founder of the *anstalt*.

smuggling of cigarettes from producing country to destination country. Furthermore, independent distribution networks sometimes have their base in these jurisdictions.

Switzerland provides the best case study to illustrate a cigarette haven. Since at least World War II, it has been a centre of cigarette smuggling in several directions (Auchlin & Gaberly, 1990; Koch, 1992; Trepp, 1996). Inhabitants of the border region between Italy and Switzerland used to generate additional income through small-scale smuggling operations. Later on, the mafia took over and organized large-scale smuggling networks (Trepp, 1996).[61] To Spain and other European destinations, a large-scale smuggling operation worked smoothly for years. The cigarettes came primarily from Swiss wholesalers. Although the basis for the smuggling was the mentioned advantage of Switzerland as a haven, there were other factors which perfected the whole operation. A network of corrupt customs officials assisted the smugglers for years (Auchlin & Gaberly, 1990). This network of corruption will be further discussed in section 5.5. It remains to be seen whether the recent attempts by governments in the EU and America to limit the smuggling problem will be successful. As long as there remain havens that can be used in supplying important destination countries, they will be used to evade the high taxes on cigarettes in those countries.

4.5 *De facto* interfaces I: the arms trade

The arms trade is probably the trade to most ideally illustrate the principles described in this chapter and the previous chapter. Hereafter, two case studies will be discussed in which the concept of *de facto* interfaces will be explained. First to be discussed are the so-called arms supermarkets, described by Naylor. A second example is a government that nullifies the legislation it should comply with, and through that unintentionally legalizes otherwise illegal arms sales.

Most arms, or parts with which arms are produced, come from legitimate private or state companies in a limited number of countries. The US, Russia, France, the UK, Germany, Ukraine, Sweden, the Netherlands, and Italy are the most important suppliers, as far as conventional arms are concerned.[62] The licit or illicit character of arms usually depends on its destination, not on its contents.

Many examples of arms deals date back to the days of the Cold War. The post Cold War period has seen some changes in the arms trade but has surely not made it any less serious in its scope or consequences (Crefeld, 1998; Kochan, 2005; Phytian, 2000; Wood & Pelemans, 1999). Naylor points at two control mechanisms of the arms trade that disappeared at the end of the Cold War.

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61 Bonner, R. (1997) Racketeer Cases Shed Light on Cigarette Smuggling in Italy *New York Times*, September 2nd.

62 For data on arms suppliers and other related issues, see: SIPRI (2004) *SIPRI Yearbook – Armaments, Disarmament and International Security* (Oxford University Press, Oxford).

> "On the supply-side of the arms market, there was the ability of the major powers to influence, even sometimes control, the movement of weapons, ammunition and spare parts around the world. On the demand-side, the ability of non-state actors to get even those weapons that escaped such political control was limited by their capacity to obtain means of payment" (Naylor, 1998:212).

4.5.1 Arms supermarkets as de facto interfaces

The disappearance of these two control mechanisms has exacerbated the problem of so-called arms supermarkets. According to Naylor, some zones of conflict have turned into regional arms supermarkets, due to the large amounts of second-hand weapons (Naylor, 1998:218).[63] He draws an interesting parallel with offshore banking centers.

> "A conflict zone is for weapons what an offshore banking centre with strict secrecy laws is for money (…) Indeed so effective is the process that is has been known for intelligence agencies to deliberately ship more weapons than required for their purposes to a particular conflict area, just in order to be free to then divert them to some other, politically unauthorized or publicly unacceptable place. This appears to be how the CIA continued to equip both UNITA in Angola and the Contra rebels in Nicaragua during periods when such aid was banned by the US Congress" (Naylor, 1998:219).

The first supermarket to appear was in Bangkok, following the Vietnam war and other conflicts in the region. Next came Beirut, Singapore, the Horn of Africa, and Afghanistan.

These arms supermarkets can function as interface between licit and illicit arms transfers. As was mentioned above, one can publicly ship arms to a conflict zone and then divert the surplus to places that are not politically authorized. Every era has one or more major conflict zones that provide such supermarkets. The areas mentioned above cover the period from the 1960s through the 1990s. Since the fall of the Soviet Union, Russia and some of its former republics provided one immense arms bazaar, selling everything from tanks to fighter jets and smaller items like Kalashnikov riffles to everybody (Berryman, 2000; Kochan, 2005; Naylor, 1998).

In addition to these arms supermarkets, there are countries which are not conflict zones themselves but play the same role. Often arms are shipped to countries with the implicit or explicit aim to support other countries or rebel groups to which one cannot directly send arms because of official boycotts. At some point during the twenty-five year involvement of the US in Angola, the

[63] See also Kelly et al. (2004:73-75) which focuses on so-called weapons 'supermarkets'.

US simply replenished Mobutu's arms depots, knowing that Zairian arms would subsequently be moved to the armed forces of UNITA (Wright, 1997).

4.5.2 Dutch arms export policies as de facto interfaces

The second example to discuss here cannot be compared in any way to the arms supermarkets mentioned above. It deals with the arms export policies of the Netherlands during the 1990s. This country is not chosen because it is a unique case that stands out in relation to other arms exporting countries. Although it can be seen as a *de facto* interface, as will be explained below, this could probably be argued for several other European countries. However, the Netherlands are relatively exceptional as far as available information on the arms trade is concerned. As compared to other states, the Netherlands are relatively transparent as far as their export policies are concerned. A number of publications by the Dutch pressure group *Campaign against Arms Trade* provide a rich source of information on a large number of arms deals (Broek & Slijper, 2003; Campaign against Arms Trade, 1998). Dutch criminologists, on the other hand, show little interest in the arms trade.[64]

According to data gathered by the *Stockholm International Peace Research Institute* (SIPRI), the Netherlands are the seventh largest conventional arms exporter in the world.[65] However, this does not mean that a huge arms industry exists. Arms exports are just part of the overall picture because most large or rich countries prefer to produce their own arms.

The Netherlands are not a haven in a legalistic sense. That is, they do not have particularly favorable legislation for arms exporters and brokers. As a member of the European Union, the Netherlands use the (non-binding) *European Union Code of Conduct for Arms Exports* for their arms export policy.[66] This code sums up eight criteria that have to be met before arms exports can be allowed. Among them are the compliance with international obligations, respect of human

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64 Frank Bovenkerk, a Dutch criminologist, remarked in 1996: "About the, in my opinion extremely threatening, trade in illegal arms, far too little is known and what we write about it in our reports probably rests on an enormous underestimation of the problem" (Bovenkerk, 1996:96). Not a lot seems to have changed since 1996, as far as the Netherlands is concerned. In 2001, the Dutch criminological journal *Tijdschrift voor Criminologie*, dedicated a special issue to arms trade. It contained some interesting articles on the illicit trade in firearms and the relations with legal dealers. However, none of the articles dealt with the international illicit trade in arms with terrorists and foreign states. It seemed that for mainstream criminologists the arms trade consists of incidental sales of small arms and thefts from legitimate dealers. To be sure, the attention of politicians and the criminal justice system is at least as little as that from criminologists.

65 SIPRI (2002) The suppliers of major conventional weapons, SIPRI Yearbook. The data concern the period from 1997 to 2001.

66 'European Union Code of Conduct for Arms Exports,' agreed by European Union (EU) Foreign Ministers on 25 May; formally adopted at the EU Council of Ministers, 8-9 June 1998, http://www.acronym.org.uk/dd/dd27/27eu.htm (visited November 5th 2005)

rights in the destination country, preservation of regional peace and stability, and the prevention of re-export to undesirable end-users. Besides the EU Code, national legislation is applicable and requires exporters to obtain export permits for certain categories of military goods. Based on the European code and national legislation, a rather strict export policy would be expected. A couple of arms exports which received some publicity or were discussed by Broek and Slijper, can illustrate the export policy in daily practice.

In August 1998, Belgian customs intercepted forty army trucks and ninety-one containers with 'car parts' destined for Eritrea and sent by a Dutch company. The car parts turned out to be eighty engines for Russian T-54 and T-55 tanks. At the time Eritrea and Ethiopia were fighting a war against each other and both used this type of tank. Together with the trucks and engines, other essential military equipment was sent. The Belgian authorities had no doubt that the shipment was not allowed to leave the country under the current arms export regulations. The Dutch assistant Secretary of Economic Affairs, however, argued that no infringement of Dutch legislation has been found. It took seven months before he concluded that the shipments indeed consisted of arms (Broek & Slijper, 2003:160-161). The lack of interest by the Dutch authorities is especially remarkable because during the same period, the same Dutch firm was suspected of involvement in shipments to Iran, via the United Kingdom and Singapore. This ultimately led to a conviction and a fine by a Dutch court in 2001 (Broek & Slijper, 2003:162).

Whereas the shipment to Eritrea lacked an export permit, a range of shipments to another shaky area sheds some light on the Dutch export policy. Between 1990 and 1997, export permits were granted for a large number of shipments of goods for military use to Algeria, a country in the middle of a period of significant political unrest and violence. Part of these shipments were made public in the yearly government reports on arms exports, and another part was only made public after demands by the Campaign against the Arms Trade. In 1997, a national newspaper wrote about a shipment to Algeria and some politicians voiced their objections. Since then, no export permits have been granted for shipments of military use goods to Algeria (Broek & Slijper, 2003:52-54, 231).

When the government itself wants to export arms, in principle the same rules apply as for private companies. Therefore, this applies to the example of superfluous materials sold by the Ministry of Defense. During the previous decade, the Ministry sold army vehicles to Botswana, Nigeria, Angola, Bosnia, and Macedonia. At least for some of these destinations, one can wonder whether the EU criteria would allow this. The vehicles that went to Bosnia were sent there just after the Dayton Peace Accords were concluded. This led to questions in parliament (among other things) because of the remaining tensions in the region. The Foreign Ministry responded by arguing that it was unlikely that the vehicles would be used militarily, and even if they were, this would fit with the

aims of the Dayton Peace Accords which included establishing a regional military balance of power (Broek & Slijper, 2003:133).

Besides high-tech goods and parts of goods, many shipments consist of chemicals with military or dual uses. Raw materials for poison gasses could be exported in substantial quantities to countries with a dubious reputation as transit points or smuggling paradises, because of failing customs services. Byelorussia, Kazakhstan, Pakistan, Jordan, and Ukraine are among the claimed destinations (Broek & Slijper, 2003:97). Some other exports (for example to Iraq and Iran) did lead to penal sanctions. However, in most cases, the verdicts were mild and concerned the fact that companies or individuals failed to obtain export permits instead of the fact that they exported to particular countries.

Other examples could be added to the summary above. Without generalizing too much, some conclusions can be drawn so far. The official legislation and intentions of the Dutch authorities indicate a very cautious approach to potential arms exports. At the same time, the export permits that are granted each year seem to show a somewhat different picture.[67] As long as exporters ask for permits according to all the bureaucratic formalities one will usually get a permit, despite the end destination or nature of the goods involved.

The above implies that one will often observe the following situation. Theoretically, one has an individual or company engaged in an illicit transnational arms deal. The illicit nature is either based on the outlawed destination, the outlawed goods, or both. In practice, there is a government that gives official permission for the export before anything leaves its territory. Therefore, in practice there is no transnational crime committed at all. The potential crime is subject to a sort of pre-emptive laundering by the authorities. This does not fit neatly with the mechanisms described in chapter 3 and in this chapter. This mechanism always involves an activity which is either laundered or made illegal, the activity meant here is legal at any stage, due to the pre-emptive laundering outlined above.

4.6 *De facto* interfaces II: corrupt networks

The last variation also involves a so-called *de facto* interface. However, this *de facto* interface is not the result of a more or less open and official policy by a particular government to (unintentionally) nullify its own legislation or formal intentions. Instead, this *de facto* interface emerges from a corrupt network of high-level figures from both government and private companies and persons. Depending on the particular network one looks at, they might involve high-level figures from

[67] Although this paragraph mainly focuses exports during the 1990's, previous studies suggest that this has not been significantly different in the past. An extensive review of the Dutch export policy from the 1960s to the 1980s is provided by Colijn and Rusman (1989) in their dissertation, Het Nederlandse wapenexportbeleid 1963-1988 (*The Dutch policy on arms exports 1963-1988*).

intelligence agencies, customs, police, political parties, and media companies as well as top-politicians, arms dealers, and managers of large private companies. Through such networks, transnational crimes become immune to prosecution to the extent that they are *de facto* legalized or at least immunized from prosecution.

The corrupt network as interface should not be seen as another analytical model, besides individuals, organizations, and jurisdictions as interface. It is more a mixture of the models that were discussed before. The corrupt network is discussed in this chapter because of its more or less geographical similarity to jurisdictions as interface.

To illustrate this geographically concentrated network of individuals and organizations that function as an interface, two concrete case studies will be discussed. First of all, the so-called *Club 45* in Austria and secondly the *P2* Freemasons Lodge in Italy. These cases have been chosen because of the available sources of information on them. Although not all aspects of these cases (which ultimately led to major scandals) have been clarified with absolute certainty, enough is known to use them for the purposes of this chapter. Furthermore, the difficulties of studying cases like the ones mentioned above should be stressed. The ingredients of these cases, while making them interesting from an interface perspective, also ensure their secrecy and attempts to cover up as much as possible.

4.6.1 Club 45 in Vienna

Club 45 was primarily an association of politicians from the Austrian SPÖ, the Socialist party. It was founded shortly after a curious take-over took place in Vienna's most prestigious shopping street. Naylor summarized the events around the takeover:

> "In 1972, the widow of the last proprietor of Vienna's Konditorei Demel, former pastry makers to the Hapsburg court, decided to sell the firm. One person decidedly not an acceptable buyer was Udo Proksch, a hard-drinking, gun-toting, womanizing former pig farmer. However, with the joint assistance of a Swiss shell company and a pliable countess he was bedding, Proksch disguised his identity long enough to secure control of the imperial institution and the status it conveyed" (Naylor, 2001:44).

In the same year, Club 45 was founded with Demel as its meeting point.[68] The core of Club 45 was made up of Udo Proksch himself and a number of high-

[68] Different accounts exist of the Club 45 formation. Whereas Naylor speaks of a secret society created by Proksch, some former members insist that some young Socialists founded the Club, while Proksch played a minor role in the beginning. Many intimate friends of Proksch are interviewed in Helmut Schödel's (1998) Ein Staat braucht einen

ranking members of the Socialist party, among them subsequent prime-ministers and cabinet members. Besides this core, members also included a long list of managers from Austrian banks, insurance companies and state-industries, as well as the head of the Viennese police, the secret service, and some arms dealers (Pretterebner, 1989:84-87; Von Bülow, 2003:88). The Club was founded during the beginning of a long period of Socialist hegemony in Austrian politics. Between 1970 and 1983 they constantly ruled Austria as a one party administration. Only after 1983 did a coalition government form with the right-wing FPÖ (Seiffert, 1998).

One of the visitors of the Club 45 was Monzer Al Kassar, who was discussed in chapter 3. He is best-known for his role as arms broker but was also involved in drug trafficking and connected to terrorist groups in the Middle East (Brunwasser, 2002; Morstein, 1989; Roth, 2000). Partly because of his excellent contacts in Vienna, Al Kassar was able to organize a number of large arms deals, at least one of which led to a national scandal and the resignation of several politicians. One of the deals involved a huge shipment of ammunition for the PLO, which was intercepted in Greece in 1984 (Morstein, 1989:145). The ammunition came from a subsidiary firm of the state company VOEST. When Al Kassar made a failed attempt to obtain Austrian citizenship, this subsidiary firm allegedly wrote a letter of recommendation. Another deal by Al Kassar and his Austrian friends led to the mentioned scandal and involved an enormous shipment to Iran. As arms sales to Iran were outlawed during the war with Iraq, Al Kassar organized a range of end-user certificates. Most of the arms were supposed to go to Libya, where he was well-connected through his friend Abu Abbas, a well-known terrorist.[69] Abu Abbas was one of the Hijackers of the Achille Lauro cruise ship. The hijacking was allegedly financed by Al Kassar although his involvement could never be proven by Spain's National Court that tried to get a conviction. While awaiting trial, Al Kassar was freed on the record bail of $7,7 million (Bohn, 2004).

A part of the above mentioned shipment of arms to Iran was intercepted in a Yugoslavian port and it turned out that the arms were accompanied by instructions for use written in an Iranian dialect. Soon, the deal got a lot of media attention and had to be cancelled while only half of the shipments had made it to Iran. Nevertheless, about ten percent of the total costs had already made it to the accounts of numerous shell companies in Panama and Liechtenstein (Morstein, 1989:146).

Al Kassar was not the only Syrian in Club 45. Nabil Kuzbari also visited the Viennese Demel-cafe regularly and shared Al Kassar's core business – brokering

Mörder – Udo Proksch und die 'Lucona'-Obsession (~A state needs a killer – Udo Proksch and the 'Lucona' obsession).

69 For some time he headed the Palestinian Liberation Organization and was part of the executive committee of the PLO. He died in March 2004 in US custody, after being captured in Bagdad eleven months earlier by US special forces.

profitable arms deals. He also owned an airline, Transair, which was often used by top politicians like the Minister of the Interior who used Transair to fly to Syria and other destinations (Morstein, 1989:138). Kuzbari also brokered deals between Austrian firms and Iran. According to Von Bülow, he even held an Austrian diplomatic passport which made his work even easier (Von Bülow, 2003:88).

Before Al Kassar and Kuzbari closed their biggest deals, Udo Proksch himself was already deeply involved in military matters. Always fascinated by arms and wars, he found a rather original way to fund his own arms deals. Together with some friends inside Club 45 he founded an association aimed at establishing an army museum. Members of the association included the head of the state television channel ORF and the Austrian Minister of Defense. The latter official organized a constant flow of military goods to the association. Everything from tanks, fighter jets, jeeps, and rocket launchers were provided to the association for free. Proksch did not wait for the moment they would find a suitable building for a museum. Most of the arms went to the Polisario guerrilla movement in the Western Sahara, to Egypt, and to other destinations in the Middle East. Years later, when asked where all the arms had gone, Proksch would claim they had all been stolen (Pretterebner, 1989:190–95).

Besides his interest in arms, Proksch had been on rather good terms with numerous East Bloc institutions, among them the East-German intelligence agency. Furthermore, he actively sought Western technology in Silicon Valley and elsewhere, allegedly to export it to Eastern Europe. However, he was never arrested because of active political protection and the fact that American efforts to follow the trail of his activities could not pass the secrecy of a Swiss shell company. At some point, members of parliament started to press the Ministers of Justice and Foreign Affairs for answers on questions about Proksch's activities. The questions were triggered by a book by some American and British journalists. In this book *Techno-Bandits: How the Soviets are stealing America's high-tech future* (1984), a whole chapter was devoted to Vienna. In the end the questions led nowhere. One Minister announced an investigation, which did not reach any concrete results. Another Minister could not respond because he first needed a German translation. The third Minister acknowledged that the US government had warned Austria that its country was used for the smuggling of technology. However, he claimed that Udo Proksch was never mentioned. He had apparently missed a NATO black list on which several companies that were owned by Proksch or by the Demel-café were mentioned (Pretterebner, 1989:104).

Because of the political protection and the use of everything that corporate secrecy had to offer, Proksch continued his diverse activities for years. In the end, however, there was one crime which could not be denied forever: the planned explosion of the Lucona, a freighter with twelve persons on board, six of which died in the middle of the Pacific Ocean. Proksch had incorporated in Switzerland

a company called Zapata AG and used it to secure an abandoned coal mine. Machinery was removed, repainted and marked Zapata AG. Various parts were sent back and forth between Switzerland, Austria, and Italy to cloud their origins, aided by collaborators in Austrian Customs who altered the description of the official documents (Naylor, 2001:46). Subsequently, Proksch obtained technical information about a uranium ore processing plant and copied this on Zapata's letters. Next, he set up a Hong Kong company whose officers signed a 'contract' with Zapata to purchase uranium ore processing machinery (Naylor, 2001:46).[70] To make it look legitimate, some letters and money were sent back and forth between Switzerland and Hong Kong. Finally, he chartered the M.S. Lucona, a freighter who had to bring the processing plant to Hong Kong. In 1977, the Lucona left the Italian port of Chiaggio, waved goodbye to by a group of high-profile Austrian politicians, organized by Proksch to witness the departure. In the middle of the Pacific Ocean, a huge explosion ended the journey of the Lucona. Six crew members died due to the explosion and six survived. Convinced that they might also be killed, the Dutch and Philippine survivors chose to remain silent. In the following decade, several attempts were made to bring Proksch and his accomplices to justice. However, each time anyone dared to start investigations or even prosecutions, they were immediately stopped by their superiors. Meanwhile, some collateral damage was added to those already dead. The engineer of the Lucona fell off a highway bridge just before he was due to give evidence and one of the collaborating customs officers died of a heart attack after having admitted his complicity. The Minister of Defense who had covered Proksch for years was killed after relations with Proksch had cooled down.[71] In the end, Proksch fled to the Philippines where he went through plastic surgery to change his looks. Despite his changed face and a false passport, he was arrested when he returned to Vienna (Schödel, 1998). After a trial, he was condemned to life imprisonment and died in June 2001.

Looking back at this summary of the history of the Club 45, it becomes clear how this network of corrupt relationships functioned as a sort of interface. Through this network, illegal arms transfers, transnational shipping insurance fraud, and other activities were laundered or immunized from prosecution. When the political protection by the Austrian Socialist Party diminished, Udo Proksch was getting more and more difficulties to maintain his colorful and criminal activities and was finally arrested and imprisoned.

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70 The Zapata AG should not be confused with other companies with the same name and at least as well-known owners. George H.W. Bush participated in a company with the name Zapata. Furthermore Operation Zapata was the code name for the failed Bay of Pigs invasion in 1961 (Aguilar, 1981).

71 His murder was presented as suicide but according to a detailed account of events by Pretterebner, it seems most likely to have been murder, although the murderer was never found (Pretterebner, 1989:624ff).

4.6.2 Propaganda Due (P2) in Italy and South America

Through a complicated network of shell companies in several tax havens and connections to a number of banks with similar structures, Banco Ambrosiano was able to function as an interface by itself in a chain of activities linking Colombian drug traffickers, Italian mafia groups, South American dictators, terrorist groups, political parties and the freemasons lodge Propaganda Due (P2) (Paoli, 1995; Raw, 1992; Trepp, 1996; Willan, 2001).

The discussion of Banco Ambrosiano in the previous chapter focused primarily on the illicit activities of the bank and the actors the bank was able to influence. Among these actors were several Italian political parties and politicians in South America. However, Ambrosiano itself was instrumental in a larger power structure that had the P2 and its leader Licio Gelli as its centre. A symptom of the leverage Gelli had over Calvi, the director of Banco Ambrosiano, was the flow of funds from Ambrosiano to Gelli. According to Charles Raw, Ambrosiano paid about 250 million dollars to Gelli between 1976 and 1981. To organize these funds, Gelli and Calvi robbed the Italian state with the help of corrupt politicians and leading civil servants. The primary victims were the state oil company ENI and the Banca Nazionale del Lavorno or BNL bank (Raw, 1992).

P2 had been led by Licio Gelli since the 1960s. He actively recruited powerful members of the Italian establishment. Judges, police commanders, captains of industry, intelligence agents and leading members of the military were incorporated in the secret lodge (Trepp, 1996:293; Willan, 2001). Until 1974, P2 aggressively tried to bring the Italian system to the brink of collapse, so that ultimately P2 members would be able to establish a new order, inspired by Mussolini's corporatism. Terrorist activities by right wing groups were allegedly supported, like the attack in 1974 on the 'Italicus Express' in which twelve people died and the attack in 1980 on the train station of Bologna that killed eighty-five people. For these crimes, over a dozen P2 members were convicted. Licio Gelli was given a long sentence to a house of correction. However, his lawyers appealed and in the end Gelli did not have to go to jail. In 1974, P2 changed its strategy and started to infiltrate the Italian government to achieve changes from within the political system (Trepp, 1997:295-96). Gelli was rather successful in his recruitment of new powerful members to P2 until a list of P2 members became public and caused a huge scandal that preceded the subsequent collapse of the Banco Ambrosiano. Gelli went to jail briefly but was able to escape.

Like Club 45, P2 was a meeting point of many members of both the political, economic, and criminal elite. Although the basic principle was much the same, P2 was far more complicated, threatening, and far-reaching that it's Austrian counterpart. The close links between all actors involved enabled or laundered many national as well as transnational crimes. To be sure, national and

transnational and corporate, terrorist and 'mafia' crimes cannot be separated in any meaningful sense here. Terrorist attacks, for example, were meant to destabilize the Italian society. The fruits of these activities were to be reaped by exploiting massive capital flight after dramatic attacks. National terrorism and transnational corporate crimes went hand in hand. The same goes for the activities of both the Italian mafia and foreign drug traffickers. While Banco Ambrosiano as an organization functioned as an interface, P2 comprised a structure in which the bank was subordinate to the aims and power of the Freemasons Lodge. This structure can be understood as a wide, complicated and persisting interface with its centre in Italy.

4.7 Conclusions

In this chapter jurisdictions or other geographically defined entities as interface were discussed. It was argued that jurisdictions and other entities can also function as interface to change activities from licit to illicit or the other way around, besides the individuals and organizations that were discussed in chapter 3. Successively, the jurisdiction as interface, as well as two variations of this interface, were outlined and illustrated with case studies derived from the literature on transnational crime. The first variation involves government policies that bring about a *de facto* interface because they nullify the legislation which makes certain transnational activities illegal. The second variation involves a *de facto* interface as a result of a network of corruption.

Jurisdictions may function as interfaces when they lack legislation in areas where most other jurisdictions have enacted legislation that outlaws certain cross-border activities. Ideally, the jurisdiction without legislation does not cooperate with other jurisdictions seeking the perpetrators or persons acting against the specific laws. Depending on the type of crime, this may involve small jurisdictions with strict bank secrecy laws and corporate structures which provide the maximum privacy for their shareholders, or on the contrary large countries like the US, or the UK. Several activities, defined as illegal outside these jurisdictions, can under specific circumstances be legalized through these jurisdictions. Money laundering is such an activity, as well as tax evasion and capital flight. In fact, the range of crimes that may have jurisdictions through which they are protected or laundered is wide.

Besides the interface as a result of legislation in a particular jurisdiction, there are *de facto* interfaces as a result of government policies. In an ideal world, the combined set of laws tells everyone what is illegal and who will be prosecuted as such. However, governments and courts have wide margins within which to interpret and enforce these laws. When these margins are used to effectively nullify the laws prohibiting certain transnational crimes, there will often be no difference with the situation described above. Despite the actual legislation, the jurisdiction (or a part of it) has turned into a haven for this particular crime and

can be understood as a *de facto* interface in certain situations. The Dutch arms export policy was used as an example here. In practice, this policy has to some extent nullified the legislation and intentions of the government. In the case of arms exports from the Netherlands, this implies that these transnational transactions are *de facto* 'pre-emptively' legalized and therefore do not fall into the category of transnational crime at all.

The last interface in this chapter was also a *de facto* interface. However, it is not the result of a general policy to interpret laws in a way as to nullify them. It is the result of a corrupt network of persons that causes a situation that at some place, during some period, transnational crimes are covered in way as to *de facto* legalize them. In practice, such a situation will almost always involve other interfaces as well. Persons involved will make use of every possible foreign haven, as well as loopholes in legislation. However, when this does not suffice to make certain transnational crimes possible and legalize them, the mentioned network will take care of this. Two possible illustrations of this type of interface were discussed above: the Austrian Club 45 and the Italian P2.

In the next chapter, an analytical model will be developed that incorporates the role of individuals, legitimate organizations, and jurisdictions as interface. Thereafter, chapters 6 to 9 will discuss the illicit art and antiquities trade. This trade will be used to analyze the usefulness of the three institutionalized interfaces, as well as its variations, that were discussed in this chapter and the previous one. It remains to be seen whether the typology, extended with the three institutionalized interfaces, suffices to describe and understand the relationships between legal and illegal in this field, which will be studied both empirically and theoretically.

CHAPTER 5

ORDER IN THE CHAOS: THE LOCK MODEL

5.1 Introduction

In the previous chapters a number of case studies were discussed in which certain individuals, organizations, and jurisdictions that have one crucial characteristic in common. They can all, under specific circumstances, act as interface by themselves. This means that such an individual, organization or jurisdiction is not only engaged in relationships with legal or illegal actors (that are called interfaces within the interface typology) but can be seen as embodiment of the legal–illegal interface themselves. That is, through these individuals, organizations or jurisdictions, the legal status of certain goods, services, or funds is transformed. This means that they are either laundered or on the contrary become illegal.

In this chapter, an analytical model will be developed that simplifies and helps to understand this process. This model integrates all variations that were discussed in the previous chapter into one simple model, the so-called *lock model*.

In the next section, this model will be explained. Thereafter, it will be explained how individuals, organizations, and jurisdictions perform a so-called lock function. Hereafter, we will no longer speak about the role as interface but instead about the lock function of individuals, organizations or jurisdictions.

5.2 The lock model

The introduction above started with the observation that the individuals, organizations, and jurisdictions discussed in previous chapters can all have a so-called lock function. Several specific factors can enable this lock function, depending on the type of actor one focuses on. These factors will be summarized for each different type of interface in the sections below.

One general factor in all case studies was the ability to deal with criminals as well as legitimate companies and government agencies 'on the same level'. All actors discussed in the case studies were able to have 'normal' relationships with both legal and illegal actors, engaging in both legal and illegal activities. Therefore, when for example one of the legitimate organizations discussed collaborated with drug traffickers it did not mean that the drug traffickers were corrupting the legitimate organization. That is, the relationship should not be seen as primarily one-way. The drug traffickers and the organization did business as they would do if there were no difference in 'legality' between the two.

When certain actors function as lock, the ability to deal with third parties on different levels is used in at least one type of transnational crime. In that case, the

actor can be seen as located in the middle of a transnational criminal activity. On one side, the activity involves illicit transactions with goods or services, while on the other side it involves legal transactions involving the same goods or services. On both sides, the interfacing actor or entity is engaged in relationships with criminal or legitimate third parties. These relationships can be labeled with the different types from the typology. This process can best be compared with the mechanism of a lock in shipping. In the figure below, this mechanism is illustrated.

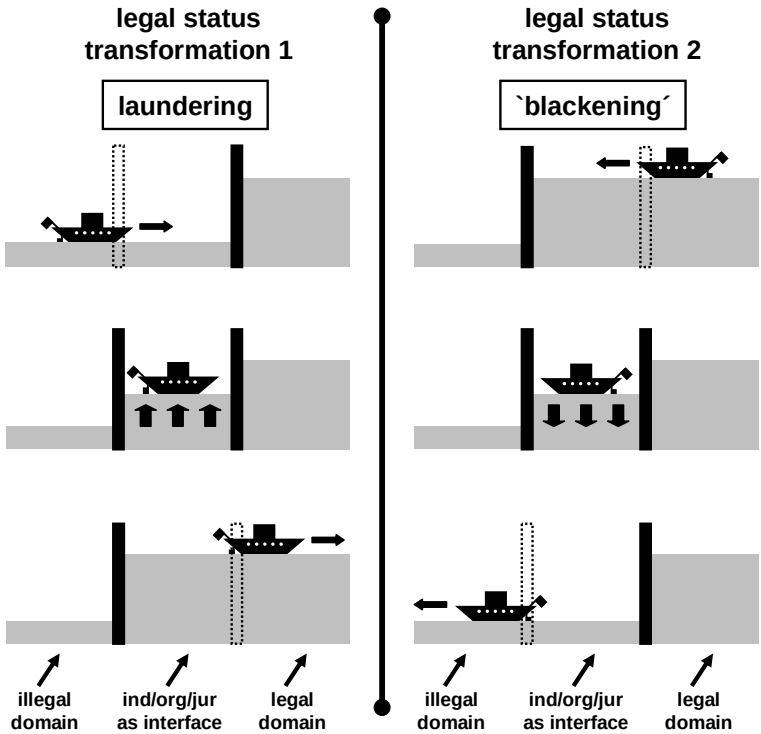

figure 7: the lock model

On the left, a ship passes the lock-gate and enters the lock-chamber from the lower side. This lower side is a metaphor for the illegal part of a transnational activity. After the ship has entered the lock, the lock closes again. After that, the ship is locked upward as water is entering the lock from the higher level. This upward move is a metaphor for the transformation of the legal status of a particular activity from illegal to legal, or, as is it commonly called the *laundering* of this particular activity. Finally, the ship leaves the lock as soon as the level inside the lock has become the same as outside the lock at the higher level.

On the right side of the figure, the opposite process is shown. The ship now comes from the higher level and is moved to the lower level. The status of the particular activity is now transformed from legal to illegal.

The lock in the figure above can vary as to the degree of complexity. In its most simple form, the lock consists of a particular individual, organization, or jurisdiction. However, the lock may also be assembled of a complex web of individuals, organizations, and jurisdictions. The case studies in chapters 3 and 4 consisted of cases that were primarily built around one particular interface, that is, an individual, organization or jurisdiction as interface. However, most cases also used one or both of the other interfaces. In the next sections, the different variations of the lock model will be outlined based on the findings from chapters 3 and 4. These variations will outline step by step how the legal status of transnational activities is transformed in the same way as the level at which a ship sails is altered by a lock.

5.3 The lock function of individuals

Individuals can function as a lock in two different ways. First of all, they can act as (transnational) broker between actors in different countries that cannot, or do not want to, deal with each other directly. The broker is arranging a deal in which legal goods or services are delivered to outlawed customers, or illegal goods or services are delivered to legitimate customers. The model is portrayed in the figure on the next page with an illicit arms deal as example.

The arms come from a legitimate source, for example a defense ministry or intelligence agency. They are destined for an outlawed end-user. This can for example be a guerrilla movement affected by national legislation in the source country, or a UN boycott forbidding the sale of arms to them. The deal may be motivated by practical concerns (sale of redundant material) or by the intention to support this movement despite the laws forbidding such support. The broker organizes both the logistical process to get the arms from country X to country Y, as well as the process to get the arms to the outlawed destination without any visible illegalities for the legitimate source. In this theoretical case, that will at least involve obtaining an end-user certificate for the arms from a third country that can legally buy them. Through this end-user certificate, the source country is formally selling to a legitimate buyer. Furthermore, the broker should make sure the arms cannot be intercepted along the way to the destination country. Finally, he will often have to make sure that the source of the arms cannot be exposed as soon as they have arrived at their destination. This can be done for example by changing their appearance, adding a false provenance for them, or even swapping them for arms originating from the enemy. The result of this set-up is that the source country is engaged in a legitimate deal with another country. At the same time, the receivers of the arms obtain them from the broker in an unofficial and

illegal way. Therefore, it is through the broker that the arms move from legal to illegal without direct contact between the two parties.

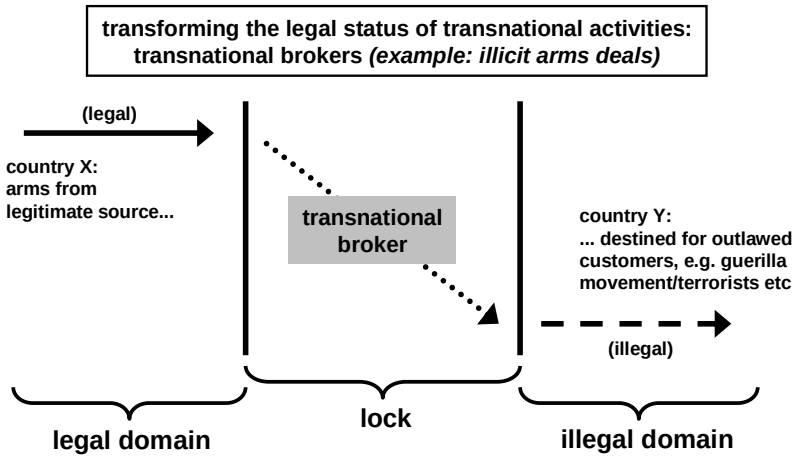

figure 8: the lock function of individuals 1

Among the factors characterizing most individuals, a base of operation in at least two countries is the most important. This base is not restrained to a mere place to stay or a local branch of their legitimate company abroad. It also involves a network of relevant individuals that can be used to broker deals. This 'multinational' base is usually combined with the ownership of passports, and sometimes diplomatic passports, of several countries. To be sure, the ownership of more than one passport is hardly a rare occurrence among transnational criminals. However, these passports are sometimes false or stolen. The kind of individuals discussed in previous chapters usually owned several authentic passports and sometimes (authentic) diplomatic passports.

Furthermore, political protection and contacts with the top of the political apparatus and administrative machinery are shared by many of these individuals. Again, there is a qualitative difference with other transnational criminals. These criminals may obtain certain favors by corrupting individual law enforcement officials or others. However, the individuals discussed before could arrange protection that went as far as to secure effective immunity from prosecution.

Finally, the knowledge and use of the global financial system and the combination of numerous legitimate companies in different jurisdictions, is a crucial factor. As with the other factors, this is not claimed to be unique for transnational criminals. However, the scale and sophistication of this factor is different from most criminals. Whereas criminals often have to rely on the knowledge of others to use the opportunities of banks, foreign registered companies, and tax havens, the persons discussed here were to some degree experts on these matters themselves.

Besides transnational brokers, another category of individuals was discussed in chapter 3. This category consists of transnational dealers that do not broker deals between actors but buy from actors in country X and thereafter sell to customers in country Y. The figure below portrays the transnational dealers functioning as lock between a source and a market country.

The trade in conflict diamonds is used as an example. The dealer buys from an outlawed source in the diamond's country of origin. Thereafter, he ships the diamonds to the market country where he sells them on the legal market. If necessary, the dealer obscures the illegal source of the diamonds. This can for example be done with false papers or shipment through third countries. The result of the whole procedure is the effective laundering of conflict diamonds into regular diamonds on the legal market.

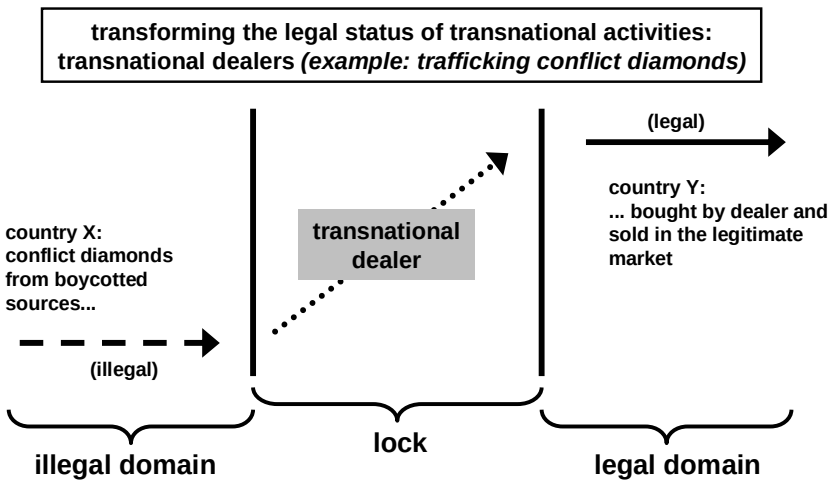

figure 9: the lock function of individuals 2

5.4 The lock function of legitimate organizations

In the second part of chapter 3 the role of legitimate organizations as interface was discussed. Similar to the individuals discussed above, organizations can combine relationships with both legal as well as illegal actors. The factors that were discussed above, are to a large extent also relevant for these organizations.

Legitimate organizations can function as a lock in two ways. First of all the organization that can be seen as an extension of a criminal organization or a network of organizations or individuals. Here it is called the *coffee shop model*, inspired by one of the case studies in chapter 3. The legal organization can be seen here as one link in the transnational criminal network. Through this link, the legal status of goods, services, or funds is transformed. In the figure below, this type is portrayed.

The funding of terrorism by certain charities is used as an example here. Such a charity on the one hand engages in numerous, perfectly legal, relationships with supporters. These supporters primarily donate funds to the charity. The charity secretly funnels part of these donations to terrorist organizations abroad. The latter transaction is unofficial and illegal. The result is that through the charity, legally donated funds are used to finance terrorist organizations. The status of these donations thus changes from legitimate funding to illegal funding of terrorism.

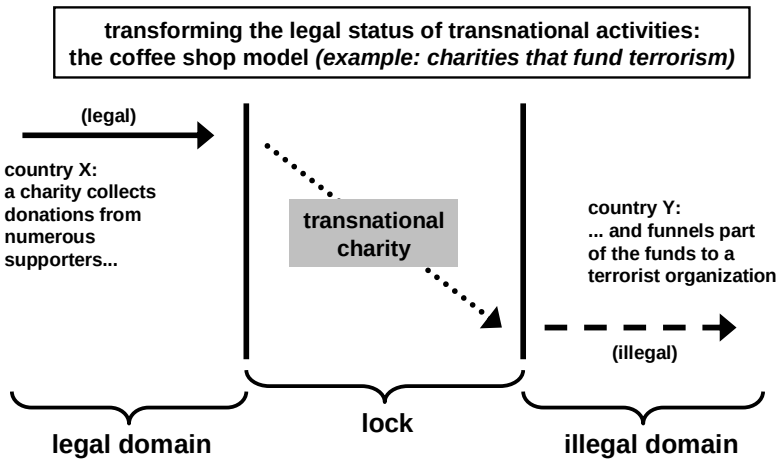

figure 10: the lock function of legitimate organizations 1

The second variation involves an organization that is fully independent but has multiple links with both legal and illegal actors. Here it is called the *Ambrosiano model*, named after one of the case studies in chapter 3. This organization is not a link in one particular transnational crime, but is connected to various transnational crimes, as well as legitimate activities.

