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THE BUSINESS OF MIGRATION: ORGANISED CRIME AND ILLEGAL MIGRATION IN AUSTRALIA AND THE ASIA-PACIFIC REGION

INTRODUCTION

IN early 1999, 'people smuggling' and 'waves of illegal immigrants' were front-page news in Australia. With the incidents at Holloways Beach (Queensland) on 26 March, Scotts Head (NSW) on 10 April and Port Kembla (NSW) on 17 May, trafficking in migrants has once again gathered much media coverage and public attention.

Trafficking in migrants around the world has become a multi-billion-dollar industry and illegal migration has become a lucrative source of income for organised crime. In response to persecution, poverty and unemployment in their home countries, and with the restrictions placed on legitimate migration systems, thousands of people are now moving illegally into other countries with the assistance of professional traffickers. Economic globalisation has opened the borders for capital to move freely around the world, but not for the majority of the world population. This inequality between declining economic restrictions on the one hand and restrictive migration systems on the other translates into organised crime. Traffickers take advantage of this structural defect, creating sophisticated irregular channels of migration while exploiting those willing and/or forced to migrate.

Now that Australia, overseas governments and international organisations have finally become aware of the problem and have slowly started to consider appropriate countermeasures, it is necessary to compile and analyse the fragmentary knowledge on trafficking in migrants in Australia and the Asia-Pacific region.¹ Hence, the essential questions of this study are:

- What exactly is the phenomenon known as trafficking in migrants?

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1 For the purpose of this paper, 'Australia and the Asia-Pacific region' includes the following countries: Australia, Brunei Darussalam, Cambodia, People's Republic of China and Hong Kong, Indonesia, Macau, Malaysia, Papua New Guinea, Philippines, Singapore, Sri Lanka, Taiwan, Thailand, Vanuatu and Vietnam. The Lao People's Democratic Republic had to be exempted as there was no material available on organised crime and illegal migration in this country.

- Why does migrant trafficking exist and prosper?
- How do criminal organisations respond to the demand for illegal migration?
- Where do these activities take place?

I DEFINING TRAFFICKING IN MIGRANTS

Although the concern over migrant trafficking is increasing, there is still no clear or universally accepted definition of the term.

The definition most commonly used is that of the International Organization for Migration (IOM).² According to the IOM, trafficking in migrants can be said to exist if the following conditions are met:

- An international border is crossed.
- Departure, transit, entry and/or stay of a migrant is illegal. The movement of the person can alternatively or cumulatively be illegal in all three categories of countries involved: sending, transit and destination countries. For example, the migrant may completely avoid contact with authorities during the border crossing, may present either fraudulent documents or genuine documents which have been altered, or misrepresent her/his intentions regarding the intended length of stay or economic activity.
- An intermediary — called the trafficker — who is involved in the movement of the migrant. The trafficker provides one or more of the following services to the migrant in order to facilitate her/his exit, transit and/or entry: information, stolen or counterfeit travel or identity documents, official (mostly commercial airlines) or unofficial transport (private boats, concealment in international aircraft, ships, trucks and trains), accommodation at transit points, guided border crossings, and introduction into the black labour market in the country of destination.
- The trafficker profits from such activities through economic or other personal gain. Payment is an essential element in all transactions involved in migrant trafficking. It may not be in the form of cash money in every case. Also, the claim of the trafficker is not necessarily settled in full by the end of the journey. As shown below,³ traffickers often

2 Cf International Organization for Migration (IOM), *Trafficking and Prostitution: The Growing Exploitation of Migrant Women from Central and Eastern Europe* (1995) 6; IOM, *Trafficking in Migrants: IOM Policy and Activities* (1997) 1–2; Ernesto Savona, Abrea di Nicola and Giovanni da Col, 'Dynamics of Migration and Crime in Europe: New Patterns of an Old Nexus' in Alex Schmid (ed), *Migration and Crime: Proceedings of the International Conference on 'Migration and Crime: Global and Regional Problems and Responses'* (1998) 71.

3 See section on 'Post-Immigration Situation' below.

have a continuing relationship with the migrants even after their arrival in the destination country.

- The transaction is voluntary. Other than in the case of trafficking in women for prostitution and other sexual purposes, migrant trafficking does not necessarily refer to a situation in which the person trafficked has been exploited or can be necessarily described as a victim, since the person may be willing to be trafficked to secure her/his long-term well-being. However, in the absence of legal avenues of migration, the migrant's recourse to the trafficker may be caused by factors such as poverty and unemployment, political repression and large-scale violence, environmental degradation, or perhaps a combination of these factors. Also, in most cases the potential migrants are lured with false promises about the opportunities in the destination country or are given inaccurate information concerning migration regulations. In such cases, the voluntary nature of trafficking in migrants is called into question.

II ILLEGAL MIGRATION

A History

Between 1950 and 1973 the real GDP⁴ in the OECD⁵ countries, including Australia, grew at an average of nearly 5% per year, and with this economic boom the demand for labour increased rapidly. Australia — the third largest destination for migrants in the world — was the most active in recruiting settlers, though (formally) until 1973 such recruitment was limited to Europeans.⁶

For all OECD countries this economic growth came to an end with the First Oil Crisis in 1973. The need for labour migration dried up as national economies slowed, and foreign workers now also competed with the local population for scarce jobs. The demand for unskilled manufacturing labour in these countries also declined as a result of automation and new technologies. Restrictions were placed on migration and in some countries efforts were made to encourage foreign workers to leave. In Australia an all-time low in arrivals of permanent settlers was recorded in 1977.

4 Gross Domestic Product. The GDP is 'the value of final goods and services produced within a country during a specified period, usually one year': Weera Sooria Ipp, Peter Nygh and Peter Butt (eds), *Butterworths Business and Law Dictionary* (1997) 222.

5 Organisation for Economic Cooperation and Development established by the Convention on the Organisation for Economic Co-operation and Development, 14 December 1960, 888 UNTS 0. Australia ratified the convention and became a member of the OECD on 7 June 1971 (1971 ATS 11).

6 In the late 1960s the Australian Government gradually reduced the restrictions for non-European migrants, leading to the complete abolition of the 'White Australia Policy' in 1973. For further reading see, for example, Mary Crock, *Immigration and Refugee Law in Australia* (1998) 33–4.

Illegal migration in its present form became a major issue for industrialised countries — and it has been ever since — with two incidents in the late 1980s: (1) the violation of human rights in the People’s Republic of China, including the massacre in Tiananmen Square in Beijing in June 1989; and (2) the end of the Cold War and the change of governments in many Eastern European and Asian countries of the former Soviet bloc. The former incident led to increasing numbers of Chinese refugees seeking asylum in Australia, Western Europe and North America, while the latter brought an end to long-standing exit restrictions and opened the borders for many people willing to leave their home countries and economic despair in order to seek a better life abroad. Consequently, the number of migrants and asylum seekers in Australia, the Asia-Pacific region and around the world reached a new, all-time high.

B *The Rise in Illegal Migration*

The receiving countries quickly responded to the increasing numbers of migrants and asylum seekers by restricting immigration and access to their asylum systems. In the case of Australia, restrictions were first implemented in 1989⁷ and then again in 1992⁸ and 1994.⁹

Nonetheless, the end of organised labour migration and ‘easy asylum’ did not mean an end to the demand for migration to wealthier countries. It meant rather that potential migrants began to look for other avenues of migration, and they found them in professional traffickers. This correlation between restrictive immigration policies on the one hand and the increase in illegal migration on the other has become obvious in recent years. Illegal migration has become highly organised as countries have become more adept at creating obstacles for access to their territory.

Illegal migration today has to be seen in the light of rising global migration pressures. Rapid population growth, widening economic disparities between countries and a worsening global unemployment crisis cause people to move across international borders in order to find employment, higher wages, or simply a better life. Thousands of others are fleeing their home countries involuntarily because of war, famine, environmental disasters and other factors.

III ORGANISED CRIME AND MIGRANT TRAFFICKING

Over the last decade, trafficking in migrants has become a major activity and an important source of income for criminal organisations at the national and international levels. It has been stated that every year hundreds of thousands of migrants are being trafficked by

7 *Migration Legislation Amendment Act 1989* (Cth).

8 *Migration Reform Act 1992* (Cth).

9 *Migration Legislation Amendment Act (No 4) 1994* (Cth). For details on the amendments to Australian migration legislation see, for example, Crock, above n 6, 123–4, 128–9.

increasingly sophisticated criminal enterprises.¹⁰ In the light of recent developments in criminology research, the aim of this study is to develop a model that explains the structures and operations of the migrant trafficking business and to apply this model to the situation in Australia and the Asia-Pacific region.

A Definition

The definition of organised crime is a long-standing problem for both researchers and law enforcement agencies.¹¹ For the purpose of this study it shall be sufficient to use the following, widely recognised definition of organised crime by US criminologist Howard Abadinsky as a working basis:

Organised crime is a non-ideological enterprise involving a number of persons in close social interaction, organised on a [structured] basis with [different] levels/ranks, for the purpose of securing profit and power by engaging in illegal and legal activities.¹²

B Economic Analysis of Organised Crime and the Illegal Market

Many attempts have been undertaken in order to understand and examine the operational functions of organised crime. While early approaches like the ‘alien-conspiracy theory’ and ‘milieu studies’ of organised crime have since been discredited, the latest research projects consider organised crime in the light of purely economic factors.

1 Background

The major objective of organised criminal activity is economic gain. In this respect, the goal of organised crime does not differ from that of commercial organisations. Like any other economic activity, crime may be supplied through various enterprises and market structures. In trying to understand criminal organisations, the starting point is to view them as transnational organisations in the illegal market and consider in particular the similarities and differences between legal and illegal economic activities.¹³

10 See UN Office for Drug Control and Crime Prevention, *Global Programme Against Trafficking in Human Beings*, Vienna 1999 p 6.

