

OBSERVATORY OF ILLICIT ECONOMIES IN EASTERN AND SOUTHERN AFRICA

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Summary highlights



Organized-criminal syndicates are muscling in for a share of the profits of southern Africa's avocado and macadamia nut markets.

While fruit and nut markets might not seem the most likely avenue for organized crime, large-scale theft of avocados and macadamia nuts has been on the rise in Southern Africa. Although most stolen avocados are reportedly sold in South African markets, reports from growers' associations suggest that macadamia theft is a regional phenomenon, with Zimbabwean growers in particular affected by armed robberies. The thefts have knock-on effects for the farming industry, as growers and distributors deal with the additional costs of security and the impact of substandard stolen produce on customers' perceptions of product quality.



Elephant poaching has dramatically decreased in Mozambique's Niassa National Reserve, once an epicentre of the illegal trade.

It has been nearly two years since an elephant was poached in Mozambique's Niassa National Reserve, which was previously an epicentre of Africa's ivory crisis. Recent fieldwork conducted by the Global Initiative in

the port city of Pemba has found that previously rampant ivory trafficking has declined to nothing. The success in the Niassa Reserve has been ascribed to a robust anti-poaching response, tougher sentencing and improved partnerships between government agencies, and between the government and external partners. While these factors almost certainly all played a role in stopping poaching, other broader changes, which may be harder to discern, may have been the real drivers. The case of Niassa may offer lessons for tackling other types of organized crime in the region.



The Global Initiative's IUU Fishing Index provides insights into illegal, unreported and unregulated fishing in East and Southern African countries.

Promoting successful, sustainable fisheries is a key objective for many East and Southern African countries. To achieve this, it is necessary to understand the scope of illegal, unreported and unregulated (IUU) fishing. Data on this issue has, for a long time, been largely unavailable, but the Global Initiative's new IUU Fishing Index sheds some light on regional dynamics. Index data



suggests that the East and Southern African region is, for both geographical and political reasons, more vulnerable to IUU fishing than the global average. In particular, the Seychelles, although it scores highly on government responses to IUU fishing, suffers from vulnerability on several fronts, including the fact that its large marine exclusive economic zone is difficult to monitor effectively.



Uganda's Narcotic Drugs and Psychotropic Substances Act 2016 has left individuals vulnerable to abuse while failing to deter major drug traffickers.

Uganda introduced new narcotics legislation in February 2016. Four years on, civil-society groups continue to

condemn the deteriorating circumstances in which people who use drugs are targeted by law enforcement, as the law has created the opportunity for harassment, corruption and human-rights violations. Field research conducted for this Risk Bulletin found that faulty implementation of the law has led to harsher sanctions for low-level drug offences, while at the same time creating a permissive environment for drug trafficking.

ABOUT THIS ISSUE

Each story in this edition of the *Risk Bulletin of Illicit Economies in Eastern and Southern Africa* looks at a different illegal market: from trade in stolen agricultural produce to illegal fishing and ivory poaching. What unites several of the stories, however, is how organized crime can have development impacts and undermine the management of natural resources, whether these are wild flora and fauna, such as elephant populations and fish stocks, or agricultural crops.

The surprising emergence of black markets for avocados and macadamias in Southern Africa is the focus of our lead story this month. Rising avocado theft echoes criminal trends seen globally in avocado-producing countries, as worldwide demand has caused prices to skyrocket. Macadamia theft is a phenomenon seen across Southern Africa to differing degrees of severity in Zimbabwe (where clashes between growers and thieves have turned to violence), South Africa, Mozambique and Malawi.

Illegal, unreported and unregulated fishing is a complex issue, for which reliable data has long been largely

unavailable. This month, we draw on data from the Global Initiative's IUU Fishing Index to show the dynamics of government responses to IUU fishing across Eastern and Southern Africa.