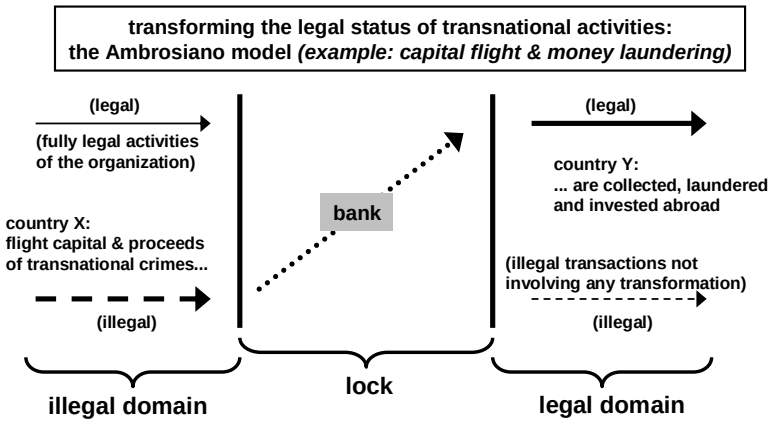

figure 11: the lock function of organizations 2

The laundering of both flight capital and the proceeds of criminal activities is used as an example here. The funds originate from country X but are laundered abroad through one or more subsidiaries of the bank involved and finally invested in country Y. Besides the illegal activities, the bank is involved in numerous perfectly legal transactions with customers in several countries. At the same time, the bank is involved in illegal transactions that do not involve any transformation of the legal status of the funds involved. It should be noted that this is only a theoretical example of an analytical model. In practice, endless variations will be found of the mechanism mentioned.

5.5 The lock function of jurisdictions

The last variation of the lock model involves jurisdictions that function as a lock. Jurisdictions can function as a lock in case they lack legislation in branches where most other jurisdictions have enacted legislation that outlaws certain cross-border activities. Ideally, the jurisdiction without legislation does not cooperate with other jurisdictions seeking the perpetrators or persons acting against the specific laws. Depending on the type of crime, this may involve small jurisdictions with strict bank secrecy laws and corporate structures which provide the maximum privacy for their shareholders, or on the contrary jurisdictions in Europe or North America. Several activities defined as illegal outside these jurisdictions can under specific circumstances be legalized through these jurisdictions. Money laundering is such an activity, as well as tax evasion and capital flight. In fact, the range of crimes that may have jurisdictions through which they are protected or laundered is wide.

One major difference exists between jurisdictions as a lock as opposed to individuals and organizations as a lock. In case of jurisdictions, the role as lock is not the result of some sort of set-up or conspiracy. It is a direct result of the

absence or existence of certain legislation within the jurisdiction.[72] However, individuals and organizations will often deliberately make use of these jurisdictions while they organize all kinds of transnational crimes.

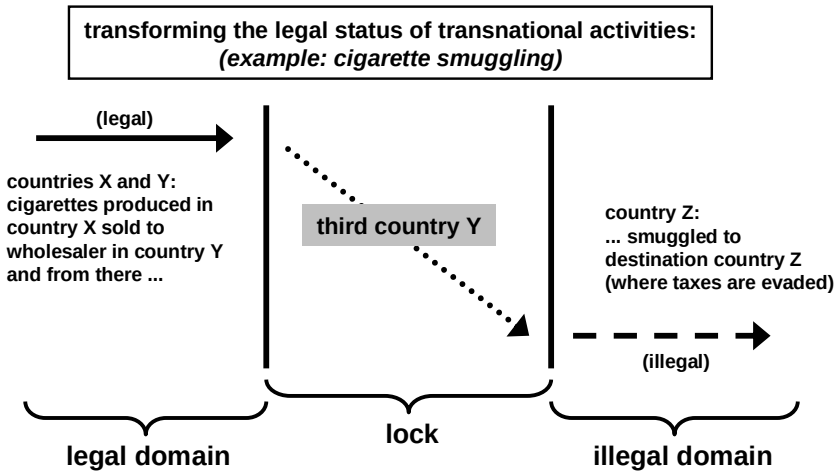

figure 12: the lock function of jurisdictions 1

In the figure above, the lock function of jurisdictions shown as a simple model. The smuggling of cigarettes is portrayed as an example. First the cigarettes are shipped from a cigarette company in country X to a wholesaler in country Y. This transaction is fully legal and as a result the cigarettes are within a jurisdiction where they are only moderately or not taxed at all. Thereafter, the wholesaler knowingly provides smuggling organizations with large quantities of cigarettes that are moved to country Z in which cigarettes are officially subject to high duties. As these duties are evaded, the smugglers and the legitimate wholesaler are working together in this transnational variation of tax evasion through cigarette smuggling.

[72] One can argue that legislation is a result of human decisions, potentially taken to attract the kind of illegal activities that are discussed here. However, this possibility falls outside the topics that need to be clarified in this study. Within this context it matters that certain jurisdictions simply offer certain opportunities, independent of the causes or reasons for these opportunities.

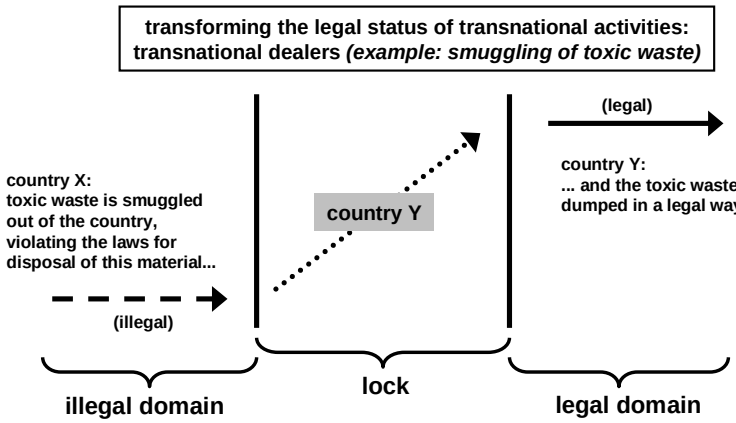

figure 13: the lock function of jurisdictions 2

The opposite situation from the first figure is shown in the second figure. The example used is here is the disposal of toxic waste. In country X toxic waste needs to be disposed of. According to the current legislation in country X, this waste needs to be processed by specific companies in country X. The waste is not allowed to be exported out of country X. Stimulated by the significant costs of this type of disposal, the producer of the toxic waste organizes the smuggling of this waste to country Y where the material involved is not subject to specific legislation. As soon as the producer has succeeded in this illicit export to country Y, he has laundered the toxic waste. Thereafter, he finds a company that is willing to dump or process the waste for a small sum of money. As specific legislation concerning the material involved is lacking in country Y, the producer is free to close a deal with anyone willing to take on the toxic waste.

Besides the jurisdiction as (automatic) lock for certain activities, two variations were discussed in chapter 4. First of all, there are so-called *de facto* interfaces as a result of government policies. In an ideal world, the combined set of laws tells everyone what is illegal and who will be prosecuted as such. However, governments and courts have wide margins within which to interpret these laws. This applies to laws governing transnational crimes, just as it does to other types of crimes. When these margins are used to effectively nullify the laws prohibiting certain transnational crimes, there is no longer a difference with the situation described above. Despite the actual legislation, the jurisdiction (or a part of it) has turned into a haven for this particular crime and can be understood as a *de facto* lock.

The second variation on the jurisdiction as a lock is also a *de facto* lock. However, it is not the result of a general policy to interpret laws in a way as to effectively nullify them. It is the result of a corrupt network of persons which causes a situation that within a specific geographical area, during some period, transnational crimes are covered in way as to *de facto* legalize them, or at least

make them immune from prosecution. In practice, such a situation will almost always involve individuals or organizations as locks as well. Persons involved will make use of every possible foreign haven, as well as loopholes in the legislation. However, when this does not suffice to make certain transnational crimes possible and launder them, the mentioned network will take care of this. The variation should not be interpreted as yet another model but more as a mixture of the different models that is discussed with the jurisdictions because it is related to a particular geographical area.

5.6 Conclusions

In this chapter an analytical model was developed of individuals, organizations, and jurisdictions that can function as a lock between legal and illegal. This so-called lock model is inspired on the insights that were a result of the case studies in chapters 3 and 4. The model simplifies the processes by which the legal status of certain transnational activities is transformed. This can either involve a process of laundering or on the contrary a process by which goods, services, or funds become illegal.

The model is called after a shipping lock because of the mechanism by which the individual, organization, or jurisdiction combines equal relationships with both sides despite of the different levels (that is the difference in legality). The lock model can both be restricted to individuals, organizations, or jurisdictions; or it can incorporate combinations of these interfaces in a general model. All different possibilities were discussed in the sections above. If the lock model is used to analyze a concrete case study, one can also use the interface typology to label all the different stages in the lock 'mechanism'. Labeling these stages in a case study with the typology makes it possible to compare them with other case studies involving other types of transnational crimes.

The following chapters will discuss the illicit art and antiquities trade. The chapters are based on both an empirical research project, executed specifically for the present study, as well as on a review of the available literature. The interface typology and the lock model will be confronted with the empirical data in order to establish whether these analytical tools can help to describe and understand the interfaces between legal and illegal in the art and antiquities trade as observed in practice. Furthermore, it will be investigated whether the change in legal status can thus be understood. It should be pointed out that the empirical study of the illicit art and antiquities trade is thus not a goal in itself, but is used here first and foremost to gauge the usefulness of the models developed in the first part of this book. In chapter 6, data sources of the empirical study will be discussed. Thereafter, chapter 7 will provide an overview of the illicit art and antiquities trade on the basis of the available literature. Then, chapter 8 will discuss the illicit trade in art, and chapter 9 the illicit trade in antiquities, both on the basis of the

empirical study. The conclusions of the whole book will follow in chapter 10, together with recommendations for future studies and public policies.

CHAPTER 6

THE TRANSNATIONAL ILLICIT ART AND ANTIQUITIES TRADE: RESEARCH OUTLINE AND DATA SOURCES

6.1 Introduction

The previous chapters dealt with the interface typology and the lock model. The analyses were based on the literature on transnational crime, media reports, and other written sources. This chapter and the following three chapters will focus on one particular type of transnational crime: the transnational illicit art and antiquities trade. The research outline and data sources will be discussed in this chapter. Chapter 7 will provide a general overview of the transnational illicit art and antiquities trade. Chapter 8 will focus on the illicit art trade, using data that was gathered in the empirical study discussed in this chapter. Finally, chapter 9 will focus on the illicit antiquities, also using data from the empirical study.

There are two major reasons why the transnational illicit art and antiquities trade provides an interesting and useful object of study within the context of a study of interfaces. The first reason is the assumption that this trade has many interfaces because in general stolen or smuggled art needs to be sold on the legal market to be profitable.[73] This implies some form of laundering along the way from the moment of theft and/or illegal export to the sale to a customer. The second reason to study the illicit art and antiquities trade is the fact that it has hardly been studied by criminologists.[74] Nevertheless, there are a number of interesting studies by archaeologists and other academics but they usually do not primarily focus on subjects that are relevant for criminological study (e.g. Brodie & Renfrew, 2001; Tubb, 1995). Furthermore, several lawyers have dealt extensively with the legal instruments with regard to the illicit trade like the Unidroit treaty and the UNESCO Convention (Prott, 1997; Rascher, 2000). For these reasons, a study of the illicit art and antiquities trade can be both an important addition to other empirical studies of transnational crime, as well as a fruitful area to look at the significance of the typology and the lock model.

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73 This has been illustrated in some accounts of the art trade. See for example Atwood (2004), Middlemas (1975), Watson (1998) as well as several popular books written by Thomas Hoving, former director of the New York Metropolitan Museum of Art (Hoving, 1994, 1996).

74 In the Netherlands, for example, no academic studies have been done into the illicit art and antiquities trade. One of the few academic studies done in the last years has been a PhD by Laurence Massy, a Belgian criminologist and art historian (Massy, 2000). The best known academic work is John Conklin's *Art Crime* (1994). This book, however, is primarily a broad overview of the range of art crimes without real new data or insights. Finally, several Australian criminologists, have focused on art crime. See e.g. Aarons (2001), Polk & Alder (2002); Aarons, Chappell & Polk (1998).

The following sections will first discuss the different data sources that were used in this study. Thereafter, the opportunities and limitations of these sources will be discussed as far as this study is concerned. It must be stressed that an eclectic approach was followed to gather data for this study. Due to the fact that law enforcement efforts in the field of the illicit art and antiquities trade are generally minimal in the Netherlands, together with the absence of other abundant sources of data, makes it necessary to simply make the best of every source available for researchers.

Finally, in an annex to this chapter, the differences between the licit and illicit trade from a legal perspective will be further discussed, as well as the activities of several police forces in the field of stolen and smuggled art. The legal perspective is treated here because in the countries discussed there are variations in the regulations of the legal status of works of art, and the import and export of them. Because of the inclusive definition used in this study, these differences do not have to explained all the time. However, these legal complexities have a great impact on the interface between legal and illegal actors and understanding these complexities is indispensable to grasp the meaning of the next two chapters. For that reason they will be outlined sufficiently in the annex to this chapter.

6.2 Data sources

In the following sub-sections, all sources used in this study will be briefly described. The main sources were official data, interviews with experts and analysis of media reports, non-academic literature, and specialized media. Besides these sources, academic literature has been used of course. However, this is not seen as a 'source' that has been opened specifically for this study. Having discussed all sources, a separate section will focus on the usefulness as well as limitations of these sources.

6.2.1 Official sources

First, the use of official files is considered. In most countries, art-related crimes are not a priority for the police. In the appendix, a brief overview of the activities of police agencies in the Netherlands, France, Germany, the UK, and the US is presented. Because of the low priority of art crimes, it is usually difficult to work with police agencies to gather data. In the Netherlands, an art unit at the national police is no longer active and collaboration with the police in this field is therefore more or less impossible. However, I spoke with several informed police officers from the National Police Service (KLPD) about the illicit art trade, among them the former head of the art unit.

Even when it was possible to use police files or other official documents, I had to take notice of the potential problems with official data. Several of these problems surely applied to the data that will be discussed hereafter. The data are

probably selective[75] and often only permitted to be mentioned anonymous. However, other problems do not, or to a lesser extent, apply to this study as compared to others. Using official files did not seriously inhibit using other sources. Most of these other sources were available as will be explained hereafter. Furthermore, one very important practical point motivated me to pursue all official sources that could be approached. For this study I could not profit from many reliable and relevant studies based on official sources and by collecting data from these sources myself would therefore add a unique set of findings for my own and future research. For these reasons, I decided that I would use all the material that could reasonably be obtained from official sources. The different official sources will be described below.

The Inspectorate of Cultural Heritage in the Netherlands

Most of the data collection has been done at the Dutch Inspectorate of Cultural Heritage in the Hague. The inspectorate is part of the Ministry of Education, Culture and Science, and is responsible for examining state collections in independent museums.[76] The inspectorate is also responsible for conferring export permits for works of art that leave the EU from the Netherlands. In addition, in case other EU countries claim items under the EU regulations, the inspectorate is the responsible agency to deal with such a claim. Furthermore, the inspectorate is responsible for the protection of a list of items of Dutch cultural heritage which are protected under the Law for the Protection of Cultural Heritage (WBC).[77] With regard to suspected illegal import or export of cultural objects, the inspectorate works together with Dutch customs. When customs runs into items that might fall under any of the regulations, they contact the inspectorate in the Hague. One of the inspectors will then come to study the items or send an expert to do so. When it is established that the items are in fact relevant cultural objects, and the source country can be traced, the inspectorate will discuss with the public prosecutor (OM) or police whether the case can and should be further investigated. Usually this involves the question whether the objects are in fact stolen. Depending on the answer to this question the case will be either taken over by the police/OM or will go back to customs to let the objects go or deal with the fiscal aspects of the case. Because of this task assigned to the inspectorate, I started to work at the inspectorate to look at all their files on suspected illegal import or export. Since then, I have studied all files of

75 Without any comparable reliable set of data, one cannot tell whether data are selective or not. One can only assume that they are selective because of practical factors like e.g. changing policies by customs and the limited part of cross-border flows that can be monitored by customs.

76 See: http://www.minocw.nl/cu_insp/ (Visited November 5th 2005)

77 This law, as well as other legislation, can be found at: www.overheid.nl (Visited November 5th 2005)

suspected illegal import and export between 1995 and 2004. This included 105 cases of import, 17 cases of transit and 8 cases of export of works of art. In the next chapter, these cases will also be discussed from the perspective of interfaces. Despite the fact that these cases provide a rich source of information, some limitations should be mentioned here. As customs officials cannot investigate 'art crimes' systematically, due to the limited legal provisions (see appendix), they will only run into illegal imports or exports by chance. Furthermore, numerous factors influence the cases that will make it to the inspectorate. For example, the ever-changing priorities of the customs bureaucracies and the individual officers on duty can have an effect on detection and investigation.[78] Finally, at the inspectorate I have discussed particular issues and cases with the other members of staff who are all well acquainted with the art scene.[79]

The art squad of the National Police in France

Through the Dutch Inspectorate of Cultural Heritage it was possible to visit the French national police art squad (OCBC).[80] In May of 2003, I joined the head of the inspectorate at a visit to the OCBC in Paris. I was able to engage in discussions with several officers who turned out to be very well-informed and willing to share their experiences in this field. We discussed a number of topics that are particularly relevant to this study. One of them is the traffic of stolen art from France to Belgium and the Netherlands and the way some art dealers are involved in this traffic. In 2002, a Belgian-based Dutch art dealer was convicted for his leading role in numerous art robberies in French castles. I knew of this case and a number of unrelated cases during the 1970s. In December 2003, I stayed at the OCBC for two weeks. This enabled me to look in depth at this case, which is considered the largest since the start of the OCBC in the 1970s. Furthermore, I was able to discuss other cases, as well as specific topics of the illicit art trade, with several officers at the OCBC. In the next chapter the collected data will be discussed from a perspective of interfaces.

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78 A shocking example of customs policies are the so-called 100% checks of passengers at Schiphol airport on flights from notorious drug trafficking regions. Thanks to the enormous investment of resources in these checks, other flights and goods are often scarcely checked. As every regular visitor of Schiphol airport can observe, it sometimes happens that certain arrival gates are hardly checked. This means that anybody with illicit art or for example small arms can enter the Netherlands without a reasonable chance of being inspected.

79 Several persons have worked at auction houses, taught at faculties of art history, and were editors for art journals. Furthermore, the lawyer of one of the most important museums in the Netherlands worked at the inspectorate for one day a week.

80 The central office for the fight against the illicit trade in cultural objects (OCBC) in Paris. See annex two.

New Scotland Yard and the Ministry of Culture in the United Kingdom

In September 2003, I visited the art squad of *New Scotland Yard* in London.[81] I discussed my research and the most important questions and topics with two inspectors at New Scotland Yard. Although I was not able to look at specific cases, I could interview them on a number of relevant topics within the illicit art and antiquities trade. They informed me on the basis of their experience in the London metropolitan area. New Scotland Yard's art squad deals with art crimes in the London metropolitan area. Besides Scotland Yard, I spoke with the head of the agency that grants export permits for works of art. This agency is part of the Ministry of Culture of the UK.

The art and antiquities unit of the Carabinieri in Italy

In January 2005, I made a three-day visit to the head office of the art and antiquities unit of the Italian Carabinieri in Rome. I was joined by an expert in Italian art and antiquities who is both allied to the University of Amsterdam and to the Dutch Inspectorate of Cultural Heritage. Through extensive discussions with five members of the head office, we were able to gather information about antiquities looting and trafficking from Italy as well as the process of laundering through several third countries. Furthermore, thanks to their database (*Leonardo*) they were able to provide statistics on thefts and recoveries. Their database is the largest of its kind worldwide, and probably the most advanced.

6.2.2 Interviews with experts

Whereas observing or contacting criminals directly seems rather difficult, it is possible to get information from all kinds of people that have come into contact with the illicit trade through their work, academic field of interest, or for other reasons. This was done by talking to a number of people working in museums, art galleries, customs, police, private security firms, an investigative journalist, and others. Sometimes this led to new information or ways to cross-validate information from other sources. However, it also showed some less illuminating features of this technique of data collection. Rather often, people primarily recycle notions taken over from others and actually without any empirical base. Examples of such notions can be found with the explanations given for large art thefts, the link between drug trafficking and art thefts, and the presence of smuggled and stolen items in the legitimate art trade. Despite the fact that numerous 'experts' share these notions, they often lack any credible proof. Some of these notions have been discussed before (Soudijn & Tijhuis, 2003; Tijhuis & Soudijn, 2004; Tijhuis & Van der Wal, 2005).

[81] See: http://www.met.police.uk/artandantiques/index.htm (Visited November 5th 2005).

Besides the importance of the experiences with interviews for this study, it motivated me to be extra cautious with articles or books primarily based on conversations or interviews with experts. Especially when experts lack a record of substantial empirical research it will often be better to stay with open sources and empirical studies by others. The different types of people that were interviewed are briefly described below.

Archaeologists and museum curators

As far as the trade in antiquities is concerned, many staff members of ethnographical museums have experiences with both the source of the trade (theft and smuggling of antiquities from source countries) and the trade itself in source and market countries. Some of them work in a museum part of the year and do field work abroad for the rest of it. Several had experienced looting of archaeological sites at which they worked. I interviewed staff members from museums in the Netherlands, Thailand, Cambodia, Laos, and Vietnam.

At a number of universities and institutes, I interviewed archaeologists, art historians and related academics. They were working at the *University of Leiden* and the *University of Amsterdam* (the Netherlands), the *Illicit Antiquities Research Centre* at the *University of Cambridge* (the United Kingdom), *Bryn Mawr College* (United States) and *Chulalongkorn University* (Thailand) as well as the *National Museums* of Cambodia, Laos and Vietnam. In total, I spoke with sixteen persons in this category.

Art dealers

Art dealers are potentially one of the best sources of information. However, this depends upon their willingness to discuss their dealings with outsiders. Several conversations with dealers gave some idea of their way of working although it usually did not result in any 'hard' data. Furthermore, I was restrained in the possibilities to interview art dealers because of the work at the Inspectorate of Cultural Heritage. The reason for this was the chance to engage the same people that also figured in official files. However, I was able to speak with eight dealers from the Netherlands, France, and Thailand.

Questions relating to the provenance of items are often evaded or answered in vague terms. In each concrete case, one can only guess about the reasons for this and not automatically assume that anything illegal is involved. No dealer has to answer any questions and legitimate reasons for secrecy can be thought of – for example, the anonymity of their clients. However, as long as some dealers prefer to abstain from the degree of transparency that is required or custom in many other economic sectors, they are by themselves cause for suspicion when they are involved in parts of the trade known for their incidental or regular connection

with looting and smuggling.[82] This holds true, for example, for the trade in items from areas within the territories of present-day Afghanistan, Cambodia, Italy, or China.

Other persons

Several other persons do not fit into the categories above. Among them was one of the investigative journalists working on the illicit antiquities trade. Furthermore, I had a number of conversations with the director of NedArt, a foundation promoting the interests of the Dutch cultural heritage as well as the different parts of the art sector. They were all rather well informed and provided me with significant information on specific topics.

6.2.3 Media reports, non-academic literature and specialized media

The last method of data collection involves media reports and other open sources. At first this method seemed to have rather limited opportunities because of the lack of media coverage for most of the art thefts and illicit trade. However, it turned out that there was in fact a substantial pool of information to be found in numerous specialist media. Nevertheless, with regard to the pros and cons of different research methods, some notes should be added here. First of all, many media reports keep a number of myths alive that have no (or a rather small) empirical base.[83] They need to be cut out before the remaining credible information can be used. Furthermore, as with natural persons, different media tend to repeat each other's 'news'. This does not necessarily mean that anything is wrong or misleading with regard to this information, but it simply means that large quantities of information need to be scanned to get anything new or relevant. Finally, to some extent the media have the same problem of selection as the official sources. However, some specialist media discussed below are less vulnerable to this problem.

IFAR Journal

Since 1977 the *International Foundation for Art Research* (IFAR) has published the *Stolen Art Alert* as part of the IFAR Journal.[84] In this periodical, IFAR publishes

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82 This custom of secrecy clearly is not observed by all dealers. Interesting differences can be found at major events like *The European Fine Art Fair* (TEFAF) in Maastricht. Some dealers have labels with all relevant information with all or most of their items, whereas others, involved in the same kind of items, do not provide any information at all and also prefer not do so in conversations with potential customers.

83 Examples were mentioned above and concern the close link between the drug trade and the trade in stolen art, the theft of works of art ordered by collectors and the growing involvement of 'organized crime' in the illicit art and antiquities trade.

84 See: http://www.ifar.org/what_main.htm (Visited November 5th 2005).

reports of thefts and recoveries, as well as articles on particular thefts. Most of the reports are on thefts or recoveries from European countries or the US. I was able to use the reports from 1982 to 2004. This provided me with data on a number of important thefts that led to the smuggling of art to other countries and subsequently to sales of these stolen items. I analyzed the recoveries of one group of items in particular to get a clearer picture of the perpetrators and the possible links with legal actors. The group consisted of paintings that were stolen in Europe from museums or large private collections (Tijhuis & Van der Wal, 2005). This group was chosen because it has the highest recovery rate and it is usually used in arguments on the perpetrators of art crime.

Illicit Antiquities Research Centre

Besides the information from the IFAR, much information is published by the *Illicit Antiquities Research Centre* at Cambridge University. The Illicit Antiquities Research Centre (IARC) was established in May 1996, and commenced operations in October 1997 under the auspices of the McDonald Institute for Archaeological Research in Cambridge, England. its purpose is to monitor and report upon the detrimental effects of the international trade in illicit antiquities (i.e. antiquities which have been stolen or clandestinely excavated and illegally exported). It publishes an online newsletter and has published a number of books on the illicit art and antiquities trade (Brodie & Watson, 2000; Brodie & Renfrew, 2001).[85] The IARC is the only academic institution that is solely devoted to the illicit antiquities trade. As mentioned above, I visited the centre in September 2003.

Media reports

In addition to the information from IFAR and IARC, I screened all major Dutch newspapers since 1993 on recoveries in art theft cases.[86] In addition to the newspapers from that period, I went through the archive of *the Netherlands Institute for Art History* in the Hague.[87] This institute keeps files on millions of art objects and is known worldwide for its expertise and archives. Besides the files on particular objects, they have an archive with newspaper reports on art thefts and related topics. Part of this archive deals with reports of thefts and recoveries going back to the early 1950s. This provided a useful addition to the more recent reports that were more easily available. Besides the Dutch newspapers, I checked

85 Their website provides much information in digital form: see: http://www.mcdonald.cam.ac.uk/IARC/home.htm (Visited November 5th 2005).

86 The newspaper articles are online available for members of pica, an online library service. See www.pica.nl (Visited November 5th 2005).

87 See: http://www.rkd.nl (Visited November 5th 2005).

foreign newspapers as far as they were available online and written in English, German, or French.

The Museum Security Network reports

A solely web based source of information are the reports provided by the Museum Security Network. This organization publishes reports that often involve reports on art theft and the illicit trade from all around the world. I scanned all reports available in the archive of the Museum Security Network from its start in 1997 to 2004.[88]

Non-academic literature

Finally, an additional source of information were a number of books by research journalists or other non-academic authors. They were especially useful for information about the illicit trade before the 1990s (Koldehoff & Koldehoff, 2004; Kretschmann, 1991; Leitch, 1969; McLeave, 1981; Middlemas, 1975; Roux & Paringaux, 1999).

6.3 Opportunities and limitation of the sources

The empirical study should answer the question whether the interface typology provides us with a useful tool to describe the relationships between actors in the illicit art and antiquities trade. Furthermore, it should show whether the lock model can explain the way in which illicit art and antiquities are laundered or licit art and antiquities are added to the black market. To answer these questions, the empirical study should be sufficiently wide in scope and reliable as far as the data is concerned that it produces. Both the scope and the reliability depend to a large extent on the sources that are used. The section above, in which all data sources were outlined, mentioned some pros and cons of the different sources. They will be further discussed below to appraise the empirical study as a whole. The different categories of sources will be looked at together with other studies that were primarily based on particular sources.

Studies based on official sources

First of all, there are studies that are solely or primarily based on official sources. They usually offer an abundance of information on one or more cases. A number of such studies on organized crime were for example done in the Netherlands since the middle of the 1990s (Huisman et al., 2004; Kleemans et al., 2002; Van Duyne, 2003). However, much of the information will usually not be available

[88] See www.museum-security.org (Visited November 5th 2005).

to the reader and made anonymous as far as it is available. Furthermore, there is a number of other drawbacks. The information cannot be checked by other researchers and cannot be placed within a wider context where it can be connected with results from other studies. This problem was also apparent in the empirical study of the illicit art and antiquities trade. Furthermore, working with police or other official institutions will often reduce the use of other methods like interviewing the main characters in a particular case. This only applied to part of this study. As the study was not limited to the Netherlands, data from official files could be combined with data from other sources in other countries. Finally, an important drawback is the selective nature of official files. Usually, critics of the use of official files point to the fact that these files look at specific aspects of crimes that are investigated by police, customs, or other agencies. This was not a relevant problem in this study. However, the illicit art and antiquities trade shows another type of selectivity that actually is a problem. This is the selectivity of the types of transnational crime that are investigated by police and other law enforcement agencies in general (not only in the Netherlands). Whereas drug trafficking, terrorism, smuggling and trafficking of humans are priorities in most countries, the illicit trade in art, antiquities, 'blood diamonds', and (wholesale) arms trafficking are usually given less priority. Therefore, it is more difficult to study these crimes on the basis of official files. From a perspective of interfaces, these types are exactly the ones that seem to be most interesting.[89] Many of the cases discussed in the previous chapters belonged to this group of transnational crimes.

Studies based on the social environment of criminals

Contrary to studies based on police files, there are criminologists who try to look at the criminal activities and actors from the inside. This can for example be done by structured interviews or by casual conversations as part of an attempt to partially integrate into the social life of the criminals. An interesting example of the latter was Zaitch's study of a particular category of Colombian drug traffickers (2001) and Ko-Lin Chin's study of Chinese people smuggled into the US (2002). A classic example of this type of study was performed by McCoy and focused on the heroin trade in South-East Asia during the Vietnam war (McCoy, 1972). With such an approach, one does not rely on others to choose research subjects and one is not accountable to official institutions with regard to publications of findings. However, there are also some important drawbacks. Checking information from studies done in this way can be as hard or impossible as in the case of studies based on police files. The reader has to rely for a large part on the integrity of the researcher and his capacity to separate fact from fancy. At the

[89] In the last two chapters, this topic will be further discussed. The relationship between law enforcement priorities and crimes known for their interfaces is rather complicated. However, for an adequate understanding of interfaces, it is essential to focus on this topic.

same time, the researcher will have to rely on his contacts without being able to cross-validate much of the information. Furthermore, the safety of the researcher can demand restrictions in the way he studies his research subjects or the way he publishes his findings.

In the empirical study of the illicit art and antiquities trade, there are several types of insiders that could be approached: dealers, thieves, and smugglers. In theory, it would be possible to focus on art thieves and other actors. Nevertheless, at least one important practical fact will hinder an attempt to engage in this type of research. Partly because of the lack of interest of the Dutch and other police forces, hardly any art thieves are caught. Therefore, it is impossible to come very far, for example by interviewing imprisoned thieves or other criminals. This does not mean, of course, that one cannot approach them in another way. However, in the case of the illicit art and antiquities trade, this would be very difficult. Buyers of and dealers in stolen or smuggled art are not easily recognizable or traced by observation and conversations with bystanders. Furthermore 'illicit art' is not easily separated from licit art as will be discussed in the appendix. As far as the dealers are concerned, the study of official files in the Netherlands limited the opportunities to interview them. However, some dealers were interviewed in other countries. This did not provide substantial extra data. An important difference between the illicit art and antiquities trade, as opposed to for example the drug trade, is the fact that dealers are businessmen whose reputation is one of their most important assets. This reputation can be hurt by the fact that people associate the art trade with theft, smuggling, or other crimes. For this reason they generally are not eager to shed light on the way in which they work or the way they know their colleagues work.

Studies based on media reports and studies by investigative journalists

Some of the drawbacks of both methods can partly be averted by another kind of study. For some types of crime, and in some countries, media reports can be a primary source of data for a researcher. Depending on the exhaustiveness and reliability of certain media, this can sometimes be an alternative to the previous two approaches. One does not have to rely on questionable characters for information and neither on official institutions that may have better information but will not allow full coverage of it. However, at the same time this implies that one has to rely on another subject beyond one's own control: the media that are used in the study. Media reports may be one-sided or false. They may even be the victim of purposeful disinformation campaigns. Nevertheless, due to the large number of newspapers, magazines, and other media one can choose, cross-validating is sometimes possible. Furthermore, one can use media reports in addition to other sources. An example of a study based for a part on media reports is *The Turkish Mafia* by Bovenkerk and Yesilgöz (1998).

In addition to the use of media reports, books by investigative journalists and others like former police officers, can offer information that is otherwise unavailable. In fact, investigative journalists will regularly provide books on specific topics of interest that are far more informative than those written by criminologists. When these books are read with the same critical attitude as media reports are read, they can provide a crucial tool for the academic study of transnational crime. Most of the analysis in the previous three chapters would not have been possible without these kinds of books (see e.g. Henry, 2003; Morstein, 1989; Pretterebner, 1989; Trepp, 1996; Von Bülow, 2003).

As was pointed out in the previous section, this study made use of media reports as well as some specialized media. As far as the regular media are concerned, they illustrated several problems. First of all the fact that many media tend to copy each other's news, whether it consist of factually correct information or unfounded assumptions, myths or false simplifications. However, in case of crimes that are 'under-investigated' by law enforcement agencies and 'under-researched' by academics, media reports can at least have the function to point at the existence of specific crimes, criminals etc. Thereafter, other sources can be used to fill in the information or suggestion brought by a media report. Furthermore, most of the information used for this study, came from specialized media that have proven to provide mostly accurate information. Finally, as was mentioned before, books by non-academic authors fill an important gap in the study of this type of crime.

6.4 Conclusions

The above sections showed which data sources are used in this study. For both practical as well as methodological reasons, a mix of sources is used. The practical reason is the fact that no single source can be used to obtain both reliable and sufficient data about the research object. The methodological reason is the fact that each source has serious drawbacks which can be lessened by combining them with other sources. This is not to say that this study is based on an ideal set of data. Considering the restrictions of a study like the one at hand, the most promising and available sources were used while it is a fact that many others were unavailable or have not been because used of these restrictions.

On the basis of this study there are several research questions that cannot be answered. The precise quantity of certain crimes or criminals cannot be established, not even a realistic estimate. Furthermore, possibilities of the existence of certain interfaces between actors or other relevant occurrences cannot be dismissed on the basis of this study. However, it can be concluded that certain interfaces are unlikely to occur very often while other interfaces are regularly observed. Furthermore, it can be concluded that the lock model can or cannot explain the laundering of illicit art and antiquities in cases that were studied. In general it can be concluded that the main questions set out for this

study can be answered with the data sources described before. The main questions are whether the relationships in the illicit art and antiquities trade can be described with the interface typology, and whether the process of laundering of art and antiquities can be explained by the lock model.

Annex 1: Defining the illicit art and antiquities trade

Some cross-border activities are looked upon as illegal almost everywhere. For that reason, we can for example speak of drug trafficking without additional qualifications. In case of art and antiquities, the qualification 'illicit' is added because art and antiquities by themselves are not illegal. They are only illegal when they are stolen, smuggled, or forged.

The transnational trade in stolen or illegally exported art and antiquities is the subject of a number of international and bilateral treaties, as well as national laws. These laws define to a large extent the difference between the licit and illicit art and antiquities trade and the status of an owner as a (il)legitimate possessor. In one way or another, these laws all try to contain the illicit trade and accomplish restitution of art to the original owners, or states of origin. It is very important to stress the difference between stolen art and illegally exported art. Both are illegal, but important differences exist between the way these are and can be treated by the responsible authorities and by interested parties in debates about the illegal trade. Most important are the following provisions:

- UNESCO Convention for the Protection of Cultural Property in the Event of an Armed Conflict (1954, 1999)[90]
- UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970)[91]
- Bilateral Treaties between the US and ten countries in South America and elsewhere, inspired by the 1970 UNESCO treaty[92]

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90 For full text and ratifications see: http://www.unesco.org/general/eng/legal/convent.shtml.

91 For full text and ratifications see: http://www.unesco.org/general/eng/legal/convent.shtml.

92 The treaties are guided by art 9 of the 1970 UNESCO Convention: Article 9
Any State Party to this Convention whose cultural patrimony is in jeopardy from pillage of archaeological or ethnological materials may call upon other States Parties who are affected. The States Parties to this Convention undertake, in these circumstances, to participate in a concerted international effort to determine and to carry out the necessary concrete measures, including the control of exports and imports and international commerce in the specific materials concerned. Pending agreement each State concerned shall take provisional measures to the extent feasible to prevent irremediable injury to the cultural heritage of the requesting State.
For further information see: http://exchanges.state.gov/culprop.

- Unidroit Convention on Stolen or Illegally Exported Cultural Objects (1995)[93]
- EU Council Directive 93/7 EEC On the Return of Cultural Objects Unlawfully Removed from the Territory of a Member State (1993)[94]
- EU Council Regulation (EEC) 3911/92 On the Export of Cultural Goods
- EU Council Regulation 1210/2003 Concerning specific restrictions on the economic and financial relations with Iraq
- National laws like e.g. the Dutch 'Wet tot Behoud van Cultuurbezit' (Law for the Protection of Cultural Heritage)
- (Not legally binding) ICOM (International Council of Museums) 'Red List'[95]
- (Not legally binding) ICOM 'Ethical Code'

The 1954 UNESCO Convention refers to art and antiquities that are looted during occupations of states or parts of states in times of armed conflicts. It was supposed to be used for situations like the looting of antiquities in Afghanistan and Iraq recently, although its success has been marginal. One important problem is the fact that a number of important countries like the UK and the US have not ratified the Convention. To be sure, the protection of cultural heritage by the armed forces in Iraq and Afghanistan should not be dependent on particular international legal regimes. However, as could be followed in the media coverage of these wars, the protection of the unique cultural heritage in these countries did not seem to have a top priority.[96]

The 1970 UNESCO Convention deals with the illicit art and antiquities trade in general. A large number of countries ratified the convention including some European Union countries. In recent years, France (1997),[97] Finland (1999), the United Kingdom (2002), Denmark (2003), and Sweden (2003) ratified the convention. However, the convention lacks clear results and its role has primarily been symbolic. Part of this can be explained by the fact that the convention only aims at states and concrete actions are therefore dependent on diplomatic and other state channels which are not known for their impressive speed and efficiency.

The 1995 Unidroit Convention tried to solve this problem by concentrating on uniform standards of private law. Under this convention, owners of stolen or

93 For full text and ratifications see: http://www.unidroit.org/english/conventions/c-cult.htm.

94 For full text of all EU legislation see: http://europa.eu.int/eur-lex/en/search/searchlif.html.

95 For ICOM see: www.icom.org.

96 A range of articles on this topic can be read online at: http://www.savingantiquities.org (Visited August 9th 2005).

97 However, France still needs to implement the convention into its national law.

illegally exported cultural objects can directly address courts in both their own state and the state where the object is located. In a way, this convention provides far better tools to bring back stolen items. However, there are also some major disadvantages. One of them is the small number of ratifications, although this number is increasing. Besides some source countries, a number of European countries are party to Unidroit: Croatia, Finland, Hungary, Italy, Norway, Portugal, and Spain. Lacking are the big market countries France, Japan, the UK, and the US. Besides the limited number of ratifications, there is another important technical disadvantage. The Convention allows the claimant of stolen art a certain degree of 'forum shopping'. Not only the courts in the state where an object is located, but also the courts in the state of residence of the claimant have jurisdiction over these claims. This leads to a situation where source countries like China and Italy, both known for their huge losses of cultural heritage as well as for their sometimes radical policies, can deal with claims in their own courts and subsequently ask for execution of the verdicts in the state where an object is located.

All the conventions share a number of problems that hinder their effectiveness. First of all, many cultural objects are not registered and therefore hard to trace and claim in case of theft. This is especially problematic with illicit excavations where registration is impossible by definition. Some countries try to evade this problem with national laws that declare everything which comes from their soil as their property.[98] However, this is not as simple as it seems. As civilizations and cultures of the past did not run along present state-boundaries, it can be extremely difficult to prove beyond doubt that something comes for example from Thailand (instead of Cambodia), Italy (instead of Greece) or Greece (instead of Turkey). Secondly, there is the problem of corruption. In many source countries, customs officials or other relevant officials are willing to turn a blind eye, if they are paid the right price. In many cases, they are even involved in the illicit trade themselves, as for example in China.[99] Thirdly, as long as art, like money, can easily be 'laundered' in places like Switzerland, South Africa, or Hong Kong, every treaty or law will be of limited effect.

The EU Directive and Regulation have created a more or less uniform system of export permits for objects that leave the EU, and a system of rules for restitution of objects between EU countries. Export permits are demanded for fourteen different categories of items and are granted by the country from which an object leaves the EU. Penalties on the violation of this system of export permits can be quite harsh. For exporting without a permit, one can be fined twice the value of the object in addition to seizure of the object itself.

Besides the system of export permits, there are rules for restitution of objects between EU countries. EU countries are held to assist each other in the

98 A well-known example is Italy.

99 Melvin Soudijn and I mentioned some typical examples in our article in *Art, Antiquity and Law* (2003).

restitution of items which have been stolen or illegally exported. Illegal export refers to a violation of the national law for the export of cultural items. This is something different from the illegal export of cultural items out of the EU, to be sure. Since the adoption of the EU Directive and Regulation in 1992/93, there have been a number of cases where EU countries have demanded items from other EU countries. This topic will be further discussed below.

EU Council Regulation 1210/2003 Concerning specific restrictions on the economic and financial relations with Iraq, aims at the protection of Iraq's cultural heritage. The import of art and antiquities from Iraq has been forbidden from August 1990 onwards. This regulation enables authorities in European countries to fight the illicit trade in Iraq art and antiquities, without having to rely on the UNESCO or Unidroit conventions.

The Red List of the International Council of Museums lists categories of items which are regarded as particularly vulnerable. Dealing in these items is seen as 'not done', irrespective of the legal or illegal character of these dealings in a particular jurisdiction. Examples of items which have been on a Red List for some time are Nok statues.

The ICOM also has an Ethical Code for its members, a large group of museums all over the world. This ethical code demands from its member's compliance with the rules set by the UNESCO Convention. Both the Ethical Code and the Red List are not legally binding for the members of ICOM.