11 For an overview of definitions of organised crime relevant to Australia see, for example, Michael Bersten, ‘Defining Organised Crime in Australia and the USA’ (1990) 23 *Australian and New Zealand Journal of Criminology* 39, 40ff; Phil Dickie and Paul Wilson, ‘Defining Organised Crime: An Operational Perspective’ (1995) 4 (3) *Current Issues in Criminal Justice* 215–24; Bill Palmer and Lindsay McGillicuddy, *Organised Crime (Definitions)* (1991); Colin Thorne, “‘Big Business’ — Organised Crime’ in Kayleen Hazlehurst (ed), *Crime and Justice: An Australian Textbook in Criminology* (1996) 285–8.

12 Howard Abadinsky, *Organized Crime* (4th ed, 1994) 8.

13 Cf Andrew Dick, ‘When Does Organized Crime Pay? A Transaction Cost Analysis’ (1995) 15 (1) *International Review of Law and Economics* 25–8; Dickie and Wilson, above n 10,

The first assumptions about crime as a business were made in the late 1960s when concern about organised crime increased, particularly in the United States. In 1967 a US Government Task Force Report on Organized Crime stated: 'The core of organised crime activity is the supplying of illegal goods and services to countless numbers of citizen customers.'¹⁴ Four years later Harvard economist Thomas Schelling wrote: 'It is becoming widely accepted that the business of organized crime is to provide the public with illicit goods and services.'¹⁵ He went on to quote a report by Mark Furstenberg, stating: 'it is well known that organised crime exists and thrives because it provides services the public demands. ... Organised crime depends not on victims, but on customers.'¹⁶

As mentioned before, the fundamental objective that governs any enterprise — be it legal or illegal — is maximising the profit of the business. For this purpose both criminal organisations and legal businesses

- seek to earn money by selling the goods and services which they provide;
- use their profits to pay their employees and to invest in new technology, machinery and human resources in order to improve the outcome of their operations;
- diversify the investments among different fields to increase profits;
- seek to expand into new geographical or product markets; and
- share the desire to maximise their freedom of action and to minimise the effects of both national and international control over their activities in order to increase the proceeds of their operations.¹⁷

215, 219; Ernesto Savona, Sabine Adamoli and Zoffi, *Organised Crime Across the Borders* (1995) 5.

14 US Task Force on Organized Crime (1967), in Annelise Graebner Anderson, *The Business of Organized Crime: A Cosa Nostra Family* (1979) 4–5, 10–11.

15 Thomas Schelling, 'What is the Business of Organized Crime?' (1971) 20 *Journal of Public Law* 71, 71.

16 Mark Furstenberg, 'Violence and Organized Crime' in *13 Crimes of Violence: A Staff Report to the National Commission on the Causes and Prevention of Violence* (1969) 925, quoted in Schelling, above n 14, 71.

17 Sabine Adamoli et al, *Organised Crime around the World* (1998) 17–18; Marion Bögel, *Strukturen und Systemanalyse der Organisierten Kriminalität in Deutschland* (1994) 86; Dwight Smith, 'Organized Crime and Entrepreneurship' (1978) 6 *International Journal of Criminology and Penology* 161, 164; Philip Williams and Ernesto Ugo Savona (eds), *The United Nations and Transnational Organized Crime* (1996) 1.

Consequently, it is assumed — and now widely recognised — that the theories and models used for the analysis of legitimate businesses and the legal market can also be applied to transnational criminal organisations and the illegal market.¹⁸

2 *The Illegal Market*

(a) *Existence and Objectives of the Illegal Market*

The legal status of a product or service affects the way in which its production and distribution are carried out. The extent of regulation of certain goods and services has a significant impact on the organisational schemes of enterprises and on the way operational elements such as supply, production and distribution are carried out. Participating in dealing, producing and offering illegal goods and services is a crime because society chooses to legislate against these commodities. The products and services which are offered in the illegal market are singled out as ‘harmful’ or ‘sinful’ for ethical, political or moral reasons.¹⁹

A common and early example of the creation of illegal markets through legislative measures is the prohibition of the manufacture, sale and transportation of alcohol in the United States between 1920 and 1933. The national prohibition of liquor,²⁰ created an illegal market and, hence, an economic opportunity for criminal organisations to produce, import, and retail alcohol illegally since the public’s demand for alcohol was not seriously affected by the introduction of prohibition.²¹

(b) *Customers of the Illicit Enterprise*

Essential to the existence and survival of the criminal enterprise is a consumer population which provides a continuous demand for the goods and services that are on offer. Organised crime provides illegal goods and services which some members of the

18 Bögél, above n 17, 17; Dick, above n 13, 25–45; Ulrich Sieber and Marion Bögél, *Logistik der Organisierten Kriminalität* (1993) 4; Ulrich Sieber, ‘The Strategic Structures of Organised Crime: The Outcome of a New Research Approach’ (1995) 28 (2) *Comparative Law Review* 61, 66; Mittie Southerland and Gary Potter, ‘Applying Organization Theory to Organized Crime’ (1993) 9 (3) *Journal of Continental Criminal Justice* 251; Williams and Savona, above n 17, 6.

19 Cf the so-called ‘labelling approach’, esp Howard Becker, *Outsiders: Studies in the Sociology of Deviance* (1963). Becker points out that no behaviour is deviant or criminal until so defined and thereby labelled by a section or by the whole of the society.

20 *National Prohibition Act* (US), often referred to as the Volstead Act after its sponsor, Congressman Andrew Volstead of Minnesota. The Act defined all beverages containing more than 0.5% alcohol as ‘intoxicated’ and prohibited their manufacture, sale and transport.

21 Cf Abadinsky, above n 12, 88–96; Dick, above n 13, 25, 36; Daryl Hellmann, *The Economics of Crime* (1980) 168; Schelling, above n 15, 71.

community demand.²² As a consequence, when certain goods and services are declared illegal, a large number of consumers become obliged to purchase particular products and services from criminal organisations in illegal transactions. From this point of view one could assume that certain desperate people necessarily commit crimes because the law arranges that the only source for the product or service they demand is a criminal source.²³

(c) The Market of Migrant Trafficking

By definition, illegal migration depends on laws regulating who may and may not cross international borders. The combination of strict border controls and restrictive immigration systems creates the legal framework for an illegal market and thereby an economic opportunity for criminal organisations. A significant economic or political differential between two countries provides trafficking organisations with a consumer population which seeks to migrate to another country. For example, where there is a significant disparity in income levels between two domestic economies, or significant unemployment in one country but not in the other, 'economic migration' will occur despite immigration laws which criminalise it.

Trafficking in migrants has become a growing market and a source of income for organised crime for three major reasons: (a) the restrictions on legal immigration imposed by industrialised countries, (b) the growing demand for international migration and (c) the low risks of detection and arrest attached to trafficking compared to those in other (organised) criminal activities. For many migrants traffickers have become the only avenue of migration to another country. Potential migrants have come to accept criminal traffickers, even though the price they pay for their services can often include long-term debt, life or liberty.

C The Concept of the Migrant Trafficking Enterprise

As described above, criminal organisations adapt to the changing demands of potential customers and exploit the loopholes and legislative discrepancies present in some areas of the world. Apart from being highly profitable, migrant trafficking to Australia and within

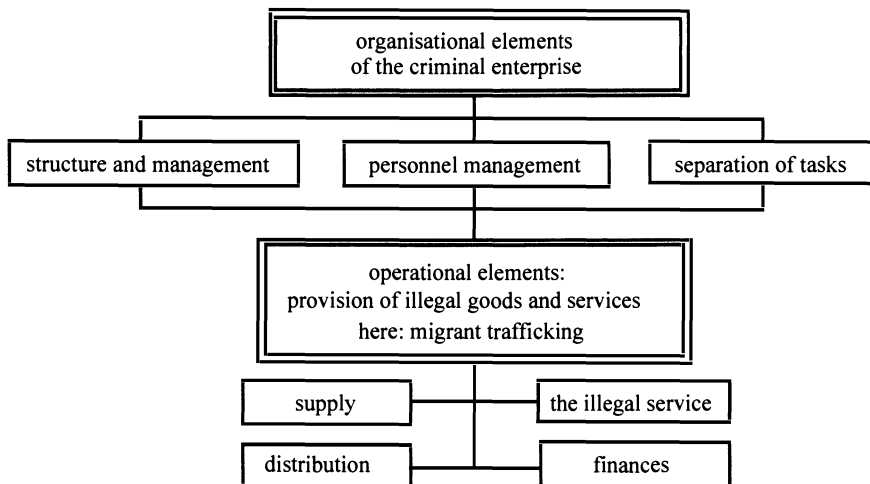
22 Cf Schelling, above n 15, 71, 72; Smith, above n 17, 171; Southerland and Potter, above n 18, 252.

23 Thomas Schelling, 'Economics and Criminal Enterprise' in Ralph Adreano (ed), *The Economics of Crime* (1980) 393. This approach brings to mind the so-called 'anomie theory' of Robert Merton (*Social Theory and Social Structure* (1949)) which holds that society creates organised crime within itself by extolling certain common success goals while simultaneously preventing a considerable part of society from achieving those goals by legitimate means; cf Doug Greaves and Susan Pinto, 'Redefining Organised Crime: Commentary on a Recent Paper by Phil Dickie and Paul Wilson' (1993) 5 (2) *Current Issues in Criminal Justice* 218, 223.

the Asia-Pacific region is surprisingly low-risk.²⁴ The significant inequality of economic wealth and the differences in the political and legislative systems in this part of the world provide organised crime with a lucrative illegal market and — unless efficient countermeasures are taken — secure the traffickers a stable source of income.

Organised crime and migrant trafficking can be regarded as an international business. The illegal moving of migrants can be thought of as an illegal service provided by traffickers, who can be considered as the major entrepreneurs in this illegal market.