We also report on a success story in the fight against the illegal wildlife trade. Elephant poaching in the Niassa National Reserve, Mozambique, has dwindled to nothing just a few years after the reserve became a regional epicentre of ivory trafficking. We investigate how this was brought about and what lessons this success story may hold for conservation elsewhere.

Finally, four years ago, Uganda introduced new narcotics legislation. Its impacts are now being widely felt: our reporting shows that the new legislation has worsened conditions for people who use drugs in Uganda, who are targeted by the harsh penalties set out in the legislation. At the same time, the way the penalties are structured creates a more permissible environment for drug-trafficking organizations.

Organized-criminal syndicates are muscling in for a share of the profits of southern Africa's avocado and macadamia nut markets.

Markets for agricultural produce may not be commonly associated with organized crime, corruption and violence. But for people in South Africa's farming sector, it may come as no surprise that black markets for macadamia nuts and avocados are booming. Both are premium crops. Macadamias are the most expensive nuts in the world, and price records continue to be broken year on year, reportedly reaching up to US\$25 per pound on international markets.¹ Avocados are commonly dubbed 'green gold', with worldwide demand pushing prices sky high. In South Africa, avocado prices have reached 25 rands per fruit in February this year as pre-season demand outstrips supply.²

The popularity of both crops has become something of a double-edged sword for the farming industry in Southern Africa. Macadamia thefts have surged across the region in the past five years, as have avocado thefts, particularly in South Africa.³ Farming associations say it is increasingly becoming an organized crime, with syndicates dealing in stolen produce infiltrating the legitimate market.⁴

February and March are a particularly vulnerable period for both avocado and macadamia theft in South Africa. Avocado thefts reportedly spike in the months preceding the harvesting season, as the unripe fruit appears ready to eat and prices are high due to pre-season scarcity. Macadamia thefts likewise rise as the harvesting season begins in March.

Avocado theft: A South African manifestation of a global phenomenon

South Africa is a leading player in the global avocado industry, with an estimated 17 000 hectares under cultivation.⁵ While Zimbabwe and, to a smaller degree, Mozambique also have nascent avocado industries, South Africa is by far the largest producer in Southern Africa.⁶

According to Bram Snijder of the South African Avocado Growers' Association, avocado thefts have affected large-scale and smallholder farmers alike, and growers

have shouldered the burden of extensive security operations in their efforts to ward off potential thieves. 'It's shocking to see how much money we spend on security,' he said. 'It's not only fences and alarm systems and things like that, but it's also about guarding orchards and properties day and night during the season. ... There's a massive cost involved in ensuring the fruit doesn't get stolen.'

Thefts range from single opportunists carrying out small-scale raids to large-scale thefts by organized syndicates – groups who have established links to buyers they know will take on the stolen fruit. These groups are not limited to particular areas, but reportedly travel widely across avocado-growing regions to target farms,⁷ and will often strategically hit several farms in an area simultaneously in order to divide security operations in the area.

Large-scale thefts may move between 20 and 30 tonnes of avocados in a single night, which are then distributed through different channels around the region. According to Snijder, farmers joke darkly about the night-time raids, remarking that 'the night shift can pick faster than the day shift'.

In a 2018 survey carried out by the South African Subtropical Growers' Association (Subtrop), the organization which manages the affairs of South Africa's avocado, lychee and mango growers' associations, 83% of growers surveyed said that avocado theft was a problem on their farms.⁸ Figure 1 indicates the scale of avocado theft in recent years (estimates for the 2018 and 2019 seasons were not available at time of writing).

Most stolen fruit finds its way onto the informal market, as roadside hawkers of fruit operate outside formal regulation. Yet a proportion of the spoils also infiltrate South Africa's formal, municipal fruit markets, as unscrupulous buyers may purchase the stolen goods outside the market area and thus outside the legal authority of market inspectors. While groups such as the

South African Avocado Growers' Association attempt to monitor thefts and keep track of stolen fruit being brought to market, gaps in the formal inspection regime have proven hard to close.