Finally, I would like to make some specific remarks on the Dutch situation. The Netherlands is not party to any of the treaties against the illegal trade in cultural objects. This means in principle that any legally protected object that is smuggled out of or into the Netherlands cannot be claimed by the Netherlands (in the case of Dutch items) or the foreign country (in the case of items from that country). The exception to this rule is provided by the EU Directive and Regulation. In case works of art are within the EU, they are protected and can be brought back to the Netherlands. Furthermore, through the EU law, the WBC extends its reach over the territory of the EU. At the time of writing (November 2005), the Dutch government has announced plans to ratify the UNESCO 1970 Convention and the implement this convention, as well as the already ratified UNESCO 1954 Convention, into Dutch national law.[100] However, it remains to be seen whether and when these plans will materialize.

A different situation exists for stolen items that enter the Netherlands. When customs find an item which they suspect has been stolen, they can hold it to investigate the case. However, before it can be identified as stolen it first has to be traced back to its source country, or it needs to be registered as stolen at Interpol. Usually, this is quite complicated if not impossible. One of the main problems is the fact that many antiquities are looted from unexcavated sites.

[100] For a commentary on the proposed legislation see Ott, Tijhuis & Van der Wal (2005).

Therefore, they cannot be identified by definition by the source country. This makes it almost impossible to prove theft. Due to the rather minimal legal provisions, customs officers are not allowed to search systematically for works of art that enter the Netherlands. Only objects which are found by chance may be seized and investigated. This is an important fact to consider when one looks at the numbers of items which are seized by customs and subsequently end up in the files of the inspectorate (see paragraph on official agencies).

Annex II: Specialized police agencies dealing with art crimes

The attention to crimes related to art differs quite substantially between individual source and market countries. Even within countries, important differences are found. For the empirical study of the illicit trade and the interfaces between legal and illegal actors, it is important to understand these differences. Different approaches by police, customs and other authorities influence both the illicit trade as well as the interfaces with legal actors. These different approaches are linked with, or guided by, different legal provisions against the illicit trade. As was described above, there are several international regulations that are important here in addition to national laws.

In the Netherlands, the legal provisions that art criminals have to take into account are rather limited. They will be further discussed in the paragraph on the seizures of cultural objects by Dutch customs. The focus here will be on the government agencies which have a role in this area. As far as stolen art is concerned, the police is the natural institution to look at. In the Netherlands, there used to be an art unit at the National Police and National Intelligence Service in Zoetermeer (Korps Landelijke Politiediensten/Centrale Recherche Inlichtingen).[101] Since January 1st 2002, this art unit has been abolished. Ironically, the period from 2001 until now has seen a series of serious art thefts from museums.[102] Furthermore, the local police departments do not have art units or police officers specialized in this field. Even the city of Amsterdam, with an unprecedented share in Holland's cultural heritage, lacks an art unit within its police department. With regard to the illegal import or export of antiquities, Dutch customs and the Inspectorate of Cultural Heritage in the Hague are the responsible authorities. They were discussed in the paragraph on the inspectorate.

In many other European countries, the situation with regard to art related crimes can probably be compared with the Netherlands. In Belgium, a

[101] For the KLPD see: http://www.politie.nl/KLPD/ (Visited November 5th 2005).

[102] There were thefts in the Van Gogh Museum (Amsterdam), the Rijksmuseum (Amsterdam), the Nieuwe Kerk (Amsterdam), the Frans Hals Museum (Haarlem), the Museon (The Hague), and a number of museums in the country side. None of them have been solved up till now. During the 1980s and 1990s there have been more high-profile thefts. However, the thefts during those years were regularly followed by successful recoveries.

specialized art squad exists with the federal police in Brussels. They claim to be very active in several fields of art crime, like thefts, forgeries, and money laundering in the art trade.[103] However, it seems that Belgium does hardly anything about the traffic of antiquities, especially from Africa. Furthermore, the interest in the trade in stolen items from France or art crimes outside Brussels is limited.

In Germany, the attention of the police for art crimes seems to depend heavily on the state within the federal republic. Some states seem to be quite active, while others do not pay any perceptible level of attention to this topic. The National Police Service, Bundeskriminalamt (BKA)[104] in Wiesbaden, seems to be comparable to its Dutch counterpart as far as art is concerned, although in general the BKA is known to be quite competent. On the BKA website, the listing of stolen art works runs from 1997 through 2001. Since 2001 no new information has been added!

In the US, another federal state, the situation is partially comparable with Germany. Some cities (like New York and Los Angeles) have special art units or detectives within their police departments while others do not seem to place any special emphasis on this topic. However, since the art trade is concentrated primarily in New York and just a few other cities, it is hardly surprising that there is not widespread attention to art theft and trafficking issues. In addition to the local police departments, the FBI has an art unit.[105] When it comes to illegal imports and exports, the US is relatively active. Bilateral treaties were signed with a group of ten countries, most of which are located in South America. With this, the US differs from many countries which are party to multilateral treaties. However, the bilateral treaties have seen concrete results whereas measures like the UNESCO treaty have not many known successes since its adoption over thirty years ago.

In France, an active and central bureau for art crimes exists in Paris, the central office for the fight against the illicit trade in cultural objects: the *Office central de lutte contre le trafic des biens culturels* (OCBC).[106] Staffed with about 35 persons, this is probably one of the most effective art squads in Europe at the moment in terms of arrests and returns of stolen objects, although it is not the largest organization. In Italy, an art unit of more than 150 persons exists as part of the *Carabinieri,* or military police. They claim to be most effective in tracing stolen art, both in absolute as well as relative numbers.

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[103] See: http://www.fedpol.be/police/fedpol/pol/3/pol3_kua1.htm (Visited November 5th 2005).

[104] See: http://www.bka.de/ (Visited November 5th 2005).

[105] See: http://www.fbi.gov/hq/cid/arttheft/aboutus.htm (Visited November 5th 2005).

[106] See: http://www.interieur.gouv.fr/rubriques/c/c3_police_nationale (Visited November 5th 2005).

CHAPTER 7

THE ILLICIT ART AND ANTIQUITIES TRADE: AN INTRODUCTION

7.1 Introduction

The previous chapter dealt with the data sources for the empirical study of the transnational illicit art and antiquities trade. The data will be used in the next two chapters to study the interfaces that can be found in this type of transnational crime. Before that, a more general overview of the illicit art and antiquities trade will be provided in this chapter. The aim of this overview is threefold. First of all, it outlines the range of activities considered to be part of the illicit trade as well as its estimated scale. These activities are the subject of a small body of academic literature, some books by journalists, and numerous reports in the (specialized) media.[107] It tries to answer the question: what do we actually mean by 'the' illicit art and antiquities trade? Secondly, it points at the problems of discerning licit from illicit trade. Due to several factors, it can often be rather hard to label particular cases as licit or illicit. In those cases, illicit activities will become licit, or the other way around, because of the jurisdictions at hand, the characteristics of the objects involved, or the simple passing of time. Thirdly, this chapter studies the links between the illicit trade in cultural goods and other types of crime, like for example money laundering and drug trafficking.

One important topic will not be specifically discussed in this chapter: the different actors involved in the illicit trade. This topic will be discussed in the next chapter.

7.2 The illicit trade

According to Conklin (1994:2) art crimes are criminally punishable acts that involve works of art. This definition seems to be rather broad at first sight. However, if the range of activities is limited to those that are transnational, this definition provides a reasonable starting point. Hereafter, a number of crimes will be described: art theft, forgery, and the looting and smuggling of antiquities. Each crime has many variations of its own. The most important will be mentioned here.

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[107] This includes a number of websites that offer reports on art crimes. Most important are the website of the *Illicit Antiquities Research Centre,* University of Cambridge (http://www.mcdonald.cam.ac.uk/IARC/home.htm), the US State Department's *International Cultural Property Protection* website (http://exchanges.state.gov/culprop) and the *Museum Security Network* website (http://www.museum-security.org/).

7.2.1 Art theft

Many articles on art crimes or art theft mention the theft in 1990 from the Isabella Stewart Gardner Museum in Boston. It involved the theft of a number of paintings by Rembrandt, Vermeer, Degas, and Manet, and is usually considered as the largest art theft ever. According to the FBI, the total value may be as high as $300 million (Koldehoff, 2004).[108] Other often discussed thefts include the four robberies of the Alfred Beit collection in Russborough House in Ireland, in which each time a number of old masters were taken (Koldehoff, 2004; Massy, 2000; McLeave, 1981). The first robbery was committed by members of the IRA in 1974. Thereafter, the collection was robbed three times by others in 1986, 2001 and 2002. Despite the spectacular nature of such large thefts, they make up a minor part of all art thefts. However, as these thefts are solved relatively often, a lot can be learned about the perpetrators of these crimes and their motives (Koldehoff, 2004; Tijhuis & Van der Wal, 2005; Mc Leave, 1981). Although art has always been stolen, thefts from museums have become more frequent with the rapid rises in prices of fine art since the late 1950s. At a number of auctions during the end of the 1950s and the beginning of the 1960s, the idea of master pieces as objects with spectacular and ever-increasing value, was established as more or less an undisputed fact for the public at large (Lacey, 1998; Koldehoff, 2004). As prices rose, paintings and other objects seemed an easy way for many criminals, to earn a lot of money without too much risk. One could either try to sell the objects or try to force insurance companies or owners to pay for their safe return.

Most art thefts in fact do not occur in museums. Most art is stolen from domestic dwellings and galleries.[109] As far as the first category is concerned, this ranges from art that is stolen in regular burglaries (besides other objects) to well-planned thefts from large private collections. The large majority of objects is not recovered and it is therefore difficult to say what happens with these objects.

A specific category of thefts are those of religious art and objects. In many countries, churches, temples, and other religious places are popular with thieves. Catholic churches are stripped of their precious objects by thieves who profit from the lack of security. Especially in Italy, this type of theft is a huge problem, but other countries in Europe, like France and Belgium, experience the same problem on a smaller scale (Carabinieri, 2004; Interpol, 2005, Massy, 2000). In Russia and some other countries in the region, religious icons have been stolen in substantial numbers for a long time. Icons will only rarely be recovered, partly due to the difficulty to identify individual icons and the sheer number of icons that has entered the market (Interpol, 2005). In Asia, the theft of Buddha and

[108] http://www.fbi.gov/hq/cid/arttheft/northamerica/us/isabella/isabella.htm (Visited, December 3rd, 2004).

[109] Some statistics can be found at the *Art Loss Register* website: http://www.artloss.com/Default.asp (Visited November 5th 2005).

other statues has been a major problem in several countries (Interpol, 2005; Nagashima, 2002; Thosorat, 2001). Nepal has been one of the countries hardest hit by these thefts (Stingelin, 1992). Jürgen Schick extensively documented the situation in Nepal in his book *The Gods are leaving the country* (1998). Buddha statues can originate from temples and be 'owned' and known. In that case they are comparable with other works of art discussed here. However, many Buddha and other statues are located in deserted areas and unknown, and not 'owned' by someone, except for the general claims of some countries on everything that is located on their territory. In case of these unknown objects they are usually categorized as antiquities.

Besides religious art, rare books and manuscripts form another specific category. Although not as well-known as thefts of fine art from museums, this type of theft occurs rather often and victimizes many libraries.[110] More than most other thefts here, book thefts are regularly committed by persons with a connection to the objects. They can for example be scholars, students, collectors, museum curators or dealers. Furthermore, these persons are often serial thieves who may operate for years and in many places.

7.2.2 Fakes and forgeries

> "Fakes are works of art made to resemble existing ones; forgeries are pieces that are passed for as original works by known artists. The mere production of a work that resembles an existing one is not a crime, but intentionally and deceptively passing it off as someone else's work is forgery, a type of fraud" (Conklin, 1994:48).

At first glance, the field of fakes and forgeries seems to be clearly different from the illicit trade in stolen and smuggled art and antiquities. It is well known that fakes and forgeries are part of the art trade and probably part of many museum or private collections. How many fakes and forgeries are around is a matter of debate and also depends on the exact definition one uses. According to Thomas Hoving, the former director of the Metropolitan Museum in New York, about 40% of all fine art in museum collections consists of either fakes or forgeries. He dedicated a book on the history of fakery and forgery (Hoving, 1996). One of the things he shows is the fact that in every period art from earlier periods was forged and faked.

Many cases of fakes or forgeries have a transnational element. Two main categories can be distinguished. First of all, fakes of objects of fine art that are moved abroad to be sold. Secondly, forgeries of antiquities that are moved from the source country to the market country to be sold. The first category can be

[110] Many cases of book thefts can be found on the following website: http://www.saztv.com/page13.html (Visited November 5th 2005). See also www.museum-security.org (Visited November 5th 2005).

illustrated by a range of books on contemporary and past fakers and forgers (Goodrich, 1973; Jansen, 1994; Reitz, 1993). Often, works of modern art are faked or forged like works by Picasso or Dalí. However, old masters are also successfully forged or faked, as can be learned from the work of serial faker and forger Eric Hebborn. His drawings penetrated some of the world's most prestigious museums for over forty years (Hebborn, 1997; Landesman, 2001). In 1996 Hebborn published a book in which he outlined his methods. A week after it was published he was killed in Rome.

The second category consists of forgeries of antiquities. All kinds of antiquities, like for example Buddha statues, African masks, or Roman statues, are faked. In daily practice this can have confusing consequences, for example in case of fake Buddha statues. When these are sent abroad without export permits, for example from Cambodia, they will be initially considered as smuggled and probably looted items. They may be seized and action may be taken against the supposed smuggler. Only after it has been established that the objects are fakes, it turns out that in fact no crime has occurred (in most cases). One Mexican forger was so successful that he was arrested and accused of looting pre-Columbian sites. He was released only after he demonstrated his craft (Brodie et al., 2000:19). From a perspective of interfaces, the difference between fakes and original items is of particular importance. It will often mark the difference between licit and illicit trade, and therefore whether an interface exists and where the legal–illegal interface is to be located.

According to some experts in Asia, the production of high quality fakes is actually a blessing for the protection of the authentic pieces.[111] The same could be thought of the fakes of African art. Besides fakes that can to some degree be confused with authentic pieces, so-called 'airport-art' is another issue. This is a category of objects that is specifically made for the tourist market and consists of low quality fakes of indigenous art. Sometimes, objects are made that do not even resemble the ones known for the region but something from another region or country (Fuchs, 1992).

7.2.3 Looting and smuggling of antiquities

The looting of antiquities is often discussed together with art theft. Although there are similarities, however, it is important to point out the differences between the two. Art theft concerns known objects, owned by someone, that are stolen. Looted antiquities are usually objects that are not known before as individual objects, for example because they are still unearthed in tombs or elsewhere. Many states claim these unearthed antiquities as their property, but most national laws will not succeed in enforcing this claim against owners outside their jurisdiction. One of the reasons for this is the fact that it is often impossible

[111] Personal correspondence.

to proof unequivocally that an object comes from the territory of a particular country. However, a recent trial might indicate some change on this point. Frederick Schultz, a New York antiquities dealer and former president of the National Association of Dealers in Ancient, Oriental and Primitive Art, was found guilty by a US court of conspiring to receive and handle stolen Egyptian antiquities. He bought antiquities that were smuggled out of Egypt. The smuggling was organized by an antiquities restorer from the UK, Jonathan Tokeley-Parry, who worked with a local network in Egypt. They smuggled more than 2000 items out of the country. Tokeley-Parry was caught and prosecuted in the UK. These convictions in the two largest art market countries, together with the accession of the UK to the UNESCO Convention possibly mark a change in the legal status of smuggled antiquities (O'Keefe, 2004; TRACE, 2003).

Besides Egypt there are numerous countries from which antiquities are looted and often smuggled abroad (Acar & Rose, 1995; Brodie et al., 2001; Fuchs, 1992; Nagashima, 2002; Roux & Paringaux, 1999; Soudijn & Tijhuis, 2003a; Tubb, 1995). It needs to be stressed that looted and smuggled items are just part of the overall trade. First of all, there are legitimately bought antiquities that leave their source countries with export permits. Secondly, there are also antiquities that are probably looted but still leave their source country with permits. Finally, and often forgotten, there is a large stock of antiquities with private collectors and museums in market countries that has been there for decades or even longer. Whatever its provenance, it is clearly different from items that have left there countries of origin recently.[112]

Several countries in the Middle East have comparable problems to that of Egypt, like Iraq, Jordan, and Syria (Abdulrahman, 2001; Bisheh, 2001). Both in the colonial era as well as later, this region has always played a part in the illicit supply of antiquities on the market. During the latest decades, a number of wars and civil wars have made things worse, as most recently could be observed in Iraq.[113] Latin America is another region that suffers from illicit excavations and smuggling. Especially pre-Columbian objects are looted in countries like Peru, Columbia, and Ecuador.[114] Some countries have struggled with looting for ages and still have plundered sites (e.g., from the Spanish colonial period). In Belize, legislation to protect its cultural heritage has been in place for over hundred years. According to Belizean law, all antiquities belong to the state and cannot be exported definitely. Nevertheless, there is a lively trade in illicit material (Gilgan, 2001:73-89). According to a PhD study by Matsuda, Belize may have as many as

[112] For example because international treaties like the UNESCO 1970 and Unidroit 1995 Treaties did not exist at the time of accession of the objects involved.

[113] For a detailed discussion of the looting in Iraq see: Bogdanons (2005); Gibson (2004).

[114] For a comprehensive list of objects and the countries where they can be found, see the ICOM Red List for South America: http://icom.museum/redlist/LatinAmerica/english/red_list.html (Visited November 8th 2005).

30,000 to 50,000 people who hunt and gather artifacts (Matsuda, 1998a). About one to three percent of this group are full-time looters (Matsuda, 1998b).

Several parts of Africa are another source for illicit antiquities. Nok statues, terracotta, bronzes and pottery is looted and smuggled from countries like Mali, Niger, Ghana, and Burkina Faso (Gado, 2001; Mapunda, 2001).[115] In several countries, the trade in illicit antiquities is organized in open and diverse ways, due to the inability and sometimes unwillingness of governments to do anything against it. On the one hand, networks of native traders connect the remotest villages with the main ports for shipment overseas. On the other hand, European traders directly buy their merchandise in regional centers and sometimes live in Africa for longer periods or even permanently (Gado, 2001). This marks a difference with the other regions from which antiquities originate. In South America, the trade tends to be more secretive and seems to involve more private collectors, besides dealers, looters, middlemen, and other actors (Alva, 2001). In South-East Asia, the trade is open and well-developed in several centers like Hong Kong and Bangkok. However, the structure of the trade before it ends up in these centers is less clear (Fuchs, 1992; Nagashima, 2002; Soudijn & Tijhuis, 2003a).

Asia has several regions that provide input for both licit and illicit trade. The main regions are South-East Asia, China, India, and the border region of Pakistan, Afghanistan, and India. Some categories of objects are regularly intercepted at borders or claimed from foreign collections as stolen objects (Nagashima, 2002; Shankar, 2001; Soudijn & Tijhuis, 2003a; Watson, 1998a). They include Gandharan statues from the border region of Pakistan and Afghanistan, Khmer objects from Cambodia or Thailand and all kinds of objects from China.

Europe and the United States are usually considered as regions that are primarily important as markets. However, several countries face the same problems as discussed above. Italy is the best known example here and loses significant amounts of antiquities, besides the works of art discussed in the first paragraph (Ciotti Galletti, 2003; Isman, 2000; Watson, 1998a). The United Kingdom, although always discussed as typical market country, has experienced a significant problem with illicit excavations with metal detectors (Addyman, 2001; Gill & Chippendale, 2002; Tubb, 1995). According to some experts, this has played an important role in the ratification by the UK of the UNESCO 1970 treaty and the relatively far-reaching legislation adopted to implement the treaty. In the United States, the cultural heritage of the Native Americans, as well as other cultures, is often the object of theft, illicit excavations, and smuggle (Canouts & McManamon, 2001; Conklin, 1994).

[115] For a comprehensive list of objects and the countries where they can be found, see the ICOM Red List for Africa, http://icom.museum/redlist/afrique/english/intro.html (Visited November 8th 2005).

7.2.4 War, civil war and occupation

The regular thefts of works of art, and the illicit excavations of archaeological sites easily obscures the role of all kinds of political unrest at any given point in time (Chamberlin, 1983; Fuchs, 1992). This unrest has always caused significant looting, smuggling, and confiscation of art and antiquities. As a result of the international character of the art trade, one needs to focus on this topic to fully understand the intricate links between this type of crime and political developments and actors. In the literature on the illicit art and antiquities trade, however, the role of this topic is often under-exposed and restricted to World War II. This obscures the fact that warfare, revolutions, and civil wars are a permanent fact of life and cause permanent looting and smuggling of art and antiquities. Many works of art or antiquities that have been stolen or taken abroad without permit actually originate from the situations mentioned above. Some examples are outlined below.

The occupation of many countries by Nazi Germany led to systematic theft and confiscation of cultural goods on an unprecedented scale. Thanks to the renewed interest in this topic during the 1990s, many objects were returned to the original owners and the knowledge about this topic has been increased substantially (Aalders, 1999; Den Hollander, 1998; Feliciano, 1997; Muller & Schretlen, 2003). At the same time, the theft of artworks from Germany by the Soviet Union during the end of World War II, was studied and described by some authors in recent years, although this topic received far less attention than the Nazi atrocities (Akinsja & Kozlov, 1996). During the 1950s the Soviet Union returned approximately one and a half million objects to East-Germany. After the fall of the Berlin Wall, the debate about the works of art stolen during and after the war became a hot issue again and let to new exchanges of stolen art (Greenfield, 1996:220-235; Lerner & Bresler, 1998:222).

As far as Germany is concerned, there is one episode after the war that needs to be added here. In the former German Democratic Republic (GDR), a specialized government organization existed that was involved in all kinds of smuggling operations to obtain foreign currency. Part of the organization was aimed at the sale of works of art that were confiscated from East-German citizens and museums during the 1970s and 1980s. Large quantities of works of art were thus sold abroad, while the authorities told the victims that the items would go to museums in the GDR (Bischof, 2003; Blutke, 1990).

Long before World War II, art and antiquities were looted by many other emperors, like for example Napoleon during his military campaigns. Venice and Rome were among the places that were especially badly hit by the looting campaigns of the French (Chamberlin, 1983). During the Nineteenth century, many antiquities were stolen from the colonies of European countries. The British are for example known for the plunder of antiquities from Ghana and Benin (Chamberlin, 1983; Lloyd, 1964).

After World War II, a number of other territories were occupied and looted. Nevertheless, traditional wars are getting less important than civil wars in which organized crime and transnational crime often play a significant role (Crefeld, 1998; Jean & Rufin, 1999). In recent decades, numerous internal conflicts have had a major influence on the proliferation of looted art and antiquities. Many source countries have seen civil wars, anarchy or revolutions during extended periods. Afghanistan, Lebanon, China, Cambodia, Vietnam, the Democratic Republic of Congo, Nigeria, Colombia, and Nicaragua are examples of countries which have lost parts of their cultural heritage as a result of these events (Brodie et al., 2001; Fuchs, 1992). The loss of cultural heritage can have quite different causes. First of all, the chaos as a result of civil war may create a perfect situation for looting of sites or institutions. Secondly, the authorities or their opponents may engage in looting and smuggling to finance their regime or struggle. Thirdly, they may simply be corrupt and fill their own pockets with the revenues of illicit trade. Finally, the cultural heritage might 'simply' be destroyed for ideological reasons or as a result of hostilities. In this case, there is actually no transnational crime but only local vandalism.[116]

Often, the same countries will experience both 'regular' looting as well as looting due to (civil) war or revolution. The case of Cambodia can illustrate this. During the era of the Khmer Rouge, antiquities were both looted and destroyed. Looting served to generate funds for the Khmer Rouge while they destroyed antiquities at the same time (Nagashima, 2002). After the Khmer Rouge was ousted from power, antiquities continued to be looted and smuggled across the border to Thailand (Crampton, 2003; Thosarat, 2001a, 2001b). Another example is Afghanistan, were both times of war as well as 'peace' were marked by large-scale looting and destruction.

A parallel can be drawn with some transnational crimes which were discussed before: the illicit arms trade, drug trafficking and trafficking 'blood' diamonds. These crimes are also strongly connected with unstable countries or regions (Brunwasser, 2002; Morstein, 1989; Naylor, 1993, 2001; Phythian, 2000). In some countries illicit arms sales were financed by the smuggling of 'blood' diamonds, like for example Angola and Sierra Leone (NIZA, 2001; Wood & Pelemans, 1999; Wright, 1997). The same holds true for drug trafficking and the arms trade in Afghanistan and Colombia. The involvement of foreign intelligence organizations further complicates things in several countries (Kwitny, 1987; McCoy, Read & Adams, 1972). Although this used to be particularly evident during the Cold War, it remains to be seen whether the same pattern will be repeated within the context of the 'war on terrorism'.

Finally, one point should be added to the influence of political unrest during particular periods in particular countries. It sometimes depends on one's own

[116] Nevertheless, these acts of vandalism are crimininalized in many states on the basis of international law.

political point of view whether certain activities are defined as smuggling or export, and as theft or safeguarding. A concrete example given by Sereny (1983), quoted by Conklin can illustrate this.

> "Between 1933 and 1949, a group of thirty museum officials moved around the Chinese countryside 19,500 large cases of artworks originally housed in Beijing's imperial palace. The Japanese invasion of Manchuria in 1931 was the impetus for the removal of the treasures from Beijing, but the termination of the war with Japan in 1945 was followed by internal strife between the Communists and the Nationalists. In 1949, eight of the thirty scholars and workers followed Chiang Kai-shek to Taiwan with three shiploads of crates, which included some 600,000 of China's most precious art treasures; the remaining 16,000 cases were returned to Beijing's Palace Museum. Today, the mainland Chinese Communists regard Chiang Kai-shek as a thief; contemporary Taiwanese Nationalists believe that they are safeguarding their people's cultural heritage" (Conklin, 1994:223-224)

It is important to note the parallel with other transnational crimes, like trafficking in arms, 'blood' diamonds or human beings. In some situations it is hardly possible to define the thin line between transnational crime and legitimate cross-border activities, without deciding on a clear political stand.

7.3 The extent of the illicit trade

Starting from the assumption that the illicit trade can be defined, and therefore separated from the licit trade, one can attempt to measure it. Several ways to measure the trade can be considered: the number of objects stolen or smuggled, the number of thefts, or the total value of the objects. However, each way of measuring the trade has significant problems. The number of thefts or objects is impossible to measure adequately. This speaks for itself with respect to looted antiquities. They are usually only known, and therefore measurable, as soon as they are stolen. To some extent this holds true for art thefts as well. Many thefts from museums, for example, are never registered because of failing oversight or because the objects involved were in fact never properly registered as belonging to the museum stock.

Despite the problems to measure the extent of the illicit trade, there are many bits and pieces of information that provide some indication of the scale of the trade. Three sources of information will be used here to sum up the available data. First of all, data can be gathered from the private Art Loss Register that registers stolen and missing objects and (among other things) searches auction catalogues to recover them. The data from the Art Loss Register is all taken from its website www.artloss.com. Secondly data provided by Brodie and Watson in their study *Stealing History: the illicit trade in cultural material* (2000). Thirdly, some

numbers on the situation in Italy are available, as described in an article in the UNESCO courier and also some numbers of the situation in Belgium as commuted by Massy (Carabinieri, 2004; Isman, 2001; Massy, 2000).

The Art Loss Register keeps records of over 10,000 losses from insurers, owners, and law enforcement agencies on its database each year. The database contains over 100,000 identifiable stolen or missing items from all kinds of countries. Each year, the items in the database are compared with over 300,000 items to be sold at the most important auctions. Since 1991, the searches for stolen and missing items have led to the recovery of over 1000 items and many more associated items. The total value of these items is about $100 million. The Art Loss Register also provides information on the victims of thefts that are registered in their database. Most thefts occur in domestic dwellings (54%) followed by museums (12%), galleries (12%), churches (10%), commercial premises (4%), public institutions (3%), warehouses and storage (2%), and others (3%). From the different types of objects that are recovered (for example paintings or books) it is calculated which share they have in the overall number of recovered objects. This leads to the following statistics: paintings (51%), furniture (10%), silver (10%), sculpture (8%), books (6%), clocks (6%), jewelry (3%), ceramics (2%), antiquities (2%), musical instruments (1%), and rugs (1%). Finally, it has been calculated how stolen or missing items have been identified. This turns out to be primarily by searching auction catalogues (51%) and by *ad hoc* searches by the police (31%).

Brodie and Watson provide numbers from several sources that give some impression of the scale of the illicit trade. A selection of these numbers is mentioned here, the complete overview can be read in their study (2000:21-23). It needs to be pointed out that the authors do not provide the names of their sources, although some numbers can also be found in other publications. In January 1997, the Swiss police sealed four warehouses in the Geneva Freeport which were found to contain approximately 10,000 antiquities from sites all over Italy. They were valued at about £25 million. In late 1998, a raid on a villa in Sicily revealed more than 30,000 Phoenician, Greek and Roman antiquities, worth more than £20 million.

Between 1993 and 1995, the Turkish police was involved in 17,500 official police investigations into stolen antiquities.[117] Raids on an antiquities dealer, carried out by the German police in Munich in 1997, recovered 50-60 crates full of material ripped from the walls of churches in North Cypriot churches, containing 139 icons, 61 frescoes and four mosaics. In Mali, a survey of 125 square miles found 834 archaeological sites and found that 45% had been looted,

[117] Although this information relatively old, it can be added that the Turkish authorities are regularly sending long lists of stolen items to foreign governments, which might illustrate their active approach to this problem. At the same time, several authors have pointed to the tremendous loss of cultural heritage in Cyprus due to the Turkish occupation of a part of the island.

17% badly. According to Brodie and Watson, the history of Mali is literally disappearing from under the feet of its inhabitants. In Pakistan, a survey in the Charsadda District showed that nearly half of the Buddhist shrines, stupas, and monasteries had been badly damaged or destroyed by illegal excavations for vendible antiquities.

Isman described the activities of the art squad of the Italian police. The art squad is the largest in any country worldwide and has more than 150 members. Since its start in 1969 until 2001, they recorded 630,000 thefts. The stolen objects are recorded in a database that contains more than 1,100,000 objects. The following investigations led to the recovery of 180,000 works of art and 360,000 archaeological objects (Isman, 2001). Massy calculated some art theft statistics for Belgium. In the table below, the development of the overall number of thefts and stolen objects can be seen.

Year of theft	**1991**	**1992**	**1993**	**1994**	**1995**	**1996**	**1997**
Number of thefts	363	621	1346	1659	1682	1110	1226
Number of objects	3433	7960	10604	11888	16377	17287	10246

Source: Massy (2000:89-90)

The numbers provided by Massy seem to lend some proof to the often suggested trend of rising numbers of art theft after the fall of the Berlin Wall, although more data is needed to really test this hypothesis.

7.4 The link between the illicit art and antiquities trade and other illegal markets

A recurrent theme in the literature of art crime is the connection with drug trafficking and money laundering. As Bernick wrote in his article on art and antiquities theft in *Transnational Organized Crime:* "law enforcement agents frequently have reported links between stolen art, money laundering and drug deals" (1998). James Emson, former director of the Art Loss Register, noted in an interview that: "[...] criminal organizations often trade in stolen artworks as collateral in making deals with one another. [...] its a very valuable commodity that allows you to launder money very easily" (Lyall, 2000).

Usually, experts point at three potential connections between the illicit art and antiquities trade and drug trafficking as well as money laundering. First of all, precious stolen works of art are supposedly used as collateral or means of payment in major drug deals. Secondly, stolen art or looted antiquities are trafficked together with drugs from source to market country. Thirdly, stolen art is thought to be used to launder proceeds from drug trafficking or other criminal activities.

The first connection is often illustrated with a Spanish case in 1999. In January of that year, the Spanish police broke up an international art smuggling

ring and seized stolen masterpieces by Giacometti, Braque, Miro, Goya, and Picasso, as well as pre-Columbian sculpture, estimated to be worth $35 million.[118] Most of the items had allegedly been stolen in late 1997 from a chalet near Geneva. The perpetrators had planned to trade the objects for cocaine from drug traffickers (Brodie et al., 2000). Besides this Spanish case, there was an Italian case that may lend some support to the link between the illicit art and antiquities trade and other illegal markets, although it did not involve drugs. In a 'sting' operation against the Mafia, Italian secret agents posed as buyers of smuggled nuclear materials. When one of the agents had set up a bank account, and the smugglers found he was solvent, they made an unexpected offer. As part of the deal they wanted to sell a long-lost painting by Raphael for £30 million. One of the agents said he had been shown the painting in a hotel room and agreed to pay £15.5 million provided that the sale took place in Italy. The painting was brought back to Italy, described as a "minor artist of the Umbrian school" to avoid import tax. A trial of those involved in the deal later ended in the conviction of two art dealers from Rome and a courier who brought the Renaissance painting from Switzerland, although the organizers behind the deal were not caught.[119] Not many other examples of art thefts that can be linked to either drugs or other illegal trades can be found.[120] It seems a real but relatively rare phenomenon that cannot explain a significant part of the international art thefts (Soudijn & Tijhuis, 2004).

A second connection is assumed to be present in the trade in illicit antiquities. Drugs and antiquities are assumed to go together physically. That is, shipments contain both drugs and illicit antiquities. An example is mentioned by Brodie and Watson. A smuggler's plane, arriving in Colorado from Mexico, carried 350 pounds of marijuana together with many pre-Columbian antiquities (Brodie et al., 2000). Furthermore, in Guatemala and Belize, secret airstrips in the rain forest have been discovered from which cocaine and Mayan objects were flown to Miami and other US cities (Brodie et al., 2000). Finally, Gilgan noted many links between marijuana growers and traders and antiquities looters (Gilgan, 2001). It seems that these are not mere examples, but rather a summary of almost all known examples, because other credible cases can hardly be found in the literature or media reports.

The last link between the illicit art and antiquities trade and the drug trade has to do with money laundering. It is assumed that stolen art and antiquities are used

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118 'International Art-theft ring busted in Spain' *Museum Security Network Report* (© Reuters), January 17th 1999, http://www.museum-security.org/reports/000899.html (Visited November 5th 2005).

119 'Lost Raphael seized during Mafia 'sting' ' *Museum Security Network Report* (© London Times), February 22nd, 1999, http://www.museum-security.org/reports/002399.html (Visited November 5th 2005).

120 A less recent example that is often cited is the theft from the Alfred Beit collection in Ireland in 1986. See Bailey (1997).

to launder funds generated with drug trafficking.[121] According to Brodie and Watson, Miami is a crossroad for illicit art and antiquities from Ireland, Peru, Guatemala, Mexico, and Greece. Drug profits pay for the art and antiquities that are sent for auction so as to obtain a good pedigree for the cash (2000:18). However, empirical evidence is scarce here and in the rare cases which are often cited, the works of art turned out to be fakes. Despite the theoretical potential for money laundering with regular (non-stolen art), the occurrence of this mode of money laundering seems to be rare in practice (Boot & Ten Wolde, 1997; Ott, 2003; Tijhuis & Van der Wal, 2003). In one case, two art dealers were charged with conspiring to launder $4.1 million in drug funds. They had tried to sell two paintings to someone who wanted to pay with drug money. The alleged buyer turned out to be an informant and before concluding the deal, the two art dealers were arrested.[122] However, cases like this one do not prove the occurrence of money laundering schemes but only the willingness of some individuals to be helpful in such schemes.

Looking at the data on the various connections between the illicit art and antiquities trade and other illegal markets, it seems to consist primarily of a few incidents. Because of the difficulties to obtain sufficient and reliable data in this field, one cannot conclude that this means that the mentioned connections lack any credible evidence. The UK Ministerial Advisory Committee on the Illicit Trade in Cultural Objects noted with regard to this topic that:

> "Evidence from law enforcement agencies also shows that the illicit trade in cultural property is in some instances (and in some parts of the world very frequently) linked with other illegal activities <note: In South America for example, the illicit trade in antiquities is very frequently connected with the drugs trade>. While this evidence is inevitably anecdotal, we nevertheless find it persuasive" (2000:13).

Whereas the Committee finds the anecdotal evidence persuasive, it seems to be way too little to draw any general conclusions as an academic observer of the illicit trade. The data indicate that there are definitely cases where the illicit trade is connected with other types of crime, but any systematic connection has neither any proven empirical nor theoretical basis.

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121 'Art dealers dabble in drug money; are accused of money laundering' *The Art Newspaper*, October 22, 2002.

122 'Two New Yorkers, man from Connecticut charged with money laundering' *Portsmouth Herald*, June 1st 2001, http://www.seacoastonline.com/2001news/6_1_sb1.htm (Visited November 5th 2005); 'Art dealer served time for fencing stolen art' *Museum Security Network Report* (© Boston Herald), June 3rd 2001, http://www.museum-security.org/01/120.html#4 (Visited November 5th 2005).

7.5 Conclusions

In the previous chapter, the sources of data for the empirical study of the transnational illicit art and antiquities trade were outlined. The data will be used in the next two chapters to study the interfaces that can be found in this type of transnational crime. In this chapter, a general overview of the illicit art and antiquities trade was provided as an introduction to the empirical study discussed in the next chapters. The three main sub-fields within the illicit trade are art theft and smuggle, antiquities looting and smuggling, and the production and sale of fakes and forgeries. These sub-fields are often assumed to be connected with other illegal markets, primarily the market for illegal drugs. Although there are several incidents in which the different markets collided, there does not seem to be any convincing evidence that this assumed connection is indeed significant.

A major factor in the illicit trade in general, is the occurrence of numerous (civil) wars, revolutions, and other political instability, particularly in the post-World War II period. Besides that, the colonial past of several Western countries has left a significant mark on the dispersion of cultural heritage from a range of countries in Africa, Asia, Latin America, and the Middle East. As was highlighted in this chapter, it is often hard to draw a line between the mentioned sub-fields in the illicit trade. Furthermore, it is often hard to differentiate licit from illicit trade. This last topic will be extensively discussed in the next chapter.

CHAPTER 8

INTERFACES AND THE ILLICIT ART TRADE

8.1 Introduction

The previous chapter provided a general overview of the illicit art and antiquities trade. The overview was based on a review of the available literature on this subject, media reports, specialist archives on the internet and other open sources.

In this chapter, the transnational trade in stolen and smuggled art, as well as fakes and forgeries, will be viewed from a perspective of interfaces, as developed in chapters 2 to 4. The analysis will be based mostly on the data that were collected specifically for this study but these will be supplemented by secondary data.

The trade in looted and smuggled antiquities will be analyzed in the next chapter. Because of the differences between the two markets, they will be analyzed separately. These differences consist of both the structure of the transnational trade as well as its legal characteristics.[123] As a result, the interfaces between legal and illegal actors are partly different for these two trades.

In the next section, the interface typology and the lock model will be confronted with the data that was collected on the trade in stolen and smuggled art. The aim is to find answers to two related questions. First of all, to what degree can the interfaces between legal and illegal actors in the illegal art trade be understood with the interface typology? Secondly, are there interfaces between legal and illegal that are not covered by the existing typology and how should these be labeled? Following the discussion of the interface typology and the illegal art trade, a separate section will discuss the role of armed conflicts in the illegal art trade. Finally, a number of case studies will be used to analyze the usefulness of the lock model that was developed in chapter 5.

When the text mentions a 'case', this means a solved art theft or smuggle operation. In practice, theft and smuggle will often coincide, but not necessarily so.[124] Cases can either be derived from the empirical study performed for this study, or from media reports, literature, or other sources.

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123 See e.g. Atwood (2004); Koldehoff & Koldehoff (2004); Messenger (2003).

124 This is the cause of much confusion, for example in relation with the EU Directive on the return of cultural objects unlawfully removed from the territory of a member state. When works of art are stolen in an EU member state and thereafter taken to another EU member state, it is often assumed that the objects involved are therefore smuggled and can be returned on the basis of the directive. However, the fact that an object is stolen and taken across the border, does not automatically mean that it is smuggled. Only when it involves objects that are protected by law as cultural heritage, and that need permits to cross the border, theft will coincide with smuggle in the mentioned situation.

8.2 The interface typology

The typology consists of two categories of interfaces: four antithetical and six symbiotic interfaces. Hereafter, the ten different antithetical and symbiotic interfaces will be discussed from the perspective of the illicit art trade.

8.2.1 Antithetical interface

Injurious interface

Injurious relationships occur when actors undermine, attack, or harm each other in other ways than as covered by the predatory, parasitical, or antagonistic interface.

It can be argued that art thefts lead to an injurious interface almost by definition. It depends on the situation who can be called the injured actor. This can be a private collector, a museum or a state as owner of collections of certain museums as well as other institutions.[125] In fact, much of the illicit art trade starts with theft, involving an injurious interface. The largest category of thefts that can be understood with the injurious interface is the so-called 'normal' theft. Normal thefts are thefts that are committed purely for the sake of reselling the works of art for profit without much delay (Tijhuis, 2005). These thefts do not involve any kind of extortion or collaboration between thieves and dealers. They are often solved because the thieves are caught when they offer their loot to dealers or auction houses that are suspicious, or because the thieves are offering their loot to pseudo dealers or collectors who are in fact undercover policemen.

In April 1989, the Koetser Gallery in Zurich, Switzerland, was robbed by a group of three men. They bound and gagged the secretary who led them in to the gallery and made off with 21 paintings, including works by Jan Davidsz de Heem, Jan Maertsen the Younger, Jan Steen, and others. Some time later the paintings were offered to a dealer in New York. The dealer did not trust the potential client who claimed to be a wealthy Swiss citizen who wanted to sell his private collection of old masters paintings. He checked with Interpol and IFAR but neither organization did know anything was wrong with the paintings. Nevertheless the dealer further checked with colleagues in New York until one of them remembered a robbery in Switzerland. Thereafter he found out that the collection did come from the Koetser gallery that had not informed Interpol or IFAR, and the thieves were arrested.[126]

In many cases, thefts do not only harm the property of institutions or individuals, but involve direct physical attacks. An example is the robbery of the

[125] The state is usually also the owner of still unearthed antiquities. This will be discussed in chapter ten.

[126] 'Arrests and Recoveries in Zurich Dutch Old Masters Theft' *IFAR Report* Vol. 10, no. 6, June 1989.