Chart 1: The Concept of the Migrant Trafficking Enterprise



This model of the migrant trafficking enterprise presents the traffickers as providers of illegal migration services between origin and destination countries.²⁵ It is an attempt to demonstrate how trafficking organisations operate. The model examines the major organisational elements, such as management and human resources, and analyses the operational functions including supply, production, distribution and finance. The principal objective of this section is to apply this model of the criminal enterprise to migrant trafficking organisations in a range of locations and circumstances in Australia and throughout the Asia-Pacific region. This economic analysis of the trafficking organisation aims to identify more precisely the mechanisms of trafficking and assess the scale of its

24 National legislation of Asia-Pacific countries with respect to migrant trafficking will be the subject of future research.

25 For other models of trafficking organisations see, for example, 'Analyse der Funktionsbereiche krimineller Organisationen' in Bögel, above n 17, 86–188; 'Trafficking Constituted as a Business' in J Salt and J Stein, 'Migration as a Business: The Case of Trafficking' (1997) 35(4) *International Migration* 467, 490.

operations, in order to provide a working basis for the future development of successful legislation and law enforcement strategies.

1 *Structure and Management*

In the analysis of organised crime, issues about the management, size and structure of criminal organisations have been controversial. On one side are those who consider organised crime groups as large hierarchical organisations which are structured like corporations.²⁶ On the other side are those who see organised crime groups as loosely structured, flexible and highly adaptable networks.²⁷

There is no single model of transnational organised crime. The appropriate structure of criminal organisations depends on multiple factors such as the accessibility of and barriers in illegal markets, the number of competitors, pricing and marketing strategies of different organisations and their attitude towards the use of threat and violence. Criminal organisations vary considerably in structure, size, geographical range and the diversity of their activities, and range from highly structured 'syndicates' to dynamic networks which constantly change in order to adapt to the environment in which they operate. The criminal organisations involved in the business of migrant trafficking cover a spectrum that ranges from individual operators to large corporations which can be categorised as follows:²⁸

- *Amateur traffickers*: This category includes people who provide a single service needed by migrants such as transport for crossing a border or locating employers in the destination country willing to engage them despite the illegal entry. Some of these small operators, especially in border areas, are only occasional traffickers. For example, they take migrants on board their vessels against payment in one country, depart from secluded coastal areas and unload the people clandestinely in the territory of another country.

26 See, for example, Bersten, above n 11, 39, 45; UN General Assembly, *Revised Draft United Nations Convention Against Transnational Organised Crime*, A/AC.254/4/Rev.2 Art1, option 2.2, option 3.1, 2; Smith, above n 17, 161; Abadinsky, above n 12, 25.

27 Adamoli et al, above n 17, VIII, 11 f; Gianluca Fiorentini and Sam Peltzman, 'Introduction' in Gianluca Fiorentini and Sam Peltzman (eds), *The Economics of Organized Crime* (1995) 6; cf Hellmann, above n 21, 174; Savona, Adamoli and Zoffi, above n 13, 25; UN Commission on Crime Prevention and Criminal Justice, *Implementation of the Naples Declaration and Global Action Plan against Organized Transnational Crime*, Report of the Secretary-General, E/CN.15/1996/2 para 34.

28 Cf Bimal Ghosh, *Huddled Masses and Uncertain Shores: Insights into Irregular Migration* (1998) 23; IOM, *Trafficking in Migrants*, above n 2, 2; Savona, Nicola and Col, above n 2, 73; UN Commission on Crime Prevention and Criminal Justice, *Additional Information on Measures to Combat Alien-Smuggling*, E/CN.15/1995/3 para 2.

- *Small groups of organised criminals:* They specialise in leading migrants from one country to another, using well-known routes with a higher level of specialisation than amateurs but in a less professional and complex manner than international networks.
- *International trafficking networks:* They are able to respond to the whole spectrum of needs of illegal migrants, including the provision of fraudulent or genuine documents (stolen or altered), and the arrangement of accommodation and support in transit countries. One of the main characteristics of these networks is flexibility in the reaction to new, unforeseen situations, because they have members located along the routes. The trafficking routes these organisations use are often well-tested by other transnational criminal activities such as drug trafficking. In many cases it was found that migrant trafficking is just one of the organisations' versatile activities.

One major trend which occurs in various fields of organised crime is to replace a centralised, 'Mafia-type' structure by a more decentralised, flexible network organisation. Complex international organisational networks have emerged as a result of the wide range of origins of migrants. They can respond much faster to changing legislation and law enforcement activities. This makes the trafficking organisation less vulnerable to detection, arrest of their members and seizure of their assets.²⁹

(a) Criminal Organisations in Australia

Today, organised crime is a widespread phenomenon throughout Australia with many links to overseas organisations and facilities. Conversely, several criminal organisations abroad have been linked to Australian organised crime. Criminal organisations in Australia are involved in a wide range of illegal activities as and when opportunities arise. In Australia, organised crime is committed by people from many different ethnic backgrounds, and is not exclusive to any particular group.³⁰ The criminal organisations most widely active both domestically and internationally are those of East and South-East Asian descent. Criminal organisations from China and Hong Kong (often referred to as the 'Triads'), Japanese organised crime, Sino-Vietnamese gangs and Malaysian and Singaporean secret societies pose the most significant organised crime threat in Australia. Italian organised crime also has a sophisticated national network in Australia including the Calabrian Ndrangheta, Sicilian Mafia and diverse Italian-Australian criminal organisations. Furthermore, there is evidence that Colombian cartels and Lebanese, Korean and Russian

29 Adamoli et al, above n 17, 11; Williams and Savona, above n 17, 30.

30 Adamoli et al, above n 17, 88; Duncan Chappell, 'From the Rum Rebellion to the Nugan Hand: Perspectives on "Australian Roguery" and Organised Crime', in Duncan Chappell and Paul Wilson (eds), *The Australian Criminal Justice System: The Mid 1980s* (1986) 286; Thorne, above n 11, 299; John Valentin, 'Present Issues for Organised Crime Control: The Australian Perspective' (1993) 4 *UNAFEI Resource Materials Series* 92, 93.

criminal organisations are active in Australia, though on a lesser scale than Asian organisations.³¹

Chinese and other Asian criminal organisations have been found to be the predominant groups involved in the trafficking of migrants to Australia and throughout the Asia-Pacific region. Most of the internationally operating trafficking organisations simultaneously engage in related offences such as document fraud, trafficking in women for prostitution and other sexual purposes, and immigration malpractice, sometimes involving unregistered and unlicensed immigration consultants.³²

2 Recruitment and Personnel Management

(a) General Objectives

As with their legal counterparts, personnel management in illegal enterprises ‘involves staffing, training, management development, motivation, performance evaluation, compensation activities and maintenance of employees so as to achieve organisational goals’.³³

Ethnic enclaves in emigration, transit and immigration countries provide a source for recruitment by transnational criminal organisations. The fact that many migrants meet language difficulties in the host countries limits their opportunities for employment and consequently makes them more vulnerable to recruitment by organised crime groups. Moreover, ethnic criminal organisations are more difficult to penetrate as the foreign language and culture provide barriers which make investigations by the national authorities more difficult.³⁴

Within the criminal organisation money and fear are the dominant methods to ensure loyal performance. Employees present a major threat to the entrepreneur and to the organisation as a whole, as they have detailed knowledge about the criminal activities. To prevent treason by their employees, the entrepreneurs can either reward them by paying high wages and granting other benefits, or they can intimidate them by acting against all those who threaten their freedom or the enterprises.³⁵

31 Adamoli et al, above n 17, 88–9; Parliamentary Joint Committee on the National Crime Authority (NCA), *Asian Organised Crime in Australia: A Discussion Paper* (1995) 6–7; Valentin, above n 30, 98–100.

32 Parliamentary Joint Committee on the NCA, above n 31, 8, 10, 56; Savona, Nicola, Col, above n 2, 74; Thorne, above n 11, 301; Valentin, above n 30, 96.

33 Jae Shim, Joel Siegel and Marc Levine (eds), *The Dictionary of International Business Terms* (1998) 147–8.

34 Parliamentary Joint Committee on the NCA, above n 31, 6; Valentin, above n 30, 95.

35 Peter Reuter, *The Organization of Illegal Markets: An Economic Analysis* (1985) 9–10; Savona, Adamoli and Zoffi, above n 13, 6; President’s Commission on Organized Crime in America, *Report to the President and the Attorney-General: The Impact: Organized Crime*

(b) Participants in Migrant Trafficking

The division of labour is essential for the existence of the criminal organisation. Also, by a clear separation of tasks and by filling functional positions with qualified members, the organisation as a whole is protected: should there be an investigation by a law enforcement agency, only small units of the organisation are exposed.³⁶

People involved in migrant trafficking can be categorised as follows:³⁷

- The *arranger/investor* is the person who invests money in the trafficking operation and oversees the whole criminal organisation and its activities. This person is rarely, if ever, known to the lower levels of employees and to the migrants being trafficked. An organisational pyramid structure insulates the arranger from being connected with the commission of specific criminal offences.³⁸
- The *recruiter* is a person who works as a middleman between the arranger and the clients of the criminal enterprise. Recruiters are responsible for finding and mobilising potential migrants and collecting their payments in the country of departure. The recruiters are usually not informed about the precise trafficking passage. They get paid for casual jobs only and not on a permanent basis. Investigations show that in many cases the recruiters come from the same region as the migrants and frequently they are members of the same culture and well-respected people within the local community.³⁹
- The *transporter* is the person in charge of assisting the migrants in leaving the country of origin by whatever means (land, air or sea). Transporters in the destination country bring undocumented immigrants from an airport, seaport or coast to the big cities. The transport providers and operators have to be technically sophisticated to change their operations in reaction to law enforcement and coastal surveillance activities. Transporters usually do not get inside information on the criminal organisations and their structures. They stay in touch with the organisation through intermediaries who contract them casually.⁴⁰

Today, quoted in Palmer and McGillicuddy, above n 11, 33; Williams and Savona, above n 17, 7.