According to Snijder, regulations in the international market – including traceability systems and certification of produce – are strict enough to keep stolen produce out of the international supply chain. However, demand for avocados within South Africa is high enough for the stolen fruit to be consumed within the country.

Despite the difficulties in policing informal and municipal markets, and the costs of increased security on farms, the avocado market has, it seems, turned a corner. 'I think these illegal traders have become very wary that [there are] more inspections going on everywhere,' Snijder said, 'and they've also burned their fingers with immature fruit and then people are not going back to their stands to buy fruit again. We've actually seen in the last two years there is definitely a decrease in theft cases.'

The experience of South African growers is far from unique. Amid the surging popularity of the avocado, thefts have been reported as a problem in places as widespread as New Zealand, Spain, California and Mexico, where in the 'avocado belt' of Michoacan, cartels more commonly associated with drug trafficking have muscled in on the business, extorting farmers and hijacking up to 48 tonnes of fruit per day.⁹ Competition between criminal groups for regional control of the trade has led to violence, including several killings,¹⁰ to the extent that some analysts have argued that avocados could be seen as a 'conflict commodity', akin to mineral resources in other conflicts, due to the links with extortion, violence, forced labour and environmental degradation.¹¹

Although the South African black market is clearly not experiencing violence comparable to that occurring in Mexico, it is clear that avocado markets around the world are similarly vulnerable to criminal exploitation.

Macadamia theft: A changing phenomenon across Southern Africa

Reports from macadamia growers in South Africa suggest that, like avocados, the nuts are the targets of organized syndicates, which are involved from the farm gate to the processing and redistribution stage of the market.¹² Major suppliers that are supposedly operating legitimately are also suspected of knowingly purchasing and redistributing stolen crops.¹³

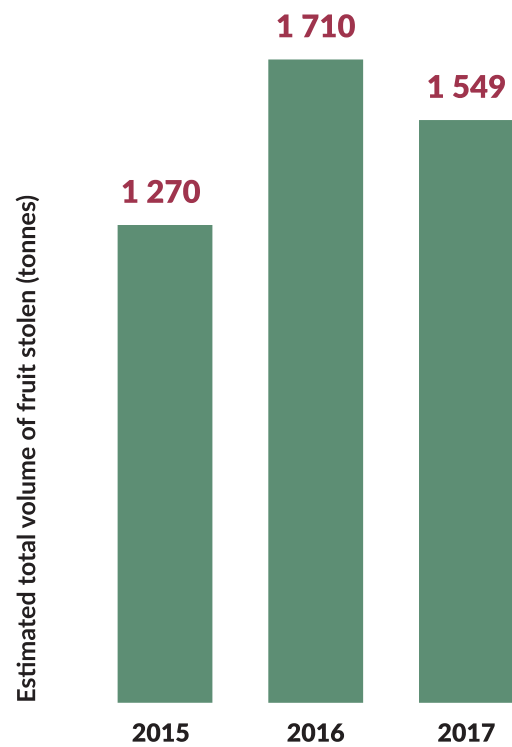


FIGURE 1 Reported avocado thefts in South Africa, 2015–2017

South African Subtropical Growers' Association, data provided by email, 7 February 2020

According to information gathered in 2017 by Macadamias South Africa, a growers' organization, based on reporting from several private investigators, thefts are carried out both from the groves themselves and from processing facilities, and may involve the farm workers themselves, organized teams of independent harvesters, or macadamia hawkers either buying directly or colluding with groups of thieves to receive stolen nuts. Armed robberies are also reportedly on the increase.¹⁴

Reporting from Macadamias South Africa suggests that, unlike avocados, stolen macadamias are being transported internationally, many via Zimbabwe. Other reports have also suggested the stolen produce is shipped via Zimbabwe,¹⁵ and one investigation by a local South African newspaper, *The Lowvelder*, found that businesses operating in Mbombela, the capital of Mpumalanga province, were exporting stolen nuts via Maputo in Mozambique to the United States.¹⁶