Alfred Beit collection in Ireland by the IRA, which included a direct confrontation with the collector (Koldehoff, 2004).[127] In another well-known case in France, a series of robberies was performed with brutal force by a gang of robbers. They victimized a range of castles and museums. This French case was analyzed during the stay with the French police and will be further discussed in the next section. It fits into a tradition of serial thieves working in France (Leitch, 1969; Macleave, 1981; Roux & Paringaux, 1999).[128]

Before all thefts are simply called injurious, some important exceptions need to be made here. Many thefts are so-called internal thefts that will be discussed in section 8.2.10. These thefts do not really fit into a definition of an interface involving one actor attacking or harming the other. Although there is harm, to be sure, this situation seems to demand another definition.

Antagonistic and (systemic-) synergy interface

One of the antithetical interfaces is described as antagonistic relationships. Antagonistic relationships exist when there is competition between legal and illegal actors. Actors vying for a market share may be acting independently or in direct competition with each other.
In case of (systemic) synergy, actors benefit each other while they go about their business, independently promoting their interests and objectives.

The antagonistic and synergy interface are taken together here. In the original typology, these two interfaces were clearly separated. The antagonistic interface was part of the antithetical interfaces and the synergy interface was part of the symbiotic interfaces. While discussing the legitimate organizations as interface (in chapter 3) it was shown that these two interfaces are in fact often closely related. Depending on the frequency and consequences of certain illegal activities, relationships between actors can turn from synergic to antagonistic. Furthermore, the same activities can result in antagonistic relationships with one actor, while being synergic with another actor or entity. In this chapter, the two interfaces will be discussed together because of the observed relatedness of synergy and antagonistic relationships.

Although the antagonistic and synergy interface are thus treated together here, it should be pointed out that they remain analytically distinct interfaces. Furthermore, the connection between the two does only count for particular crimes. That is, for crimes were both actors are involved in the same kind of activity (whether it is legal or illegal). However, the synergy interface is also used to understand relationships between actors that are active in completely different branches (see also chapter 2).

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127 'Four Thefts in 20 Years: The Saga of the Beit Collection' *IFAR Journal*, Vol. 5, no. 3, 2004.

128 'Voor tonnen antiek terug naar Frankrijk: Verdachte handelaar uitgeleverd door justitie Roermond' *Opportuun*, no. 3, November 2003.

Due to protective legislation in almost all source countries of art, dealers in objects from those countries are restricted in their opportunities to acquire new items and to take them abroad. Therefore, some dealers will not buy particular items from particular countries anymore. At the same time, other dealers will continue buying items and look for creative ways to smuggle them out of the countries of origin. The actual number of dealers who continue buying, or on the contrary stop their acquisitions in accordance with the mentioned legislation, will not be discussed here. This is an empirical question which cannot be answered on the basis of the available data, and seems to differ substantially for different types of items, source countries, and destination countries. The same holds for dealers in works of art that are stolen in market countries, like for example paintings from private collections or antiques from French castles. The point here is a distinction between two types of dealers that compete with each other. The first type acquires objects directly from the source country, while the other type is dependent on items which have been on the market for some time. The question to be answered here is whether those dealers actually benefit from each other's activities (synergy) or are hurt by them (antagonistic). It seems that this depends very much on the actual market situation. Two examples can illustrate this and will be outlined below.

The first example is the trade in icons from Russia and the Baltic States. Before the fall of the Iron Curtain, it was difficult to legally obtain icons from the source countries. Nevertheless, there were always individuals smuggling them to Western Europe in limited and sometimes substantial numbers. As long ago as 1970, the Soviet government made a formal request to Sotheby's and Christie's to avoid handling certain icons smuggled out in diplomatic bags, and one Western government was asked to recall its ambassador in Moscow since he was caught shipping out icons by the gross (Middlemas, 1975:71). During the Soviet era, prices were relatively high and the new acquisitions probably helped the smugglers and the dealers who bought them, as well as the dealers who only acquired items from existing collections. The new input was easily absorbed by the demand from a small group of collectors and eased the shortage for items on the market. However, as the Iron Curtain disappeared after 1989, a massive flow of icons emerged from the countries previously locked behind the wall. Although more than fifteen years have past since then, the data collected for this study in the Netherlands showed that icons are still finding their way from East to West. The same observation can be made from media reports from other countries.[129]

[129] US Customs Service (2001) 'U.S. Customs Returns Precious Icons To Russia' May 17th, http://www.customs.gov/hot-new/pressrel/2001/0517-00.htm (Visited August 5th, 2005) 'Police seize rare Russian icons, artwork smuggled into Greece' *Athens News Agency: Daily News Bulletin in English*, February 28th 2000, http://www.hri.org/news/greek/ana/2000/00-02-28.ana.html#09; 'Icons smuggled into Germany will be returned to Russia' Pravda, May 24th 2001, http://english.pravda.ru/culture/2001/05/24/5853.html (Visited August 5th, 2005).

As a result of the developments in 1989 and thereafter, prices went down because the demand from the collectors was not sufficient to absorb all the new items for the same prices. This clearly harmed honest dealers, while at the same time it might have harmed or benefited the dishonest dealers, depending on the balance between substantial extra turnover and lower prices.

Another example is provided by the life of one of Holland's most productive fakers of modern art, Geert Jan Jansen.[130] He originally owned a gallery for some time, but discovered how easy he could bring self-made fakes onto the market through auction houses and other channels. He fed the Dutch market with fakes and forgeries until things got out of hand in 1988 and he had to leave the country and moved to France. Several galleries turned out to have sold fakes and forged works by Karel Appel and one dealer was imprisoned for some months. In France, Jansen continued to produce fakes and forgeries in large numbers. For years he added works by Appel, Picasso, Magritte, Jorn, and other artists to the existing stock on the market (Bierens, 2002). In the Autumn of 1993, the beginning of the end came when Jansen, under his alias of 'Van den Bergen', offered a drawing by Karel Appel to the Munich auction house Karl & Faber. A Dutch dealer who saw the drawing in the catalogue informed the auction house that he believed it to be a fake. However, because the drawing was accompanied by a certificate that it had been auctioned before, no action was taken. In April 1994, Van den Bergen approached the auction house again. This time he had works on offer by Chagall, Asger Jorn, and Appel. The auction house consulted experts for all the works. Although Appel declared that the painting on offer was his, the experts on Chagall and Asger Jorn believed the works to be forgeries. Thereafter the German police was informed and it was discovered that Jansen had offered works of art to numerous auction houses in Germany and France. When the French police finally found Jansen' chateau near Poitiers in May 1994, they ran into 700 fake drawings and gouaches and 1,500 forged certificates of authenticity. According to Jansen, this was probably less than five percent of what he produced.[131] In prison he wrote an autobiography about his life in the art trade (Jansen, 1998). Thanks to the trial in France there is clear evidence that he was an extremely productive faker and that he sold many items in France. His autobiography describes the same connection between synergy and antagonistic relationships that was outlined above. In the beginning, his fakes were absorbed easily by the market and benefited everybody involved. However, as time passed by and the number of fakes increased, the trust in works by particular artists was

[130] H. Schutten (2000) 'Master forger Geert Jan Jansen on trial in France' *Het Parool*, English version at *Museum Security Network*, September 26th, http://www.museum-security.org/00/170.html (Visited November 8th 2005); J. Voorthuis (1994) 'The hunting and capture of two fakers – Ali Baba's cave of forgeries uncovered: the crucial evidence lay in the fake certificates' *The Art Newspaper*, July 1st.

[131] R. Gollin (2003) 'De echtheid bepalen was alleen maar lastig' *Volkskrant*, October 22nd.

partly undermined and prices negatively influenced.[132] Despite the large quantities of works involved, Jansen is just one of many fakers and forgers known in the literature on this type of art crime (Goodrich, 1973; Hebborn, 1997; Hoving, 1996; Reitz, 1993).

The above examples seem to be quite manifest in their consequences for the specific parts of the overall art market. However, many incidents of illicit cross-border trade in art, are often assumed to be without much impact on the broader market. Only a limited number of cases involve very unique items or large quantities of art and antiquities. Furthermore, as many deals involve individuals or unknown dealers, they are considered to lack significance for the art market in general. However, considering a number of factors, this impression is almost certainly less than accurate. One factor is the fact that only a minor part of the trade can and will come to the attention of customs or other authorities, or journalists and academic researchers. This means that, as with all illicit commodities, the real number of stolen and/or smuggled items will be much higher than the numbers found in a study like the one at hand. The flow of items between for example Belgium and the Netherlands is not covered by any customs checks. On the basis of both the literature on art thefts and the experiences of the last couple of years, this surely obscures a major part of the illicit trade (Leitch, 1969; MacLeave, 1981; Roux & Paringaux, 1999).[133] In addition to the fact that some flow of objects seems to exist, the simple fact that almost all objects are durable goods (as opposed to drugs for example) makes sure that objects with a dubious provenance will not simply fade away with the passing of time. The fact that precious and valuable items will always find their way to the top-end dealers, auction houses, collectors, and museums is another important factor. Therefore, it is just a matter of time before stolen and smuggled objects from source countries, will find their way to these actors in the most important market countries.

As a result of the mentioned factors, one can assume that the illicit and licit trade are almost always directly or indirectly linked. Furthermore, the fact that smuggled or stolen items will enter the market continuously year after year, and consist of durable goods, makes its impact larger than can be judged from the individual incidents of shipments with smuggled or stolen items. Depending on

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[132] In general, one could also consider the effects of forgeries through the so-called 'droit du suite' on works of art. This legal principle enables some categories of artists, or their heirs, to profit from reselling works of art made by them. Due to the EU Directive, this principle will be incorporated in the laws of all EU member states on January 1st 2006. http://europa.eu.int/eur-lex/en/search/search_lif.html (Directive 2001/84) (Visited November 8th 2005).

[133] Denis Meynard (2002) 'Le cerveau du gang des chateaux écroué' *Le Parisien*, January 7th; Voor tonnen antiek terug naar Frankrijk: Verdachte handelaar uitgeleverd door justitie Roermond' *Opportuun*, no. 3, November 2003; 'Maastrichtenaar vijf jaar cel in voor kerkroven' *Dagblad de Limburger*, March 31st 2005.

all relevant market factors, this will lead to antagonistic or synergic interfaces between the different actors in the art world.

Predatory interface

The legal–illegal interface is called predatory when the aim is to destroy or bleed to death an organization or to control or fraudulently bankrupt a business.

It is rather hard to find examples of this interface in the illicit art trade. The definition of the predatory interface has several elements that will rarely be found together in empirical cases in this field of crime. First of all, the intention on 'destroying or bleeding to death'. When a parallel is drawn with art, this would involve museums, private collectors or others and their works of art. However, as far as they can be seen as organizations, they are not known to be destroyed, neither literally nor financially. Instead of the organizations, one could theoretically also focus on the destruction of the objects involved, although the predatory interface was never meant to aim at such a situation. The thefts of works of art and prints from rare books will regularly damage these objects themselves and sometimes lead to their definite disappearance (Conklin, 1994; Koldehoff & Koldehoff, 2004; MacLeave, 1981). Sometimes, parts of stolen paintings or other works of art will be cut from the original and used to blackmail the owners to pay a ransom (Middlemas, 1975; Koldehoff & Koldehoff, 2004). However, the purpose here is clearly the collection of a ransom and only when the thieves or their middlemen fail to obtain such a ransom easily, they will try to obtain it by destroying a piece of the artwork. The destruction of objects as such is usually not intended by thieves.[134]

However, in some cases, destruction and illegal trade will go hand in hand. After the invasion of Turkish troops in Cyprus in 1974, years of massive destruction to Cyprus' cultural heritage followed. Together with the destruction of objects, many objects like icons and mosaics, were smuggled abroad and sold there (Hadjisavvas, 2001; Watson, 1998). Nevertheless, even in this case the destruction and smuggling can usually be separated. The destruction as vandalism with a transnational character and without a commercial element, and smuggle as part of a transnational criminal enterprise to obtain profits for all actors involved. The case of Cyprus is just one of many cases in which states are involved in crimes related to works of art, or in which the wars between states or within states are the cause for crimes related to works of art.

Neither the literature on art crimes, nor the empirical study that was done, provided any examples of cases that can be understood as predatory interfaces.

[134] Incidents like the destruction of two ancient Buddha statues in the Bamiyan province in Afghanistan in March 2001 fall outside the scope of this study. Similar cases can be found in other countries but do not fall within the definition of transnational crime used here. See e.g. 'Reporters see wrecked Buddha's' BBC News, March 26th 2001, http://news.bbc.co.uk/1/hi/world/south_asia/1242856.stm (Visited August 5th, 2005).

However, some elements of the predatory interface are found in situations as those discussed above. In general it also appears to be unlikely to find the predatory interface, as understood in this study, in concrete cases in the illicit art and antiquities trade. Therefore, it can be concluded that this interface does not occur in the illicit art trade.

Parasitical interface

When the aim is to preserve the viability of the legal actor, so that illegal benefits can be extorted on a more or less regular basis, the interface is called parasitical.

Two types of art theft partly resemble the parasitical interface but do not fully match the definition. They are nevertheless discussed here because they play an important role in the illicit trade and may suggest an additional interface to the typology.

First of all, illegal benefits can be reaped on a regular basis, but without extortion of one actor by another. In case of so-called internal thefts, illegal benefits can be reaped for years while the organization is preserved and often unaware of this. Internal thefts are thefts by staff members or security officials of museums, libraries, galleries, or private collectors.

In September 2003, the Royal Library of Denmark in Copenhagen was contacted by Christie's auction house with an inquiry as to whether the library was missing some books. As a result of this inquiry, one of the largest internal thefts ever was solved.[135] The books that were consigned to Christie's were part of more than 3,200 unique books and copper engravings that were stolen from the library by a philologist during the late 1960s and 1970s. A substantial part of this collection of objects was sold during the period from 1998 to 2003. The objects went to auction houses in London, New York, and Hong Kong. A number of people around the former employee of the Royal Library were involved: his widow, son, daughter in law as well as a friend of them. In June 2004 they were all convicted to prison terms for their involvement in this case.

In the same year another large case of internal theft was solved. It involved the Army Museum in Delft in the Netherlands.[136] In April of 2003, some employees of the museum discovered the theft of a number of items. Three months later two persons were arrested, among them the main suspect: a curator of the museum. During several years he stole hundreds of books, prints,

[135] Copenhagen City Court, 28th division, June 3rd 2004, case no. 28.2543/04; 'Four Convicted in Danish Royal Library Theft' *American Libraries Online*, June 4th, 2004, http://www.ala.org/ala/alonline/currentnews/newsarchive/newsarchive.htm (August 5th, 2005).

[136] R. Gollin (2003) ''Loyale' conservator stal uit eigen collectie – Legermuseum loopt voor miljoenen euro's schade op door verdwijning van schilderijen, boeken en prenten' *Volkskrant*, December 2nd; 'Marechaussee houdt verdachten aan van diefstal Legermuseum' Ministry of Defense, July 22nd 2003, http://www.mindef.nl/nieuws/nieuwsberichten/220703_diefstal.html (Visited August 5th, 2005).

drawings, and paintings. The thefts often resulted in major damage or destruction of unique books. The stolen items were sold to dealers and collectors in the Netherlands and abroad.[137]

These two cases are among many cases involving curators, security personnel, academic researchers, and others in the vicinity of valuable art collections (Koldehoff & Koldehoff, 2004; Middlemas, 1975; Tijhuis & Van der Wal, 2005). In 1998, the FBI pointed at an internal study that had researched thefts from museums. They had found that 83% of the known thefts could be classified as 'internal thefts', which meant performed by museum staff or others with privileged access to collections, like scientists, security officials and restorers.[138] Although this study was limited to museums, private owners face comparable problems (McLeave, 1983; Tijhuis & Van der Wal, 2005).

In the Summer of 1983, Nelly Dehem, the 88-year-old daughter of the painter Henri Dehem, was hospitalized in Cannes. She had entrusted the care of the villa and here collection of impressionist paintings to a hospital worker and his wife. During her stay in the hospital they took about 40 paintings by Monet, Gauguin, Renoir, Pisarro, Sisley, and others, along with jewelry and pieces of gold. With the assistance of a Parisian art dealer, the paintings had been sold in a number of countries spread all over the world.[139]

An old but telling example of internal thefts is the case of the Edvard Munch Museum in Oslo. Between 1961 and 1968, numerous paintings by the Norwegian master appeared on the English market. In many cases certificates were later issued from the curator in Munch Museum who was considered an expert for Munch paintings. When a painting was returned to the museum while the curator was on holiday, the deputy director recognized the painting as being part of the museum collection. He went to the police and Scotland Yard later traced thirty paintings that were sold by the curator in London (MacLeave, 1981; Middlemas, 1975).

In addition to the above variation, numerous cases of extortion involving works of art can be found. However, these consist of once-only cases of extortion, and are often merely national instead of transnational. Many art thefts are in fact so-called art-nappings. Extremely valuable art is stolen to extort money from either the owner or the insurer for the safe return of the objects. This type of theft quickly became a kind of plague in the 1960s and since then remained a recurring theme although it never again achieved the frequency it had in those years. In 1960 and 1961, a number of large-scale thefts for ransom followed one after another in France. Thereafter it quickly spread to the United Kingdom and

[137] An inventory of stolen items is available on the internet: http://www.antiqbook.nl/gestolen (Visited August 5th, 2005).

[138] 'Art theft from within museums' *Museum Security Network Report*, March 21st 2002, www.museum-security.org (Visited August 5th, 2005).

[139] *IFAR Report*, Vol. 6, no. 1, January/February 1985; *IFAR Report,* Vol. 6, no. 5, July 1985.

other countries until one managed to find ways to limit the opportunities and potential profit of these thefts (Middlemas, 1975; MacLeave, 1981).

However, theft for ransom or art-napping is still an important kind of theft. After stealing three paintings by Renoir and Rembrandt in December 2001, thieves tried to extort four million Pounds from the Swedish National Museum. They failed in their attempt and were finally arrested.[140] Sometimes, attempts to extort museums or other institutions or individuals have been successful. In 1975, the Gallery of Modern Art in Milan was robbed of twenty-eight paintings. The thieves demanded a ransom and this demand was met by the museum. Subsequently, the museum got its paintings back but three months later another theft occurred and thirty-eight paintings were lost (Conklin, 1994). In October 1994, seven paintings by Picasso were stolen from a Zurich gallery. A Swiss man and two Italians were jailed in 1996 for the theft, but the paintings were not recovered at that time. In February of the year 2000, the theft was solved when five of the paintings were returned. According to a statement by the police and prosecutors the Picassos had been recovered with the help of an unnamed intermediary, who was rewarded by being allowed to keep two of the seven paintings.[141]

8.2.2 Symbiotic interfaces

Collaboration

With collaboration the links are (relatively) long-lasting and more direct as legal and illegal actors work together for the commission of the same offence.

Collaboration is only different from the reciprocity or outsourcing interface as far as the exact division of labor is concerned between thieves, smugglers, and dealers or middlemen. When two actors are working closely together, and actually act as a group or organization, outsourcing or reciprocity turns into collaboration. A recent example of this interface is the Cornelius M. case. This case involved a Belgian-based Dutch antiquities dealer that worked with a gang of gypsies who robbed French castles during the 1990s. The objects which were stolen in France were sold in Belgium and the Netherlands to dealers and middlemen who subsequently sold many objects to collectors abroad. The Cornelius M. case is just one example of many cases involving the same set-up (Leitch, 1969; Middlemas, 1975, MacLeave, 1981; Roux & Paringaux, 1999). That is, art and antiquities are stolen in French castles or museums and thereafter

[140] 'Sweden art heist suspects arrested' CNN Europe, January 4th, 2001, www.cnn.com; 'Stockholm art thieves jailed' Museum Security Network Report, July 28th, 2001, www.museum-security.org (Visited August 5th, 2005).

[141] *IFAR Report*, Vol. 15, no. 12, December 1994; 'Picassos recovered 5 years after Zurich gallery theft' Museum Security Network Report, February 9th 2000, www.museum-security.org (Visited August 5th 2005).

taken to Belgium or the Netherlands to be sold. Since 1995, at least three large cases were discovered in the Netherlands alone. They will be discussed hereafter in the section that deals with the lock model.

It is sometimes difficult to distinguish empirically between the collaboration interface and other interfaces. Only with detailed information about the precise relationship between dealers or middlemen and thieves, is it possible to say whether this relationship can be understood as collaboration or as outsourcing or reciprocity. The literature on the trade in looted and smuggled antiquities shows many examples whereas the literature on art theft often provides too little information to define the relationship (Brodie & Renfrew, 2001; Brodie & Watson, 2000; Chamberlin, 1983; Conklin, 1994; MacLeave, 1981; Middlemas, 1975; Schick, 1989).

Reciprocity

Reciprocity exists when there are consciously mutual benefits between the legal and illegal actors. This type includes the interface, whereby legitimate or conventional actors are the clients for goods and services offered by criminals (e.g., drugs, gambling, weapons, prostitutes).

Reciprocity aims at a relationship that falls between synergy (where one of the two parties is unaware of the illegal nature of their transaction) and outsourcing or collaboration (where both parties are not only informed but also actively engaged in the criminal activities).

Subtle differences in the relationship between actors in the art trade can make the difference between one type of interface or the other. In general, reciprocity is a rather common interface and more or less in the middle between synergy and outsourcing or collaboration, as was outlined in chapter 2. However, contrary to other types of crime, this interface will be found less often in the illegal art trade. This has to do with the unique and durable character of most art works. Because of this, and the registers of stolen art, it is not without risk for art dealers and auction houses to simply buy or accept stolen art from thieves or middlemen.[142] Nevertheless, there are some important exceptions here. First of all, there are numerous categories of objects that do not make it to the registers for stolen art. The reason for this can for example be the fact that the objects are lacking a sufficient description and photo, or that their owners are unable to use the services of commercial registers or Interpol. Examples are objects from museums in many poor countries, rare books, and icons. However, in market countries, like for example the Netherlands, registers like that of Interpol will also be left unused because the police organizations are not always able to send the necessary information to Interpol, for whatever reasons. Secondly, there are parts of the

[142] To be sure, this does not mean that stolen art does not find its way through large auction houses and well-known dealers. On the contrary, despite all registers, these actors turn out to be regularly handling stolen and smuggled items.

trade that are in general not hurt by the activities of any register or police agencies. This can be explained by the fact that they operate in a region or country that lacks any serious police involvement, or by the fact that the objects are usually directly sold to customers. The trade in stolen art and antiquities from France in Belgium and the Netherlands serves as an example here. Finally, many private or public owners simply do not bother to register the stolen works of art with police or private registers.

Outsourcing

Outsourcing refers to a division of labor between legal and illegal actors, where one party offers specialized services to the other. It can be a one-off or a continuous relationship between a client and a provider. The client can both be a legitimate organization as well as a criminal organization or individual.

The relationship between an art thief and a dealer, fence or middleman will sometimes be a relationship of outsourcing. When a dealer or middleman actually orders a theft, one can label this situation as outsourcing. When the thief is offering his merchandise independently from the orders of the dealer, the relationship shifts to 'reciprocity' which will be discussed hereafter. Subtle changes in the relationship between dealer and thief can change the type of interface that covers the relationship. When a dealer works closely, and during a longer period, together with a thief or group of thieves, and they are mutually dependent on each other for merchandise and profits, the relationship can best be understood as collaboration. This collaboration between a specific group of actors may in turn cause other interfaces with new actors. When other thieves hear about the collaboration, they may conclude that the dealer involved can be an interesting figure to offer part of their own merchandise. As a result, a relationship of reciprocity can develop which in turn can change to collaboration.

In the data gathered in this study, it was sometimes hard to distinguish between outsourcing and other interfaces in concrete cases. However, the outsourcing interface has definitely a role in understanding the illicit art and antiquities trade. The literature on art theft provides numerous examples of dealers or middlemen who are involved in relationships with thieves or gangs of thieves (Fuchs, 1992; Koldehoff & Koldehoff, 2004; Leitch, 1969; Massy, 2000; Middlemas, 1975).

The above relationships do not include thefts of famous works of art in museums that are ordered by rich collectors. This often iterated explanation for major art thefts has never been backed up by any serious evidence (Koldehoff & Koldehoff, 2004; Tijhuis & Van der Wal, 2005).[143]

[143] An example that is sometimes mentioned is the theft of a number of paintings from the Museum of Fine Arts in Budapest in 1983. The theft was allegedly done by Italian Mafiosi,

Co-optation

Within relationships between legal and illegal actors, the power relations might be even but can also be uneven. When there are mutual benefits but uneven power relations, the interface is called co-optation.

Within the illicit art trade, it is not easy to find many examples which could be understood as a situation of co-optation. In some cases, art dealers or thieves are involved in corrupt relationships with customs officials, police officers, museum directors, or others. However, in most of these cases one cannot conclude that these relationships are clearly characterized by an uneven balance of power. Usually, it seems to be relatively easy for smugglers and thieves to establish relationships with relevant authorities in source countries as far as relatively poor countries are concerned. Therefore, one is not dependent on particular persons or on the highest levels of government bureaucracies. Furthermore, the relatively extensive financial resources of dealers from market countries puts them at a clear advantage towards the officials in the often poorer source countries. This can even suggest that the balance of power is indeed uneven, with the foreign dealer in control. However, this will in some cases be prevented by the small but ever-present risk that some official will in fact take action against a smuggler annex dealer. Even the remotest chance of having to spend a couple of years behind bars in Thailand, Congo, or Peru will weaken his position.

The arguments against the co-optation interface are not meant to be read as an argument for the irrelevance of this interface here. The point is that for most dealers or smugglers, a situation of co-optation is unlikely to develop. However, in theory it is possible to assume the existence of a number of high-end dealers who are in fact involved in a relationship which could be characterized as co-optation. A number of examples are given in the autobiography of Michel van Rijn who was engaged in all kinds of art crimes in the past. He mentions co-optation like relationships he allegedly had with authorities in the former Soviet Union, Malta and elsewhere (Van Rijn, 1993). Although there are no independent sources to verify his story, the examples are at least colorful illustrations of the co-optation interface as it could exist in the illicit trade.[144]

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acting on orders of a Greek olive oil millionaire. This Greek was arrested but later released for lack of proof. The paintings were later found in a Greek cloister. See: *IFAR Report*, Vol. 7, no. 4, June 1986.

144 A number of Dutch journalists published about this ambiguous character in the art trade. See e.g. A. Schreuder (1993) 'De handel en wandel van Michel van Rijn' *NRC Handelsblad*, October 26th; E. Spaans (1994) 'Rembrandts familiekasteel; 'De duistere kanten van de kunsthandel' *NRC Handelsblad*, August 12th; R. Gollin & B. Witman (1997) 'Met scrupules kom je niet ver in deze handel' *De Volkskrant*, June 6th; L. Heyting (2000) 'Vaag gesjoemel' *NRC Handelsblad*, December 29th; B. Witman (2000) 'Smokkelaar Van Rijn tergt Scotland Yard' *De Volkskrant*, February 4th. See also Landesman (2001).

Especially in countries that are known to enforce their export laws seriously, relationships like the ones mentioned above, are likely to develop. On the contrary, countries which are either not seriously enforcing their laws, or are extremely corrupt, or both, will probably not observe these relationships developing.

Funding

The funding interface involves situations where legitimate organizations provide, knowingly or not, essential financial support for the operation of criminal groups.

This interface seems to be inspired by the recent growth in importance and attention for international terrorism, although examples of this interface can be found from longer ago (see for example Tupman, 1998a, 1998b). Within the art and antiquities trade it is unlikely to find relationships like this. Occasionally, a dealer might help out a thief or receiver who is temporarily short of cash, but this is clearly different from what is meant here. In the data that were gathered for this study, no examples were found of relationships that could be understood as funding.

8.2.3 New interfaces and superfluous interfaces

The discussion of the antithetical and symbiotic interfaces showed the relevance of the individual interfaces for understanding the illicit art and antiquities trade. A number of interfaces from the typology could be used to understand particular activities within the illicit trade. Several interfaces turned out to be superfluous and of no use for understanding the trade. Other interfaces should be adapted or added to be used in the illicit art and antiquities trade.

The discussion of this typology in this chapter showed that seven of the ten interfaces could be used to understand the relationships between actors in the illicit art trade. These seven consisted of two antithetical interfaces and five symbiotic interfaces. The antithetical interfaces are the injurious and antagonistic interfaces; the symbiotic interfaces were the outsourcing, reciprocity, collaboration, co-optation and synergy interface. Three interfaces seem superfluous as far as the illicit art trade is concerned: the predatory, parasitical and funding interface.

The analysis of the antagonistic and synergy interface showed that they can best be taken together. This may seem contradictory in general but makes sense for the illicit art and antiquities trade. This can be explained by the fact that the illicit trade is a trade embedded within a legal sector, that is the licit art and antiquities trade. Therefore, the indirect (antagonistic or synergic) relationships between different actors are far more complicated and dynamic than in typical illegal markets like for example the drug trade. It should be stressed that it is not argued here that the antagonistic and synergy interface should be analyzed

together by definition. On the contrary, they consist of two distinct types of interfaces. However, in practice, depending on the particular type of crime, they may be taken together.

The analysis of several interfaces showed some potential shortcomings of the typology to understand the legal–illegal interface in the art and antiquities trade. One important shortcoming is the fact that so-called internal thefts cannot be fully understood with the interfaces from the typology. In case of an internal theft, both victim and offender are members of the same institution and/or are connected as employer and employee. Furthermore, the connection between the two usually plays a major role in causing the theft. The proverb 'opportunity makes a thief' probably characterizes most thefts quite correctly. While discussing the parasitical interface, two cases were mentioned that involved 'serial' (internal) thieves. However, if one does not limit the analysis to serial thefts but also includes incidental 'internal' thefts, there are numerous cases to be mentioned. A study of fifty major thefts of paintings from museums and private collection in Europe, showed that a substantial part of the thefts were in fact internal thefts. Considering the number of items stolen, it is probably the most important type of theft (Tijhuis & Van der Wal, 2005). Due to the specific characteristics of internal thefts, and the importance for the illicit trade in general, it seems appropriate to develop an interface type which covers this relationship. This interface will be described as 'facilitating'. The internal thefts are passively facilitated by the institutions or employers in two ways. First of all, the individual is provided with maximum information about the collection, the way it is secured and potentially its value. Secondly, many institutions or employers abstain from attempts to secure themselves against their staff members.

The facilitating interface should not be confused with another interface from Passas' original typology. This interface, organized crimes committed by (otherwise) legal actors, differs from the facilitating interface. The facilitating interface does not aim at organized crimes committed by legal actors, but at crimes of individuals within (parts of) legal actors that are not directed by the legal actor as a whole. The legal actor as a whole, for example a particular museum or government, does not initiate the criminal activity but indirectly facilitates this activity by the opportunities it offers its staff members or sub-agencies.

The discussion of the interface typology showed not only its uses and shortcomings, but also the fact that relatively few of the cases from the empirical study in the Netherlands and elsewhere can be connected and understood with the different interfaces. Part of this fact can be explained from the lack of detailed information on the relationship between the different persons involved. Furthermore, the differences between the different types of interfaces seem very subtle and sometimes hard to see, as far as the illicit art trade is concerned. As was pointed out before, this can probably be explained by the fact that this trade consists of a licit and illicit part that is thoroughly linked. Therefore, the

differences between for example reciprocity and outsourcing are a lot smaller in this field than for example in the drug trade.

8.3 State conflicts and crimes related to art

The previous chapter pointed out how war, civil war, and other violent phenomena in which states can be involved, are related to the theft and destruction of works of art and antiquities. Whereas the illicit art trade is sometimes seen as merely another variation of organized crime or illegal markets, this trade thus will often be embedded in national and international conflicts. There are several ways in which art theft is related to these conflicts. These will be outlined below. Thereafter, the perspective of interfaces will be added as well as a comparison with other fields of transnational crime.

The first way in which art theft is related to war is the theft of works of art by the victorious party in a war. Instead of individuals or organized criminals, it is the state that acts as perpetrator of the crimes of theft or destruction on a large scale. Best known example here is the systematic looting campaign by Nazi Germany in the countries it occupied during World War II. In a couple of years an enormous number of works of art were either looted, confiscated, or bought from dealers, collectors, and others that were forced to sell to the Nazis. As a result of the renewed interest in this topic during the 1990s, part of the stolen works of art were returned to the original owners and the knowledge about this topic was increased substantially (Chamberlin, 1983; Muller & Schretlen, 2003; Van Rappard-Boon, 1998).[145] Following the German looting campaigns, the Soviets systematically plundered German museums and other collections (Akinsja & Kozlov, 1995). After the war, some Allied troops illustrated that the interest in art was not restricted to the Nazis en Soviets, despite the fact that the looting by Allied troops was far less. Although less often cited in discussions on this topic, the French looting campaigns under emperor Napoleon were at least as extensive as those coordinated from Germany during World War Two. Venice and Rome were among the places that were especially badly hit by the looting campaigns of the French (Chamberlin, 1983). The French looted so many objects that they were not able to find a new home for everything before the empire finally crumbled (Middlemas, 1975). A variation of this type of theft is the theft of art by colonial powers in the past. The British are for example known for the plunder of antiquities from Ghana and Benin (Chamberlin, 1983; Lloyd, 1964). A more recent example of plunder is the looting of museums and looting and burning of libraries in Kuwait during the occupation by Iraq in 1990-1991.

[145] This is not to say that restitution of stolen art did not take place before the late 1990s. However, the works of art restituted directly after the war and in the decades afterwards were limited and interest in them declined until the climate with respect to this topic changed significantly at the end of the 20th century.

Besides the organized plunder of art treasures of one state by another, there is another way in which art theft is connected with wars and civil wars. Often, the chaos and disruption of order in societies caused by wars or civil wars enables thieves or gangs of thieves to smuggle objects out of the country. Recently, the war in Iraq provided an example of this when the National Museum was robbed. Although the damage turned out to be less than estimated at first, it still represented a substantial loss of unique objects. Furthermore, as the media attention focused primarily on this incident, a range of other incidents occurred around the same time. Among the most important were the looting and burning of the Iraq National Library and Archives and a famous Koran Library, as well as the looting of the Mosul Museum. There was also looting and destruction of art works in the Museum of Fine Art in Baghdad, and the destruction of libraries in universities around the country. Fine art departments and institutes, as well as private art galleries were destroyed.[146] Furthermore, the looting of antiquities from archaeological sites went on continuously (Atwood, 2004). At the time of writing of this book, the looting still continues, according to reports by the BBC and other media.[147] This will be further discussed in the next chapter. With almost any revolution, war, or civil war, incidents like those mentioned before can be found.[148] In 1969, the Nigerian civil war led to the looting of the Oron museum in Calabar in South-East Nigeria. In 1950, two British officers who were in Seoul during the Korean War, made straight for the city's art gallery and removed the bulk of the collection of carved jewels and jade (Middlemas, 1975:152–153). The invasion of Cyprus by Turkish troops in 1974 resulted in both looting and smuggling by non-state actors as well as looting and destruction by the Turkish military (Hadjisavvas, 2001; Watson, 1998). Due to a lack of supervision in the years after the invasion, the destruction and looting could continue almost unhindered. When fighting erupted in the Somali capital of Mogadishu in 1991, one of the first casualties was the National Museum. Within weeks many of its prized exhibits, including ancient Egyptian pottery, were on sale to tourists in neighboring Kenya. In the Democratic Republic of Congo, as in Somalia, years of fighting have left many of the country's museums nearly empty.[149]

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146 MacGuire Gibson (2005) 'Cultural tragedy in Iraq: a report on the looting of museums, archives and sites' IFAR, http://www.ifar.org/tragedy.htm (Visited November 9th 2005).

147 James Menendez (2005) 'Iraq's treasures still being looted' *BBC World Service*, June 21st (Visited, August 7th 2005); Owen Bowcott (2005) 'Archaeologists fight to save Iraqi sites' *The Guardian*, June 20th.

148 As far as libraries and archives are concerned, a 1996 report by UNESCO provides hundreds of examples of institutions that were plundered, destroyed (or both) during the 20th century. Van der Hoeven, H. & J. van Albada (1996) Lost Memory – libraries and archives destroyed in the twentieth century (UNESCO, Paris) – Libraries and Archives destroyed in the Twentieth Century.

149 Labi, I. & S. Robinson (2001) 'Looting Africa: Theft, illicit sales, poverty and war are conspiring to rob a continent of its rich artistic heritage' *Time Magazine Pacific*, August 6th 2001, http://www.time.com/time/pacific/magazine/20010806/art.html

Whereas the types of theft above were aimed at objects abroad and during times of war of civil war, a completely different type of large-scale theft occurred in East-Germany. During the 1970s and 1980s an organization was founded that combined the opportunities of white-collar crime, secret service, state control of the economy, and secrecy jurisdictions in Europe (Von Bülow, 2003:31-40). This organization, called 'Kommerzielle Koordinierung' (KoKo) (~ commercial coordination), was set up by Schalck-Golodkowski, a senior state-intelligence officer. He wrote a PhD. study about ways to earn foreign currency by imports and exports from East-Germany. The result was a range of organizations that were involved in everything from illicit trade in arms, waste, metals, and other commodities. To enable the illicit activities and to keep them out of sight from domestic and foreign observers, an intricate web of companies was used in places like Liechtenstein, Luxemburg, and Switzerland, not particularly known for their role in the global trade in raw materials. One of the organizations was aimed at the sale of works of art that were confiscated from East-German citizens and museums during the 1970s and 1980s. KoKo had developed an efficient way to confiscate art and antiquities from its citizens and institutions. First, a burglary by members of the organization, accompanied by art experts from the state intelligence agency, enabled them to make an estimate of the value of the works of art. Thereafter, the owners received a notice that they were due to pay taxes. Coincidently the amount of taxes was equal to the value of the works of art that were subsequently seized. Large quantities of works of art were thus sold abroad, while the authorities told the victims that the items would go to museums in the GDR (Bischof, 2003; Blutke, 1990; Von Bülow, 2003).

The above variations, and the examples that were mentioned, can be understood from a perspective of interfaces. Each individual case can be labeled with one or more of the interfaces from the typology. However, the importance of these variations lies more in the way they differ from the incidents discussed before. First of all, the specific role of states in the theft and cross-border traffic of works of art. Secondly, the relationship between the illicit trade and wars and other conflicts. Finally, in connection with the second point, the parallel between the illicit art trade and other illicit trade like the illicit trade in diamonds and the illicit arms trade. Each topic will be briefly discussed here.

Within the context of the illicit trade, states are usually seen as victims. They can either be a victim because the antiquities in their soil are looted or because the works of art in their museums are stolen and taken abroad. However, as was pointed out above, states can also be the perpetrators of art crimes, like theft or vandalism, with individual collectors, dealers, or institutions abroad as their victims. Furthermore, they can be the facilitators, by negligence, of art crimes on their territories. Finally, as in the case of East-Germany, the crimes of the state can even be directed against its own citizens and museums.

(Visited November 9th 2005).

On an abstract level, one can point at the synergy between wars, civil wars and acts by authoritarian states like the former East-Germany on the one hand, and the illicit trade on the other hand. Although this holds especially true for the trade in illicitly excavated antiquities, it can also be observed in the trade in works of art from museums, collectors, and others.

Finally, a parallel can be drawn between the illicit art trade and some transnational crimes which were discussed before: the illicit arms trade, drug trafficking and 'blood' diamonds trafficking (see section 7.2.4). Apart from the extensive role of intelligence agencies during the Cold War, the interrelatedness of illicit trades and civil wars seems to have remained the same of even increased (Crefeld, 1998; Rufin, 1999; Naylor, 2001).

8.4 The lock model and the interface typology: case studies from France, Italy, and the Netherlands

In chapter 5, the so-called lock model was developed. This model simplifies the analyses of the complicated mechanisms by which transnational activities change with respect to their legal status. Illegal activities are laundered and legitimate activities become illegal. These mechanisms are found regularly with arms trafficking, financial crimes, cigarette smuggling, and trafficking of 'conflict' diamonds (Naylor, 1987, 2001; NIZA, 2001; Paoli, 1995; Passas, 1995; Von Bülow, 2003).

This section will describe a number of case studies from the empirical study of the illicit art trade that was done in the Netherlands, France, and Italy, as well as cases from the literature. These cases will be used to discuss how the lock model and the interface typology can be used to understand the relationships between legal and illegal.

The first case involves the Belgian-based Dutch dealer named Cornelius M. who directed the so-called 'castle-gang' in France.[150] The Cornelius M. case was analyzed at the French police (OCBC) who conducted an extensive investigation of this case. More than fifteen persons were involved in dozens of robberies of large French estates, capturing precious antiquities, paintings, timepieces, tapestries, and furniture. Many of the estates were only occupied part of the year and the burglaries usually took place when nobody was present. This partly explains why the thieves were never caught red-handed. Sometimes they burglarized estates that were occupied, but at the same time were so large that the inhabitants did not notice it.[151]

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[150] Denis Meynard (2002) 'Le cerveau du gang des chateaux écroué' *Le Parisien*, January 7th; A. Reerink, (2003) 'Le gang des châteaux' *Algemeen Dagblad*, June 21st; C. Naber (2000) 'Recidivist uit Retie liet zigeuners zeshonderd kastelen plunderen' *De Morgen*, December 9th.

[151] An example is the burglary of the estate of Josselin de Rohan, the then chairman of the Gaulistic RPR in the French Senate during the night of July 12th 1998. While De Rohan

The robberies took place from 1998 to 2000. The thieves were local gypsies and were not involved in the transport or sale of the items. For transport Cornelius M. had hired chauffeurs, including a man named Cipoletti, an Italian driver, who took the items to the Netherlands. When Cipoletti was arrested he admitted to have driven at least forty loads of antiquities to the Netherlands, and the whole scheme fell apart. In the Netherlands, Cornelius M. sold the items to a number of complicit antiquities dealers who sold the items to international customers. Centre of the trade were local markets in the border region of Belgium and the Netherlands, in the South of Limburg, a Dutch province. The trade is fuelled by lack of legislation and supervision on the art and antiquities trade in the Netherlands and Belgium, and the relative tight provisions in France.