36 Abadinsky, above n 12, 6–7; Salt and Stein, above n 25, 478.

37 Cf Ko-lin Chin, 'Smuggling of Chinese Aliens and Organised Crime' in Schmid, above n 2, 139; Reuter, above n 35 8; Sieber, above n 18, 75; Werner Vahlenkamp and Peter Hauer, *Organisierte Kriminalität: Täterlogistik und Präventionsansätze* (1994) 15.

38 Bersten, above n 11, 53; Thorne, above n 11, 284; UN Commission on Crime Prevention and Criminal Justice, *Implementation of the Naples Declaration and Global Action Plan Against Organized Transnational Crime: Report of the Secretary-General*, E/CN.15/1996/2 para 36; Williams and Savona, above n 17, 30.

39 Vincenzo Ruggiero, 'Trafficking in Human Beings: Slaves in Contemporary Europe' (1997) 25 *International Journal of the Sociology of Law* 231, 236; Salt and Stein, above n 25, 477.

40 Bögel, above n 17, 153–8; Salt and Stein, above n 25, 480.

- *Corrupt ('bribable') public officials, protectors.* The traffickers have to pay government officials to obtain travel documents for their clients. Law enforcement authorities in many transit countries have been found to accept bribes to enable migrants to enter and exit countries illegally. The corrupt officials individually or collectively protect the criminal organisation through abuses of their position, status and privileges, and other violations of the law.⁴¹
- *Informers.* For the trafficking operations it is necessary to have systems of information gathering on border surveillance, immigration and transit procedures and regulations, asylum systems, law enforcement activities, etc. In some cases it was found that information gathering resided in a core group of informers who managed the information flow and had access to well-organised and centralised communications systems through sophisticated technology. The knowledge which informers accumulate is then used to the best advantage of the criminal organisation.⁴²
- *Guides and crew members.* Guides are responsible for moving illegal migrants from one transit point to the other or helping the migrants to enter another country by sea or air. Crew members are people employed by the traffickers to charter trafficking vessels and accompany migrants throughout the illegal passages.
- *Enforcers,* often themselves illegal migrants, are primarily responsible for policing staff and migrants and for maintaining order, often involving the use of violence.
- *Supporting personnel and specialists.* This category features mostly local people in transit points who support the organisation by providing accommodation and other assistance to illegal migrants. Traffickers also depend on skilled individuals who provide specialised products and services to the criminal organisation. These individuals are usually paid for casual duties only and do not share a continuing commitment to the group.⁴³
- *Debt collectors.* Contact with the trafficking organisation does not necessarily end for the migrants when they arrive in the country of destination. Upon arrival most trafficked migrants owe vast amounts of money to the traffickers for the illegal passage. Debt collectors are the people in charge of collecting the fees from the migrants in transit and destination countries, often involving the use of threat, coercion and violence.⁴⁴

41 Claudie Bessozi, *Organisierte Kriminalität und Empirische Forschung* (2nd ed, 1997) 9–10; Savona, Adamoli and Zoffi, above n 13, 6; Palmer and McGillicuddy, above n 11, 34–5.

42 Salt and Stein, above n 25, 477–8; cf Jon Vagg, 'The Borders of Crime: Hong Kong-China Cross-Border Criminal Activity' (1992) 32 (3) *British Journal of Criminology* 310, 326.

43 Bögel, above n 17, 159–64, 186; Palmer and McGillicuddy, above n 11, 35.

44 For details of post-immigration activities and the collection of debts see 'Distribution: Post-Immigration Activities' below.

- *Money launderers.* Trafficking organisations must find ways of legalising the proceeds of their activities which are not reinvested in other operations. This means that the illegal, ‘dirty’ money deriving from the commission of crime must somehow be made legitimate. The money launderer is a person who is expert at laundering the proceeds of crime, disguising their origin through a string of transactions or investing them in legitimate businesses.⁴⁵

3 *Supply*

In the context of migrant trafficking, supply means the mobilisation of potential migrants. As in the legal market, the promotion of their services is essential for the traffickers. Trafficking organisations advertise their services in the same way legitimate businesses do. The spectrum of ways in which the traffickers find and attract people willing to leave their home countries is broad and includes everything from newspaper advertising and brochures to contacting people on an individual basis. Little information is available on whether or not it is more common for potential traffickers to seek out migrants or vice versa.⁴⁶

The criminal groups usually lure potential migrants with false promises of job opportunities abroad and by misleading them as to the dangers involved in the journey. Also, the migrants are told they will easily be able to recover the fare once they have secured work in the destination country. For example, the boat people that landed in Australia earlier this year were promised jobs at the Sydney 2000 Olympics.⁴⁷ However, it has to be noted that although traffickers deceive the migrants by offering them well-paid jobs in wealthy countries, many writers in this field agree that, generally, most migration results from push factors in the countries of origin and not so much from pull factors of target countries.⁴⁸

According to the definition of trafficking, for the majority of the people involved there is no element of coercion when the trafficking agent (recruiter) is contacted. Usually, the migrants voluntarily seek the services of the traffickers because that is their only available avenue to escape intolerable conditions in their home countries.

45 See ‘Money Laundering’ below.

46 Bögel, above n 17, 153–8; Salt and Stein, above n 25, 477, 479–80, 490; Vahlenkamp and Hauer, above n 37, 17.

47 Elisabeth Wynhausen, ‘Rusty Boats Beat Leaky Security’, *The Australian* (Sydney), 12 April 1999, 1; Les Kennedy and Mark Metherell, ‘Door is Open to the People Smugglers’, *Sydney Morning Herald* (Sydney), 12 April 1999, 3.

48 See, for example, Roger Beijl, *International Labour Migration: Economic, Social and Political Aspects*, paper presented at the International Labour Office (ILO), Geneva, 29 Sep 1998; Peter Stalker, *The Work of Strangers: A Survey of International Labour Migration* (1994); Christopher Ulrich, *Alien Smuggling and Uncontrolled Migration in Northern Europe and the Baltic Region* (1995) 4. See also section on ‘Illegal Migration’ above.

The price that the trafficking organisation charges for its services is often impossible for the clients to pay. Consequently, the migrants usually sell all their belongings and often those of their families as well. Since the migrants and their relatives usually cannot offer any security to obtain loans from ordinary banks with reasonable interest rates, large transnational criminal organisations also allow loans or part-payments on departure. Hence, the migrants fall into debt by borrowing money at exorbitant interest rates, or by taking an advance payment from the traffickers.⁴⁹

4 The Illegal Services

The illegal services that trafficking organisations provide consist of four successive elements:⁵⁰ (1) preparing the migrants, (2) departure (emigration), (3) transit and (4) arrival (immigration). The services sought (including transportation, assistance in crossing borders, provision of fraudulent or stolen documents, accommodation, employment and other support) differ depending on the distance between the country of departure and the country of arrival and depending on the restrictions in force concerning immigration, emigration, asylum and transit.

(a) Preparing the Migrants

The clients of the trafficking organisation also represent the major risk of detection and arrest for the criminal group and its members. At the same time, the illegal migrants themselves must fear detection and arrest for illegally entering another country. The fact that illegal migrants are customers and victims of the traffickers as well as violators of the law makes their role and situation very complex. Also, the migrants are unlikely to report any offences and incidents to the authorities or assist them in investigations.

Threats and intimidation are the major tools to prevent the migrants from inhibiting the organisation's activities. Violence is a tool to control and maintain order among the migrants as well as employees. It can also be used to silence potential witnesses to crimes or as an indirect method to punish as a warning to others.⁵¹

Travel Documents

Illegal migrants, regardless of their country of origin, need high-quality travel documentation to move from one country to another. Such documents are required, for example, for visa applications, obtaining an exit authorisation from certain countries of

49 Ruggiero, above n 39, 236; Salt and Stein, above n 25, 479; Savona, Nicola and Col, above n 2, 75.

50 'Services' is understood as 'assistance or accommodation from one person to another. Any rights or benefits, privileges or facilities provided in trade and commerce': Ipp et al, above n 4, 406.

51 Cf Savona, Adamoli and Zoffi, above n 13, 6; Palmer and McGillicuddy, above n 11, 33; Williams and Savona, above n 17, 7.

departure, transportation by air, border controls and — in some cases — for deceiving welfare and migration authorities.

However, it has to be recognised that the circumstances which cause people to flee their home countries usually make it impossible for them to obtain genuine documents. Consequently, the services of transnational traffickers frequently include the production and/or supply of false travel documents. This has become a growing criminal activity, as the ability to migrate largely depends on the possession of the necessary documents. Although modern technology has facilitated the detection and seizure of forged passports and visas, at the same time the equipment to make more convincing fraudulent documentation has improved.

The major ways to obtain travel documents include photo-substitution, visa transposing, and producing forged visas, residence permits and passports, etc. Investigations have also found that blank, unissued passports are stolen from passport-issuing authorities. Issued passports are stolen from tourists and travel agencies, and corrupt officials have been found providing passports to trafficking organisations. In order to meet visa requirements traffickers also issue fraudulent business invitations from non-existing companies in the destination countries.⁵²

(b) Transport, Passage and Routing

Changing the methods of illegally moving people in response to changing transit and immigration regulations, border surveillance and other law enforcement activities is essential for the survival of the trafficking organisation. For example, borders and other gateways to particular countries may sometimes be temporarily closed or heavily controlled, thus requiring a change of route via other countries. Consequently, traffickers may sometimes use simple and direct routes and at other times complex and circuitous ones. As a consequence, the time between departure from the country of origin and arrival at the final destination varies from several weeks to months or even years.⁵³

Migrant trafficking is carried out by land, air and sea. Often the means of transportation is changed several times en route.

