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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>

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

## 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).<sup>158</sup>

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

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<sup>158</sup> 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 be observed that the body of literature on the illicit antiquities trade is significantly larger and more diverse than 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.<sup>159</sup> 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

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<sup>159</sup> 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.<sup>160</sup>

### 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).<sup>161</sup> 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 & Tjihuis, 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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<sup>160</sup> 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.

<sup>161</sup> ‘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 7<sup>th</sup>.

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.<sup>162</sup> 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).<sup>163</sup> 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 & Tjihuis, 2003a, 2003b).<sup>164</sup>

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.<sup>165</sup> 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.<sup>166</sup> 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

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<sup>162</sup> 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.

<sup>163</sup> For earlier case law on this topic see: Messenger (2003).

<sup>164</sup> M. Bailey (2000) ‘Don’t return artefacts to Nigeria’ *The Art Newspaper*, October.

<sup>165</sup> ‘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 Auslandsbeziehungen (1987).

<sup>166</sup> 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.<sup>167</sup> 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.<sup>168</sup> 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.<sup>169</sup> 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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<sup>167</sup> 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).

<sup>168</sup> 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](http://www.tweedekamer.nl).

<sup>169</sup> 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](http://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.<sup>170</sup> 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 & Tjihuis, 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.<sup>171</sup> Antiquities are looted from innumerable illicit excavations throughout Italy.<sup>172</sup> 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

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<sup>170</sup> F. Bai (2005) 'The plunder of Tibet's treasures' Radio Free Asia, August 1<sup>st</sup>. [http://www.rfa.org/english/news/arts/2005/08/01/tibet\\_artifacts](http://www.rfa.org/english/news/arts/2005/08/01/tibet_artifacts) (Visited, September 4th, 2005).

<sup>171</sup> 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](http://www.ethioembassy.org.uk/news/news.htm).

<sup>172</sup> 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.<sup>173</sup> 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

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<sup>173</sup> Medici was convicted in December 2004; see also Watson (1998); 'The great smash and grab' *Independent News*, May 1<sup>st</sup>, 2005, [http://www.ezilon.com/information/printer\\_4172.shtml](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.<sup>174</sup> 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,

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<sup>174</sup> 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.<sup>175</sup> 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 & Tjihuis, 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 & Tjihuis, 2003a, Watson, 1998a).

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<sup>175</sup> 'Italy art trafficker duped US museums police say' *Iranian Cultural Heritage News Agency*, January 15<sup>th</sup>, 2005, <http://www.chn.ir/english/eshownews.asp?no=4568>; 'The great smash and grab' *Independent News*, May 1<sup>st</sup>, 2005, [http://www.ezilon.com/information/printer\\_4172.shtml](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.<sup>176</sup> 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.<sup>177</sup>

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.<sup>178</sup> 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.<sup>179</sup> Some source countries, like China or Thailand are notorious for their production of fakes and forgeries (Nagashima, 2002; Soudijn & Tjihuis, 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.<sup>180</sup> Dealers could sell the fakes and forgeries to foreigners without the risk of buying and smuggling looted objects.

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<sup>176</sup> Vincent Noce (2001) 'Le pillage des statues nok continue – Plusieurs objets exportés illégalement d'Afrique ont été saisis en France' *Liberation*, April 13th.

<sup>177</sup> The ICOM Red List for Africa can be found at: <http://icom.museum/redlist/afrique/english/intro.html> (Visited December 12th 2004).

<sup>178</sup> 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.

<sup>179</sup> 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.

<sup>180</sup> They were interviewed at the 'Illicit Traffic in Cultural Property' seminar held in Bangkok from the 24<sup>th</sup> till the 26<sup>th</sup> 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.<sup>181</sup> 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

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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).

<sup>181</sup> Cultural Heritage Watch (2000) 'Is it a museum? Or illicit cultural property shelter? There's no national standard in China' *CHW report*, March 17<sup>th</sup>.

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 or 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).<sup>182</sup> Besides the intentional destruction of cultural heritage, the 'regular' illicit excavations cause a tremendous loss of antiquities. One reason for this loss

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<sup>182</sup> 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](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 4<sup>th</sup> <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.<sup>183</sup> In that case, a relationship of reciprocity connects these participants in the antiquities trade.

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<sup>183</sup> 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](http://www.archaeology.org); 'Japanese agree to return a stolen statue to China' *Museum Security Network Report*, April 18<sup>th</sup> 2001, [www.museum-security.org](http://www.museum-security.org); Dobrzynski, J. (1997) 'Exodus of Chinese art from Hong Kong' *The New York Times*, June 13<sup>th</sup>; for Cambodia see e.g. Crampton, T. (2003) 'Cambodia's crusaders of lost art' *International Herald Tribune*, August 30<sup>th</sup>; 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.<sup>184</sup>

In Italy, the reciprocity interface can be used to label some of the relationships between local looters (the so-called *tombatori*) 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,

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<sup>184</sup> 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.<sup>185</sup>

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

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<sup>185</sup> 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 source 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).<sup>186</sup> 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

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<sup>186</sup> 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 26<sup>th</sup>, 1996. See: 'Aanhangsel Handelingen, no. 1627, vergaderjaar 1995-96'.

be looted, as was pointed out in the previous chapter.<sup>187</sup> 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.<sup>188</sup> 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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<sup>187</sup> 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 20<sup>th</sup> 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.

<sup>188</sup> 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).<sup>189</sup> 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.<sup>190</sup> 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

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<sup>189</sup> The connection between the illicit art and antiquities trade and the trade in drugs is discussed by Tjhuis & Soudijn (2004).

<sup>190</sup> 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.<sup>191</sup> 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.<sup>192</sup> 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.<sup>193</sup> 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

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<sup>191</sup> 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).

<sup>192</sup> In practice dealers will often under-declare and falsely describe their shipments and for that reason risk a fine by customs.

<sup>193</sup> 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.<sup>194</sup> 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.<sup>195</sup> According to a study by Peter Watson, an extensive system of laundering practices existed around auction house Sotheby's in London.<sup>196</sup> 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

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<sup>194</sup> 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.

<sup>195</sup> This case is purely based on the studies of Watson and other mentioned authors.

<sup>196</sup> 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.<sup>197</sup> 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.<sup>198</sup> However, many objects were not only smuggled but also stolen, or could be argued to be stolen.<sup>199</sup> 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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<sup>197</sup> 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.

<sup>198</sup> 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.

<sup>199</sup> 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).<sup>200</sup> 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.<sup>201</sup> 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

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<sup>200</sup> The verdict in his case, dated December 13<sup>th</sup> 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.

<sup>201</sup> 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.<sup>202</sup> 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.

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<sup>202</sup> South Africa became a party to the 1970 UNESCO Convention in 2003. The remarks here therefore aim at the period before 2003.