Cornelius M. had a history of involvement in the illicit trade. In 1994 and 1996 he was arrested for theft of and receiving stolen antiquities, and was given a prison sentence. The moment he was released coincided with the first robberies of the gang in France. He now serves a fourteen-year prison sentence in France. His fifteen accomplices were given prison sentences from one to six years.[152]

The typology can be used to label the different relationships around Cornelius M. Collaboration with the gang, reciprocity or outsourcing with other dealers and synergy between the overall market and his activities. However, besides the different individual interfaces, it is particularly interesting how Cornelius M. acts as the link between the art and antiquities robbed by the violent gang, and the good faith purchasers abroad. Although the Netherlands and Belgium do not act as interface strictly speaking, they *de facto* play the same role. This is, among other things, caused by the fact that a central and complete registry of stolen art, a specialized police force and adequate legislation have been insufficient or lacking for years. Due to these factors, works of art that have made it across the border to Belgium and the Netherlands and have been sold there, are practically laundered. This can explain why the Netherlands, as well as Belgium, have acted as an outlet for stolen art and antiquities from France for decades. In a French study on art crimes, this topic was summarized with the well-chosen title *Le Grand bal des receleurs* which can be translated as 'The great ball of receivers' (Roux & Paringaux, 1999). To be sure, this book was written before the Cornelius M. case came to light. Two crucial elements have been the basis under this ball for decades. One is the favorable civil code in the Netherlands and Belgium, and the other is the fact that France has innumerable private and state collections of art and antiquities which provide a constant opportunity for art thefts.[153] The result

was watching TV to see how France won the world soccer championships, the Cornelius M. gang took his antiques. See: Berkhout, K. & J. Wevers (2005) 'Hoe Nederlanders Frankrijk leegroven' *NRC Handelsblad*, October 14th.

152 Judgment of the Montbrison Court, File no. 02/01050, March 6th 2003.

153 In theory, the EU Directive for the Restitution of illegally exported cultural goods, should erase part of this problem. In practice, this does not change the situation very much. First of all, the directive is very hard to use effectively, and secondly it will by definition be

is a persistent system in which art is stolen in France and subsequently sold to dealers in Belgium and the Netherlands. On the one hand these dealers have established shops and can use this to pass good title on objects to their customers. On the other hand, they are in practice professional receivers at the same time. Most dealers are located in remote areas, in the border region of Belgium and the Dutch province Limburg in the South of the country.

Another illustration of this system is a case of an antique dealer in the town of Echt in Limburg. He was caught in 1997 as receiver and dealer in numerous precious items from thefts from French castles. Often, the time between the theft en the sale in the Netherlands was relatively short. In a collaborative effort of the French OCBC and the local Dutch police, his merchandise was investigated and dozens of stolen objects he still had were discovered in different locations. Like Cornelius M., he was sentenced to a prison term in France.[154]

In March 2005, yet another Dutch dealer was sentenced in France for coordinating a range of thefts and burglaries in French churches. Simon V., a dealer from Maastricht in the South of Limburg, was sentenced in the French city of Le Havre. He received a prison sentence of five years for complicity in the burglary of twenty-eight churches in the Northern and Western part of France.[155] The thefts took place during the late 1990s to 2001. More than ten people, in changing combinations, took part in the thefts from churches in the country side of the French Normandy region. The set-up was the same all the time. The perpetrators tried to park their car as close as possible to the church. Thereafter, they went inside and within minutes took the objects of interest in an often rather rude way. The objects were driven to Maastricht where they were sold in the shop of Simon V. or to other dealers and auctions. An important difference between Cornelius M. and Simon V. was that the latter directly sold to well-known dealers and one major auction house in the Netherlands.

Two incidents led to the end of the spree of thefts coordinated by Simon V. First, the number-plate of a group of thieves was registered by a group of teenagers who noticed the thieves leaving a church with an object wrapped in cloth. The number-plate lead to the name of a man from Maastricht. In March 2001 he was caught red-handed when he tried to burglarize a Belgian castle. Secondly, Simon V. became a suspect after a stolen antique mirror offered at the French *La Biennale des Antiquaires* was traced back to Simon V. When the police search his shop they find many stolen objects and Simon V. is held in custody for some time. He is released on bail and some time later flees to Senegal. When he returns to the Netherlands in 2004, he is arrested and extradited to France.

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without much effect if local authorities in Belgium or the Netherlands do not actively enforce the national and EU laws.

154 'Voor tonnen antiek terug naar Frankrijk – Verdachte handelaar uitgeleverd door justitie Roermond' *Opportuun*, no. 3, November 1999.

155 'Un néerlandais condamné à cinq ans de prison pour vols d'objets d'art' *Agence France Presse*, March 31st 2005.

Beside the case of Simon V., there are other cases in which stolen art has found its way rather easily to the middle and high end of the market, in Amsterdam and the Hague. According to Roux and Paringaux, three dealers from The Hague and Amsterdam were visited by the French and Dutch police in June 1996. One of them was a dealer in the art district around the Rijksmuseum. The police found thirty-four stolen objects in his shop. They originated from fourteen burglaries in several chateaux and one museum and were valued at five million French francs (about 1.5 million euros) (Roux & Paringaux, 1999).[156]

Despite the scale of the Cornelius M. and Simon V. cases, a thorough study of the literature and media reports reveals that numerous similar examples can be found – as can be expected on the circumstances mentioned above (Leitch, 1969; MacLeave, 1981; Middlemas, 1975; Roux & Paringaux, 1999). According to an estimate of the French OCBC, about 200 cases like the Cornelius M. case, albeit usually a lot smaller in scale, have been registered since the police squad was established in the mid-1970s. Furthermore, some of the cases that were discussed in the section on the interface typology can also illustrate the same mechanism. Icons that are stolen and smuggled, or just smuggled, from countries like Russia and the Baltic states, are one example. Dealers who manage to ship these icons abroad and sell them there, have effectively laundered them thanks to all factors described before, like differences in legislation, failing or non-existent systems of registration etc.

An example of such a dealer is the Russian national Sergej W.[157] His activities in the art trade came to an end in 1998. In that year he was caught at Schiphol airport in the Netherlands. He had come from St. Petersburg in Russia with a suitcase full of precious objects. When customs opened his suitcase they found, amongst other items, two volumes of a unique atlas dated 1710. Furthermore, they discovered 185 engravings, almost the whole graphic oeuvre of Jacques Calot, a famous seventeenth century French artist (Leerintveld, 2000; Ministry of Finance, 2000).

It soon turned out that a number of objects were stolen. Instead of an innocent collector, Sergej W. had been a dealer for a long period of time. He was stopped at customs in Amsterdam four times before during the 1990s, always with precious art and antiquities. He usually stayed in Holland for extended periods. A major part of his business was probably done in Holland due to these and other circumstances. Large cash deposits were found in a number of bank faults at several locations in Amsterdam. In his belongings, a large number of business cards were found which formed an interesting sample from the art trade. As far as could be established, Sergej W. conducted business with at least a number of (legal) art dealers and an auction house in the Netherlands. At the same time, he was supplied with merchandise in Russia. Although this might

156 D. Mulkens (1998) 'Rijswijks trio handelde in gestolen kunst' *Haagsche Courant*, January 13th.

157 The name of the person meant here is altered.

have been partly legal merchandise, it was not allowed to leave Russia without permits. Furthermore, his involvement in the trade in stolen art in Russia was also proven when the police searched one of his apartments in Russia. They found 300 stolen icons stashed away. As far as could be established, Sergej W. was given a prison sentence of 9 years for this in Russia.

Besides the individual interfaces between Sergej W. and numerous actors in the art trade, he partly functioned as a lock. He combined his opportunities as individual with that of the different jurisdictions. As individual he smuggled the objects from Russia to the Netherlands and was able to funnel the illicit art into the legitimate market through his wide range of productive contacts in the art trade. The differences between the Netherlands and Russia further enabled the successful traffic: the absence of specific legislation in the Netherlands, as well as the lack of effective international registries of stolen and smuggled art, combined with the lack of efficiency in communications between law enforcement agencies across international borders.

The above cases can be partly understood as a result of several factors in the art trade (as probably in many trades). A strong eagerness to ensure interesting and profitable merchandise, as well as a certain contempt for the regulations protecting cultural heritage, provides a climate in which all kinds of illegal transactions can take place (Rijn, 1993; Hoving, 1994, 1996; Lacey, 1998; Mason, 2004).

The importance of this mechanism of laundering can hardly be overestimated. In practice, the opportunities of individuals, organizations, and jurisdictions are combined to accomplish this laundering. Through this mechanism, a profitable trade exists for thieves, fences and the dealers they work with. The reason for this is that most customers do not want to buy objects which obviously have been stolen. This indicates a difference with the trade in antiquities that will be discussed in the next chapter.

The files and other sources that were studied in the Netherlands and elsewhere, in combination with literature and media reports, showed how works of art were laundered through several jurisdictions, organizations, and individuals. The lock model can help to explain this laundering, although in practice the different variations of the model are often combined. The French data, in combination with the literature on art thefts in France, illustrated the inner workings of the *Le Grand bal des receleurs*. The trade between France, Belgium and the Netherlands is probably one of the most enduring internationally, but also least known in the Netherlands, except for those who are familiar with the trade in art and antiquities in the (relatively remote) province of Limburg in the South of the Netherlands.

Through time, these laundering processes can change due to changes in legislation, the activities of law enforcement agencies, the development of the market for specific items and other factors.

8.5 Conclusions

This chapter started with a number of research questions. First of all, the question as to what degree interfaces between legal and illegal actors in the illegal art trade can be empirically described with the typology. To answer this question, each interface from the typology was analyzed in the first section. The analyses showed that seven of the ten interfaces could be used to describe the relationships between actors in the illicit art trade. These seven consisted of two antithetical interfaces and five symbiotic interfaces. The antithetical interfaces are the injurious and antagonistic interfaces; the symbiotic interfaces are the outsourcing, reciprocity, collaboration, co-optation and synergy interface. Three interfaces are not found as far as this study of the illicit art trade is concerned: the predatory, parasitical, and funding interface.

On an abstract level, antagonistic or synergic interfaces develop as result of the combined efforts of all actors in both licit and illicit trade around the world. Within this global system, wars and other conflicts are integrated and are responsible for part of the supply of certain types of objects. This shows a clear parallel with other transnational trades that were discussed in previous chapters. In the next chapter this will be further analyzed as far as antiquities are concerned

Although the typology could thus be used to understand the illicit art trade, there are some significant limitations. First of all, the symbiotic interfaces do not much help to clarify the relationships between the actors involved in the illicit trade. The differences between the different interfaces are very small as far as the illicit art trade is concerned. Therefore, the typology does add less to the understanding of the illicit trade as it does in other fields of crime.

The second question was whether there are interfaces between legal and illegal that are not covered by the existing typology and how these should be labeled. It turned out that one important category of thefts, the so-called internal thefts, cannot be understood with the typology. The interface between the perpetrators of these thefts and their victims was labeled as 'facilitating'.

The third question looked at the usefulness of the lock model for the illicit art trade. A number of case studies showed the usefulness of the lock model that was developed in chapter three and four, in combination with the interface typology. The lock model can help to explain how stolen and smuggled art is laundered through a combination of specific individuals, organizations, and jurisdictions. It is through this mechanism that the illicit trade can be profitable and remains active as part of the overall trade. Furthermore, the lock model provides a tool to appreciate the important role of individuals in the illicit art and antiquities trade. In the next chapter, this model will be discussed further with respect to the illicit antiquities trade.

CHAPTER 9

INTERFACES AND THE ILLICIT ANTIQUITIES TRADE

9.1 Introduction

In the previous chapter the illicit art trade was discussed from a perspective of interfaces. In this chapter the focus will be on the illicit trade in antiquities. The difference between the art and antiquities trade was pointed out in chapter 7. As a basic rule, everything from excavations is called antiquities and everything else is called art. However, in case works of art are almost as anonymous as antiquities from excavations, they are often labeled as antiquities also. The trade of stolen Buddha statues from Nepal or Cambodia for example, is usually understood as part of the illicit antiquities trade (Fuchs, 1992; Lafont, 2004; Thosarat, 2001a).[158]

Besides the difference between illicit art and antiquities, there is a thin line between licit and illicit. Although this chapter is about illicit antiquities it should not be forgotten that this can hardly be seen as clear-cut concept for further study. Brodie and Doole, both members of the *Illicit Antiquities Research Centre* of Cambridge University wrote about this problem in their introduction to their collection of papers by experts on the illicit antiquities trade in a wide range of source countries:

> "We do not feel at the present time that from an international perspective it is useful, or indeed possible, to distinguish between a 'licit' and 'illicit' trade in antiquities. Numerous case studies have shown that looted material is effectively 'laundered' as it passes through the trading network, so that what might be moved illegally out of one country will at a later date be offered for sale legally in a reputable outlet in another without that outlet knowing that the material was looted" (Brodie & Doole, 2001:2)

The laundering that is mentioned by Brodie and Doole is a mechanism that has been discussed in previous chapters with respect to other trades. This chapter, among other things, will focus on this mechanism in the antiquities trade and try to clarify the role of interfaces and the lock model, as it was developed in chapter 5.

The analysis in this chapter will be mainly based on our primary data. The different sources in the Netherlands, France, Italy, the United Kingdom, and elsewhere, were outlined in chapter 6. As far as antiquities are concerned, the most important primary data were collected at the Inspectorate of Cultural

[158] The categories used here are based on the literature on art crimes. They do not reflect insights from the field of archaeology or art history.

Heritage in the Netherlands and the Carabinieri in Italy. This does not mean that the data from other sources were not used. Sometimes different sources provide data on the same cases. Furthermore, the different sources of data shed light on different stages in the illicit trade. Whereas the literature focuses on the situation in source countries, the data from the Netherlands show the end of the trade network. As far as the literature is concerned it can observed that the body of literature on the illicit antiquities trade is significantly larger and more diverse that the literature on the illicit art trade (e.g. Atwood, 2004; Brodie & Renfrew, 2001; Brodie & Watson, 2000; Fuchs, 1992; Lafont, 2004; Meyer, 1973; Nagashima, 2002; Rascher, 2000; Schick, 1998; Tubb, 1994; Watson, 1998a).

In the next section, the interface typology will be confronted with the data that were collected for this study. The aim is to find answers to three related questions. First of all, to what degree can the actual interfaces between legal and illegal actors in the illegal antiquities trade be described and understood with the typology that was developed in chapter 2. Secondly, are there legal and illegal interfaces that are not covered by the existing typology and how should these be labeled. Finally, a number of case studies will be used to analyze the usefulness of the lock model that was developed in chapter 5, in combination with the interface typology.

When the text mentions a 'case', this means a solved art theft, smuggling operation, or illicit excavation.[159] These can either come from the data that were gathered for this study, or from media reports, literature, or other sources.

9.2 The interface typology

In the sections below, the occurrence of legal–illegal interfaces in the illicit antiquities trade will be discussed. The antithetical interfaces will be discussed first, starting with the interfaces found most often. Thereafter the symbiotic interfaces will be discussed, again starting with the interfaces that are most often found.

There is one specific characteristic of the illicit antiquities trade that needs to be mentioned before all the interfaces are discussed. As the illicit antiquities trade is embedded within the licit antiquities trade, it will not automatically be evident where legal 'meets' illegal. Legal actors who buy stolen or smuggled items are often not 'end-user' of these goods but parts of a network that connects a range of actors. The flow of antiquities will often be legalized somewhere along the way. Where exactly, will depend on the jurisdictions involved, the status of the actors involved and possibly other factors. In the analysis here, the focus will be on the whole trajectory of stolen and smuggled items. Therefore, the network

[159] That means that it has become clear who was involved in such cases, where the art or antiquities went to etc.

through which certain items will go from source to destination will be looked at independently of the exact legal status of these items at a specific point.[160]

9.2.1 Antithetical interfaces

Injurious interface

It can be argued that the illicit art and antiquities trade involves an injurious interface almost by definition. The injurious interface involves situations where actors undermine, attack, or harm each other in other ways than covered by the predatory, parasitical, or antagonistic interface. It depends on the situation who can be called the injured actor. This can for example be a state as self-declared owner of unexcavated antiquities or an honest dealer who is hurt by a colleague who sells looted or forged antiquities. In fact, most of the illicit art and antiquities trade starts with a theft or illicit excavation, involving an injurious interface. Furthermore, the previous chapter showed that art thefts regularly involve direct physical attacks on the owners of the objects involved (Koldehoff & Koldehoff, 2004; MacLeave, 1981; Middlemas, 1975).[161] The same holds true for illicit excavations. Several authors have pointed at the violence that sometimes accompanies the illicit excavations in countries like Peru, China, Cambodia, Iraq, and Tibet (Atwood, 2004; Brodie, 1999; Nagashima, 2002; Shuzhong, 2001). An example of an extremely violent incident was given by Thosorat in an account of the destruction of cultural heritage in Thailand and Cambodia. In 1993, a group of 300 bandits surrounded the Angkor Conservation compound, which housed statues for safekeeping. Hand grenades were used to blow apart the door, and the entrance to the main warehouse was destroyed by a rocket launcher. Ten items were stolen, never to be recovered (Thosorat, 2001a:13). As far as Tibet is concerned, Brodie pointed at "armed gangs (are) still attacking and despoiling monasteries" (1999a:1). Furthermore, Brodie summarized the findings of Haskett who described how "armed gangs have killed monks in their violent attempts to remove statues from monasteries" (Brodie, 1999b:1).

Before all thefts are simply called injurious, some important exceptions need to be made here. The previous chapter showed that many art thefts are so-called internal thefts. As far as antiquities are concerned, the same can be observed in several source countries (Atwood, 2004; Hadjisavvas, 2001; Nagashima, 2002; Soudijn & Tijhuis, 2003). The facilitating interface that was developed in the previous chapter will be used here to label illicit excavations and thefts by persons with legitimate access to archeological sites.

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[160] This follows from the definition of transnational crime that was chosen and explained in chapter two. Because of this definition the interface between legal and illegal in the antiquities trade, as well as other trades, can be better explained.

[161] 'Four thefts in 20 years: the saga of the Beit collection' *IFAR Journal*, Vol. 5, no. 3, 2004; Denis Meynard (2002) 'Le cerveau du gang des chateaux écroué' *Le Parisien*, January 7th.

Another situation which turns out to be rather complicated on reflection is the illicit excavation. First of all, the 'regular' illicit excavation can cause some theoretical problems. If someone digs up objects illegally, the injured actor will often be the state. The basis for this is the fact that many states have legislation which claims ownership of all unexcavated antiquities in their soil.[162] However, in other states it will often be disputed whether the mere declaration in a national law is sufficient to establish the state's ownership, and thereby its status as injured actor in case of an illicit excavation. In the Schultz case in 2002, the legal principle of state ownership of antiquities was extensively discussed in a US court (Gerstenblith, 2002; O'Keefe, 2004; TRACE, 2003).[163] Schultz was an art dealer who had imported stolen antiquities from Egypt, a state which claims ownership of all antiquities found in its soil (TRACE, 2003). Although he was convicted of handling stolen goods, the litigation showed that general declarations about antiquities are all but automatically accepted. One of the criteria used was the question whether governments enforce their own laws consistently. Several source countries, such as China, Thailand, or Nigeria, will have difficulties to show such consistency in their enforcement (Nagashima, 2002; Soudijn & Tijhuis, 2003a, 2003b).[164]

The official files that were studied in the Netherlands provide a good impression of the injurious interface. Out of a total of 140 cases, 104 involved shipments of objects that were supposedly antiquities when they crossed the border. These 104 shipments turned out to include 4 fakes and 33 that were not definitely identified. Furthermore, 40 shipments involved objects that were either 'airport art' or cultural goods that did not require permits.[165] The remaining 31 cases involved imports of antiquities that were suspected to be stolen or received and lacked permits from their country of origin in case they should, or probably should have one according to the law of that country.[166] In these cases, an injurious interface exists between the person or organization responsible for smuggle or theft of the objects involved and the government of the source country. That government has adopted legislation that aims to protect the

162 In some states, antiquities in general are claimed as state property, as far as they have not been claimed as private property before the legislation went into effect. In other states, antiquities can be owned privately but always have to be registered with the authorities.

163 For earlier case law on this topic see: Messenger (2003).

164 M. Bailey (2000) 'Don't return artefacts to Nigeria' *The Art Newspaper*, October.

165 'Airport art' is a category of objects that is specifically made for the tourist market and consists of low quality fakes of indigenous art. Sometimes, objects are made that do not even resemble the ones known for the region but something from another region or country (Fuchs, 1992). See also: Institut für Auslandbeziehungen (1987).

166 To decide whether an object should have a permit will often be rather complicated. It usually demands an expert opinion of the nature of the objects involved and knowledge of the most recent legislation in force in the source country and the exact moment when the object left the country of origin.

cultural heritage of their country and prevent the unlawful export of objects.[167] Most cases concerned shipments from Cambodia, Thailand, China/Hong Kong, and Ghana. As was pointed out in chapter 6, the lack of export permits is irrelevant under Dutch law, as none of the international treaties have been ratified and implemented in the Netherlands.[168] Therefore, cross-border transactions with antiquities that fall within the definition of transnational crime used here will not constitute a crime in the Netherlands.

The 31 cases mentioned above were investigated by customs officials because of either the suspicion of theft or receiving, or because of suspicion of tax evasion. Theft or receiving could rarely be proven. Antiquities are usually not registered in their country of origin and will by definition remain unregistered in case they come from illicit excavations. One studied case, in which the theft of objects was more or less clear, but not legally proven, concerned a shipment of objects from Cambodia and Thailand that was intercepted by Dutch customs in 1995. The objects came from Angkor Wat and Banteay Chhmar in Cambodia and Ayutthaya in Thailand. Both Thailand and Cambodia asked for the return of the objects but the Dutch authorities did not find a legal basis for the restitution of the objects, as the legal evidence for theft of the objects was lacking. The objects were kept for some time, but as evidence for theft or receiving was not forthcoming, they had to be returned to the Dutch owner at some stage. The Thai authorities therefore raised the alarm bell through their Embassy and the Cambodians asked for help from UNESCO in Paris. In the Netherlands, questions were asked about this affair to the Secretary of Justice.[169] In the end, the dealer who had imported the items decided to voluntarily renounce them.

The files of the Dutch Inspectorate contain more examples of cases in which the owner of smuggled antiquities decided to give them back. In 2003, two seventeenth century Hindu statues were intercepted from a shipment that originated from Indonesia. Several Indonesian officials came to the Netherlands to study the objects and concluded that they were both authentic and illegally

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167 This is not to imply that all source countries are actively enforcing the legislation in place. Some countries seem to be rather ineffective or ambiguous in their policies, like for example China and Thailand (Soudijn & Tijhuis, 2003; Nagashima, 2002). Other countries seem to use the available ways to counter the illicit trade, despite the limited means at their disposal, like for example Belize, Peru, and Mali (Atwood, 2004; Gilgan, 2001; Van Beurden, 2001).

168 These treaties are the The Hague Convention (1954), the UNESCO Convention (1970) and the Unidroit Convention (1995). In 2005, proposals for legislation to implement the UNESCO Convention as well as the The Hague Convention were sent to parliament. However, at the time of writing (September 2005) these proposals have not yet been accepted and will probably not lead to legislation until at least 2006. See further: www.tweedekamer.nl.

169 The written questions in Parliament were raised by MP J.M. Verspaget (Labor Party) on October 20th 1995. The Minister of Justice at the time, W. Sorgdrager, replied on December 8th 1995. Further: 'Aanhangsel Handelingen, no. 281, vergaderjaar 1995-96', www.tweedekamer.nl.

exported. As in the case of the Cambodian and Thai objects, the owner finally decided to abandon the objects.

Examples like those mentioned above are often used as proof of the clear-cut distinction between market and source countries. Market countries are considered to be almost automatically reluctant to act against the theft and smuggle of antiquities. Within that context it is interesting to look at Thailand's policy in the past towards restitution of stolen and smuggled antiquities from Cambodia or Burma. As Nagashima (2002) pointed out in his book on artifact smuggling in Thailand and Cambodia, the Thai government used to demand written proof of the origin of stolen objects. As Burma and Cambodia could not deliver such proof, in most cases the demanded objects remained in Thailand. In recent years, the Thai have become more willing to return objects and collaborate with Cambodia to counter illicit trade (Nagashima, 2002:164–173). Another example of a country that finds itself on more than one side, as far as the illicit antiquities trade is concerned, is Turkey. Whereas experts are describing the problem of illicit excavations in Turkey and the smuggling of items abroad, the Turkish military has done incredible harm to the cultural heritage of Cyprus (Özgen, 2001; Hadjisavvas, 2001). The same can be said of China, which has been directly or indirectly responsible for injuring Tibet's cultural heritage in a significant way.[170] At the same time the Chinese government claims back objects from numerous countries that have allegedly been looted in China and smuggled abroad (Brodie, 1999a; Soudijn & Tijhuis, 2003a).

Whereas the analysis of cases in the Netherlands showed primarily the market end of the illicit trade, the study of the Italian situation shed light on the other end of the trade. Italy is a source country of illicit art and antiquities in the first place.[171] Antiquities are looted from innumerable illicit excavations throughout Italy.[172] These excavations constitute the interface with which the illicit trade often begins. On the one hand are the gangs of looters and on the other hand the state that claims ownership of the antiquities in its soil. Recently, one of the

[170] F. Bai (2005) 'The plunder of Tibet's treasures' Radio Free Asia, August 1st. http://www.rfa.org/english/news/arts/2005/08/01/tibet_artifacts (Visited, September 4th, 2005).

[171] Nevertheless, Italy is also known for its reluctance to return a famous obelisk that was looted in 1937 from Ethiopia and placed at a square in Rome in front of what was once the 'Ministry for Italian Africa' (now the FAO building). Although Italy promised in writing to return the obelisk with the peace treaty of 1947, it did not start to return the obelisk until recently. After years of pressure from the Ethiopians, the final part of the obelisk left Rome for Ethiopia in April 2005. See: 'The Axum Obelisk' www.ethioembassy.org.uk/news/news.htm.

[172] Statistics from the Italian Carabinieri itself illustrate the scale of the illicit trade in art and antiquities as far as it is registered by the authorities. Between 1970 and 2003, they registered 99.200 incidents of looting or theft. These incidents are registered in their database that counted 2.319.862 objects in the given period. This includes objects from abroad although they are only a minor part of the total number. In the same period, the Carabinieri recovered 223.903 works of art and 510.737 antiquities.

largest cases of looting and subsequent export of antiquities led to the imprisonment of the antiquities dealer Giacomo Medici.[173] This case will be further discussed in the section on the lock model.

Antagonistic interfaces and synergy

Antagonistic relationships exist when there is competition between legal and illegal actors. Actors may be vying for market share acting independently or in direct competition with each other.

In case of (systemic) synergy, actors benefit each other while they go about their business, independently promoting their interests and objectives.

The antagonistic and synergy interface are taken together here. While discussing the legitimate organizations as interface (in chapter 3) it was shown that these two interfaces can in fact be very closely linked. Depending on the frequency of certain illegal activities, relationships between actors can turn from synergic to antagonistic. Furthermore, the same activities can result in antagonistic relationships with one actor, while being synergic with another actor or entity. In the previous chapter and in this chapter, the two interfaces are discussed together because the same mechanisms can be found in both the art and the antiquities trade.

Although the antagonistic and synergy interface are thus treated together here, it should be pointed out that they remain analytically distinct interfaces. Furthermore, the connection between the two does only count for particular crimes. That is, for crimes where both actors are involved in the same kind of activity (whether it is legal or illegal). However, the synergy interface is also used to understand relationships between actors that are active in completely different branches (see also chapter 2).

Due to protective legislation in almost all source countries, dealers and other participants in the art trade from those countries are restricted in their opportunities to acquire or sell items from these countries. Therefore, some dealers will not buy particular items from particular countries anymore. At the same time, other dealers will continue buying items and look for creative ways to smuggle them out of the countries of origin. As was pointed out in the previous chapter, the actual part of the dealers who continue buying, or on the contrary end their acquisitions in accordance with the mentioned legislation, will not be discussed here. This is an empirical question which cannot be answered by the available data, and seems to differ substantially for different types of items, source countries, and destination countries. The issue here is a distinction between two types of dealers that compete with each other. The first type acquires objects directly and illegally from the source country, while the other type is dependent

[173] Medici was convicted in December 2004; see also Watson (1998); 'The great smash and grap' *Independent News*, May 1st, 2005, http://www.ezilon.com/information/ printer_4172.shtml.

on items which have been on the market for some time or which can be legally obtained in source countries. It depends on the actual market situation whether those dealers actually benefit from each others' activities (synergy) or are hurt by them (antagonistic).

In practice, the above distinction can be hard to find in the empirical reality. Many dealers will not fit into one of the two categories. Furthermore, in many cases it will be hard to determine whether theft, smuggle or looting of objects should be understood as antagonistic or synergic or both. The study of official files in the Netherlands showed numerous examples of art and antiquities that were taken out of their countries of origin illegally, that is without the required permits. Depending on the type of objects and their market situation, this will almost by definition imply an antagonistic or synergy interface, depending on the beneficial or detrimental effects for the actors involved.

Especially Asia is important as region of origin, as far as the Netherlands is concerned. The Netherlands has been one of the centers for trade in Asian art and antiquities since the seventeenth century and it seems that the licit trade is reflected with an illicit image.[174] About half of the files that were studied at the Inspectorate of Cultural Heritage, concerned shipments from Asian countries. Most important are China (including Hong Kong), Thailand, and Indonesia. Although the importance of Indonesia can be partly connected with historical ties between the Netherlands and its former colony, the importance of Thailand and China reflects their role as source and transit countries of (licit and illicit) antiquities. In addition to these countries, shipments were registered to come from India, Pakistan, Afghanistan, Cambodia, and Burma.

The cases in the Netherlands also reflected the licit art trade in at least one other way. Hardly any shipments of antiquities were observed from South America. Whereas this continent is rather important internationally, it is hardly represented in the licit trade in the Netherlands.

Despite the parallels between the licit and illicit trade, one needs to be cautious to draw general conclusions. As the Dutch authorities cannot and do not search for illicit art and antiquities in a systematic way, the number of cases is relatively small and it is uncertain to what degree the registered illicit trade reflects the actual trade. On the other hand, some tentative conclusions seem to be justified. First of all, considering the small chance of interception of shipments,

[174] The fashion for collecting Chinese blue and white porcelain, for example, was started in the Holland in the seventeenth century by Amalia van Solms the wife of the 'Stadhouder' (~governor) Frederik Hendrik who amassed a huge collection. The Dutch East India Company was for a long period the exclusive trader in Japanese art through its trading post on Deshima and it is therefore not surprising that the first public museum in Asiatic, i.e. Japanese art was started in the Netherlands with the collection of two officials from that company, Cock Blomhoff and Von Siebold (Rappard-Boon, 1991). Furthermore, at the yearly European Fine Art Fair (TEFAF) in Maastricht, Dutch dealers in Asian art and antiquities still make up a significant part of the international assembly of dealers in this category of objects.

the number of cases discussed here is probably a rather small part of the actual number. Secondly, due to the durable nature of antiquities, the objects that are smuggled to market countries are there to stay. This implies that even if the new objects on the market do only account a small percentage of the overall market, they will in one or two decades amount to a large minority or even majority of the objects involved. Finally, despite the relatively small number of cases there were some shipments involving relatively important objects. In combination with the previous points this will probably mean that a substantial number of important objects with an illicit origin circulate on the market.

In some cases, the licit and illicit trade can hardly be separated and the licit trade is obviously largely based on the merchandise provided by the illicit trade at some point. Peru is the primary example here, since the looting of antiquities accelerated after the discovery in 1987 of a mausoleum where, over two centuries, a dynasty of Moche rulers and their wives and attendants were buried. This so-called Sipàn treasure has been widely studied and discussed in the literature (Atwood, 2004; Alva, 2001; Kirkpatrick, 1992; Watson, 1999). In his study of the looting and smuggle of Peruvian artifacts, Atwood pointed out how looters directly respond to trends in the market. The looters that he interviewed were familiar with the latest taste of customers in the United States, about which Atwood was informed by dealers inside that market country (Atwood, 2004:13).

The supply of stolen and smuggled objects on the market clearly affects the dealers involved. However, determining whether the licit and illicit trade actually benefit or hurt each other is rather difficult. One reason for this is the fact that licit and illicit are often difficult or even impossible to separate, although most countries are less notorious than Peru. The interconnected nature of licit and illicit is proven in many cases of stolen antiquities that turned up in museums, auction-houses or with established dealers. Recently, the trial against Giacomo Medici showed how many museums had bought looted antiquities from Medici or one of his frontmen.[175] In another case, the Miho Museum in Japan bought a rare bodhisattva statue from a well-known dealer in London in 1995. It turned out later that the statue had been stolen from a museum in Shandong province in China in July 1994 (Doole, 2001; Soudijn & Tijhuis, 2003b). Although the statue was eventually voluntarily returned to China, this case illustrated that looted objects do indeed end up with established dealers and museums, and at the same time it illustrated how fast this can happen. Many similar cases can be found involving objects from China, India, Peru, and other countries (Atwood, 2004; Brodie & Renfrew, 2001; Palmer et al., 2000; Shankar, 2001; Soudijn & Tijhuis, 2003a, Watson, 1998a).

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175 'Italy art trafficker duped US museums police say' *Iranian Cultural Heritage News Agency*, January 15th, 2005, http://www.chn.ir/english/eshownews.asp?no=4568; 'The great smash and grab' *Independent News*, May 1st, 2005, http://www.ezilon.com/information/printer_4172.shtml.

Furthermore, even where licit and illicit trade can be more or less separated they often indirectly need each other. The illicit trade needs the official market because this market in general creates the highest prices and most buyers for objects. The licit trade needs the illicit trade because it guarantees new input into an otherwise marginalized market. An example of a part of the trade that is influenced by the theft and smuggle of objects is the trade in Nok statues from Nigeria. Nok statues used to be rather exclusive and relatively scarce items with high prices.[176] However, at some point smuggling as well as fake Nok statues reached a critical level. Since then, prices have dropped substantially. It remains to be seen whether the lobby against the trade in these statues, including its placement on the Red List of the International Council of Museums (ICOM), will reverse this trend.[177]

Intimately linked with the trade in stolen or smuggled antiquities is the trade in forged and fake antiquities. The study of files from the Inspectorate of Cultural Heritage in the Netherlands showed that several cases involved only fakes while many cases involved fakes besides authentic pieces.[178] The fake objects included for example Buddha statues, canons from the Dutch East India Company (VOC), and fake African antiquities. In Italy, according to the Carabinieri, there have been cases in which looters first emptied tombs at a site and thereafter filled it with fakes. They then defrauded collectors by letting them believe they had found the location of an ancient tomb. In exchange for a substantial sum of money, the collectors were given the opportunity to join the looter into the ancient tomb and take part of the booty.

In fact, what is understood as the trade in stolen and smuggled antiquities is for a significant part a trade in fakes and forgeries.[179] Some source countries, like China or Thailand are notorious for their production of fakes and forgeries (Nagashima, 2002; Soudijn & Tijhuis, 2003a). However, to some degree all source countries are affected by this problem (Brent, 2001; Brodie & Renfrew, 2001; Hoving, 1996). It should be added here, however, that the 'problem' of fakes and forgeries is sometimes interpreted positively. Several Asian experts explained in interviews that the trade in fakes and forgeries indirectly helped to limit the looting of authentic pieces.[180] Dealers could sell the fakes and forgeries to foreigners without the risk of buying and smuggling looted objects.

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176 Vincent Noce (2001) 'Le pillage des statues nok continue – Plusieurs objects exportés illégalement d'Afrique ont été saisis en France' *Liberation*, April 13th.

177 The ICOM Red List for Africa can be found at: http://icom.museum/redlist/afrique/english/intro.html (Visited December 12th 2004).

178 This concerned only 'convincing' fakes and forgeries that could only be distinguished from authentic objects by experts. The other objects were placed in the category of 'airport art' and other objects that do not need export permits.

179 It depends on the legislation of the countries involved whether the production of and trade in fakes and forgeries will constitute a crime and what kind of crime.

180 The were interviewed at the 'Illicit Traffic in Cultural Property' seminar held in Bangkok from the 24th till the 26th of March 2004. The seminar was organized by the Institute of

In terms of interfaces, an antagonistic or synergy interface can be found between the dealers in fakes and dealers in authentic objects. Whether the interface can best be understood as antagonistic or synergy depends on the relative 'success' of the producers of fakes and forgeries. This will differ between specific categories of objects and specific source countries and regions.

Facilitating interface

In the previous chapter a new interface was added to the typology, based on the importance and characteristics of so-called internal thefts. The facilitating interface covers the situation in which public institutions, private collectors, or governments facilitate the theft or looting by persons under their supervision. These persons are mostly provided with (1) legal access to collections or sites, (2) maximum information about the objects involved, their value and the way they are secured, (3) an employer or government that abstains from serious control over them.

This interface is also found in the illicit antiquities trade. Examples can be derived from the literature. As most of the official files from the Netherlands did not contain detailed information about the exact provenance of antiquities, they did not add any information as far as this interface is concerned.

In some African countries, staff members are allegedly connected to serious thefts of antiquities from their own collections (Van Beurden, 2001). In China, museum directors have been reported selling part of their collection openly.[181] In Cambodia, the military has been involved in several ways in the looting and smuggling of items from Angkor Wat and other famous sites (Nagashima, 2002; Thosarat, 2001a, 2001b). In late 1998, units of the Cambodian army put on maneuvers in the area of Banteay Chhmar to frighten off the villagers, and then moved in with heavy equipment and gutted the site of all its remaining cultural treasures for sale through neighboring Thailand (Thosarat, 2001a:11). In early January 1999, a driver was arrested with a lorry loaded with 117 pieces of sculpture from Banteay Chhmar. The Cambodian Embassy in Bangkok reported that Cambodian soldiers delivered the reliefs in six pick-up trucks (Thosarat, 2001a:11). In its most extreme form, officials play a leading role in looting or smuggling operations. In that case, the perpetrator and its victim are representing one and the same entity: the national state. However, the national state in general is considered here to facilitate the crimes of individual actors working under the authority of this state. This actor can be an individual, like an individual thief, or

Asian Studies in Bangkok (Thailand), the International Institute for Asian Studies in Leiden (The Netherlands) and the Research School of Pacific and Asean Studies in Canberra (Australia).

181 Cultural Heritage Watch (2000) 'Is it a museum? Or illicit cultural property shelter? There´s no national standard in China' *CHW report*, March 17th.

an organization, like an intelligence agency or military unit involved in looting or smuggling activities.

The case of Egypt illustrates that the incidents above have precedents from long before the last two or three decades of looting and illicit trade. Under Rameses IX around 1111BC and then under Rameses XI some 25 years later, major investigations were executed into the problem of tomb looting. The investigations showed that systematic looting of the royal burial places was carried out by workmen who had helped prepare the tombs and the burial. Furthermore, it has been suggested that tomb thefts took place with the connivance of some officials.

Incidents of looting and smuggling that involve a facilitating interface will sometimes coincide with situations of war or civil war. Section 9.3 will discuss this topic and its relevance from a perspective of interfaces.

Predatory and parasitical interface

When one actor aims to destroy or bleed to death an organization or to control of fraudulently bankrupt a business, the relationship between the two can be characterized as predatory. The discussion of the predatory interface within the illicit art trade showed that for several reasons this interface is rarely found there. Although the interface aims at organizations one can extend its reach to the actual objects themselves. That is, the destruction of art and antiquities. However, this variation is unlikely to occur very often. First of all, destruction is usually a by-product of illicit trade and not a goal in itself. Secondly, in case of intended or unintended destruction, this will most often not lead to the death of an organization or the bankruptcy of a business. These reasons do also hold for the illicit antiquities trade. However, the number of cases that share some, although not all, elements of the predatory interface differs significantly in scale and these cases are often an inherent part of the illicit trade.

Several wars between countries were accompanied by intentional destruction of the enemies' cultural heritage (Atwood, 2004; Chamberlin, 1983; Conklin, 1994).[182] Besides the intentional destruction of cultural heritage, the 'regular' illicit excavations cause a tremendous loss of antiquities. One reason for this loss

[182] Furthermore, many civil wars and authoritarian regimes engaged in the destruction of their cultural heritage. However, these cases are usually lacking the transnational element. A recent example is the destruction of two ancient Buddha statues in the Bamiyan province in Afghanistan in March 2001. See: 'Reporters see wrecked Buddha's' BBC News, March 26th 2001, http://news.bbc.co.uk/1/hi/world/south_asia/1242856.stm. Another example is the destruction caused by the Khmer Rouge in Cambodia, although most damage in Cambodia was allegedly done after the peace agreement in 1991 (Atwood, 2004; Lafont, 2004; Nagashima, 2002); and the destruction of China's cultural heritage during the Cultural Revolution. See: Bezlova, A. (2005) 'China: A case of a pot calling the kettle black to halt artefact loss', May 4th http://www.ipsnews.net/africa/print.asp?idnews=28552.

is the rude way in which many looters operate. Another reason is the fact they are often only interested in part of the inventory of ancient tombs and archaeological sites. Several studies have shown how often a multiple of the antiquities that are looted are destroyed in the process. This is especially so in countries like for example Peru, Italy, and China where antiquities are looted from ancient tombs (Alva, 2001; Atwood, 2004; Pastore, 2001; Shuzong, 2001).

As only the objects for sale are shipped abroad, the objects that were intercepted in the Netherlands do not show much of the destruction that accompanies the illicit trade. However, in several cases – for example the Buddha statues – recent signs of breaking and cutting were visible. Although no legal proof, this is a well-known indication of theft.

When the aim is to preserve the viability of the legal actor, so that illegal benefits can be extorted on a more or less regular basis, the interface is called parasitical. In the previous chapter it was argued that the parasitical interface as such does not or only rarely occur in the illicit art trade. However, two types of art crimes shared elements of this interface: the internal theft and the theft for ransom. The internal theft was discussed above with the facilitating interface. The theft for ransom does not appear to be part of the illicit antiquities trade. Although there is no reason why illicit antiquities could not be used to extort money from persons or governments, it is not likely to find such extortion. The main reason is the inherent obscurity of illicitly excavated and smuggled antiquities.