- *Trafficking by land* is the easiest way to go from one country to another. The spectrum ranges from simply walking migrants across 'green borders'⁵⁴ to sophisticated methods of clandestine trafficking in trains and trucks.

52 IOM, 'Organised Crime moves into Migrant Trafficking' (1996) 11 *Trafficking in Migrants* 1, 1–2; Sieber, above n 18, 75; Ulrich, above n 48, 4; UN General Assembly, *Measures to Combat Alien Smuggling: Report of the Secretary-General*, A/49/350 para7.

53 Salt and Stein, above n 25, 477–8; Vagg, above n 42, 326.

54 An expression frequently used to describe international borders without barriers.

- *Trafficking by air* is the fastest-growing method of organised illegal migration in the Asia-Pacific region due to increasing international air traffic as well as insufficient control of transit and immigration passengers in many countries. In many cases trafficking organisations facilitate the onward travel of their clients by switching documents, tickets and boarding passes in the transit lounges of international airports, often protected by corrupt immigration or airline personnel.
- *Trafficking by sea* is particularly difficult to detect, especially regarding the geographical particularities of many countries in the Asia-Pacific region. The risk of detection and arrest is much lower compared to land and air trafficking. Also, it enables the trafficking organisations to transport many people in a single venture. Beyond that, it removes the need for travel documents and there is no need to bribe border officials as the illegal migrants do not pass through immigration control points.

It has to be noted that a major concern in the field of migrant trafficking is the issue of human rights. During the journey the migrants are completely in the hands of the traffickers and often subject to deprivation and indignities. The transportation of illegal migrants — especially in the case of trafficking by sea — takes place under inhuman conditions which results in a great number of accidents and casualties during the dangerous passages. In many cases traffickers abandon the migrants en route or put them at risk because they fear being caught by the authorities.⁵⁵

(i) *Regional Analysis*

The Asia-Pacific region including East and South-East Asia, Australia and Oceania is an area in which every form of criminal behaviour associated with trafficking in migrants can be observed. This is mainly due to the presence of well-established international organised crime groups throughout the region. Australia's wealthy economy and its proximity to Asia are the major factors that make the country an important target for illegal migrants from various countries of this region. The following country-by-country analysis summarises the results of police and academic investigations in the Asia-Pacific region. It seeks to identify the major issues of migrant trafficking for each country in order to provide a working basis for future examination and elaboration of legislative and administrative countermeasures.

55 Ian Peck, 'Removing the Venom from the Snakehead: Japan's Newest Attempt to Control Chinese Human Smuggling' (1998) 31 (4) *Vanderbilt Journal of Transnational Law* 1041, 1047; Paul Smith, 'Chinese Migrant Trafficking: A Global Challenge' in Paul Smith (ed), *Human Smuggling: Chinese Migrant Trafficking and the Challenge to America's Immigration Tradition* (1997) 11; UN Economic and Social Council, *Action Against Illegal Trafficking in Migrants, Including by Sea*, E/RES/1998/19; UN Commission on Crime Prevention and Criminal Justice, *Additional Information on Measures to Combat Alien-Smuggling*, E/CN.15/1995/3 para 6; UN General Assembly, *Measures to Combat Alien Smuggling: Report of the Secretary-General*, A/49/350 para 5; Williams and Savona, above n 17, 22.

Brunei Darussalam

According to the information provided by the Brunei Government, there is no major organised crime activity in the country.⁵⁶ There was no further material available on illegal migration to and from Brunei.

Cambodia

International trafficking rings have been found exploiting Cambodia as a transit zone mostly for Chinese nationals migrating via Cambodia to Thailand, Vietnam and other countries.⁵⁷ Cambodia is also a source of many illegal immigrants arriving in Australia, mostly by sea.⁵⁸

People's Republic of China

The People's Republic of China (PR China) is probably the largest source country for trafficked migrants in the Asia-Pacific region and perhaps in the world. For many years, nationals of the PR China have represented the majority of Australia's illegal entrants, both by sea and air. Initially, the violation of human rights and the suppression of political opposition to the government caused many people to look for illegal avenues to flee from mainland China. Now, the large-scale migration to major cities within the PR China, together with growing levels of crime and corruption, contribute to making migrant trafficking from the PR China a lucrative and long-term source of income for organised crime groups. Even Chinese government officials concede that more than 700 000 citizens have left the country illegally in recent years. There is evidence that many Chinese criminal organisations — often in cooperation with foreign groups — engage in the systematic illegal transportation of Chinese nationals to numerous destinations abroad, including Australia.⁵⁹

The increasing decentralisation of China's administration makes it easy for traffickers to obtain passports and travel documents by corrupting government employees. Officials have been found providing both genuine and fraudulent documents in exchange for money or, in more recent cases, for the trafficker's promise to carry a member of the corrupt official's family abroad. Alternatively, officials have sold their own government identification to traffickers, who manipulated these documents by photo-substitution.⁶⁰

56 Savona, Adamoli and Zoffi, above n 13, 23.

57 Smith, above n 55, 8; IOM, *Combating Irregular Migration and Trafficking in Persons in East and South East Asia* (c1998) 6.

58 See 'Arriving in Australia' below.

59 Peck, above n 55, 1044; Savona, Nicola and Col, above n 2, 74.

60 Australian Federal Police (AFP), *Organised Crime Aspects of People Smuggling into Australia (Unclassified Version)* (1998) 3–4; Peck, above n 55, 1054.

Hong Kong

Both as a British colony until 1 July 1997 and now as a Special Administrative Region of the PR China, Hong Kong is a major transit point for vast numbers of illegal migrants from different countries throughout Asia.⁶¹

Table 1: Illegal Immigration, Hong Kong, 1996–1997⁶²

	1996	1997
No. of immigration-related investigations	39 879	36 244
Illegal immigration	6 372	6 711
Forgery	2 389	2 171
Others	31 118	27 362
No. of prosecutions instituted		
Illegal immigrants	274	204
Forgery/bogus document holders	1 524	1 549
Others	5 888	5 270
Passengers refused permission to land	9 534	9 935
by land	1 558	2 225
by sea	1 778	2 578
by air	6 168	5 132

The number of passengers refused permission to land in Hong Kong increased by 401 from 9534 in 1996 to 9935 passengers in 1997, with the majority being air arrivals (1996: 64.9%, 1997: 51.7%) followed by sea (1996: 18.7%, 1997: 25.9%) and land arrivals (1996: 16.4%, 1997: 22.4%). During 1997, an average of 49 illegal immigrants were arrested each day, compared with an average of 63 arrests per day in 1996.⁶³ It is interesting to note that the number of immigration-related investigations significantly exceeds the number of passengers refused permission to land and that only a small number

61 It has to be noted that after the reunification with the PR China on 1 July 1997 the Hong Kong Government retained full autonomy on immigration control matters. Also, the entry of persons from other parts of China into Hong Kong continued to be regulated in accordance with the previous practice. Hong Kong Information Services Department, *Hong Kong: The Facts — Immigration* (1998) 1.

62 Hong Kong Immigration Department, *Facts and Statistics*, 3 April 1999, <<http://www.info.gov.hk/immd>>.

63 Hong Kong Information Services Department, above n 61, 1.

of these investigations came to prosecution (1996: 7686 or 19.27%, 1997: 7023 or 19.38%). The majority of illegal migrants are mainland Chinese who transit through Hong Kong's airport to the US, Europe and Australia. Hong Kong is also a major transit point for many Sri Lankans, particularly ethnic Tamils, who attempt to enter Australia using false passports and documents or by swapping airline boarding passes in the transit lounge.⁶⁴

Indonesia

Indonesia's geographic particularities pose particular difficulties for law enforcement and border surveillance authorities and make the country very attractive for seaborne trafficking. Although Indonesia has recently experienced severe economic and political problems, and despite the high number of Indonesians refused immigration clearance at Australian airports, the country is not considered a significant source of illegal immigrants arriving in Australia. More importantly, the recent boat arrivals in Australia have once again presented Indonesia as a major transit point and facilitator of illegal entrants of various origins to Australia by sea.⁶⁵

Macau

Proximity to the PR China makes Macau attractive both as trafficking destination and as a staging post to third countries for Chinese nationals. Investigations have also shown Chinese citizens to be using false passports to pass through the Portuguese colony's new airport in order to reach other destinations in South-East Asia.⁶⁶

Malaysia

Malaysia plays a significant role as a transit country, a provider of fraudulent documents and a base for different trafficking organisations. For example, Myanmar and Pakistani nationals have been found trying to enter Malaysia illegally for transit. Afghans, Sri Lankans and Iraqis have chartered Malaysian fishing vessels to reach Australia's coast. The country is also a major source of unissued passports which have been stolen or obtained from corrupt government officials. Malaysian police has reported that Chinese nationals have bought fraudulent passports and used Kuala Lumpur as a transit point to the United States, Europe and Australia.⁶⁷ In addition to Malaysia's role as a transit point, the country is also a destination for traffickers who bring in thousands of Indonesians seeking jobs in Malaysia.⁶⁸

64 AFP, above n 60, 3; cf Adamoli et al, above n 17, 86; Peck, above n 55, 1046; Smith, above n 55, 7.

65 AFP, above n 60, 3, 5; IOM, 'Turkey — Indonesia — Australia' (1995) 8 *Trafficking in Migrants* 3.

66 Smith, above n 55, 8.

67 AFP, above n 60, 3-4; cf Adamoli et al, above n 17, 86; Smith, above n 55, 8.

68 Ghosh, above n 28, 16; Smith, above n 55, 10.

Myanmar

For many years now Myanmar (the former Burma) has been a notorious source for illicit drugs and there is increasing evidence that drug trafficking organisations use their experience and trafficking channels to transport illegal migrants in and out of the country. Some studies even suggest that the Myanmar Revolutionary Government is actively involved in the drug economy and other criminal activities.⁶⁹