9.2.2 Symbiotic interfaces

Reciprocity

Reciprocity aims at a relationship that falls between synergy (where one of the two parties is unaware of the illegal nature of their transaction) and outsourcing or collaboration (where both parties are not only informed but also actively engaged in the criminal activities). Many auction houses or dealers who trade in antiquities from for example China, Cambodia, or Italy, will know or assume that the objects involved are often, or may often be, stolen, illicitly excavated, or smuggled.[183] In that case, a relationship of reciprocity connects these participants in the antiquities trade.

[183] For China see e.g. Bruce Doar (1999) 'Off with their heads – the antiquities market is destroying China's Buddhist statuary' *Archaeology*, online features, www.archaeology.org; 'Japanese agree to return a stolen statue to China' *Museum Security Network Report*, April 18th 2001, www.museum-security.org; Dobrzynski, J. (1997) 'Exodus of Chinese art from Hong Kong' *The New York Times*, June 13th; for Cambodia see e.g. Crampton, T. (2003) ´Cambodia´s crusaders of lost art´ *International Herald Tribune*, August 30th; Nagashima (2002); Thosarat (2001a); and for Italy: Ciotti (2003); Elia (2001); Watson (1998).

It depends upon the circumstances of a particular case whether there is a relationship of reciprocity between the actors involved, or some other interface. As far as the antiquities trade is concerned, the same problem can be found as in the illicit art trade. Rather small differences in relationships between actors will make the difference whether one interface or another covers the relationship.

The files from the Inspectorate in the Netherlands showed some examples, or potential examples, of the reciprocity interface in the illicit antiquities trade. In some cases, dealers directly obtained items in source countries that were probably stolen and not allowed to leave these countries without export permits. In case of theft, the dealers and their suppliers are connected by reciprocity. However, in case the objects were not stolen but were bought from legitimate owners and subsequently taken out of the country without permits, it is only the dealer that commits a crime. Nevertheless, as soon as this dealer sells the items to customers or other dealers in the Netherlands, who know that the objects have been smuggled, a situation of reciprocity can be said to exist between the actors involved. However, one could argue that the dealer is a legitimate actor and not a criminal. Therefore, the reciprocity interface would not be suitable for this situation. This problem will come back in section 2 on the lock model in the illicit antiquities trade.

It is interesting to note that the different variations mentioned above are unevenly distributed across geographical regions. The data from the Dutch Inspectorate showed that imports from Asia do often come from regional trade centers like Hong Kong, Bangkok, and Singapore. Objects are usually bought from established art dealers in those cases. That means that the importers did not directly buy from thieves or private persons. The same observation can be made from the literature on the illicit trade in this region (Lafont, 2004; Nagashima, 2002). Files on imports from Africa showed that the origin of objects from this region is often less clear although this does not automatically mean that objects were bought from thieves or receivers.[184]

In Italy, the reciprocity interface can be used to label some of the relationships between local looters (the so-called *tombaroli*) and the middlemen in Italy or dealers in Switzerland who ultimately buy the looted objects. Based on the interviews with Italian officials, as well as the literature on this country, it can be concluded that this interface is actually very common in this specific setting.

Besides the relationships between dealers among each other and dealers and their customers, there are other relationships that can be understood with this interface. To enable the smuggling of antiquities, corrupt relationships are developed with customs and other officials. Atwood pointed at customs officials,

[184] Some insight in the trade in Africa is given by Gado (2001); Schmidt & McIntosh (1996).

as well as airline personnel, in Peru that play their part in the smuggling of antiquities from that country to the US.[185]

In case the balance of power between the actors involved is clearly uneven, the co-optation interface is more suitable to cover the relationship. When one actor is offering specialized services to another actor, the outsourcing interface is used to describe this situation.

Outsourcing

Outsourcing refers to a division of labor between legal and illegal actors, where one party offers specialized services to the other. This can involve cases where the 'dirty work' is done by 'criminals', while the main benefit is reaped by a legal actor. However, the opposite is also possible. The relationship between a client and a provider can be a one-off or continuous.

The relationship between an art thief or looter of antiquities and a dealer or middleman can be a relationship of outsourcing. When a dealer or middleman actually orders a theft, one can label this situation as outsourcing. When the thief is offering his merchandise independently from the orders of the dealer, the relationship is one of reciprocity which was discussed above. Subtle changes in the relationship between dealer and thief can change the type of interface that covers the relationship. When a dealer works closely together with a thief or group of thieves and they are mutually dependent on each other for merchandise and profits, the relationship can best be understood as collaboration. This collaboration between a specific group of actors may in turn cause other interfaces with new actors. When other thieves hear about the collaboration, they may conclude that the dealer involved can be an interesting figure to offer part of their own merchandise. As a result, a relationship of reciprocity can develop which might in turn change to collaboration.

The cases of the Dutch Inspectorate showed one specific type of outsourcing in addition to the above variation. In case of one source country, several shipments were outsourced to a particular shipping company. This company arranged double invoices with which it was able to obtain both an export permit as well as a way to evade taxes for its customer.

Collaboration

Collaboration is only different from the reciprocity or outsourcing interface as far as the exact division of labor is concerned between thieves, smugglers, and dealers or middlemen. When the two actors are working closely together, and actually act as a group or organization and share profits, outsourcing or

[185] In practice all kinds of routes via third countries are used to minimize the chances of getting caught by US customs. Similar to the routes used for trafficking drugs, these change all the time.

reciprocity turns into collaboration. It is therefore often difficult to say whether the collaboration interface is very common in the illicit art and antiquities trade. Only when detailed information about the precise relationship between dealers or middlemen and thieves is available, it is possible to say whether this relationship can be understood as collaboration or as outsourcing or reciprocity.

Co-optation

For the same reason mentioned several times before, it is hard to point at occurrences of the co-optation interface in the illicit antiquities trade. It depends upon the precise relationships between the actors involved and small nuances can make the difference between one interface or another. The occurrence of the co-optation interface is more or less the same for illicit antiquities as for illicit art. However, as co-optation is primarily a phenomenon found in poor sources countries, and as the trade from these countries consists primarily of antiquities instead of art, one is more likely to find instances of co-optation in the illicit antiquities trade.

In many cases, antiquities dealers or thieves are involved in corrupt relationships with customs officials, police officers, airline personnel, or others. However, in most cases one cannot conclude that these relationships are clearly characterized by an uneven balance of power. Usually, it seems to be relatively easy for smugglers and thieves to establish relationships with relevant authorities in source countries. Therefore, one is not dependent on particular persons or on the highest levels of government bureaucracies. Furthermore, the relatively extensive financial resources of dealers from market countries, buying in often poor source countries, puts them at a clear advantage towards the officials in source countries. This can even suggest that the balance of power is indeed uneven, with the foreign dealer in control. However, this will in some cases be prevented by the small but ever-present risk that some official will in fact take action against a smuggler annex dealer. Even the remotest chance of having to spend a couple of years behind bars in Thailand, China, or Nigeria will weaken his position. Furthermore, several widely publicized cases in the US have made clear that market countries can and will in some cases act against dealers in looted and smuggled merchandise, despite the fact that punishment in most cases remained rather mild (Atwood, 2004; TRACE, 2003).

For most dealers or smugglers in this illegal market, a situation of co-optation is unlikely to develop. However, in theory there are good reasons to believe there might be a number of high-end dealers who are in fact involved in a relationship which could be characterized as co-optation. One example, involving a dealer importing antiquities from Ghana is discussed by Fuchs (Fuchs, 1992). Another example is a case from the Inspectorate which was discussed in detail in several articles by a Dutch journalist and even led to questions in

Parliament to the Secretary of Justice (Van Beurden, 1994, 1995, 2001).[186] Both dealers discussed by Fuchs and Van Beurden, allegedly had close ties to an ambassador and a local king. These relationships enabled them to engage in export of items which were apparently beyond reach of other dealers without these connections. A number of other examples are given in the autobiography of Michel van Rijn and were discussed in section 8.2.8. Especially in countries that are known to enforce their export laws seriously, relationships like the ones mentioned above, are likely to develop. However, in most source and market countries, the enforcement of export laws is rather lax. Therefore, it is unlikely that many co-optation-like interfaces can be found in the illicit antiquities trade in general.

Funding

Funding does not resemble typical interfacing relationships in the illicit antiquities trade. Art dealers, as a legitimate organization, may forward funds to smugglers or thieves in case they are otherwise unable to do their work. However, this will lean towards outsourcing or collaboration instead of funding. Atwood showed how one of the main figures in smuggle of objects from the famous Sipàn site in Peru was given money to fly to London to smuggle shipments of Sipàn objects out of the country.

Funding as relationship between antiquities dealers and terrorists has not been found in the empirical study in the Netherlands and elsewhere, nor in the literature. Nevertheless, similar to the illicit art trade, the relationship between the illicit trade and armed conflicts in numerous source countries should not be underestimated. This will be studied in the next section.

9.3 State conflicts and crimes related to antiquities

The previous chapters pointed out how war, civil war, and other violent phenomena in which states can be involved, are related to the theft and destruction of works of art and antiquities. Several ways in which art theft is related to these conflicts were outlined with examples in chapter 8. The relationship between the illicit antiquities trade and armed conflicts is very similar and the two variations mentioned in chapter 8 also do apply here.

First of all theft and destruction of antiquities caused by states engaged in war. An often mentioned example is the Turkish invasion of Cyprus in 1974 and the tremendous damage that was done afterwards (Hadjisavvas, 2001; Watson, 1998b). As far as antiquities are assembled in museums, these are often the first to

[186] The written questions in Parliament were raised by MP J.M. Verspaget (Labor Party) on July 11th 1995. The Minister of Justice, W. Sorgdrager, replied on August 26th, 1996. See: 'Aanhangsel Handelingen, no. 1627, vergaderjaar 1995-96'.

be looted, as was pointed out in the previous chapter.[187] Secondly, the theft and smuggle of antiquities that is enabled by the chaos and disruption of order in societies, caused by wars or civil wars. The looting of archaeological sites in Iraq especially since 2003 is a recent and vivid example.[188] The case of Afghanistan can be added here.

The cases of the Inspectorate involved several source countries involved in wars or civil wars. One shipment in 1997 consisted of a collection of more than forty important items from several countries, among them Angola and Congo. As the most relevant items originated from Congo, several attempts were made to reach the Congolese authorities. Due to the turbulent political situation at the time, they could not be reached. As a result, the Dutch law enforcement officials had no ground to take further legal action. Another shipment from Congo, destined for two other EU countries, was investigated in 2003. It consisted for a large part of antiquities made of ivory. Although some objects were characterized as important, not all objects were studied. However, shipments like these indicate at least how antiquities can be shipped from instable countries and regions without any problems. In addition to shipments from Congo, antiquities were registered from Afghanistan, although these turned out to be less important.

On an abstract level, one can point at the synergy between (civil) wars and the illicit antiquities trade. This was observed in the previous chapter with respect to works of art but holds especially true for the trade in illicitly excavated antiquities. Against this argument one could interpret (civil) wars as structural conditions that shape or influence illicit markets. However, this would imply that the relationship between these conditions and the illicit trade is determined solely by these conditions. However, the ways in which political actors can obtain funds through illicit trades, whether this involves diamonds, antiquities, oil or other commodities, also influences their decisions in the wars they are fighting. A country that can serve to illustrate this argument is Angola, where the abundant availability has for decades influenced and prolonged the civil war (Matloff, 1997; Wright, 1997).

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[187] Labi, I. & S. Robinson (2001) 'Looting Africa: Theft, illicit sales, poverty and war are conspiring to rob a continent of its rich artistic heritage' *Time Magazine Pacific*, August 6th 2001, http://www.time.com/time/pacific/magazine/20010806/art.html (Visited, August 4th, 2005); as far as libraries and archives are concerned, a 1996 report by UNESCO provides hundreds of examples of institutions that were plundered, destroyed (or both) during the 20th century. Van der Hoeven, H. & J. van Albada (1996) Lost Memory – libraries and archives destroyed in the twentieth century (UNESCO, Paris) – Libraries and Archives destroyed in the Twentieth Century. Sometimes, museums survive under the most severe circumstances. The National Museum in Beirut, Lebanon, protected its collection from the Syrian as the Israeli armed forces during the civil war by hiding them in pouring concrete. See: Speetjens, P. (1998) 'Museum in de vuurlinie: Parijs toont verstopte schatten uit Libanons nationaal museum' *NRC Handelsblad*, November 20th.

[188] MacGuire Gibson (2005) 'Cultural tragedy in Iraq: a report on the looting of museums, archives and sites' IFAR, http://www.ifar.org/tragedy.htm (Visited, August 4th, 2005).

Furthermore a parallel can be drawn between the illicit art trade and some transnational crimes which were discussed in previous chapters: the illicit arms trade, drug trafficking and trafficking 'blood' diamonds. All these variations of transnational crime are often connected with war zones in all parts of the world (Crefeld, 1998; Morstein, 1989; Naylor, 1993, 2001; Phytian, 2000).[189] However, one important difference seems to exist between these crimes and the illicit antiquities trade. The illicit antiquities trade is hardly ever used to finance all kinds of wars, civil wars or terrorist acts. This sets the trade apart from for example the trade in 'conflict' diamonds and several kinds of drugs (Crefeld, 1999; Naylor, 2001; Wright, 1997). The illicit antiquities trade is almost always used solely for personal profit of the actors involved.

9.4 The lock model and the interface typology: case studies from the Netherlands and Italy

In chapter 5 the so-called lock model was developed, based on the discussions in the chapters 3 and 4. This model simplifies the often complicated mechanisms by which illegal activities are 'laundered' and become legal, or in which legal activities become illegal. This mechanism is found regularly with arms trafficking, financial crimes, cigarette smuggling, and the trafficking of 'conflict' diamonds (Naylor, 1987, 2001; NIZA, 2001; Paoli, 1995; Passas, 1995; Von Bülow, 2003). The lock model showed how transnational (criminal) activities can be laundered, or on the contrary become illegal, through the involvement of certain individuals, organizations, or jurisdictions.

In this section several case studies will be discussed that were found in the empirical study that was executed in the Netherlands and Italy, as well as one case study from the literature.

The first case study involved a shipment of rare items from Ghana, intercepted in the Rotterdam harbor in 1996, mentioned above with the co-optation interface. It is one of the cases of the Inspectorate which has been described in several articles by Van Beurden (1994, 1995, 2001). The owner of the goods was a dealer who had established firm business relations with this African country. According to the Embassy of Ghana he had been involved in smuggle of items at least two times before, in 1992 and 1994 (Van Beurden, 2001). In connection with this particular shipment, questions were asked by a Member of Parliament to the Secretary of Justice.[190] In her answer to these questions the Minister stated that the cultural historical value of the goods was substantial, and that Ghana had not given export permits for their transport to the

[189] The connection between the illicit art and antiquities trade and the trade in drugs is discussed by Tijhuis & Soudijn (2004).

[190] The written questions in Parliament were raised by MP J.M. Verspaget (Labor Party) on July 11th 1995. The Minister of Justice at the time, W. Sorgdrager, replied on August 26th 1996. See: 'Aanhangsel Handelingen, no. 1627, vergaderjaar 1995-96'.

Netherlands. Nevertheless, in the end the owner could not be forced to cede the items.

More or less the same happened in 1992. A large shipment of items was intercepted by Dutch customs in the Rotterdam harbor. Part of the shipment were 92 historic stone sculptures from the Koma region in Northern Ghana. Only after the Embassy of Ghana threatened with summary proceedings, the owner was prepared to surrender the items to Ghana. However, due to the lack of legislation in the Netherlands, he could keep the rest of the smuggled items after he paid the tax based on its real value (Van Beurden, 1994). Although the dealer did not want to respond to this particular shipment, he was willing to give his ideas about the trade in Ghana. Every now and then one would engage traders who were selling items from little villages in the bush. They were selling authentic items, as opposed to most dealers in regular shops (Beurden, 1994). This seems to confirm the pattern seen more often in Africa. A network of thieves, smugglers, and middlemen connects the authentic items from illicit excavations, churches, or museums, with the dealers in market countries. It is through a well-connected foreign dealer who ships the items abroad and sells them that they are laundered and placed in the legal market in for example Belgium, Switzerland, or the Netherlands (Gado, 2001; Schmidt & McIntosh, 1996).

This particular case can be analyzed in terms of interfaces. Depending on the status of the items involved (illicitly excavated, stolen or legitimate property from the seller) and the role of the dealer and the local middlemen, their relationship can be understood as outsourcing, reciprocity, or collaboration. At the same time the dealer and his competitors, who lack his direct source-country supply, are 'linked' by antagonistic relationships. The overall market in the objects involved benefits from the dealers' activities so that synergy can be said to exist. Labeling the different relationships as types from the typology enables a comparison with other cases and other types of crime.

However, labeling the relationships in a particular case does not explain the process of laundering through all the different relationships. That is turning the smuggling of protected (and maybe stolen) antiquities into the legitimate sale of antiquities in the Netherlands (or elsewhere). A number of factors that were discussed in the chapters on individuals and states as interface helps to explain this. The primary factor in this case is the fact that the lack of legislation in the Netherlands creates a situation in which smuggled and under circumstances stolen and looted items can be legally sold without any problems. This is especially so in case of antiquities that cannot be traced back to individual owners and therefore not confiscated on the basis of the crime of theft or receiving. This means that the Netherlands as jurisdiction acts as a lock between illicit and licit trade. Through this lock, smuggled objects are turned into legitimate merchandise. The fact that the dealer is obviously very well-connected in the source country and organized the transport of the items from source to

destination country, helps to reach this result but does not explain it in this case. A comparison with two other situations can make this clear. First of all, in case the same dealer would smuggle his merchandise to a country with legislation demanding export permits for antiquities, he would not be able to launder the objects by simply importing them. Secondly, in case an inexperienced *ad hoc* smuggler (for example a tourist) would take an object to the Netherlands, without an export permit from the source country, the same laundering would be possible as in case of the dealer.

The Ghanese-Dutch case discussed above can be seen as an example of many of the cases that were studied in the Netherlands. Sometimes they will involve less active dealers, or private persons, but the basic mechanism is always the same. As a result, the Netherlands as jurisdiction acts as an interface for this kind of trade. This interface has two variations. First of all, there are shipments of antiquities that are smuggled but not stolen. This also includes antiquities that have been stolen but that will never be proven to be so, because of a lack of documentation.[191] Secondly, there are antiquities that are stolen and that can be legally proven to be so.

In case of the first variation, the antiquities are effectively laundered by taking them out of the source country and into the Netherlands, which acts as a lock between licit and illicit trade. As soon as they have arrived in the Netherlands, or a comparable country, the fact that they have been smuggled is no longer a legal problem for the owner.[192] The cases from the Inspectorate provided many examples of this situation. This included shipments from countries like Thailand, Hong Kong, China, Afghanistan, Ghana, and Zambia. This does not mean that smuggled objects are never returned to the countries of origin. The two Seventeenth century Hindu statues that were returned to Indonesia in 2003 are among several cases of voluntary restitution.

The second variation is slightly more complicated, from a perspective of laundering. In case objects are proven to be stolen, they can be intercepted and potentially returned to their original owners. However, this is only so if restitution is not blocked by the fact that the object is presently owned by a purchaser who is protected because of his good faith or because of relevant statutes of limitations.[193] This means that the laundering process involves at least one extra step. This step can be that the objects are sold by a dealer to a customer

191 This is an important difference with for example the situation in the US. This country has several bilateral treaties which outline categories of objects that are protected irrespective of documentation or other technicalities. See for example: Gerstenblith (2002; 2004); O'Keefe (2004).

192 In practice dealers will often under-declare and falsely describe their shipments and for that reason risk a fine by customs.

193 The protection of good faith purchasers is excluded by the EU Directive 93/7. However, this directive aims at illegally exported cultural goods and not specifically at stolen goods. The stolen objects that are intercepted or signaled by the relevant authorities do often fall outside the scope of this directive.

inside the Netherlands. Another possibility is that objects have already been purchased from established dealers in for example Bangkok, Chiang Mai, or Hong Kong. The Dutch cases contained many examples of items which were probably stolen but were bought from established dealers in one of those centers of the antiquities trade. In these cases dealers or private persons are also protected as good faith purchasers. Furthermore, the objects can be held as long as necessary before the statute of limitations runs out. Finally, there is a very practical and frequent way in which antiquities are laundered. Several source countries are hardly able to communicate with the market countries. This can be because of language difficulties, lack of modern communications technologies, under-funded bureaucracies or other reasons. Therefore, authorities from market countries will not be able to verify whether certain items are registered as stolen.[194] This means that for such shipments of antiquities the same logic applies as for the antiquities that have 'only' been smuggled (see above). In the end, almost all illicit antiquities are laundered into licit antiquities and added to the existing stock of objects on the market and with collectors, museums, or others.

The second case is taken from the literature and involves some activities by parts of the auction house Sotheby's during the 1990s.[195] According to a study by Peter Watson, an extensive system of laundering practices existed around auction house Sotheby's in London.[196] Peter Watson worked as a research journalist and later had a position at the *Illicit Antiquities Research Centre* of the University of Cambridge (Brodie & Watson, 2000; Watson, 1998). Watson described a number of cases in which auction house Sotheby's served as an interface between legitimate sellers of legally owned or stolen art in particular countries on the one hand, and legitimate buyers in good faith in the UK on the other hand. As it was illegal to bring the art objects out of country of origin to the UK, where the art could be sold on a free market, Sotheby's repeatedly agreed with smuggling operations, or knowingly worked together with dealers who smuggled the items into the UK (Brodie & Watson, 2000; Watson, 1998).

In India, Sotheby's allegedly worked together with dealers who obtained antiquities in several ways and wanted to sell it at the London market. In this case, Sotheby's was no passive party in a relatively small deal (as in other cases of auction houses), but rather active in large-scale deals. Specialists from Sotheby's

194 Theoretically, thefts can be registered with Interpol and placed on their CD-rom with stolen art. See: http://www.interpol.int/Public/WorkOfArt/CDrom/default.asp. In practice, this system does not work or at least not fast enough to seriously help the interception of stolen antiquities.

195 This case is purely based on the studies of Watson and other mentioned authors.

196 Recently, the UK implemented the UNESCO Convention with legislation to counter the illicit trade. Some of the practices described by Watson are no longer legal in the UK. Around the same time Switzerland also acceded to the UNESCO Convention. According to official sources in Italy this notorious country is making significant progress with respect to measures against the illicit trade.

allegedly actually ordered certain types of objects for their sales in London. Subsequently, they assisted the dealers to find convenient ways to bring the items to the London auction. As the items went through the auction house, they had in most cases been effectively laundered and added to the supply of legitimate art and antiquities (Brodie & Watson, 2000; Watson, 1998).

In terms of interfaces, this provides a number of different types. Between Sotheby's and the dealers, smugglers, and others involved situations of outsourcing, collaboration, and reciprocity can be found. On a more abstract level, the antiquities market will most of the time benefit from all kinds of arrangements like those described here. Between the parties involved in these arrangements, and those not involved, a situation of synergy exists. Furthermore, it can be argued that the different interfaces are not confined to the situations uncovered by Watson. A strong eagerness to ensure interesting and profitable merchandise, as well as certain contempt for the regulations protecting cultural heritage, provides a climate in which all kinds of illegal transactions can take place (Rijn, 1993; Hoving, 1994, 1996; Lacey, 1998; Mason, 2004). In addition to the individual interfaces, the auction house, together with some accomplices, acted as a lock between illicit and licit market. Hereby, the individuals, organization and jurisdiction were combined to accomplish this outcome.[197] To understand this mechanism, the role of each part needs to be clarified. First of all, the role of the United Kingdom as jurisdiction. As the UK did not implement any of the treaties against the illicit trade, objects that were only smuggled could be laundered by simply bringing them into the UK and selling them.[198] However, many objects were not only smuggled but also stolen, or could be argued to be stolen.[199] To enable the sale of these objects, bringing them to the UK and selling them there was not enough. Therefore, the Indian dealers who consigned the objects to Sotheby's obfuscated the recent Indian provenance, for example by using false addresses and other names as consignees of the objects for auction. When the objects were subsequently sold at an auction, they were *de facto* laundered and added to the licit trade.

The last case is connected with the Sotheby's case and was studied in Italy. It involves the Italian mega-smuggler and dealer Giacomo Medici. He had been active in the illicit trade for over three decades when he was arrested and later sentenced to a long prison sentence and payment of damages in the millions of euros. Medici started as a smuggler himself before he grew through the hierarchy

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197 It should be stressed that auction houses do not, neither in the UK nor the Netherlands, produce a valid title to good faith purchasers of objects.

198 As was pointed out in previous chapters, the UK has since then ratified the UNESCO 1970 treaty and implemented legislation against the illicit trade. Therefore, the same logic does no longer apply in present cases. The role of the different treaties was discussed in detail in chapter seven on the research data.

199 As was discussed before, the concept of theft can have different meanings depending on the country one focuses on, because of legislation claiming all, or almost all, antiquities as property of the state.

of the illicit trade in Italy and became the coordinator of massive smuggle operations and sales to US museums, private collectors, Sotheby's and others, through a number of frontmen (Brodie & Watson, 2000).[200] The antiquities came from illicit excavations in Italy and were smuggled in bulk to Switzerland where they were stalled in warehouses in Geneva's Freeport. From there they went to several frontmen who subsequently send the items abroad. The warehouses were found by the Swiss and Italian police after Watson published his book on Sotheby's. The warehouses turned out to contain 10,000 unprovenanced antiquities, valued at £25 million (Brodie & Watson, 2000).

The relationships between Medici and all his frontmen and smugglers can be dissected into individual interfaces, ranging from collaboration to synergy. However, the most interesting element of this case is the combination of a productive dealer annex smuggler, his frontmen, the auction house and the advantages of Swiss legislation.[201] This combination acts as a lock through which the large flow of illicit antiquities is laundered and integrated in the open, fully licit, market. Although this case is unique as far as its scale is concerned, it is exemplary for most of the trade in illicit antiquities from Italy. The Italian Carabinieri have been dealing with cases like this continuously since they founded their specialized organization in the late 1960s (Middlemas, 1975; Watson, 1998).

9.5 Conclusions

In the first sections of this chapter, the antithetical and symbiotic interfaces in the illicit antiquities trade were discussed. At least three conclusions can be drawn from the analysis above. The conclusions are similar to those in the previous chapter.

First of all, two of the antithetical interfaces, the predatory and parasitical, were not found in the data of the empirical study of interfaces in the illicit antiquities trade. However, instead of the parasitical interface, the facilitating interface can be used to describe relationships in many cases in the illicit antiquities trade.

Secondly, the differences between the symbiotic interfaces are often very small and therefore less meaningful than with other transnational crimes. For the same reason, one can regularly find many different interfaces around one particular actor.

Finally, the mechanism through which antiquities are laundered can be described but not explained by the use of the interface typology. However, the

[200] The verdict in his case, dated December 13th 2004, contains an impressive number of items and the names of some well-known institutions who bought items for their collections that originated from Medici.

[201] The policies and legislation of Switzerland are currently changing rapidly. When Switzerland is discussed in this context, the situation before 2002 is meant.

typology can label all different stages of this process. To be sure, the typology was never intended to explain this process in the first place. Instead of the typology, the lock model can help to explain this mechanism. The laundering in individual cases can be explained by the combination of the different parts of the lock model: individuals, organizations, and jurisdictions as interface. One interesting conclusion from the cases in the Netherlands is the fact that laundering sometimes takes place primarily through the characteristics of its jurisdiction. As far as the Netherlands are concerned, these characteristics are rather simple: the complete absence of any legislation, except for the EU Directive. Similar situations were found to be in place in jurisdictions like Hong Kong, Thailand, and South Africa.[202] As far as Italy and other countries are concerned, it will usually take a combination of individuals, organizations, and jurisdictions to enable the laundering process. In general it can be concluded that the role of jurisdictions is often sufficient to enable the laundering of illicit antiquities.

The findings from this chapter show both the usefulness as well as the limitations of the interface typology and the lock model. Whereas some of the interfaces from the typology are of no use for the illicit antiquities trade, the remaining interfaces can be used to describe the different relationships between the actors involved. In addition to this, the lock model can be used to explain, or to help explain the mechanism through which illicit antiquities are laundered and enter the licit market.

[202] South Africa became a party to the 1970 UNESCO Convention in 2003. The remarks here therefore aim at the period before 2003.

CHAPTER 10

CONCLUSIONS

10.1 Introduction

This study addressed several questions concerning the interfaces between legal and illegal actors in transnational crimes. The background of these questions are several observations in the literature on transnational crime that were outlined in the introduction. First of all, the literature on transnational crime describes numerous interfaces between legal and illegal actors in these crimes. In many studies, these interfaces are presented as more or less one-way connections between illegal actors who corrupt legal actors or invest their profits in legal companies. Furthermore, these interfaces have been presented as growing and dangerous 'facts', especially since the demise of the Soviet Union. However, general analytical models and explanations of the interfaces between legal and illegal actors are scarcely available. Empirical studies of this research topic in general have also been few in number, although some studies have been executed on specific cases or specific crimes. Furthermore, convincing and unambiguous empirical evidence of the nature and extent of transnational crime, as well as its interfaces with legal actors, has not been provided.

This book aimed to fill some of the gaps mentioned above. A number of research questions guided this theoretical and empirical study that was executed from 2001 to 2005. The main research questions were:

- 1. What kind of interfaces can be found between legal and illegal actors in transnational crimes?
- 2. How can the transformation in legal status of certain transnational activities be explained?
- 3. Does the interface typology provide an analytical tool to describe the interface between legal and illegal actors in the illicit art and antiquities trade
- 4. How can the transformation in legal status in the licit and illicit art and antiquities trade be explained?

In addition to these research questions, this chapter will look at two practical questions that can be answered after all the analyses in this study have been done and the conclusions have been drawn.

- 5. What can be recommended for future studies on transnational crime and the interfaces between legal and illegal actors?

- 6. What can be recommended for future public policies dealing with transnational crime and related topics?

The following sections will summarize the findings from this study and provide answers to the research questions, as far as they were produced in this study. After that, a number of recommendations will be formulated.

10.2 A typology of interfaces

Different types of interfaces can be found between legal and illegal actors in transnational crime. The starting point of my research was a typology of interfaces developed by criminologist Nikos Passas. This typology was chosen because it provides one of a very few attempts to deal with the legal–illegal interface in a systematic, instead of *ad hoc*, manner. This typology consists of four antithetical and eight symbiotic interfaces between legal and illegal actors.

The typology was analyzed to see whether it covers the most important types of interfaces between legal and illegal actors, without including any superfluous types or missing any relevant types. The analysis of the typology led to several conclusions. First of all that the typology appeared to cover all the important conceivable types of interfaces between legal and illegal actors. However, two symbiotic interfaces seemed to be superfluous or inconsistent with the typology itself and were left out. The definitions of the other interfaces were clarified if necessary. In some cases, the definitions of certain interfaces put forward by the original typology showed potential overlap that would blur the distinction between separate interfaces too much. In those cases, these definitions were restricted to prevent overlap as much as possible. This is not to say that the typology was and is meant as a meticulous model of guaranteed mutually excluding types. However, the different types should nevertheless be as precise and mutually excluding as possible. The resulting new interface typology still consisted of the two categories: antithetical interfaces and symbiotic interfaces. The different types will be briefly summarized below.

10.2.1 Antithetical interfaces

The first antithetical interface consists of so-called *antagonistic relationships*. These relationships occur when there is competition between legal and illegal actors. This interface turned out to be useful to understand the relationship between legal and illegal actors in a range of transnational illegal markets. Arms dealers and producers engaged in illicit deals that compete with dealers and producers that stick to the laws governing their trade and smugglers and dealers of 'conflict diamonds' that compete with importers and dealers who deal in accordance with the Kimberley Process.

The second antithetical interface is the *parasitical* interface. This interface occurs when the aim is to preserve the viability of the target, in such a way that illegal benefits can be extorted on a more or less regular basis. This interface can be used to understand all kinds of extortion practices.

The *predatory* interface is the third interface. This interface involves the situation when the aim is to destroy or bleed to death an organization, for example to control and fraudulently bankrupt a business. Both the parasitical as the predatory interface seem to be inspired on particular relationships that have been well-documented in the literature on (national) organized crime (Abadinsky, 1994; Block, 1981; Jacobs, 2001). Racketeering practices in the US and elsewhere, for example, can be understood with the parasitical interface. Within the literature on transnational crime, however, clear examples of these relationships are hard to find. Nevertheless, chapters 3 and 4 discussed a number of case studies that can partly be understood in terms of parasitical and predatory interfaces. Because of a lack of criminological literature dealing with these case studies, other literature was used to obtain the necessary information.

Especially the case studies of financial institutions are relevant here. However, in these cases the parasitical or predatory interfaces are usually combined with symbiotic interfaces. It is only in the long run, or at a more abstract level, that the relationships between certain actors can be understood as predatory or parasitical. This points at a rather important conclusion about these interfaces. The relationships between actors can be dramatically different at different points in time or at different levels of analysis. That is, antithetical interfaces can go hand in hand with symbiotic interfaces. The study of the illicit art and antiquities trade confirmed this finding.

Besides the examples mentioned above, many forms of terrorism can be understood with the predatory and especially the parasitical interface. Although the terrorist groups involved are often presented as aimed at the destruction of specific countries, institutions or even 'civilization', most seem to aim at specific political goals like the end of foreign occupations or influences or the change of local regimes.

The last antithetical interface is the *injurious* interface. It covers the relationship between actors that undermine, attack, or harm each other, as far as this not covered by the other interface types. An example is the illicit trade in toxic waste. Foreign territories, and their inhabitants, that are used to dump the toxic waste are seriously injured although the dumping did not take place specifically to inflict injury. The illicit art and antiquities trade almost always involved injurious interfaces.

10.2.2 Symbiotic interfaces

Outsourcing is the first symbiotic interface. Outsourcing refers to a division of labor between legal and illegal actors, where one party offers specialized services

to the other. These specialized services can for example involve the shipment of arms from legitimate producers to outlawed end-users, organized by arms brokers. The party offering these services can both be the legal as well as the illegal actor.

In case actors actually work together for the same offence, the interface is called *collaboration*. Cigarette producers that are actively involved in the organization of smuggling schemes or criminal networks are one example of this interface.

The third interface is called *co-optation*. This interface involves situations of mutual benefits but uneven power relations between the parties involved. High level customs officials that allow particular criminal groups to perform particular smuggling operations are just one example here.

In case legitimate organizations knowingly and willingly provide financial support for the operation of criminal groups, the interface is called *funding*. Charities that support terrorist organizations are an example of this interface. One of those charities was discussed in more detail in chapter 3. It is only after 9/11 that this topic has received full attention in Europe and the US.

Reciprocity is the fifth symbiotic interface. This interface involves a situation of consciously seeking mutual benefits for the legal and illegal actors. Relationships between individual users of illegal services or goods and their suppliers can be labeled as reciprocity.

The last interface is called *synergy*. We can speak of synergy when legal and illegal actors benefit each other while they go about their business independently promoting their interests and objectives. The practical effects of synergy are similar to those of outsourcing. Synergy may exist between actors involved in the same kind of business but also between different kinds of businesses. For example between certain banks and their customers that deposit the proceeds of drug trafficking or other crimes with them. Chapters 3 and 4 illustrated how certain relationships can turn from antagonistic to synergic or the other way around. In those cases it often depends on the intensity of illegal activities whether they are still beneficial for the legal actors. At some point, the balance turns out negative for the legal actors.

The lines between the different types of interfaces cannot be drawn meticulously in practice, although each type theoretically aims at a distinct type of relationship between legal and illegal actors. The typology provides an analytical tool to understand and describe different relationships between legal and illegal actors, independent of the kind of transnational crime or the kind of actors involved. Therefore, interfaces between legal and illegal actors involved in the illicit arms trade can for example be compared with interfaces in the trade in illegal drugs. Furthermore, the typology helps to nuance the idea of one-way connections between illegal actors who corrupt legal actors or invest their profits in legal

companies. Often, the initiative will come from legal actors, or they will at least work together voluntarily with illegal actors.

Despite the analytical usefulness of the typology, the interface between legal and illegal can sometimes be better described and understood with the so-called lock model. This is the case when interfaces are not only or primarily found *between* actors but instead *coincide with* specific individuals, organizations, or jurisdictions. Chapters 3 and 4 dealt with these actors or entities as interface. In chapter 5, the lock model was developed that helps to explain how these actors and entities can launder transnational crimes, or instead turn transnational legal activities into transnational crimes. Section 10.4 will discuss the lock model.

10.3 Individuals, legitimate organizations, and jurisdictions as interface

The interface typology describes interfaces *between* legal and illegal actors. This implies two or more actors, legal or illegal, and 'an' interface in between. The interface links an illegal and legal actor in a particular way, for example as partners in an ongoing collaboration. In other words, the interface describes the relationship that exists between two actors at some point in time. However, a particular actor will often have numerous relationships with legal and illegal actors around him. All these relationships can be labeled with the different types of interfaces from the typology. But in case this actor finds himself in the middle of legal and illegal actors that are connected to a particular transnational crime, such an actor can also, or instead, be seen as an interface himself. This is especially so in case the relationships with both legal and illegal actors are more or less on the same level. The same level means that an actor acts as criminal in his relationships with other illegal actors, while at the same time he acts as legal actor in his relationships with other legal actors.

10.3.1 Individuals as interface

We started with the analysis of the role of individuals as interface. On the basis of a number of case studies, it was argued that certain individuals themselves can be understood as an interface between legal and illegal actors. They often act as brokers arranging deals between different parties, for example in the illicit arms trade, or as dealer who combine the licit and illicit trade. In some cases, it is through these individuals, and the set-ups they invent, that illicit trades are laundered or that licit merchandise is funneled to the black market. It is for a number of reasons that these individuals can play such a role. These include the combination of several identities, for example as anonymous private person as well as established business men, and as citizens with diplomatic passports from different countries under different names etc. Furthermore, political protection at the highest levels sometimes plays a role. Through this protection, the discussed

individuals often generate immunity from prosecution in the countries in which they are doing business.

Analytically, two different models of individuals as interface were distinguished. On the one hand brokers in transnational crime and on the other hand transnational (criminal) dealers.

10.3.2 Legitimate organizations as interface

Besides individuals, some organizations can act as interface by themselves. The same laundering may take place through these organizations. The specific opportunities of legitimate organizations play an important role here. The possibility to change licit for illicit trade or to divert funds for illicit ends. We discussed a range of case studies in which all kinds of organizations could be understood as interface between legal and illegal actors. Banks, intelligence agencies, auction houses, and charities may all act as interface in specific circumstances. In practice, it will often be through such organizations together with the individuals discussed above, that transnational crimes are turned into legitimate activities or the other way around.

Legitimate organizations as interface can also be distinguished in two different analytical models. They were called the Ambrosiano model and the coffee shop model.

10.3.3 Jurisdictions as interface

Finally, jurisdictions can under certain circumstances act as an interface. To be sure, a jurisdiction is of course not a regular 'actor' like a human being or a legitimate organization. However, based on the laws of countries, or the absence thereof, they can have the same function as individuals or organizations. Such a jurisdiction is in the middle of a transnational chain of activities which are defined as transnational crimes at one side of its border, and as legitimate activities at the other. In practice, this mechanism will often involve certain organizations and individuals as well.

Besides the mere presence or absence of particular legislation, the activities of law enforcement agencies also play a role. In some case particular activities are criminalized in a jurisdiction although the relevant laws are never or rarely enforced. This may partly facilitate the laundering of certain criminal activities, in combination with other factors. The cause of this type of laundering was called the *de facto* interface. It is, however, not a pure interface like the individuals, organizations, and jurisdictions discussed earlier, but it consists of a mixture of these different models.

10.4 The lock model

The second research question was: how can the transformation of legal status of certain transnational activities be explained?

The findings from the case studies suggested an answer to this question. It is through certain individuals, organizations, and jurisdictions that this process can take place. In chapter 5 these findings were used to develop an analytical model besides the interface typology. This model, the so-called lock model, can be used to understand the mentioned process. This transformation can be understood as a ship going through a lock. The inner-part of the lock does not belong to either side of the lock. The same holds true for the individuals, organizations, and jurisdictions. They cannot be seen as purely legal or illegal but enable certain activities to be transformed from illegal to legal or the other way around. On the one hand these actors or entities illegally deal with (often criminal) actors while on the other hand they are engaged in fully legal transactions with (often legitimate) actors. It may also be that an organization deals with different parts of one actor on both sides, like for example with many money laundering operations. A drug trafficker can infuse funds to a bank on the one hand, while he takes it out (for example in a loan-back structure) in another capacity (for example with his legitimate corporation).

The lock model is not an alternative for the interface typology but aims to explain a particular process that can be found in many empirical cases of transnational crime involving an interface between legal and illegal actors. In all these cases, the interface typology can be used to describe all the relationships between the different actors involved.

Besides explaining this particular process, the lock model and the analyses that preceded its development, illustrate the importance of certain individuals, organizations, and jurisdictions. Individuals are often neglected in studies of transnational crime. Many authors look at transnational crime as the cross-border variation of local organized crime. Individuals do not fit in that perspective. Legitimate organizations are usually seen as passive actors used by, or infiltrated by, criminals. However, this study showed how certain legitimate organizations are the center of a range of transnational crimes and relationships with numerous illegal actors. Finally, the role of jurisdictions is often overlooked, except for the role of certain tax havens and secrecy jurisdictions. However, numerous countries that certainly do not fit the latter categories, act as havens for particular transnational crimes.

10.5 The illicit art and antiquities trade

We then discussed the empirical study of the illicit art and antiquities trade that was executed specifically for this study. There were two major reasons why the transnational illicit art and antiquities trade provided an interesting and useful

object of study within the context of a study of interfaces. The first reason is the assumption that this trade has many interfaces because in general stolen or smuggled art needs to be sold in the legal market to be profitable. This implies some form of laundering along the way from the moment of theft and/or illegal export to the sale to a customer. The second reason to study the illicit art and antiquities trade is the fact that it has hardly been studied by criminologists.

We outlined the data sources that were used for this study. These sources included official data from different countries, interviews with experts and dealers, and reports from specialized media. The literature on the illicit art and antiquities trade was used to complement these sources. After an outline of the sources, a general overview of the illicit art and antiquities trade was provided in chapter 7. The interface typology and lock model were discussed in chapters 8 and 9.

10.5.1 The interface typology and the illicit art and antiquities trade

A number of conclusions can be drawn with respect to the interface typology. First of all, the analysis of interfaces in the illicit antiquities trade did not produce clear examples of the predatory and parasitical interface. However, the injurious interface is a standard element of almost every criminal activity in the transnational illicit art and antiquities trade. Most instances of illicit trading in art and antiquities begin with either stealing or smuggling objects. Most of the time, objects are first stolen and thereafter smuggled abroad.

Furthermore, the antagonistic interface plays an important role in this field. In some cases, the antagonistic interface can be seen as one end of a continuum that has the synergy interface as its other end. This paradoxical observation is similar to the observations that were made with respect to legitimate organizations functioning as a lock. The beneficial or harmful consequences of the activities of one actor in relation to others can change over time as well as on different levels. This is rather remarkable because these two interfaces were clearly separated analytically in the interface typology. The exception to the rule that the antagonistic and synergy interface are clearly separated involves the situation where legal and illegal actors are involved in the same activity. Depending on the level of analysis or the point in time, the relationship between these actors will best be defined as antagonistic or synergic.

In addition to the typology, one new type of interface was added based on the findings in the empirical study of the illicit art and antiquities trade. The new interface was called a *facilitating* interface. It aims at situations of so-called internal thefts of works of art or antiquities that are subsequently sold abroad. Legitimate organizations are facilitating these thefts passively, by providing access to the objects involved and failure to secure the objects from insiders.

The symbiotic interfaces were also hard to separate from each other in the illicit art and antiquities trade. Relatively small details can make the difference

between one type of interface or another as the best description of a particular interface between legal and illegal actors. This decreases the added value of the typology for this particular field of crime, as opposed to some other fields of transnational crime like trafficking illegal drugs or human beings. As opposed to the latter types of transnational crime, it remains to be seen whether the illicit arms trade or other trades embedded in licit trades, can be compared to the art and antiquities trade. That is, whether the differences between the types of interfaces are also rather small within these trades.

10.5.2 The lock model and the illicit art and antiquities trade

As stated before, the typology can label all different stages of the process through which illicit art and antiquities are laundered. However, the lock model can help to explain this process. The laundering in individual cases can be explained by the combination of the different parts of the lock model: individuals, organizations, and jurisdictions as interface. One interesting conclusion from the cases in the Netherlands is the fact that laundering sometimes takes place primarily through the characteristics of this jurisdiction. These cases involve the import of art and antiquities from outside the European Union. As far as the Netherlands are concerned, these characteristics are rather simple: the complete absence of any legislation, except for the EU Directive and Regulation as well as legislation protecting a list of objects inside the Netherlands.[203] Similar situations were found to be in place in jurisdictions like Hong Kong, Thailand, and South Africa.[204] Through such jurisdictions, source countries and market countries of illicit art and antiquities are connected without the risk of detection of the illicit provenance of the objects involved.

The analysis of official and other data in the Netherlands, France and Italy illustrated the lock model 'in action'. For each country, one must distinguish between import and export and in the case of Italy between art and antiquities.

In Italy, the looting of antiquities is the beginning of the transnational illicit antiquities trade. The antiquities are primarily destined for collectors and museums in Switzerland, the United States, and other market countries. The study in Italy showed how these antiquities are usually laundered before they appear on the legal market. In many instances, the antiquities are first smuggled to Switzerland. In Switzerland they are given a false provenance, for example that the objects originate from private collection X or Y (in Switzerland) and have been in that collection for a long time. This 'long time' usually predates the

[203] At the time of writing (November 2005) the Dutch government is working on legislation to implement the UNESCO 1970 Convention as well as the 1954 The Hague Convention. However, it will at the earliest be in 2006 that this legislation will be adopted and enter into force.

[204] South Africa acceded to the 1970 UNESCO Convention in 2003. This may lead to the implementation of legislation against the illicit trade.

enactment of specific legislation in the countries involved that outlaws certain objects from being exported or transferred from one owner to another. Thereafter, the objects are sold abroad at auctions, art fairs or directly to museums and collectors. As Switzerland was no party to the UNESCO Convention until 2003, and is not a member of the EU, importers of objects from Switzerland did not run any risks because they legally bought objects that had effectively been laundered before. It is thus primarily through the differences in legislation between the countries involved, combined with the fraudulent techniques of certain individual dealers, that this laundering takes place.

As Switzerland has acceded to the 1970 UNESCO Convention and increased its efforts to counter the illicit trade, the described situation might change significantly for the better. If so, it remains to be seen how the antiquities trade will adapt to this change in opportunity structure.

With respect to works of art, the situation is, at least in theory, far more complicated due to the fact that these objects can be registered and recognized. Therefore, in case of theft, they will not be laundered for the simple reason that they cross certain borders and their owners claim a certain provenance. In case works of art are stolen from churches, museums or private collectors, their picture and relevant characteristics will ideally be included in the *Leonardo* database of the Carabinieri and the Interpol Stolen Art and Antiquities CD-Rom. However, works of art will in many cases be laundered as effectively as the antiquities discussed above. First of all, the use of registries of stolen art, like the Interpol CD-Rom, is rather limited in many countries. Therefore, even if objects are registered adequately this will not deter the trade in these objects in many countries. Furthermore, in case dealers suspect that the registration of stolen objects will potentially pose a significant problem they sometimes change the description of the objects in case they are brought in at auctions. They may slightly change the measurements as well as ascribe the object incorrectly. Through this they can frustrate the efforts of law enforcement agencies that try to recover stolen items by checking the catalogues of all major auctions of art and antiquities.

In France, the theft of works of art from chateaux, churches and museums, is in most cases the beginning of the illicit art trade. Many objects are smuggled to Belgium and the Netherlands and from there exported to yet other countries. The study of this trade showed that for decades the same modus operandi has been used successfully. The stolen objects are sold in Belgium or the Netherlands, where the new owner benefits from the civil code that directly grants full ownership to good faith purchasers from art dealers. The sale may be to an unsuspecting end-user or to another dealer who subsequently sells the objects to collectors abroad. In some cases, the objects themselves may be changed so as to frustrate any potential attempt to recover them. This is sometimes done, for example, with antique timepieces. The actual laundering of the objects involved is caused by a number of factors. In case the objects are sold

in Belgium and the Netherlands and subsequently shipped outside the European Union, the mentioned civil codes grant the new owner full ownership rights. The EU Directive 93/7, which nullifies this protection for the sake of restitution of smuggled items, is only applicable inside the European Union and can thus not be used against non-EU owners outside the EU. Furthermore, in practice the EU Directive has had hardly any noticeable effect on the trade in stolen works of art or antiquities. In case the objects remain in the EU, the indifference of most law enforcement agencies, as well as the failing system of registration and exchange of information between law enforcement agencies, will effectively launder the objects, or at least assure immunity from prosecution for their owners. The applicable, and limited, statutes of limitations in countries of continental Europe will further help this outcome.

The Netherlands was already mentioned above with respect to antiquities from outside the European Union. Due to the lacking legislation with respect to these antiquities, the mere import in the Netherlands often suffices for its effective laundering. Dealers in particular antiquities use this situation when they obtain items abroad and smuggle these to the Netherlands. In the country of origin (of the objects involved) these dealers act as smugglers and/or fences while in the Netherlands they act as professional art dealers. Only in case of antiquities that can be proven to be stolen, this can be otherwise. However, the difficulties of international collaboration between law enforcement agencies, combined with inadequate registration of stolen antiquities, minimizes the change that stolen antiquities will be recovered and returned to their original owners.

In case of art and antiquities from inside the European Union, the situation is different due to the EU Directive and Regulation. In case antiquities can be proven to be exported from an EU country to the Netherlands after 1992[205] and without export permit, they may be confiscated by the authorities and returned to the original owners after a civil procedure in which the country of origin claims the antiquities from the present owner. The fact that the present owner has purchased the antiquities in good faith cannot stop the country of origin from claiming them back although the present owner can under specific circumstances be granted damages.

When works of art are illicitly exported from the Netherlands to other EU member states, the same applies as discussed above. However, in case of illicit export from the Netherlands of legally protected works of art, to countries outside the EU, the same applies as discussed above with respect to the import of antiquities from outside the EU. As the Netherlands has not ratified the UNESCO 1970 Convention or the 1995 Unidroit Convention, it will not be able to claim back objects that have 'only' been illegally exported, that is objects that were not stolen before they were exported. These objects can thus easily be

[205] As new member states were added to the European Union after 1992, another year defines the application of the EU Directive and Regulation.

sold on the legal market, as long as they do not enter the European Union before the statue of limitations has run out.

In case works of art in the Netherlands are not protected as such (this applies to the large majority of art) they may also be laundered easily after they have been stolen. In case stolen works are unintendedly bought and subsequently sold by a professional dealer, the good faith purchaser of the object is protected on the basis of the Dutch civil code. Furthermore, in case a work of art is stolen in the Netherlands and sold in a country where similar laws apply, these laws will effectively launder these objects.

The different situations in Italy, France, and the Netherlands illustrate how the illicit art and antiquities trade can under circumstances be transformed into a licit trade. The different variations of the lock model can help to understand this transformation. As far as the art and antiquities trade is concerned, the substantial difference in legislation between the countries involved is the most important factor enabling this process of laundering.

10.5.3 Other topics related to the illicit art and antiquities trade

The discussion of the typology and the lock model also produced several insights that increase the understanding of this field of crime and at the same time took away some myths that are often reiterated in publications about this type of crime.

First of all, the role of (civil) wars and similar disturbing phenomena was observed in many instances of illicit trade in art and antiquities. Examples are the looting of works of art during and after World War II, by the Nazis, the Soviets, and the Allied forces, and the looting of museums in many civil wars in for example Nigeria, Somalia, Iraq, Congo, Afghanistan and Kuwait. An interesting parallel can thus be drawn with the illicit arms trade, as well as the trade in conflict diamonds and some instances of drug trafficking. It was also shown that the so-called internal thefts of works of art and antiquities play a much larger role than usually assumed.

Furthermore, with respect to the illicit art trade in the Netherlands and other market countries, the empirical study pointed to the large scale of thefts from France and the subsequent role of Belgium and the Netherlands as market or transit countries for the stolen objects. This 'great ball of receivers' is largely neglected in the literature on the illicit art and antiquities trade. Especially in the Netherlands, this topic demands the full attention of both law enforcement agencies as well as researchers.

Thirdly, some common explanations for art thefts and the illicit trade in art appeared to lack much empirical proof. This involved the theft of, and trade in, works of art by organized criminals with a background in drug trafficking. Furthermore, it involved the theft of works of art ordered by rich collectors. This

common explanation for major thefts could not be backed up by any credible evidence.

Finally, the often mentioned link between the trafficking of drugs and antiquities cannot be substantiated with more than a few examples. Drugs and antiquities are rarely found together in aborted smuggling operations. Furthermore, very little evidence has been found that stolen works of art, or looted and smuggled antiquities were used to launder proceeds from drug traffickers or other criminals.

10.6 Recommendations for future studies on transnational crime and the interfaces between legal and illegal actors

10.6.1 Studies of transnational crime and interfaces

The current study can be used to reflect on research areas and questions that can benefit from an increased attention from researchers. This applies first of all to transnational crime in general and the interfaces between legal and illegal actors. It is also applicable to the study of specific types of transnational crime, in particular the illicit art and antiquities trade.

The first recommendation is to increase the number of empirical and theoretical studies focusing on transnational crime. The lack of these studies was one of the reasons to engage in the present study but the need for these studies is still apparent. Although this issue was not dealt with in this study, it seems that the field of transnational crime as a part of criminology still has to catch up with respect to the level of both theoretical and empirical studies. Finding answers to research questions, and formulating new questions, depends heavily on solid empirical studies. Especially in times of significant changes and challenges, empirical studies produce the much needed input for theoretical progress. During the 1990s these changes and challenges came for example from the imploded Soviet Union. A lack of empirical studies sometimes led to the wildest assumptions and theories about types of transnational (organized) crime connected with this part of the world. At this moment, a particular kind of terrorism provides a new challenge. Empirical studies can help to increase our understanding of these challenges and ideally help to suggest solutions to certain aspects of these challenges.

Even if the criminological studies do not help to decrease its present object of study, it can help to prevent contra-productive law enforcement policies. The 'moral panic' about transnational crime often initiated policies that did seriously compromise the rule of law and the integrity of law enforcement agencies without decreasing the actual occurrence of transnational crime. This may be especially so with respect to the recent policies against terrorism. Basic legal principles are easily discarded on the presumption that this is both necessary and effective. However, as during the 1990s in the fight against transnational crime, it

has not been proven yet that a significant increase in the competences of law enforcement and intelligence agencies provides the solution to the threat of terrorism. What has been proven, however, is the fact that these increases sometimes infringe civil liberties in a way that seems to be incompatible with what is generally accepted as the norm in free and democratic societies. Empirical studies of different forms of terrorism should ideally help to explain the causes and describe the modus operandi and types of perpetrators. On the basis of such studies, one could help to suggest policies that are effective against terrorism without unnecessarily discarding these liberties or causing collateral damage that may even induce more or new incidents of terrorism. The best example of the latter danger is of course the war in Iraq and the treatment of prisoners in Guantánamo Bay as well as elsewhere. However, less well-known examples are also important here. The way in which the US administration has acted against all kinds of so-called informal value transfer systems (IVTS), often misleadingly called 'underground banking' by law enforcement agencies around the world helps to estrange foreign populations from anti-terrorism policies that should ideally be the first to mobilize in favor of such policies. Furthermore, it directly harms millions of people that often depend on these systems for their daily survival in regions that are not yet covered by regular banking facilities.

In addition to the need for empirical studies as such, the need for an interdisciplinary approach is evident. This is not meant as an obligatory recommendation as it is coined so often. Understanding transnational crime, as well as the interfaces between legal and illegal actors, touches on so many different disciplines that it cannot be understood from just one perspective. These disciplines include at least public administration, economics, law, political science, and criminology. Furthermore, it has already been mentioned that some appreciation of the historical background of certain transnational crimes is needed to fully understand these crimes and their precedents in previous eras. Often, seemingly new crimes and threats have precedents in the past, and have been well-documented before by researchers from other disciplines. Finally, other disciplines can help to analyze the debate on transnational crime and in particular terrorism, together with the law enforcement policies and their justifications.

As far as interfaces are concerned, the need for empirical studies is also apparent. Such studies should shed more light on the causes of different types of interfaces in specific transnational crimes and in specific regions or countries. They should further elaborate on the way licit and illicit markets are connected. As far as the actors are concerned, studies should more often focus on the legitimate actors. Not only corporations, but also some governments agencies can and do play relevant roles in certain transnational crimes. The same goes for certain charities that are related to terrorist organizations. Furthermore, empirical studies can test and improve the lock model that was developed in this study. This also has to include further study of the role of individuals, legitimate organizations, and jurisdictions that was discussed in this study.

Finally, the role of all kinds of (civil) wars, revolutions, boycotts, and similar phenomena should be studied more often within the context of transnational crime. Many instances of transnational crime are in some way related to these phenomena but this does hardly lead to any theorizing.

10.6.2 Studies of the illicit art and antiquities trade

The empirical study of the illicit art and antiquities trade provided several insights that were summarized above. However, it also revealed some topics that could benefit from new empirical studies.

With respect to the illicit art trade, there are several research questions that should be studied empirically. To a large extent it is still unknown what the destination of most stolen works of art is. A minor part turns up at some point at auction houses or galleries. However, the trajectory of the objects involved from theft onwards usually cannot be fully reconstructed. Future studies should thus be guided by several research questions. First of all, what kind of perpetrators are responsible for art thefts? Furthermore, where do all the stolen objects go? Are they sold to unsuspecting private persons or to complicit dealers? Finally, what is the role of insiders with both the theft of, and trade in, works of art?

The illicit antiquities trade has been a little more transparent than the illicit art trade. Furthermore, in the empirical study executed for this study, new insights about this trade have been added. These included the type of antiquities that are smuggled to or through the Netherlands, the destination countries as well as the countries that are used as transit countries.

However, some topics demand further study. First of all, the scale of the illicit trade is largely unknown with respect to many objects and destinations. The official files that were studied in the Netherlands, for example, do not justify any rough estimate of the overall size of the trade. Foreign sources, like the data from the Italian Carabinieri or the Illicit Antiquities Research Centre at the Cambridge University, do only span particular geographical regions or particular objects. Furthermore, the role of (civil) wars and similar phenomena should be given a proper place in the literature about this trade. It should no longer be treated as separated from the illicit trade in general but as an integral part of it. Finally, with respect to legislative instruments, it should be asked whether more effective legislation can be formulated, or whether the existing legislation can be used and interpreted in a more productive way. Despite the great importance that is granted to well-known treaties, there is no convincing evidence that the ratification of these treaties by itself does substantially decrease the illicit trade in the countries involved.

10.7 Recommendations for public policies

In addition to the recommendations relating to criminological studies, several recommendations can be suggested with regard to public policies. These will be limited to those that can reasonably be based on the results of the discussions and findings in this study. The different recommendations should not be seen as clear-cut solutions for a number of observed problems in this particular area. They are meant as suggestions to formulate policies that may eventually reduce the problem of transnational crime and the interface between legal and illegal actors.

10.7.1 Public policies in general

The introduction of this book discussed one of the primary causes of transnational crime which is the difference in legislation between countries with respect to all kinds of licit and illicit goods and services. These differences stimulate the illegal traffic in these goods and services across borders. Sometimes countries differ to such a degree that the trade in, or ownership of certain goods is legal in one country while illegal in another. However, sometimes the differences only exist as far as the intensity of law enforcement is concerned, or in the level of taxation of certain legal goods. In the analyses of the interface typology and the development of the lock model, it turned out that these differences in legislation are as crucial for the topic of interfaces as they are for transnational crime in general. Differences in legislation can even play a role in laundering certain transnational crimes, as was discussed in chapters 3 and 4. Chapter 5 integrated this finding as part of the lock model.

The differences mentioned above are not immutable facts of life but can be changed or at least influenced by public policies. Hereafter, several general recommendations will be formulated to deal with these differences. Following these general recommendations, several recommendations with respect to the illicit art and antiquities trade will be formulated. Some of these recommendations may be criticized to hammer on an open door. However, as long as some obvious policies are not implemented it is justified to reiterate their potential in dealing with transnational crime and related problems.

The first recommendation is to strive for more harmonization of legislation on topics related to transnational crimes. This may involve dramatic changes in legislation but also minor adaptations with major (positive) consequences for particular crimes. In its most simple variation, the harmonization only involves a change in taxation of certain goods. This may lessen or even take away the motivation to smuggle these goods. Cigarette smuggling is the primary example here. This type of transnational crime is for a large part caused by the differences in taxation of this product. Within Europe, for example, differences between countries in the level of taxation are the cause for large-scale smuggling

operations. It should be noted of course that without these differences there will still be grounds for trafficking cigarettes or other similar goods. As long as there are ways to evade any taxes, instead of seeking the lowest level in a particular region (which still means considerable taxes), smuggling will continue. Despite the fact that it will thus be difficult or impossible to prevent most instances of cigarette smuggling, harmonizing the level of taxation within a particular region will probably limit the losses in tax revenues significantly. Furthermore, it will free the capacity of law enforcement and customs agencies for more pressing types of transnational crime. It should be stressed here that the above reasoning is not the same as an argument to abandon all taxes on cigarettes or similar goods. However, within specific regions, like the European Union, or the US and Canada, there is no convincing argument why levels of taxation cannot be harmonized so as to decrease the incentive for large-scale smuggling.

In a way the kind of differences mentioned above are probably the easiest to solve in comparison with other differences. In the situation above, specific goods are legal in both countries and are only causing illegal activities because of differences in taxation. With respect to several other goods and services, the differences are larger. Especially chapter 4, on jurisdictions as interface, illustrated, for example, the importance of tax havens and secrecy jurisdictions and the services that these jurisdictions offer. Strict bank secrecy laws, instant-corporation businesses and anonymity of shareholders are helpful instruments for transnational crimes. The difference between jurisdictions offering these services and those that do not and strongly oppose them, is hard to bridge. However, that is not to say that it is impossible or that one should not strive towards harmonization bit by bit. The attempts to do this in Europe have shown how difficult this can be but at the same time that changes can be reached, although slowly.

The secrecy jurisdictions can be understood as a hole in the international patchwork of regulation. The attempts mentioned above are filling these holes a little. In addition to this specific topic, all kinds of jurisdictions should have their holes 'filled'. As far as art and antiquities are concerned, this applies for example to the Netherlands or Thailand; as far as toxic waste is concerned this applies to many developing countries, and as far as arms are concerned this applies to countries like Singapore or some former Soviet Republics.

The role of tax havens should not obfuscate the fact that as far as money laundering is concerned, Western countries like the US and the UK have always played a rather important role. The revelations about large-scale money laundering for Russian criminals by Western banks are a recent example of this role. The same goes for the role of these banks as well as other companies in all kinds of infrastructural and other projects in development countries in which billions of euros simply disappear. Since 2001, the regulatory structure to control the banking sector has become significantly stricter. It remains to be seen however, whether the increased regulation will decrease the potential and

occurrence of money laundering. Furthermore, it remains to be seen whether all regulations will stay in place as the fear of terrorism subsides.

The role of financial institutions and other legitimate organizations was discussed in chapter 3. The different kinds of organizations call for different public policies. In the diamond trade, increased regulation and enforcement could help to prevent or cut links between legitimate dealers and auctions on the one hand and outlawed guerrillas and smugglers on the other hand. With regard to charities, regulations to promote transparency could prevent them from being used for terrorist purposes without stigmatizing dozens of organizations involved in purely humanitarian projects.

The discussion of the so-called coffee shops raises the question as to whether partial or whole legalization of certain types of drugs could decrease the most important type of transnational crime without increasing the consequences of drug abuse. As this topic has not been discussed in-depth in this study, this question will only be raised here for further thought. A parallel can be drawn between the fight against drug trafficking and the prohibition of alcohol in the USA during the 1920s, that is described in almost every textbook on organized crime. A consensus seems to be present that prohibition only caused more crime, it corrupted politicians, it made gangsters rich, and most importantly, it did not keep people from drinking.

10.7.2 Public policies with respect to the illicit art and antiquities trade

In the sections above, several recommendations were already mentioned with respect to the illicit art and antiquities trade. The Netherlands, together with several other market countries, should adopt or change legislation to be able to effectively act against the traffic in stolen and smuggled art and antiquities. New legislation should be adopted to implement the treaties against the illicit trade (after these have been ratified) and existing legislation should be adjusted to deal more effectively with the trade in stolen and smuggled art. The latter recommendation involves changes in the statute of limitations as well as the protection of good faith purchasers. In addition to the mere adoption of legislation, concrete and effective policies should be developed to enforce these laws.

In the addition to these legislative changes, there are more practical changes that can be recommended. First of all, law enforcement agencies in market countries should increase their efforts with respect to this type of crime. In some countries this means start devoting attention to this topic, as specialized police units are now lacking. Furthermore, the registration of stolen art should be started (in countries that lack any registration) or increased (in countries that have outdated or incomplete registries). In addition to that, the information in these registers should be easily exchanged between countries so that it can assist the recovery of stolen objects. Technically it is relatively easy to connect databases of

stolen art and let large groups of users share in a basic register of stolen objects. Besides the national registers, and the exchange between national registers, the use of the Interpol register should be stimulated and this registration itself should be made more efficient. Finally, and not the least important, ways should be found to stimulate an awareness that the illicit art and antiquities trade matters very much; not because it is illegal, not because it is the most important transnational crime in numbers or monetary terms (it clearly is not) but because it is human history and culture that is stolen and often lost forever.

BIBLIOGRAPHY

Aalders, G
1999 *Roof: De ontvreemding van Joods bezit tijdens de Tweede Wereldoorlog* (The Hague, Sdu Uitgevers)

Aarons, L.
2001 'Art theft: an exploratory study of the illegitimate art market in Australia' *The Australian and New Zealand Journal of Criminology,* Vol 34 (1), pp. 17-37

Aarons, L., Chappell, D. & K. Polk
1998 'Art crime in Australia: A market analysis' Paper presented at the Annual Australian and New Zealand Society of Criminology Conference, Gold Coast, Queensland, July 10

Abadinsky, H.
2002 *Organized Crime* (Wadsworth Publishing, Florence)

Abdulraham, A.
2001 'The New Syrian Law on Antiquities' in: Brodie, N., J. Doole & C. Renfrew (2001) *Trade in illicit antiquities: the destruction of the world's cultural heritage* (Oxbow Books, Oxford), pp. 111-114

Acar, O. & M. Rose
1995 'Turkey's war on the *illicit* antiquities trade' *Archaeology*, Vol 48(2), pp. 44-53

Adams, J.
1986 *The financing of terror* (New english Library, London)

Addyman, P.
2001 'Antiquities without archaeology in the United Kingdom' in: Brodie, N., J. Doole & C. Renfrew (2001) *Trade in illicit antiquities: the destruction of the world's cultural heritage* (Oxbow Books, Oxford), pp. 141-144

Aguilar, L.
1981 *Operation ZAPATA : The 'Ultrasensitive' Report and Testimony of the Board of Inquiry on the Bay of Pigs* (University Publications of America, Frederick)

Akinsja, K & G. Kozlov
1996 *Operatie Kunstroof – De lotgevallen van het goud van Troje, de Koenigscollectie en andere Russische oorlogsbuit* (Amsterdam, Jan Mets)

Alva, W.
2001 'Destruction of the Archaeological Heritage of Peru' in: Brodie, N., J. Doole & C. Renfrew (2001) *Trade in illicit antiquities: the destruction of the world's cultural heritage* (Oxbow Books, Oxford), pp. 89-96

American RadioWorks
2005 'Aviv: Fabricator or Smear Victim' in: Shadow over Lockerbie, http://americanradioworks.publicradio.org/features/lockerbie/story/aviv_frameset.html (visited July 27th 2005)

Anning, N., D. Hebditch, L. Melvern & M. Hosenball
1984 *Techno-Bandits – How the Soviets are steeling America's high-tech future* (Houghton-Mifflin, Boston)

Atwood, R.
2004 *Stealing History – tomb raiders, smugglers and the looting of the ancient world* (St. Martin's Press, New York)

Auchlin, P. & F. Gaberly
1990 *Das Umfeld eines Skandals – Ein Report über das organisierte Verbrechen und die Rolle der Schweizer Behörden* (Werd Verlag, Zürich)

Bailey, M.
1997 'The art theft – drug smuggling link exposed' *The Art Newspaper*, vol. 7 (66)

Beare, M.
2002 'Organized corporate criminality - Tobacco smuggling between Canada and the US' *Crime, Law & Social Change*, vol. 37(3), pp. 225-243

Beare, M. (ed)
2003 *Critical Reflections on Transnational Organized Crime, Money Laundering and Corruption* (University of Toronto Press, Toronto)

Bernick, L.
1998 'Art and antiquities theft' *Transnational Organized Crime*, vol. 4(2), pp. 91-116

Berryman, J.
2000 'Russia and the illicit arms trade' *Crime Law & Social Change*, vol. 33(1), pp. 85-104

Beurden, J. van
1994 'De stille roof van Afrika's culturele erfgoed' *Vice Versa*, nr. 4
1995 'Handelaar geeft gesmokkeld antiek terug aan Ghana' Internationale Samenwerking, nr. 5
2001 *Goden, graven en grenzen - Over kunstroof uit Afrika, Azië en Latijns-Amerika* (KIT Publishers, Amsterdam)

Bierens, C.
2002 'Echt is wat echt genoemd wordt: Geert Jan Jansen en het systeem van de kunsthandel' *NRC Handelsblad – Cultureel Supplement*, August 16

Bischof, U.
2003 *Die Kunst Und Antiquitaten Gmbh in Bereich Kommerzielle Koordinierung - Schriften Zum Kulturguterschutz* (de Gruyter Recht, Berlin)

Bisheh, G.
2001 'One Damn Illicit Excavation After Another: the Destruction of the Archaeological Heritage of Jordan' in: Brodie, N., J. Doole & C. Renfrew (2001) *Trade in illicit antiquities: the destruction of the world's cultural heritage* (Oxbow Books, Oxford), pp. 115-118

Blickman, T.
1997 The Rothschilds of the mafia on Aruba Transnational Organised Crime, vol. 3(2), pp. 50-89

Block, A.A
1979 'Progressive-Era Cocaine Trade' *Criminology*
1983 *East Side – West Side: Organizing Crime in New York, 1930-1950* (Transaction, New Brunswick)
1989 'European drug traffick and traffickers between the wars' *Journal of Social History*, 23(2)
1991 *Masters of Paradise – Organised crime and the Internal Revenue Service in the Bahamas* (Transaction, New Brunswick)
1994 *Space, Time & Organized Crime* (Transaction, New Brunswick)
1999 'Bad Business: A commentary on the criminology of organized crime in the United States' in: Farer (ed) *Transnational Crime in the Americas – An Inter-American Dialogue Book* (Routledge, New York), pp. 217-244
2000 'The origins of Iran-Contra – Lessons from the Durrani Affair' *Crime, Law & Social Change*, vol. 33 (1-2), pp. 53-84

Block, A.A. & C.A. Weaver
2004 *All is clouded by desire – Global Banking, Money Laundering and International Organized Crime* (Praeger, Westport)

Blum, J.
1999 'Offshore money' in: T. Farer (ed) *Transnational Crime in the Americas – An inter-American dialogue book* (Routledge, New York), pp. 57-84

Blum, J.A., M. Levi, T. Naylor & P. Williams
1998 *Financial havens, banking secrecy and money laundering* (UN Office for Drug Control and Crime Prevention, Vienna)

Blutke, G.
1990 *Obskure Geschäfte mit Kunst und Antiquitäten - Ein Kriminalreport* (Links Verlag, Berlin)

Bogdanons, M.
2005 'The Casualties of War: The Truth About the Iraq Museum'. *American Journal of Archaeology*. vol. 109(3), pp. 477-525

Bohn, M.K.
2004 *The Achille Lauro Hijacking* (Brassey's, Dulles)

Boot & ten Wolde
1997 'Witwassen in de kunsthandel' in: *Kunst en Criminaliteit* (WODC, Den Haag)

Bovenkerk, F.
1996 'Ons kennisniveau omtrent traditionele vormen van georganiseerde misdaad' in: F. Bovenkerk (ed) *De georganiseerde misdaad in Nederland – Het criminologisch onderzoek voor de parlementaire enquētecommissie opsporings-methoden in discussie* (Gouda Quint, Deventer), pp. 91-101
1998 'Organized crime and ethnic minorities: is there a link?' *Transnational Organized Crime*, vol. 4 (3-4), pp. 109-126
2001 *Misdaadprofielen* (Meulenhoff, Amsterdam)
2003 'Organised crime in former Yugoslavia' in D. Siegel et al. (eds) *Global Organised Crime* (Kluwer Academic Publishers, The Hague), pp. 45-50

Bovenkerk, F., Siegel, D. & D. Zaitch
2003 'Organized crime and ethnic reputation manipulation' *Crime, Law & Social Change*, vol. 39(1), pp. 23-38

Bovenkerk, F. & Y. Yesilgöz
1998 *De maffia van Turkije* (Meulenhoff, Amsterdam)

Brent, M.
2001 'Faking African Art' *Archaeology*, vol 54(1)

Bristow, E.J.
1982 *Prostitution and Prejudice – The Jewish Fight against White Slavery 1870–1939* (Clarendon Press, Oxford)

Brodie, N.
1999a 'Editorial' *Culture Without Context*, nr 4, 1
1999b 'Conference Report *Who Owns Culture?*' International Conference on Cultural Property and Patrimony: a conference held at the Casa Italiana, Columbia University, New York City, Thursday 15-Saturday 17 April 1999

Brodie, N. et al.
2000 *Stealing History – The illicit trade in cultural material* (Mc Donald Institute for Archaeological Research, Cambridge)

Brodie, N. & J. Doole
2001 'Illicit antiquities' in: Brodie, N. (et al.) (2001) *Trade in illicit antiquities – the destruction of the world's archaeological heritage* (McDonald Institute, Cambridge), pp. 1-6

Brodie, N., J. Doole & C. Renfrew
2001 *Trade in illicit antiquities: the destruction of the world's cultural heritage* (Oxbow Books, Oxford)

Broek, M. & F. Slijper
2003 *Explosieve materie – Nederlandse wapenhandel blootgelegd* (Papieren Tijger, Breda)

Brogan, P. & Zarca, A.
1983 *Deadly Business – Sam Cunnings, Interarms and the Arms Trade* (Norton & Company, New York)

Brouwer, A.
1996 'De groeibriljant' *De Groene Amsterdammer*, November 13

Bruinsma, G. & W. Bernasco
2004 'Criminal groups and transnational markets: A more detailed examination on the basis of Social Network Theory' *Crime, Law & Social Change,* vol 41, pp. 79-94.

Bruinsma, G.J.N.
1996 'Georganiseerde misdaad en legale economische sectoren' in: F. Bovenkerk (ed) *De georganiseerde misdaad in Nederland – Het criminologisch onderzoek voor de parlementaire enquētecommissie opsporingsmethoden in discussie* (Gouda Quint, Deventer), pp. 125-132

Bresler, F.S.
1981 *The Chinese Mafia* (Stein and Day, New York)

Brunwasser, M.
2002 'Monzer Al Kassar – The Prince of Marbella - Arms To All Sides' Galery of International Arms Dealers, Frontline World, http://www.pbs.org/frontlineworld/stories/sierraleone/alkassar.html (visited on 26th July 2005)

Bülow, A. von
2003 *In Names des Staates – CIA, BND und die kriminellen Machenschaften der Geheimdienste* (Piper, München)

Bunt, H. van de, Fijnaut, C. & H. Nelen
2001 *Post-Fort – Evaluatie van het strafrechtelijk onderzoek* (1996-1999) (Sdu, Den Haag)

Bunt, H. van de & W. Huisman
2004 'Organisatiecriminaliteit' *Tijdschrift voor Criminologie*, Vol 46(2), pp.105-120

Bunt, H. van de & E. Kleemans
2004 'Transnational organized crime: New directions for empirical research and public policy' in: Bruinsma, G., Elffers, H. & J. de Keijser (eds) *Punishment, places and perpetrators: Developments in criminology and criminal justice research* (Willan Publishing, Devon), 198-214

Calster, P. van & T. Vander Beken
2004 'Denkers en doeners – onderzoekstradities inzake georganiseerde criminaliteit in België en Nederland' *Tijdschrift voor Criminologie*, vol 46(1), pp. 9-14

Campaign Against the Arms Trade (Campagne tegen de Wapenhandel)
1998 *Nederlandse wapenhandel in de jaren '90* (Uitgeverij de Papieren Tijger, Breda)

Canouts, V. & F.P. McManamon
2001 'Protecting the past for the future: Federal archaeology in the United States' in: Brodie, N., J. Doole & C. Renfrew (2001) *Trade in illicit antiquities: the destruction of the world's cultural heritage* (Oxbow Books, Oxford), pp. 98-110

Carabinieri
2004 *Agenda 2004 Attivita operativa* (Ministry of Culture, Rome)

Chamberlin, E.R.
1983 *Loot – The heritage of plunder* (Thames and Hudson, London)

Chambliss, W.J.
1977 'Markets, profits, labor, and smack' *Contemporary Crises,* 1:53-57
1989 'State-organized crime' *Criminology*, vol. 27(2), pp. 183-208

Chin, K.L.
1999 *Smuggled Chinese – Clandestine immigration to the United States* (Temple University Press, Philadelphia)
Chomsky, N.
2003 *Hegemony or survival – America's quest for global dominance* (Henry Holt and Company, New York)
Chomsky, N. & D. Barsamian
2005 *Imperial ambitions – conversations with Noam Chomsky on the post – 9/11 world* (Hamish Hamilton, London)
Ciotti Galletti, S.
2003 'From beautiful to evil - organised crime and illicit trade of works of art in Italy' paper, International Society of Criminology World Congress, August 11-15
Cleaver, G.
2000 ' Subcontracting military power: The privatisation of security in contemporary Sub-Saharan Africa' *Crime, Law & Social Change*, vol. 33(1-2), pp. 131-144
Cockburn, A. & J. St. Clair
1998 *Whiteout – The CIA, drugs and the press* (Verso, London)
Coflin, J.
2000 *Small Arms Brokering: Impact, Options for Controls and Regulation* (International Security Bureau, Ottawa)
Colijn, K. & P. Rusman
1989 *Het Nederlandse wapenexportbeleid 1963-1988* (Nijgh & Van Ditmar Universitair, The Hague)
Conklin, J.
1994 *Art crime* (Westport, Preager)
Crampton, T.
2003 ´Cambodia´s crusaders of lost art´ *International Herald Tribune*, August 30
Crefeld, M. von
1998 *The Transformation of War* (Simon & Schuster, London)
Cressey, D
1969 *The theft of the nation* (Harper & Row, New York)
Crocker, C.A.
1992 *High Noon in Southern Africa – Making peace in a rough neighbourhood* (New York, Norton)
Daly, J.C.K.
2004 'Victor Bout: from international outlaw to valued partner' Terrorism Monitor, vol 2(20)
Davis, N
1978 'The Angolan Decision of 1975 – A Personal Memoir' *Foreign Affairs*, vol. 55(1), pp. 109-124
Dijk, E.M. van et al.
1996 *Mensenhandel in Nederland 1997 – 2000* (KLPD, Zoetermeer)
Doggart, C.
2002 *Tax havens and their uses* (Economist Intelligence Unit, London)
Doole, J.
2001 'In the news – Returns' *Culture without Context*, nr 8
Duyne, P. van et al.
2002 *Upperworld and Underworld in Cross-Border Crime* (Wolf Legal Publishers, Nijmegen)
2003 'Organizing cigarette smuggling and policy making, ending up in smoke' *Crime, Law & Social Change*, vol. 39(3), pp. 285-317
EIR

2002 'Some of the Banks Raided in Argentina Have Links to Drug Money Laundering' *Executive Intelligence Review*, January 19

Elia, R
2001 'Analysis of the looting, selling and collecting of Apulian red-figure vases: A quantitative approach' in: *The trade in illicit antiquities: the destruction of the world's cultural heritage* (MacDonald Institute for Archaeological Research, Cambridge), pp. 145-154

Farer, T. (ed)
1999 *Transnational crime in the Americas: An inter-American dialogue book* (Routledge, New York)

Feliciano, H.
1997 *The lost museum – The nazi conspiracy to steal the world's greatest works of art* (Basic Books, New York)

Fijnaut, C.
2002 'De criminologische relevantie van de studie van de (illegale) diamanthandel' *Tijdschrift voor Crimino*logie, vol. 44(4), pp. 328-338

Fijnaut, C.J.C.F., Bovenkerk, F., Bruinsma, G.J.N., & Bunt, H.G. van de
1996 *De georganiseerde criminaliteit in Nederland: het eindrapport* (Sdu, The Hague)

Fijnaut, C.J.C.F., Bovenkerk, F., Bruinsma, G.J.N., & Bunt, H.G. van de
1998 *Organised crime in the Netherlands* (Kluwer, the Hague)

Fijnaut, C. & L. Paoli (editors)
2004 *Organised Crime in Europe – Concepts, Patters and Control Policies in the European Union and Beyond* (Springer, Dordrecht)

Finkenauer, J.O. & Y.A. Voronin
2001 *The threat of Russian organized crime* (US Department of Justice, Washington D.C.)

Flower, K.
1987 *Serving Secretly – An Intelligence Chief on Record – Rhodesia into Zimbabwe 1964 to 1981* (Murray, London)

Friman, H.R. & P. Andreas
1999 *Illicit Global Economy & State Power* (Rowman & Littlefield, Oxford)

Fuchs, E.
1992 *Göttinnen, Gräber und Geschäfte – Von der Plünderung fremder Kulturen* (Erklärung von Bern, Zürich)

Gado, B.
2001 'The Republic of Niger' in: Brodie, N., J. Doole & C. Renfrew (2001) *Trade in illicit antiquities: the destruction of the world's cultural heritage* (Oxbow Books, Oxford), pp. 57-72

Galeotti, M.
2002 *Russian and post-Soviet organized crime* (Aldershot, Ashgate/Dartmouth)

Gambill, G.C. & Z.K. Abdelnour
2004 'The Al-Madina Bank Scandal' *Middle East Intelligence Bulletin*, vol. 6(1)

Gerstenblith, P.
2002 'United States v. Schultz' *Culture Without Context*, nr 10.
2004 'The licit and illicit trade in antiquities' in: Passas, N. & N. Goodwin (ed) (2004) its *legal but it ain't right – harmful social consequences of legal industries* (University of Michigan Press, Ann Arbor), pp. 138-177

Ghosh, B.
1998 *Huddled Masses and Uncertain Shores: Insights into Irregular Migration* (Martinus Nijhoff Publishers, The Hague)

Gibson, M.
2004 'Cultural tragedy in Iraq: report on the looting of museums, archives and sites'. *IFAR Journal*, vol. 6(1 & 2)

Gilgan, E.
2001 'Looting and the market for Maya objects: a Belizean perspective' in: Brodie, N., J. Doole & C. Renfrew (2001) *Trade in illicit antiquities: the destruction of the world's cultural heritage* (Oxbow Books, Oxford), pp. 73-88

Gill, D. & C. Chippindale
2002 'The trade in looted antiquities and the return of cultural property: A British parliamentary inquiry' *International Journal of Cultural Property*, vol. 11(1), pp. 50-64

Global Witness
1998 *A rough trade – The role of diamonds companies and governments in the Angolan conflict*, http://www.globalwitness.org/reports/show.php/en.00013.html (Visited October 24th 2005)
2003 *For a few dollars more – how Al Qaeda moved into the diamond trade*, http://www.globalwitness.org/reports/index.php?section=diamonds (Visited October 24th 2005)
2004a *Broken Vows -, Exposing the 'loupe'holes in the diamonds industry's efforts to prevent the trade in conflict diamonds* http://www.globalwitness.org/reports/show.php/en.00050.html (Visited October 24th 2005)
2004b *Déjà vu – Diamond industry still failing to deliver on promises,* http://www.globalwitness.org/reports/show.php/en.00062.html (Visited October 24th 2005)

Godoy, J.
2004 'Wanted in Africa – Needed in Iraq' Global Policy Forum, May 20th, http://www.globalpolicy.org/intljustice/wanted/2004/0520wanted.htm (visited July 27th 2005)

Godson, R. & W. J. Olson
1993 *International Organized Crime: Emerging Threat to US Security* (National Strategy Information Center, Washington D.C.)