Chinese nationals in particular have been found crossing the mountains from the PR China into Myanmar and then on to Thailand. One phenomenon that has been uncovered in Myanmar is citizens selling the identity papers of their recently deceased relatives to Chinese traffickers who manipulate them by photo-substitution. The Myanmar passports are then used for foreign migrants to obtain refugee status in third countries.⁷⁰

Although the ongoing violation of human rights by the military regime leads to the presence of large numbers of Myanmar refugees in many South-East Asian countries, Myanmar nationals only represent a small minority of the people trafficked in the Asia-Pacific region. Some cases were uncovered in which migrants of Myanmar origin tried to reach the coast of Malaysia by boat.⁷¹

Papua New Guinea

Despite the internal conflicts Papua New Guinea has witnessed in its recent history, the country has never been a significant source of illegal entrants to Australia. However, there is some evidence that its role as a transit country is increasing, with Sri Lankans and Iraqis attempting to reach Australia via Papua New Guinea.⁷²

Philippines

Organised crime and the trafficking of migrants into, through and out of the Philippines has been a long-standing problem. It is estimated that the number of people illegally residing in the country is between 100 000 and 500 000. For decades, human trafficking, especially in women, has been a widespread illegal activity in the Philippines. Numerous Filipinos, especially from rural areas, fall victim to trafficking organisations, while many

69 Cf John Martin and Anne Romano, *Multinational Crime: The Challenge of Terrorism, Espionage, Drug and Arms Trafficking* (1998) 87.

70 IOM, 'Burma — Thailand' (1993) 1 *Trafficking in Migrants* 3; Smith, above n 55, 1.

71 IOM, 'Myanmar — Malaysia' (1994) 3 *Trafficking in Migrants* 3; IOM, 'Myanmar — Malaysia' (1994) 4 *Trafficking in Migrants* 3.

72 AFP, above n 60, 5.

others are preyed upon by organisations involved in the prostitution and 'mail-order bride' trade.⁷³

Manila is the major transit point for migrant trafficking and has also been identified as a regional headquarters for passport forgery. The majority of trafficked migrants appear to be mainland Chinese, but Algerians and Iraqis also pass through the Philippines before they attempt to illegally enter Australia.⁷⁴

Singapore

With one of Asia's major airports, Singapore is used as a transit point by many trafficking organisations for gaining illegal entry to Australia. Swapping airline boarding passes within the transit area of Changi Airport seems to be a common practice for many illegal migrants who board flights to Australia. The predominant nationalities found to transit through Singapore to reach Australia are Chinese, Sri Lankan, Afghan and Iraqi.⁷⁵

Sri Lanka

Sri Lanka is one of the major source countries of illegal entrants into Australia by sea and also increasingly by air. The sophistication of the routes Sri Lankan migrants take as well as the outstanding quality of their fraudulent travel documents lend plausibility to the assumption that criminal organisations are highly involved in the trafficking of Sri Lankan nationals, most of them being members of the Tamil minority. Sri Lankans attempting to enter Australia illegally mostly fly in from Colombo, or as transit passengers from Kuala Lumpur, Bangkok or Singapore. These migrants obtain boarding passes for Australia-bound flights in the transit areas of airports in these cities.⁷⁶

Taiwan

Taiwan's wealthy economy has grown rapidly over the last two decades, mostly as a result of increasing air and sea traffic passing through the country. Taipei, Taiwan has become a major transit point for illegal migrants, mostly from mainland China, on their way to Australia, Japan, the United States and Western Europe. It is estimated that the number of people illegally residing in Taiwan exceeds 200 000.⁷⁷

73 Adamoli et al, above n 17, 85–6; Ghosh, above n 28, 16; IOM, 'Trends: Philippines' (1996) 12 *Trafficking in Migrants* 4; UN General Assembly, *Measures to Combat Alien Smuggling: Report of the Secretary-General*, A/49/350/Add.1 para 14.

74 AFP, above n 60, 4, 6, 7; IOM, 'Trends: China/Philippines' (1996) 10 *Trafficking in Migrants* 3.

75 Adamoli et al, above n 17, 86; AFP, above n 60, 3–5; Smith, above n 55, 8.

76 AFP, above n 60, 5; UNHCR, *Zur Lage der Flüchtlinge in der Welt: Die Suche Nach Lösungen* (1996) pp210–11.

77 Ghosh, above n 28, 16; Peck, above n 55, 1046; 'Taiwan's Foreign Workers' (1999) 6(5) *Migration News*, <<http://www.migration.ucdavis.edu>>.

Thailand

From both the regional and the global perspective, Thailand appears to be one of the world's major trafficking centres. Since the early 1990s the country has represented an important transit point for further trafficking to other Asian countries, Western Europe, the US and Australia. International studies and the Royal Thai Police estimate that traffickers move approximately 1000–2000 illegal migrants per month through Thailand.⁷⁸ The capital, Bangkok, is the country's major hub and transit point for illegal migrants from many countries, particularly Cambodia, the PR China, Iraq, the Lao PDR, Myanmar and Sri Lanka. The city is also known to be a major centre for the production of fraudulent documents.

Thailand is simultaneously a country of origin, transit and destination for both traffickers and their customers. Many criminal organisations have been found to operate in Thailand, including groups from other countries such as Bangladesh, Pakistan, the Philippines, Russia, Sri Lanka and Syria. Chinese groups and those of Myanmar origin are particularly involved in the migrant trafficking business, while Bangladeshi and Sri Lankan organisations seem to specialise in passport forging.⁷⁹

Vietnam

Although Australian Federal Police reports state that Vietnam is not a significant source of illegal immigrants to Australia, the figures provided by the Department of Immigration and Multicultural Affairs reveal that Vietnamese migrants are among the major unauthorised arrivals to Australia, especially by boat.⁸⁰ Little information is available on the routes taken by illegal migrants from Vietnam and on the extent of migrant trafficking by Vietnamese organised crime.⁸¹

(ii) *Arriving in Australia*

Australia's coastline extends for 36 835 km and the country's land mass covers 7 682 300 km². These geographical characteristics of Australia make border surveillance and detection and apprehension of illegal arrivals to the country extremely difficult. The

78 IOM, 'Irregular Migration and Migrant Trafficking' (Background paper submitted to the Seminar on Irregular Migration and Migrant Trafficking in East and South East Asia, Manila, 5–6 September 1996) 5; Peck, above n 55, 1046; Smith, above n 55, 8.

79 Adamoli et al, above n 17, 87; AFP, above n 60, 4, 7; Department of Immigration and Multicultural Affairs (DIMA), *Fact Sheet 83: People Smuggling* (17 Mar 1999) 2; IOM, 'Prostitution in Asia Increasingly Involves Trafficking' (1997) 15 *Trafficking in Migrants* 1; cf Salt and Stein, above n 25, 475.

80 AFP, above n 60, 4; DIMA, *Fact Sheet 81: Unauthorised Arrivals by Air and Sea* (17 Mar 1999) 3, 8; see 'Arriving in Australia' below.

81 Savona, Nicola and Col, above n 2, 78.

less-populated north and north-western areas are particularly vulnerable to the undetected arrival of small aircraft as well as sea vessels.

Under the provisions of Australian law, a person arrives in the country illegally if she/he arrives with no valid travel documents or presents fraudulent documentation.⁸² As with all forms of clandestine activity, the true number of illegal arrivals to Australia is difficult to assess. The figures below take into account those arrivals that have been detected by Australian authorities and can only indicate the minimum level of illegal entries.

Table 2: Source Country of Unauthorised Arrivals to Australia 1989–1998⁸³

Source Country	by sea	by air			
	1989–98	1994–95	1995–96	1996–97	1997–98
PR China	1441	11	92	235	268
Sino-Vietnamese ⁸⁴	1031	n.a.	n.a.	n.a.	n.a.
Cambodia	271	n.a.	n.a.	n.a.	n.a.
Vietnam	171	n.a.	n.a.	n.a.	n.a.
Iraq	171	17	34	90	140
Indonesia	69	66	110	124	132
Sri Lanka	28	3	15	205	118
Macau	13	n.a.	n.a.	n.a.	n.a.
Hong Kong	1	n.a.	n.a.	n.a.	n.a.
Papua New Guinea	1	n.a.	n.a.	n.a.	n.a.
Thailand	n.a.	16	25	94	77
Rest of Asia	199	n.a.	n.a.	n.a.	n.a.
Africa	32	n.a.	n.a.	n.a.	n.a.
Europe	25	n.a.	n.a.	n.a.	n.a.
Other/unidentified	0	372	387	602	820
Total	3373	485	663	1350	1555

82 *Migration Act 1958* (Cth) ss 13, 14.

83 DIMA, *Fact Sheet 81*, above n 79, 3, 8.

84 These figures refer to the ethnicity of the arrivals, as their citizenship could not be determined.

The number of unauthorised arrivals to Australia has significantly increased in recent years. Illegal arrivals by air climbed from 485 in the 1994–95 financial year to 1555 in 1997–98. The number more than doubled from 1995–96 (663) to 1996–97 (1350). The majority of illegal entrants to Australia were nationals of South-East Asian countries, China and Sri Lanka, while only a few illegal migrants were of African and European origin.⁸⁵ The high number of unidentified people arriving in Australia illegally by air is mostly attributable to the fact that many migrants arrive without any documentation, dump travel documents prior to arrival or hold fraudulent documents, and consequently their nationality cannot be clearly determined.

Boat arrivals

The figures provided by the Department of Immigration and Multicultural Affairs show no clear consistency or significant trend in the number of illegal boat arrivals in Australia. The number of people arriving in the country illegally by sea varies irregularly between low (1989: 26, 1993: 81) and high (1994: 953, 1990: 660) extremes.