Goodrich, D.L.
1973 *Art fakes in America* (Viking Press, New York)

Greenfield, J.
1996 *The return of cultural treasures* (Cambridge University Press, Cambridge)

Gretschmann, G.
1991 *Millionengeschäfte mit der Kunst* (Verlag Die Wirtschaft, Berlin)

Hadjisavvas
2001 'The Destruction of the Archaeological Heritage of Cyprus' in: Brodie, N. (et al.) (2001) *Trade in illicit antiquities – the destruction of the world's archaeological heritage* (McDonald Institute, Cambridge), pp. 133-140

Haller, M.
1971 'Organized Crime in Urban Society: Chicago in the Twentieth Century' *Journal of Social History*, Winter 1971-72, pp. 210-234
1990 'Illegal enterprise: a theoretical and historical interpretation' *Criminology*, vol. 28(2), pp. 207-235

Hachey, T.E., Hernon, J.M. & L.J. McCaffrew
1996 *The Irish Experience* (M.E. Sharpe, Armonk)

He, B.S.
2003 'Organized Crime: A perspective from China' in: Albanese, J.S., D.K. Das & A. Verma (eds) *Organized Crime: World Perspectives* (Prentice Hall, New Jersey), pp. 279-300

Hebborn, E.
1997 *The art forger's handbook* (Overlook Press, New York)

Hedetoft, U. & M. Hjort
2002 *The postnational self: belonging and identity* (University of Minnesota Press, Minneapolis)

Henry, J.S.
2003 *Blood Bankers – Tales from the Global Underground Economy* (Four walls eight windows, New York)
Herzog, A.
1987 *Vesco – From Wall Street to Castro's Cuba: the rise, fall, and exile of the king of white-collar crime* (Doubleday, New York)
Hout, B. van
1995 *Beroep: Supercrimineel Steve Brown* (Marc Quest, Amsterdam)
Hoving, T.
1994 *Making the mummies dance – Inside the Metropolitan Museum of Art* (Simon & Schuster, New York)
1996 *False Impressions – The hunt for big-time art fakes* (Simon & Schuster, New York)
Howe, H.M.
2004 *Ambiguous Order* (Lynne Rienner Publishers, Boulder)
Hudgins, E.L.
1998 Memo to the mafia: smuggle cigarettes Regulation, spring 1998, https://www.cato.org/pubs/regulation/regv21n2/memo2-98.pdf (visited September 5th, 2004)
Huisman, W., M. Huikeshoven & H. van de Bunt
2004 *Marktplaats Amsterdam - Op zoek naar de zwakste schakel in de logistiek van criminele processen aan de hand van Amsterdamse rechercheonderzoeken* (Boom, Den Haag)
Hutchison, R.A.
1974 *Vesco* (Praeger, New York)
Inciardi, Block & Hallowell
1977 *Historical Approaches to Crime - Research Strategies and Issues* (Sage, Beverly Hills)
Institut für Auslandbeziehungen
1987 *Airport art : das exotische Souvenir* (Institut für Auslandbeziehungen, Stuttgart)
Interpol
2005 Stolen Works of Art CD-ROM (Interpol, Lyon)
Isikoff, M.
2004 'Iraq: reconstruction deal with 'merchant of death' *Newsweek,* December 13
Isman, F.
2001 'For that stolen Vermeer, follow the art squad' *UNESCO Courier*, April, http://www.findarticles.com/p/articles/mi_m1310/is_2001_April/ai_74652534 (Visited, August 3rd, 2005)
Jackson, R.
2005 *Writing the war on terrorism: language, politics and counter-terrorism* (Manchester University Press, Manchester)
Jacobs, J.
2001 *Gotham Unbound – How New York City was liberated from the grip of organized crime* (New York University Press, New York)
Jamieson, R.
1999 'Contested jurisdiction border communities' and cross-border crime – the case of the Akwesasne' *Crime, Law & Social Change*, vol. 30(3), pp. 273-287
Jansen, G.J.
1994 *Magenta – De avonturen van een meestervervalser* (Prometheus, Amsterdam)
Kelly, R.J., Maghan, J. & J.D. Serio
2005 *Illicit Trafficking – A reference handbook* (ABC-CLIO, Santa Barbara)

Kerry, J. & H. Brown
1992 *The BCCI Affair - A Report to the Committee on Foreign Relations United States Senate*, http://www.fas.org/irp/congress/1992_rpt/bcci/ (visited July 17th, 2005)

Kirkpatrick, S.D.
1992 *Lords of Sipán: a true story of pre-Inca tombs, archaeology, and crime* (William Morrow, New York)

Kleemans, E. et al.
1998 *Georganiseerde criminaliteit in Nederland – Rapportage op basis van de WODC monitor* (WODC, Den Haag)
2002 *Georganiseerde criminaliteit in Nederland : Tweede rapportage op basis van de WODC-monitor* (WODC, Den Haag)

Klerks, P.P.H.M
2000 *Groot in de hash – Theorie en praktijk van de georganiseerde misdaad* (Kluwer, Antwerpen)

Koch, E.R.
1992 *Grenzenlose Geschäfte – Organisierte Wirtschaftskriminalität in Europa* (Kiepenheuer & Witsch, München)

Kochan, N.
2005 *The Washing Machine – How Money Laundering and Terrorist Financing Soils Us* (Thomson, Mason)

Kock, E. de
1998 *A Long Night's Damage – Working for the Apartheid State* (Contra Press, Saxonwold)

Koldehoff, N. & S. Koldehoff
2004 *Aktenzeichen Kunst – Die spektakulärsten Kunstdiebstähle der Welt* (DuMont, Cologne)

Korf, D. et al.
1993 *Dealers en dienders – Dynamiek tussen drugsbestrijding en de midden- en hogere niveaus van de cannabis-, cocaine-,amfetamine- en ecstasyhandel in Amsterdam* (Criminologisch instituut Bonger, Amsterdam)

Kroes, R. & R. Janssens (eds.)
2004 *Post-Cold War Europe, Post-Cold War America* (VU University Press, Amsterdam)

Kwitny, J.
1987 *The crimes of patriots – a true tale of dope, dirty money and the CIA* (W.W. Norton, New York)

Lacey, R.
1998 *Sotheby's bidding for class* (Little Brown, New York)

Lafont, M.
2004 *Pillaging Cambodia – The illicit traffic in Khmer art* (McFarland, Jefferson)

Landesmann, P.
2001 'The curse of the Sevso treasure' The Atlantic Monthly, November, http://www.theatlantic.com/doc/prem/200111/landesman (Visited, August 4th, 2005)

Lee, M.A. & N. Solomon
1990 *Unreliable sources – a guide to detecting bias in the newsmedia* (Citadel Press, San Francisco)

Leerintveld, A.
2000 'Illegale Praktijken' *KB Centraal*

Leitch, D.
1969 *The Discriminating Thief* (Holt, Rinehart & Winston, New York)

Lerner, R.E. & J. Bresler
1998 *Art law – The guide for collectors, investors, dealers and artists* (Practising Law Institute, New York)

Lloyd, A.
1964 *The drums of Kumasi* (Panther, London).
Lucassen, J.
1998 'The Great War and the origins of migration control in Western Europe and the United States (1880-1920)' in: Böcker, A., Groenendijk, Havinga, T., & P. Minderhoud (eds) *Regulation of migration: international experiences* (Het Spinhuis, Amsterdam), pp. 45-72
Lupsha, P.A.
1996 'Transnational Organized Crime Versus the Nation State' *Transnational Organized Crime*, vol. 2(1), pp. 21-48
Lutz, J.M.
2004 *Global Terrorism* (Routledge, London)
Lyall, S.
2000 'Cézanne heist a movie carbon copy' www.museum-security.org/00/020.html (Visited, August 3rd, 2004).
MacCalhoun, R.J. & P. Reuter
2001 *Drug War Heresies – Learning from Other Vices, Times & Places* (Cambridge University Press, Cambridge)
Mapunda, B.B.B.
2001 'Destruction of archaeological heritage in Tanzania: the cost of ignorance' in: Brodie, N., J. Doole & C. Renfrew (2001) *Trade in illicit antiquities: the destruction of the world's cultural heritage* (Oxbow Books, Oxford), pp. 47-56
Mason, C.
2004 *The art of the steal* (Putnam, New York)
Massy, L.
2000 *Le vol d'oeuvres d'art – une criminalité meconnue* (Bruylant, Bruxelles)
Matloff, J.
1997 *Fragments of a forgotten war* (Sandton, Penguin Books)
Matsuda, D.J.
1998a *Subsistence Digging in and Around Belize* (The Union Institute, Ann Arbor)
1998b 'The ethics of archaeology, subsistence digging, and artefact looting in Latin America' *International Journal of Cultural Property*, vol. 7(1), pp.89-98
McCoy, Read & Adams
1972 *The Politics of Heroin in Southeast Asia* (Harper & Row, New York)
Mc Leave, H.
1981 *Rogues in the Gallery* (David R. Godine Publisher, Boston)
Messenger, P.M.(ed)
2003 *The ethics of collecting cultural property: whose culture whose property?* (University of New Mexico Press, Albuquerque)
Meyer, K.
1973 *The Plundered Past – the illicit traffic in art treasures* (Hamilton, London)
Michalowski, R.J. & R.C. Kramer
1987 'The space between the laws – The problem of corporate crime in a transnational context' *Social Problems*, vol 34(1), pp.34-53
Middlemas, K.
1975 *The double market art theft and art thieves* (Saxon House, Westmead)
Ministerial Advisory Committee on the Illicit Trade in Cultural Objects
2000 *Report of the Illicit Trade Advisory Panel* (Department for Culture Media and Sport, London)
Morstein, M
1989 *Der Pate des Terrors – Die Moerderische Verbindung von Terrorismus, Rauschgift und Waffenhandel* (Piper, Munich)
Muller, E.R.
1994 *Gijzelingen, aanslagen en ontvoeringen in Nederland* (Gouda Quint, Arnhem)

Müller, G.O.
2000 'Transnational crime – definitions and concepts' *Transnational Organised Crime*, vol. 4(3-4), pp.13-21

Muller, E. & H. Schretlen
2003 *Betwist Bezit De Stichting Nederlands Kunstbezit en de teruggave van roofkunst na 1945* (Waanders, Zwolle)

Nagashima, M.
2002 *The lost heritage – The reality of artifact smuggling in Southeast Asia* (Post Books, Bangkok)

Naylor, R.T.
1987 *Hot money and the politics of debt* (The Linden Press, New York)
1993 'The insurgent economy – black market operations of guerrilla organizations' *Crime, Law & Social Change*, vol. 20, pp. 13-51
1995a 'From Cold War to Crime War: The Search for a New 'National Security' Threat' *Transnational Organized Crime*, vol. 1 (4), pp. 37-56
1995b 'Loose cannons – covert commerce and underground finance in the modern arms black market' *Crime, Law & Social Change*, vol. 22, pp. 1-57
1996 'From underworld to underground Crime' *Law & Social Change*, vol. 24, pp. 79-150
1998 'The Rise of the Modern Arms Black Market and the Fall of Supply-Side Control' *Transnational Organized Crime*, vol. 22
2001 *Economic warfare – sanctions, embargo busting and their human cost* (Northeastern University Press, Boston)

Niekerk, P. van & A. Verloy
2002 'Africa's 'Merchant of Death' Sold Arms to the Taliban' The Center for Public Integrity, www.public-i.org (visited July 27th 2005)

NIZA
2001 *Conflict Diamonds – Crossing European Borders? A case study of Belgium, the United Kingdom and the Netherlands* (NIZA, Amsterdam)

Nožina, M.
2004 'The Czech Republic: A crossroads for organized crime' in: Fynaut C. & L. Paoli (eds) *Organised Crime in Europe – Concepts, Patterns and Control Policies in the European Union and Beyond* (Springer, Dordrecht), pp. 435-466

O'Keefe, P.J.
2004 'Preparing for litigation in the United States: the Schultz Case' Conference Proceedings, Illicit traffic in cultural property in Southeast Asia, March 24-26th, Bangkok, Thailand

Ott, A.
2003 'Witwassen van kunst is fabeltje' *Financieel Dagblad*, February 28

Ott, A., Tijhuis, E. & D. van der Wal
2005 'Bescherming van cultuurgoederen in oorlogstijd: een hele kunst' *Nederlands JuristenBlad*, nr 41, p.2146-2147

Özgen, E.
2001 'Some remarks on the destruction of Turkey's archaeological heritage' in: Brodie, N. (et al.) (2001*) Trade in illicit antiquities – the destruction of the world's archaeological heritage* (McDonald Institute, Cambridge), pp. 119-120

Palmer, N. et al.
2000 *Ministerial Advisory Panel On Illicit Trade – Report* (Department for Culture, Media and Sport, London)

Paoli, L.
1995 'The Banco Ambrosiano case – An investigation into the underestimation of the relations between organized and economic crime' *Crime, Law & Social Change*, vol. 23, pp. 345-365
2002 'The paradoxes of organized crime' *Crime, Law and Social Change*, vol. 37, pp. 51-97

Passas, N.
1993a 'I Cheat, Therefore I Exist? The BCCI Scandal in Context' *Ethics and International Law*
1993b 'Structural Sources of International Crime: Policy Lessons from the BCCI Affair' *Crime, Law and Social Change*, vol. 20(4), pp. 293-305
1995 'The Mirror of Global Evils: A Review Essay on the BCCI Affair' *Justice Quarterly*, vol. 12(2), pp. 377-405
1996 'The Genesis of the BCCI Scandal' *Journal of Law and Society*, vol. 23(1), pp 57-72
1998 'Transnational Crime: The interface between legal and illegal actors' *Presented at the NRC workshop on Transnational Organized Crime, Washington, D.C*
1999a 'Global Anomie, Dysnomie, and Economic Crime: Hidden Consequences of Neoliberalism and Globalization in Russia and Around the World' *Social Justice*, 27 (2), pp. 16-44
1999b 'Globalization, criminogenic asymmetries and economic crime' *European Journal of Law Reform*, 1(4), pp. 399-423
2001 'Overseeing and overlooking: The US federal authorities' response to money laundering and other misconduct at BCCI' *Crime, Law & Social Change*, vol. 35 (1-2), pp. 141-175
2002 'Cross-border crime and the interface between legal and illegal actors' in: *Upperworld and Underworld in Cross-Border Crime*, Duyne, P. van, N. Passas & K. von Lampe (Wolf Legal Publishers, Nijmegen), pp. 11-42
2003 'Cross-border crime and the interface between legal and illegal actors' *Security Journal*, vol. 16(1), pp. 19-38

Passas, N. & N. Goodwin
2004 *It's Legal but It Ain't Right – Harmful social consequences of legal industries* (University of Michican Press, Ann Arbor)

Pastore, G.
2001 'The looting of archaeological sites in Italy' in: Brodie, N. (et al.) (2001) *Trade in illicit antiquities – the destruction of the world's archaeological heritage* (McDonald Institute, Cambridge), pp. 155-160

Pelemans, J
2002 'Conflictdiamanten – Gezien vanuit Afrika' *Tijdschrift voor Criminologie*, vol. 44(4), pp. 358-367

Phythian, M.
2000 'The illicit arms trade: Cold War and Post-Cold War' *Crime, Law & Social Change*, vol. 33: pp. 1-51

Polk, K. & C.M. Alder
2002 ''Stopping this Awful Business': The Ilicit Traffic in Antiquities Examined as a Criminal Market' *Art, Antiquity and Law*, vol. 11(1), pp. 35-55.

Pretterebner, H.
1989 *Fall Lucona – Ost Spionage, Korruption und Mord im Dunstkreis der Regierungsspitze* (Knaur, München)

Prott, L.
1997 *Commentary on the Unidroit Convention* (Institute of Art and Law, Leicester)

Punch, M.
2000 'Suite violence: why managers murder and corporations kill' *Crime, Law and Social Change*, vol. 33(3), pp. 243-280

2004 'Corporate killing: de wet en geweldpleging door bedrijven' *Tijdschrift voor Criminologie*, vol. 46(2), pp.156-164

Raine, L.P. & F.J. Cilluffo (eds)
1994 *Global Organized Crime – The New Empire of Evil* (Center for Strategic and International Studies)

Rappard-Boon, Ch.E. van
1991 *Imitation and inspiration: Japanse influence on Dutch art from 1650 to the present* (Rijksmuseum, Amsterdam)
1998 'The Fate Of Works Of Art In The Netherlands During And After World War Two' Holocaust Symposium, Washington Conference On The Holocaust: December 2

Rascher, A.F.G.
2000 *Kulturgütertransfer und Globalisierung* (Schulthess Juristische Medien, Zurich)

Raw, C.
1992 *The Money Changers - How the Vatican Bank Enabled Roberto Calvi to Steal $250 Million for the Heads of the P2 Masonic Lodge* (Vintage, London)

Raw, C., Page, B. & G. Hodgson
1971 *'Do you sincerely want to be rich?' The full story of Bernard Cornfeld and IOS* (The Viking Press, New York)

Reitz, M.
1993 *Kunstfälschungen : falsche Kunst und echte Fälscher: unter die Lupe genommen* (Insel Verlag, Frankfurt am Main)

Rémy, J.P.
2004 'The trafficker Victor Bout lands US aid for services rendered in Iraq' Global Policy Forum, May 18, see http://www.globalpolicy.org/security/issues/iraq/contract/2004/0518bout.htm (visited July 27th 2005)

Reuter, P.
1983 *Disorganized crime – The economics of the visible hand* (MIT Press, Cambridge)

Rijn, M. van
1993 *Hot Art Cold Cash* (Little Brown & Company, London)

Romero, L.A.
2002 *A history of Argentine in the twentieth century* (Penn State Press, University Park)

Roox, G.
2001 'List und Lügen – Antwerpen heisst den verlorenen Sohn willkommen' in: De Standard Online, 7 April 2001, www.legalizewiesbaden.de (visited July 27th 2005)

Roth, J.C.
2000 *Schmutzige Hände – Wie den westlichen Staaten mit der Drogenmafia kooperieren* (Bertelsmann, Munich)

Roux, E. de & R.P. Paringaux
1999 *Razzia sur l'art – Vols, pillages, recels à travers le monde* (Paris, Fayard)

Rufin, J.C.
1999 *Ökonomie der Bürgerkriege* (Verlag Hamburger, Hamburg)

Ryan, P.J. & G.E. Rush
1997 *Understanding Organized Crime in a Global Perspective – A Reader* (SAGE, London)

Saba, R.P, T.R. Beard, R.B. Ekelund & R.W. Ressler
1995 'The demand for cigarette smuggling' *Western Economic Association International*, 33 (april), pp. 189-202

Schaap, C.D.
1999 *Heling getoetst – studie naar het witwassen van geld en de strafbaarstelling door middel van de helingsbepalingen* (Gouda Quint, Deventer)

Schick, J.
1998 *The Gods are leaving the country* (White Orchid Books, Bangkok)
Schlesinger, P.
2004 'On the irrelevance of the Cold-War: Some reflections on the work of W.G. Sebald' in: Janssens, R. & R. Kroes (2004) *Post-cold war Europe, post-cold war America* (VU University Press, Amsterdam)
Schmidt, P.R. & R.J. McIntosh
1996 *Plundering Africa's Past* (Indiana University Press, Bloomington)
Schödel, H.
1998 *Ein Staat braucht ein Mörder – Udo Proksch und die „Lucona'-Obsession* (Kiepenheuer & Witsch, Cologne)
Shankar, A.
2001 'The threat to cultural sites in India from illegal excavation' in: Brodie, N. (et al.) (2001) *Trade in illicit antiquities – the destruction of the world's archaeological heritage* (McDonald Institute, Cambridge), pp. 33-36
Shelley, L.
1998 'Identifying, counting and categorizing transnational criminal organizations' *Transnational Organized Crime*, vol. 5(1), pp. 1-18
Shuzhong, H.
2001 'Illicit excavation in contemporary China' in: Brodie, N. (et al.) (2001) *Trade in illicit antiquities – the destruction of the world's archaeological heritage* (McDonald Institute, Cambridge), pp. 19-24
Seiffert, T.
1998 *Sprungbretter zur Macht – Kaderschmieden in Österreich* (Ueberreuter, Vienna)
Smith, D.
1971 'Some things that might be more important to understand about organized crime than cosa nostra' *University of Florida Law Review*, vol. 24, pp.1-30
1980 'Paragons, Pariahs, and Pirates: A Spectrum-Based Theory of Enterprise' *Crime and Delinquency*, vol. 26, pp. 358-86
1991 'Wickersham to Sutherland to Katzenbach – Evolving and 'Official Definition for Organized Crime' *Crime, Law & Social Change*, vol. 16(2), pp. 135-154
1994 'Illicit enterprise: an organized crime paradigm for the nineties' in: Kelly, R.J., Chin, K.L. & R. Schatzberg (eds) *Handbook of Organized Crime in the United States* (Greenwood Press, Westport)
Sofus, B.
2003 *Offshore finance and money laundering – the politics of combating parasitic state strategies* (Centre for Technology, Innovation and Culture, University of Oslo, Oslo)
Soudijn, M.
2006 *Chinese Human Smuggling in Transit* (Boom Legal Publishers, The Hague)
Soudijn, M & Tijhuis, E.
2003a 'Some perspectives on the illicit antiquities trade in China' *Art, Antiquity & Law*, vol. 8 (2), pp 149-165
2003b 'The illicit trade in Chinese antiquities' *IIAS Newsletter*, nr 31, July
Stack, J.F. & L. Hebron
1999 *The ethnic entanglement* (Praeger, Greenwood)
Staring, C.
2001 *Reizen onder regie – Het migratieproces van illegale Turken in Nederland* (Spinhuis, Amsterdam)
Sterling, C.
1994 *Thieves' World: The threat of global network of organized crime* (Simon & Schuster, New York)

Stingelin, C.
1992 'Nepal: Geraubte Göttinnen und Götter' in: Fuchs, E. (1992) *Göttinnen, Gräber und Geschäfte – Von der Plünderung fremder Kulturen* (Erklärung von Bern, Zürich)

Stockwell, J.
1978 *In Search of Enemies – A CIA Story* (Andre Deutsch, London)

Stoop, C. de
1998 *Ik ben makelaar in hash* (De Bezige Bij, Amsterdam)

Szasz, A.
1986 'Corporations, organized crime and the disposal of hazardous waste: an examination of the making of a criminogenic regulatory structure' *Criminology*, vol. 24 (1), pp. 1-27

Tailby, R.
2002 *The illicit market in diamonds* (Australian Institute of Criminology, Camberra)

Thamm, B.G.
1999 'Die düstere Allianz: Bürgerkrieg, organisiertes Verbrechen und Terrorismus' *Zeitschrift Deutsche Polizei*, nr 8

Thosarat, R.
2001a 'The destruction of the cultural heritage of Thailand and Cambodia' in: Brodie, N. (et al.) (2001) *Trade in illicit antiquities – the destruction of the world's archaeological heritage* (McDonald Institute, Cambridge), pp. 7-18
2001b ´Report from Southeast Asia´ *Culture without Context*, Issue 8, Spring 2001

Tijhuis, E.
2005 'Beroep: kunstdief - een aanzet tot een nieuwe typologie voor grote kunstdiefstallen'.in Blad, J.(ed) *Rijzende sterren in het veiligheidsonderzoek* (pp. 163-176). (Boom Juridische Uitgevers, Den Haag).

Tijhuis, E. & M. Soudijn
2004 'Analyse – De transnationale illegale handel in kunst en drugs' *Ciroc Nieuwsbrief*, 4, 3, http://tkfy.asp4all.nl/ciroc/nl/Nieuwsbrieven/4-3Tijhuis.htm (Visited, October 24th 2005)

Tijhuis, E. & Van der Wal
2003 'Enorme kansen voor witwassen via kunst' *Financieel Dagblad*, February 20th
2005 'Beroep: kunstdief' *Boekman Cahier*, nr 62

TRACE
2003 'The Frederick Schultz Affair' *TRACE* http://www.trace.co.uk/resources/media/casestudies/police/FrederickSchultz (Visited, August 3rd, 2005)

Trepp, G.
1996 *Swiss Connection* (Unionsverlag, Zürich)

Tubb, K.W. (ed)
1995 *Antiquities – Trade or Betrayed: Legal, Ethical & Conservation Issues* (Archetype, London)

Tupman, W.A.
1998a 'Violent Business? Networking, terrorism and organised crime' http://www.ex.ac.uk/politics/pol_data/lectures/ARTICLES/IRAPLC.DOC (visited July 26, 2004)
1998b 'Where has all the money gone? The IRA as a profit-making concern' *Journal of Money Laundering Control*, vol. 1(4), pp. 303-311

U.S. Senate
1999 'Private banking and money laundering: a case study of opportunities and vulnerabilities' Minority staff of the permanent subcommittee on investigations, November 9th and 10th

2001 'Correspondent banking: a gateway for money laundering' minority staff of the permanent subcommittee on investigations, February

UN Security Council

2003 'Letter dated 25 March 2003 from the chairman of the Security Council Committee established persuant to resolution 751 (1992) concerning Somalia addressed to the President of the Security Council', http://www.reliefweb.int/w/rwb.nsf/0/5BFD3D7AC48381F3C1256CFB00447D74?OpenDocument (visited July 26th 2005)

Verlöy, A.

2002 'The Merchant of Death' *The Centre for Public Integrity*, http://www.public-i.org/bow/report.aspx?aid=157 (visited July 27th 2005)

Watson, P.

1998a *Sotheby's inside story* (Bloomsburry, London)

1998b 'Cyprus Mosaics' *Culture without Context*, nr 3

1999 'The lessons of Sipan – archaeologists and huageros' *Culture without Context*, nr 4

Willan, P.

2001 *Puppetmasters – the political use of terrorism in Italy* (Authors Choice Press, Lincoln)

Williams, P.

1994 Transnational criminal organizations and international security Survival, vol. 36(1), pp. 96-113

1997 *Russian organized crime: the new threat?* (Frank Cass, London)

Williams, R.

1994 'The last word on the Iran Contra affair' *Crime, Law & Social Change*, vol. 23 (Issue?), pp. 367-385

Wood, B. & J. Pelemans

1999 *The Arms Fixers – Controlling the Brokers and Shipping Agents* (NISAT, Oslo)

Wright, G.

1997 *The Destruction of a Nation – United States' Policy Toward Angola since 1945* (Pluto Press, London)

Zaitch, D.

2001 *Traquetos - Columbians involved in the cocaine business in the Netherlands* (UvA, Amsterdam)

Zhang, S.X. & Gaylord, M.S.

1995 'Bound for Golden Mountain: The social organization of Chinese alien smuggling' *Crime, Law & Social Change*, nr. 25, pp. 1-16

Samenvatting (summary in Dutch)

Dit boek is de weerslag van een promotieonderzoek naar de verbindingen tussen legale en illegale actoren rondom transnationale misdaad. Deze verbindingen worden aangeduid met de term *interface*. Interface heeft daarbij zowel de betekenis van raakvlak als van een verbinding tussen legaal en illegaal. Deze interfaces komen in de criminologische literatuur en in de media veelvuldig maar tegelijkertijd vaak eenzijdig aan bod. De eenzijdigheid uit zich op tenminste drie manieren. Ten eerste is de aandacht vaak gericht op incidentele interfaces tussen legaal en illegaal. Ten tweede zijn deze interfaces vaak niet het hoofdthema maar een subthema van een studie of journalistiek verslag van bijvoorbeeld een bepaald soort misdaad of een zeker schandaal. Ten derde ligt de nadruk vaak op de infiltratie in legale actoren door illegale organisaties en blijven allerlei interfaces, die meer het karakter van samenwerking hebben, onbesproken.

In dit onderzoek wordt daarentegen geprobeerd om interfaces op systematische wijze te onderzoeken. Daarbij staan vier onderzoeksvragen centraal. De eerste vraag is welke interfaces gevonden kunnen worden tussen legale en illegale actoren en hoe deze in een typologie van interfaces zijn samen te vatten. De tweede vraag is hoe de transformatie verklaard kan worden waarbij transnationale criminele activiteiten legaal worden en omgekeerd transnationale legale activiteiten illegaal worden. De derde vraag luidt of de typologie van interfaces een analytisch hulpmiddel vormt om de interfaces tussen legale en illegale actoren in de kunst- en oudhedenhandel te beschrijven. Tenslotte wordt de vraag gesteld hoe de transformatie van legaal naar illegaal en omgekeerd verklaard kan worden in een speciaal toepassingsgebied: de illegale kunst- en oudhedenhandel.

De eerste vraag richt zich op de verschillende interfaces die gevonden kunnen worden tussen legale en illegale actoren rondom transnationale misdaad. Het doel is te komen tot een typologie van interfaces tussen legale en illegale actoren, onafhankelijk van het specifieke type transnationale misdaad of specifieke actoren. Uitgangspunt hierbij is een bestaande typologie van de criminoloog Nikos Passas. Deze typologie maakt onderscheid tussen vier *antithetische* en acht *symbiotische* interfaces. Antithetische interfaces zijn interfaces waarbij illegale actoren de legale actoren afpersen, beconcurreren, beschadigen of vernietigen. Symbiotische interfaces zijn interfaces waarbij legale en illegale actoren op verschillende manieren direct of indirect samenwerken bij het plegen van transnationale misdaad. Aan de hand van de literatuur over transnationale misdaad is onderzocht in hoeverre de verschillende typen van Passas voorkomen en welke typen eventueel ontbreken. Het resultaat hiervan is een ingekrompen typologie waarbij twee typen interfaces uit de oorspronkelijke lijst zijn geschrapt en de overige typen op onderdelen anders gedefinieerd. In de nieuwe typologie wordt de overlap tussen de verschillende typen zo veel mogelijk vermeden.

Het eerste type van de nieuw geconstrueerde typologie is de *antagonistic* (antagonistische) interface, een antithetische interface waarbij illegale actoren concurreren met legale bedrijven of overheden. De tweede antithetische interface is de *predatory* ('roofdier') interface waarbij de illegale actor de legale actor

vernietigt of dood laat bloeden. Bij de *parasitical* (parasitaire) interface perst de illegale actor de legale actor af zonder deze definitief ten onder te laten gaan. De laatste antithetische interface is de *injurious* (verwondende) interface waarbij legale actoren worden aangevallen of ondermijnd op andere manieren dan bij de antagonistic, predatory en parasitical interfaces. Naast de vier antithetische interfaces zijn er zes symbiotische interfaces. De eerste symbiotische interface is *outsourcing* (uitbesteding) waarbij een taakverdeling bestaat tussen legale en illegale actoren en de ene actor gespecialiseerde diensten levert voor de andere. Bij *collaboration* (samenwerking) worden de verbindingen sterker en werken legale en illegale actoren samen bij het plegen van grensoverschrijdende delicten. In geval van *co-optation* (coöptatie) zijn er wederzijdse voordelen tussen legale en illegale actoren waarbij de legale actor de machtigste partij is. Indien er wederzijdse voordelen zijn zonder dat één van de voorgaande interfaces van toepassing is wordt gesproken van *reciprocity* (wederkerigheid). Wanneer wederzijds voordelen bestaan zonder dat de legale en illegale actor contact met elkaar hebben is sprake van (*systemic-*) *synergy* (synergie) Tenslotte is sprake van *funding* (financiering) wanneer legale actoren essentiële financiële steun leveren voor criminele organisaties.

Met de interface typologie kunnen interfaces tussen legale en illegale actoren beschreven worden onafhankelijk van het type misdaad of het type actor. De typologie biedt echter geen adequate beschrijving en verklaring van een ander fenomeen: de transformatie van transnationale criminele activiteiten naar legale activiteiten en omgekeerd. Op basis van de analyse van de interface typologie in hoofdstuk twee werd geconcludeerd dat deze transformatie begrepen kan worden door de rol van bepaalde individuen, legale organisaties en jurisdicties nader te bestuderen. Deze actoren en jurisdicties kunnen dan zelf gezien worden als interface tussen legaal en illegaal, waardoor de betrokken activiteiten van legale status veranderen.

Aan de hand van een aantal case studies zijn individuen en organisaties als interface onderzocht in hoofdstuk drie. De individuen als interface kunnen onderscheiden worden in transnationale (criminele) makelaars en transnationale (criminele) handelaren. De makelaars sluiten deals waarbij goederen van legale status veranderen, zonder dat zij deze goederen zelf bezitten. De handelaren laten hun eigen goederen van status veranderen door ze te smokkelen en te verkopen.

Vervolgens zijn de legale organisaties als interface onderzocht. De legale organisaties als interface kunnen onderscheiden worden in twee modellen: het *coffeeshop-model* en het *Ambrosiano-model*. In het coffeeshop-model is de legale organisatie het uiteinde van een criminele organisatie of netwerk. Het Ambrosiano model behelst een legale organisatie die talloze verbindingen heeft met zowel legale als illegale actoren.

Na de individuen en organisaties zijn jurisdicties als interface onderzocht aan de hand van enkele case studies. Jurisdicties kunnen als interface functioneren wanneer daarin wetgeving ontbreekt ten aanzien van grensoverschrijdende activiteiten die in andere landen illegaal zijn. Naast de jurisdictie zijn twee zogenaamde *de facto* interfaces te onderscheiden die ook geografisch bepaald zijn. Deze *de facto* interfaces zijn combinaties van individuen, organisaties en jurisdicties als interface. Enerzijds zijn er interfaces in de vorm van corrupte

netwerken en anderzijds interfaces als gevolg van overheidsbeleid waarmee het effect van wetgeving met betrekking tot transnationale misdaad feitelijk uitgeschakeld wordt

Op basis van de bevindingen in hoofdstuk drie en vier is in hoofdstuk vijf het zogenaamde *lock model* (sluismodel) ontwikkeld. Dit model laat op abstracte wijze zien hoe de transformatie van legaal naar illegaal, en omgekeerd, functioneert. Zowel individuen, legale organisaties als jurisdicties kunnen aldus een 'lockfunctie' vervullen.

Na de ontwikkeling van de nieuwe typologie en het lock model is in hoofdstuk zes tot en met negen gekeken naar de illegale kunst- en oudhedenhandel. In hoofdstuk zes is de dataverzameling besproken. Bij gebrek aan rijke bronnen van data is een eclectische aanpak gevolgd. Daarbij is uit een reeks aan bronnen materiaal verzameld aan de hand waarvan is getracht de centrale vragen te beantwoorden. Voorafgaand aan de bespreking van de aldus verzamelde data is een overzicht gegeven van de illegale kunst- en oudhedenhandel. Deze handel bestaat uit gestolen, illegaal uitgevoerde en vervalste kunst- en oudheden. In veel gevallen is sprake van zowel gestolen als illegaal uitgevoerde voorwerpen.

De algemene bespreking van deze handel leverde een aantal conclusies op. Voor de vaak veronderstelde band tussen illegale kunsthandel en de drugshandel zijn, uitgezonderd enkele spaarzame incidenten, geen aanknopingspunten gevonden. Hetzelfde geldt voor de diefstallen in opdracht van verzamelaars en het gebruik van gestolen kunst voor het witwassen van criminele gelden uit bijvoorbeeld de drugshandel. Tenslotte blijkt de illegale kunst- en oudheden-handel wel sterk beïnvloed te worden door oorlogen en burgeroorlogen in bronlanden van kunst en oudheden.

Na de algemene bespreking van de illegale kunst- en oudheden handel is specifiek gekeken naar de interface typologie en het lock model. Ieder type interface en de toepasselijkheid van het lock model is onderzocht aan de hand van de beschikbare data. De resultaten van dit onderzoek van de illegale kunsthandel zijn daarbij grotendeels gelijk aan die van de illegale handel in oudheden. Zo blijken enkele interfaces uit de typologie niet voor te komen in de onderzochte data, te weten de parasitical, predatory en funding interface. Verder zijn de grenzen tussen de verschillende symbiotische interfaces minder duidelijk dan bij andere vormen van transnationale misdaad zoals drugshandel en mensenhandel. Bovendien blijkt veelvuldig een interface voor te komen waarin de typologie niet voorziet. Het is de interface tussen zogenaamde interne dieven en hun omgeving. Interne dieven zijn personen die bijzondere toegang hebben tot musea, privé-collecties, bibliotheken, opgravingen en andere verzamelplaatsen van kunst en oudheden. Dit nieuwe interfacetype is aangeduid als *facilitating* (facilitaire) interface. Terwijl de illegale kunst- en oudhedenhandel aldus de noodzaak van een nieuw type interface laat zien, blijkt tevens dat in deze handel de – als tegenpolen gedefinieerde – antagonistic en synergy interface nauwelijks van elkaar te onderscheiden zijn.

Tenslotte is het lock model onderzocht. De transformatie van illegaal naar legaal in de illegale kunst- en oudhedenhandel blijkt met het lock model te kunnen worden begrepen. Daarbij bestaan belangrijke verschillen tussen kunst en

oudheden en tussen verschillende bron- en marktlanden. De transformatie van geroofde oudheden is in de meeste gevallen minder complex vanwege het feit dat oudheden veelal geen individuele eigenaar hebben en niet met zekerheid te herleiden zijn tot een bepaald bronland. De lockfunctie van jurisdicties volstaat dan veelal om de transformatie van illegaal naar legaal te bewerkstelligen. De verschillende bron- en marktlanden kennen grote verschillen in wetgeving, opsporing en registratie van (gestolen) kunst en oudheden. Dankzij deze verschillen kunnen veel gestolen objecten uiteindelijk weer deel worden van de legale handel. Dit laatste is tegelijk één van de belangrijkste oorzaken van steeds weer nieuwe diefstallen en het voortbestaan van de illegale handel.

Acknowledgements

This dissertation would not have been possible without the help of a number of people. Thanking all of them for what they contributed would make these acknowledgements too long and hard to read. Furthermore, a number of them wish to remain anonymous, for different reasons. Nevertheless, I would like to name several people and institutions that have been particularly helpful.

First of all I want to express my gratitude to the Netherlands Institute for the Study of Crime and Law Enforcement (NSCR) in Leiden. It was a pleasure to work here for over four years. Dedicated and hardworking researchers, good facilities and ample opportunities for conferences and courses make it an ideal place to work on a PhD study. A special word of thanks goes to Melvin Soudijn, Jasper van der Kemp and Albert Harteveld.

The empirical study of the illicit art and antiquities trade would not have been possible without the generous and ample support of Charlotte van Rappard-Boon, the head of the Inspectorate of Cultural Heritage at the Dutch Ministry of Education, Sciences and Culture. At the Inspectorate I was able to analyze files on the import and export of cultural goods to and from the Netherlands. Thanks to the always helpful inspectors and other staff members, this was not only a fruitful but also a pleasant endeavour.

The work at the Inspectorate included a range of visits to Dutch Customs, where cooperative and qualified staff enabled me to make the most of the available data. Furthermore, via the Inspectorate, I was able to visit a number of foreign law enforcement agencies in France, Italy and the United Kingdom. In the United Kingdom this included the Cultural Property Unit at the Department for Culture Media and Sport as well as New Scotland Yard. In Italy, I made an extensive visit to the art squad of the Carabinieri, the military police. Finally, in France, I stayed with the L'Office Central de lutte contre le trafic des Biens Culturels, the art squad of the national police. For obvious reasons, I cannot mention the names of the persons involved.

These visits not only provided me with useful data but were also a unique chance to experience the modus operandi of specialized foreign law enforcements agencies that have no Dutch equivalent. I am indebted to all the persons that were willing to dedicate their time to a foreign academic.

Besides the official sources, I spoke with a long list of people in and around the art and antiquities trade. Art dealers, museum curators, archaeologists, art historians, as well as some people who do not fit into one of these general categories. In different ways, these people provided me with interesting data, insights or just opinions. I would like to thank all of them for their varying contributions to my study. Furthermore, I am much indebted to Antoon Ott, former director of NedArt, who assisted me in various ways with this study.

Finally I would like to thank some people that were not hindered by any criminological or artistic affiliation. James Bennett, Jan Klijn, Dennis van der Wal, Ineke Tijhuis-Brand and especially Samia Dualeh were helpful by, among other things, critically reading (parts of) the text and drawing the figures. Without their support, writing this book would have been a lot tougher.

Curriculum Vitae

Edgar Tijhuis werd op 20 januari in 1976 geboren in Borculo. In 1994 begon hij zijn studie aan de Universiteit van Amsterdam. Hij studeerde af in de Politicologie (1999), Rechten (2001) en Amerikanistiek (2002, met lof). Gedurende de studiejaren 1999 en 2000 studeerde hij respectievelijk aan de Fort Hare Universiteit in Zuid Afrika en de Universiteit Wenen in Oostenrijk. Van 2001 tot 2005 was hij als AIO van de faculteit bestuurskunde van de Universiteit Leiden gedetacheerd bij het Nederlands Studiecentrum voor Criminaliteit en Rechtshandhaving. In 2005 richtte hij, samen met Dennis van der Wal, Pontius Advocaten op in Amsterdam. Sindsdien is hij aldaar als advocaat werkzaam.

Edgar Tijhuis was born on the 20th of January in Borculo, the Netherlands. In 1994, he started studying at the University of Amsterdam. He obtained his LLM degree in Dutch Law (2001) and his MA degree in Political Science (1999) and American Studies (2002). Furthermore he studied a semester at Fort Hare University (South Africa) in 1999 and at the University of Vienna (Austria) in 2000. From 2001 till 2005 he did his Ph.D. research at the Faculty of Public Administration of Leiden University, seconded at the Netherlands Institute for the Study of Crime and Law Enforcement in Leiden. Since 2005, he works in Amsterdam at Pontius Lawyers, which he founded together with Dennis van der Wal.