Table 3: Unauthorised Boat Arrivals in Australia, 1989–1998⁸⁶

	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998
Boats	1	2	6	6	3	18	7	19	11	17
People	26	198	214	216	81	953	237	660	339	200
• adults	20	138	155	192	54	635	170	470	300	187
• children	6	60	59	24	27	318	67	190	39	13
Born after arrival	1	18	16	5	5	25	5	2	1	-

According to the information provided by the Department of Immigration and Multicultural Affairs, the majority of the early unauthorised boat arrivals to Australia originated from the Kompong Som region of Cambodia and Vietnam.⁸⁷ The people aboard were mainly Chinese, Vietnamese and Cambodian nationals. Later boat arrivals generally appear to have departed from locations in the southern China or Indonesian ports and then sailed through the Arafura Sea and the Torres Strait with mostly Chinese, Sino-Vietnamese, Iraqi, Pakistani and Bangladeshi nationals. The vessels arriving this way mostly hold groups of mixed nationality, which suggest that traffickers at the final point of

85 For further analysis of individual source countries, see 'Regional Analysis' above.

86 DIMA, *Fact Sheet 81*, above n 80, 4–7.

87 Ibid 3–4.

embarkation cater for ad hoc clients who happen to request their services.⁸⁸ Australia's western and northern coasts have been the favourite points for illegal boat landings in the past. The recent incidents at Holloways Beach (Queensland), Scotts Head and Port Kembla (both NSW) indicate that traffickers now also use routes to arrive directly from the east. These offer the additional advantage of fast and easy transport links to the big cities on Australia's east coast.⁸⁹

Air arrivals

The number of illegal air arrivals has more than doubled between 1995 and 1998 and at the same time the detection of document fraud has increased by some 90%. Australian officials expect a new all-time high of 2100 unauthorised air arrivals for the 1998–99 financial year.⁹⁰

Table 4: Undocumented or Improperly Documented Arrivals to Australia by Air⁹¹

Type of document fraud	1995–96	1996–97	1997–98
No passport or visa	115	516	495
Improper documents	184	308	342
People refused entry	663 ⁹²	1350 ⁹³	1555

Of the 1350 people refused entry to Australia in the 1996–97 financial year and the 1555 people in 1997–98, 75% were believed to have been assisted by traffickers.⁹⁴ Most people that were trafficked to Australia did so by commercial airline, arriving in Australian airports with no documentation (1997–98: 31.83%) or improper documentation (1997–98: 22%). This has also been the experience of the US, Canada and European countries. 51% of the 1555 people that were refused entry at Australia's airports in 1997–98 were found to have fraudulent documents, with photo-substituted documents being the most

88 AFP, above n 60, 5. Also see Regina Graycar et al, *Trafficking in Human Beings* (Paper presented at the 3rd National Outlook Symposium on Crime in Australia, Canberra, 22–23 March 1999) 4.

89 Elisabeth Wynhausen, 'All Dressed Up and Nowhere to Go', *The Australian* (Sydney), 13 April 1999, 4. For a full listing of all unauthorised boat arrivals detected between 1989 and 1999 see DIMA, *Fact Sheet 81*, above n 80, 4–7.

90 Statement by Immigration Minister Philip Ruddock in Penelope Green, 'More Illegals Over Horizon: Ruddock', *The Australian* (Sydney), 21 May 1999, 3.

91 DIMA, *Fact Sheet 81*, above n 80, 3.

92 AFP, above n 60, 7.

93 Ibid.

94 DIMA, *Fact Sheet 83: People Smuggling: Australia's Response* (9 September 1997) 1; DIMA, *Fact Sheet 83*, above n 79, 2; Graycar et al, above n 88, 4.

common type. According to Australian Federal Police findings, photo-substitution represented 22% of all document fraud cases in 1996–97.⁹⁵

5 Distribution: Post-Immigration Activities

At the end of the services provided by trafficking organisations is the immigration of the clients into the destination country and, if possible and applicable, their insertion into the labour market of this country. In market terms this can be described as 'distribution'.

(a) Arriving in the Destination Country

To make return to their home countries impossible and protect the trafficking organisation, all identity documents have to be removed from the trafficked migrants prior to arrival in the destination country. Passports, work permits, cash, contact addresses and return tickets which were initially given to the migrants to meet transit and immigration requirements or to camouflage illegal migrants as tourists are usually confiscated by the traffickers after check-in for Australia-bound flights at overseas airports. In other cases these documents are destroyed en route or dumped upon landing in Australia by the people being trafficked.⁹⁶ If possible, both genuine and fraudulent documents are returned to the trafficking organisation and recirculated through the system for further use or resale. The lack of adequate documentation automatically makes the trafficked migrants 'unlawful non-citizens' under Australian law,⁹⁷ and consequently puts them completely at the mercy of the traffickers.

(b) Post-Immigration Situation

Contact with the traffickers does not necessarily end when the trafficked migrants arrive in Australia or other destination countries. Upon arrival at the final destination most trafficked migrants owe vast amounts of money to the traffickers for the illegal passage. As a result of the accumulation of large debts and the powerless position resulting from their illegal status, many of those who use the services of trafficking organisations find themselves in a 'debt-bondage' situation once they have reached Australia.⁹⁸ Consequently, after arriving in the destination country many migrants remain at the mercy of the traffickers who often respond to their inability to repay debts with forced labour,

95 AFP, above n 60, 7; DIMA, *Fact Sheet 83*, above n 79, 2.

96 AFP, above n 60, 5; DIMA, *Fact Sheet 83*, above n 79, 1; Graycar et al, above n 88, 3; Salt and Stein, above n 25, 483; UN Commission on Crime Prevention and Criminal Justice, *Additional Information on Measures to Combat Alien-Smuggling*, E/CN.15/1995/3 para 5.

97 *Migration Act 1958* (Cth) s 14.

98 Graycar et al, above n 88, 3; UN Commission on Crime Prevention and Criminal Justice, *Additional Information on Measures to Combat Alien-Smuggling*, E/CN.15/1995/3 para 6; Vahlenkamp and Hauer, above n 37, 14, 19.

threats, violence and, in some cases, rape.⁹⁹ Also, the illegal status of the migrants prevents them from entering the legal labour market. Instead, they have no choice but to work illegally to earn a living. Hence, many of the migrants find themselves in the black labour market. In the more extreme cases, in order to pay off their debts, they become engaged or are forced to engage in criminal activities such as prostitution and pimping, minor property offences or drug-related crime, often organised by the same criminal group that operated throughout the trafficking.¹⁰⁰

It should be mentioned that, as a consequence of this exploitation, illegal immigrants (according to official crime statistics) commit more crimes in the destination countries than the native population. This lends plausibility to the assumption that migrant trafficking is not just the business of transporting people into another country, but also of exploiting the same people once they are there.¹⁰¹ However, it must be stated very clearly that although a disproportionate number of illegal immigrants can be found involved in the ‘underground economy’ and in criminal activities in the host countries, there is no doubt that most undocumented migrants are law-abiding people. For them the price of breaking the law in the host country — even for a minor offence — is much higher than for the native population as they constantly have to fear detection, arrest and deportation. Also, many of the migrants are supported by relatives and friends before, during and after their journey. The majority of the migrants earn their living by working and do not benefit from the social welfare system, and only a small minority is engaged in illegal activities.

(c) *Detention and Departures*

People who are detected arriving in Australia without authority are required by law to be placed in immigration detention until they leave Australia or are granted a visa.¹⁰²

Of the 3373 people who arrived in Australia illegally by boat between 1989 and 1998, 902 or 26.74% remained in the country. Only 675 (20.01%) of these were officially granted entry. The majority of ‘boat people’ (73.26% or 2471) had to leave Australia. Although many of the illegal entrants came to Australia in order to seek asylum, only a small minority (16.25%) was granted refugee status and 2.22% were entitled to stay on other humanitarian grounds. These figures lead to the assumption that most illegal migrants coming to Australia do so for socioeconomic reasons rather than on grounds of persecution

99 IOM, *Trafficking in Migrants*, above n 2, 3; Peck, above n 55, 1048; Ruggiero, above n 39, 235; Salt and Stein, above n 25, 483; UN Economic and Social Council, *Criminal Justice Action to Combat the Organized Smuggling of Illegal Migrants Across National Boundaries*, E/RES/1994/14, E/RES/1995/10; UN General Assembly, *Prevention of the Smuggling of Aliens*, A/RES/48/102; UN General Assembly, *Measures to Combat Alien Smuggling: Report to the Secretary-General*, A/RES/49/350 para 5.

100 Adamoli et al, above n 17, 79; Graycar et al, above n 88, 5.

101 Adamoli et al, above n 17, 14; Peck, above n 55, 1048; Ruggiero, above n 39, 236; Williams and Savona, above n 17, 22.

102 *Migration Act 1958* (Cth) ss 176–97.

or violation of human rights in their home countries. But, to prove this widespread assumption, it is necessary to further analyse immigration assessment in Australia and the protection of refugees under the Convention Relating to the Status of Refugees 1951. Such an analysis is beyond the scope of this article.

Table 5: Status and Departures of Boat People in Australia 1989–1998¹⁰³

Status of boat people	%	number
Granted refugee status ¹⁰⁴	16.25	548
Entry on humanitarian grounds	2.22	75
Entry on other grounds	2.54	52
Total granted entry	20.01	675
Released on bridging visa	0.74	25
Escaped from custody	0.18	6
In custody	5.81	196
Total remaining in Australia	6.73	227
Departures	73.26	2471
TOTAL	100.00	3373

6 Finances of the Migrant Trafficking Enterprise

Financing their activities and managing the profits derived from their successful operations is an essential feature for any organisation, be it legal or illegal. With the vast amounts of money involved in the business of illegal migration, trafficking organisations accumulate enormous profits. These are the subject of this section.

(a) Financing Organised Crime

Any operation of legal and criminal organisations requires substantial investment in order to buy the necessary equipment, arrange transportation, pay employees, etc. Due to their illicit status, criminal organisations face substantial problems if they try to obtain capital for their operations, as access to legitimate banking and investment facilities is not available to them.

Criminal organisations have two different ways to finance their illegal activities:

¹⁰³ DIMA, *Fact Sheet 81*, above n 80, 8.

¹⁰⁴ *Migration Act 1958* (Cth) s 36.

- *Using the proceeds of crime to finance other criminal activities*

Investments can be financed internally by using the profits of previous activities, ie reinvesting cash generating from trafficking migrants or disinvesting money deriving from other criminal activities such as drug trafficking.¹⁰⁵ For example, Chinese criminal organisations were found to have supranational underground banking systems. Money was collected from the customers by individual members of the organisation and then put together in bank-like institutions.¹⁰⁶

- *Investment of externally legally acquired capital*

The second option criminal organisations have for obtaining money is the external legitimate capital market. For instance, it was found that criminal organisations were able to borrow money from legitimate banks and open accounts in countries where the monitoring of money and banking regulations are not stringent.¹⁰⁷ However, recent investigations by various law enforcement agencies suggest that the external acquisition of capital plays only a small, if any, role for the finances of trafficking organisations.¹⁰⁸ The fact that these organisations can neither present audited books nor offer any security for the lending institution has so far prevented access of criminal organisations to legally acquired money.¹⁰⁹

(b) *Profit Estimations*

Aside from the non-availability of reliable data concerning the true extent of migrant trafficking, mentioned previously, attempts to assess and calculate the price and profit of the trafficking business vary widely depending on such factors as the types and range of activities covered by the payment, the distance travelled, the nature of the related risks and the countries involved. The fact that the payment, as discussed above, does not always take place in a single initial transaction adds to the difficulty of calculating fees and profits.¹¹⁰

105 Keith Bryett et al, 'Organised Crime' in Keith Bryett et al (eds), *An Introduction to Policing, Vol 1: Criminal Justice in Australia* (1993) 66; Bögel, above n 17, 128–36, 185; UN General Assembly, *Prevention of the Smuggling of Aliens*, A/RES/48/102; Mark Moore, 'Organized Crime as a Business Enterprise' in Herbert Edelhertz (ed), *Major Issues in Organized Crime Control* (1987) 58; Vahlenkamp and Hauer, above n 37, 27.

106 Valentin, above n 30, 95.

107 See, for example, Savona, Adamoli and Zoffi, above n 13, 7; UN General Assembly, *Report of the World Ministerial Conference on Organized Transnational Crime: Note by the Secretary-General*, A/49/748 Annex, para 32.

108 Bögel, above n 17, 131–6, 185; Vahlenkamp, Hauer, above n 37, 27.

109 Bögel, above n 17, 128–36; Peter Reuter, *Disorganized Crime* (1983) 120–1; Reuter, above n 35, 13–14.

110 Cf Ghosh, above n 28, 30–1; Savona, Nicola and Col, above n 2, 75; UN Commission on Crime Prevention and Criminal Justice, *Additional Information on Measures to Combat Alien-Smuggling*, E/CN.15/1995/3 para 3.

In 1995, studies placed worldwide profits of migrant trafficking organisations at US\$3 billion per year. More recent investigations estimate the profit to be between US\$3.5 billion and US\$7 billion or even US\$10 billion per annum, making it both one of the fastest-growing and most profitable illegal businesses in the Asia-Pacific region and around the world.¹¹¹ A study conducted by the University of Bangkok in 1995–96 has reported that in Thailand migrant trafficking generates US\$3.2 billion annually.¹¹² The profits of Chinese trafficking organisations are estimated to exceed US\$3.5 billion, making trafficking a priority activity of many Chinese criminal organisations.¹¹³ With respect to people arriving in Australia illegally, Chinese boat people have told Australian officials that they paid between A\$3800¹¹⁴ and A\$40 000¹¹⁵ to board the boat that carried them to Australia. Other Chinese nationals have been known to pay between A\$10 000 and A\$50 000 each for false documents and coaching on how to evade immigration controls on their way to Australia via Hong Kong.

(c) *Money Laundering*

Criminal organisations must find ways of legalising the proceeds of their crimes which are not reinvested in other criminal activities. This means that the illegal, ‘dirty’ money deriving from the commission of crime must somehow be made legitimate, hence the term ‘money laundering’. While money laundering by organised crime is beyond the scope of this study, a brief overview in the form of a country-by-country analysis which summarises the results of national and international police and academic investigations is sufficient to indicate the extent of this phenomenon and to identify some of the major issues relating to money laundering in Australia and the countries of the Asia-Pacific region.

Australia is increasingly a target for money laundering, especially since banking regulations in Europe, the Caribbean and Latin America have been tightened. Japanese Yakuza and Vietnamese criminal organisations are actively engaged in money laundering activities in Australia, as are Hong Kong triads and ethnic Chinese from Hong Kong and Singapore. Opinions on overseas organised crime investment in Australian businesses differ, however there is some evidence that investment in Australian real estate is an

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- 111 Ghosh, above n 28, 32; IOM, *Trafficking in Migrants*, above n 2, 2; Peck, above n 55, 1044; Savona, Nicola and Col, above n 2, 75; Smith, above n 55, 9; Williams and Savona, above n 17, 22; UN Commission on Crime Prevention and Criminal Justice, *Additional Information on Measures to Combat Alien-Smuggling*, E/CN.15/1995/3 para 3.
- 112 IOM, ‘Trends: Thailand–Japan/Germany/Taiwan’ (1996) 10 *Trafficking in Migrants* 3.
- 113 Adamoli et al, above n 17, 78; Bryett, above n 105, 69.
- 114 Penelope Green, ‘Boat People Stung for \$26 000 Each’, *The Australian* (Sydney), 5 May 1999, 3 (‘A\$3800’); Les Kennedy and Mark Metherell, ‘Door is Open to the People Smugglers’, *Sydney Morning Herald* (Sydney), 12 April 1999, 4 (‘US\$2500’).
- 115 Kevin Meade, Matt Robbins and Stefanie Balogh, ‘Welcome to an Inhospitable Hell’, *The Australian* (Sydney), 29–30 May 1999, 7.

especially common practice. Casinos and the luxury goods and gold bullion industries of Australia have also been identified as particularly vulnerable to money laundering.¹¹⁶

Hong Kong is the home of and financial centre for many criminal organisations which operate throughout the Asia-Pacific region and around the world. Also, many nationally operating organised crime groups from Indonesia, Japan, Korea, Malaysia, the Philippines and Singapore were found to have their financial headquarters or accounts located in Hong Kong. Both as a British colony until 1 July 1997 and now as a Special Administrative Region of the PR China, Hong Kong provides financial facilities which enable criminal organisations to launder the proceeds of crime and invest them in the legitimate economy.¹¹⁷

Malaysia, as one of the fastest-growing financial centres in the Asia-Pacific region, also has become one of the safest havens for money laundering, which apparently is having an increasing impact on the national economy.¹¹⁸

As one of the world's and the region's major financial centres, *Singapore* is particularly attractive for money launderers. For many traffickers from South-East Asia and abroad, Singapore has become a country of choice for investment in order to take advantage of its highly developed and prosperous financial sector. Money is laundered through both the banking and non-banking financial systems, with Australia being one of the major sources of illegally obtained money.¹¹⁹

South Pacific Islands. Foreign police investigations show that the Solomon Islands, Vanuatu and Nauru are used to launder proceeds of crime. Vanuatu, for example, is a sophisticated offshore banking centre and it is believed that traffickers use Vanuatu-based corporations to establish bank accounts in countries other than Vanuatu, and then launder the money through these foreign bank accounts.¹²⁰

Thailand is one of the major transit countries for illegal money, especially because of a total lack of anti-money laundering laws and insufficient monitoring of cross-border money transfers. The country has strict controls on currency leaving the country, but none on money entering the country.¹²¹

With the opening of the Vietnamese economy to foreign investments and the increasing movement of Vietnamese people between Australia and *Vietnam*, the country has quickly become a new channel for money laundering. The improving economy and relatively

116 Adamoli et al, above n 17, 88; Savona, Adamoli and Zoffi, above n 13, 24; Valentin, above n 30, 98.

117 Douglas Meagher, *Organised Crime* (1983) 17.

118 Adamoli et al, above n 5, 87.

119 Ibid.

120 Ibid 91.

121 Ibid 87 ff; Savona, Adamoli and Zoffi, above n 13, 24.

stable political situation in Vietnam contribute to the increasing exploitation of these new opportunities for various forms of organised crime.¹²²

SUMMARY AND CONCLUSION

All organisations, legal or illegal, seek to maximise their profits within their environments. Criminal organisations make profits from activities in illegal markets by providing illegal goods and services. Criminal organisations exist because of a demand for such illegal goods and services. The market for migrant trafficking has arisen for three main reasons: (1) the restrictions on legal immigration imposed by industrialised countries, (2) the increasing demand for entry into these countries, and (3) the comparatively low risks and high profits involved in migrant trafficking.

The pattern of the migrant trafficking organisation and its operations are similar to that of a provider of legal services with some additional features required by the illegal market. In order to maximise the economic return of their activities, traffickers imitate the structures of legitimate businesses through organisation, human resources, supply, production, distribution and finance.

The findings suggest that for the purpose of the examination and elaboration of existing and future countermeasures it is necessary to recognise the economic dimension of organised crime and consider trafficking in migrants as a business conducted by transnational criminal organisations.

122 Valentin, above n 30, 97.