Macadamia theft is also pervasive in neighbouring countries. In southern Malawi and Mozambique, macadamia thefts have reportedly contributed to tensions between smallholder and commercial growers,

as commercial growers view the informal market as the conduit for stolen produce and are therefore unwilling to bring smallholders into the formal market.¹⁷

Reporting from Zimbabwe has described several instances where brazen daylight thefts of macadamias by groups armed with machetes have led to clashes between growers and thieves, particularly in the macadamia groves surrounding the town of Chipinge.¹⁸ Several macadamia thieves have been killed and several injured.¹⁹ In one incident, a suspected nut thief was shot dead at the farm of a Zimbabwean army official who is also head of the Chipinge macadamia growers' association. The official's nephew is due to be tried for the murder.²⁰ A new law created in response to the violence, which mandated licensing of macadamia buyers and growers, was welcomed by industry actors.²¹

Implications: More than just lost produce

According to Lizel Pretorius, CEO of Macadamias South Africa, one of the challenges of dealing with macadamia thefts is that – unlike avocados, which rapidly deteriorate in quality once picked – the nuts can be stockpiled for 12 to 18 months before being reintroduced into the market. Where they are presented as legitimate produce, differentiating between legally and illegally acquired nuts becomes impossible.

The impact on macadamia growers is not merely the loss of stolen produce, but the fact that the sale of stolen nuts

(at a fraction of the normal market value) suppresses prices on the international market. Stolen macadamias are also not processed in accordance with industry hygiene standards. The reputational damage caused by produce that is a health risk being sold from South Africa (which prides itself on producing some of the best macadamias in the world) can affect the entire industry.

Avocado growers have also expressed concern that stolen fruit will have an impact on consumer demand, as the fruit is generally stolen while it is immature, meaning it will never fully ripen and therefore gives consumers (who may have bought the fruit unwittingly) a mistaken impression of the quality of South Africa's produce.

These concerns mirror developments in the international market for abalone, as reportedly the influx of poached South African abalone into Hong Kong's food markets has contributed to Japanese abalone being seen as a superior delicacy to legal South African produce. The poached specimens, like the stolen macadamias, are not processed according to food safety standards, and this has impacted the industry at large.

The implications of avocado and macadamia theft go beyond the cost of stolen produce. As growers face unsustainable security costs and the potential for damaged consumer trust in the industry, the thefts place the development of sustainable, viable markets for these crops at risk.

Notes

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Elephant poaching has dramatically decreased in Mozambique’s Niassa National Reserve, once an epicentre of the illegal trade.

From 2009 to 2014, Mozambique lost nearly half of its elephants to poaching; the elephant population declined from an estimated 20 000 to 10 300.¹ The majority of this loss occurred in the Niassa National Reserve in northern Mozambique, where the population fell from an estimated 12 000 in 2011 to around 4 440 animals in 2014. Despite the significantly lower density of elephants in Niassa Reserve, the poaching continued into 2017 and early 2018.² However, in May 2019, Mozambique’s National Administration of Conservation Areas (ANAC) announced that it had been a year since a poached elephant had last been found in the reserve.³ Later in 2019, ANAC released the results of the 2018 national elephant census, revealing a stabilization of the national population, with an

estimated 9 122 animals,⁴ although losses are still occurring in key populations in the west and south-west.⁵

Niassa Reserve, at 42 300 km², slightly larger than Switzerland, is one of Africa’s few remaining remote wilderness areas where large elephant, lion and wild dog populations still roam. This started changing in 2009, when the rampant elephant poaching under way in Tanzania⁶ shifted south across the Rovuma River into the northern part of the Niassa Reserve, and affected the whole reserve by 2013–2014 (see Figure 2). By 2014, the poaching had also become increasingly professionalized, carried out by specialized gangs using high-calibre hunting rifles.⁷

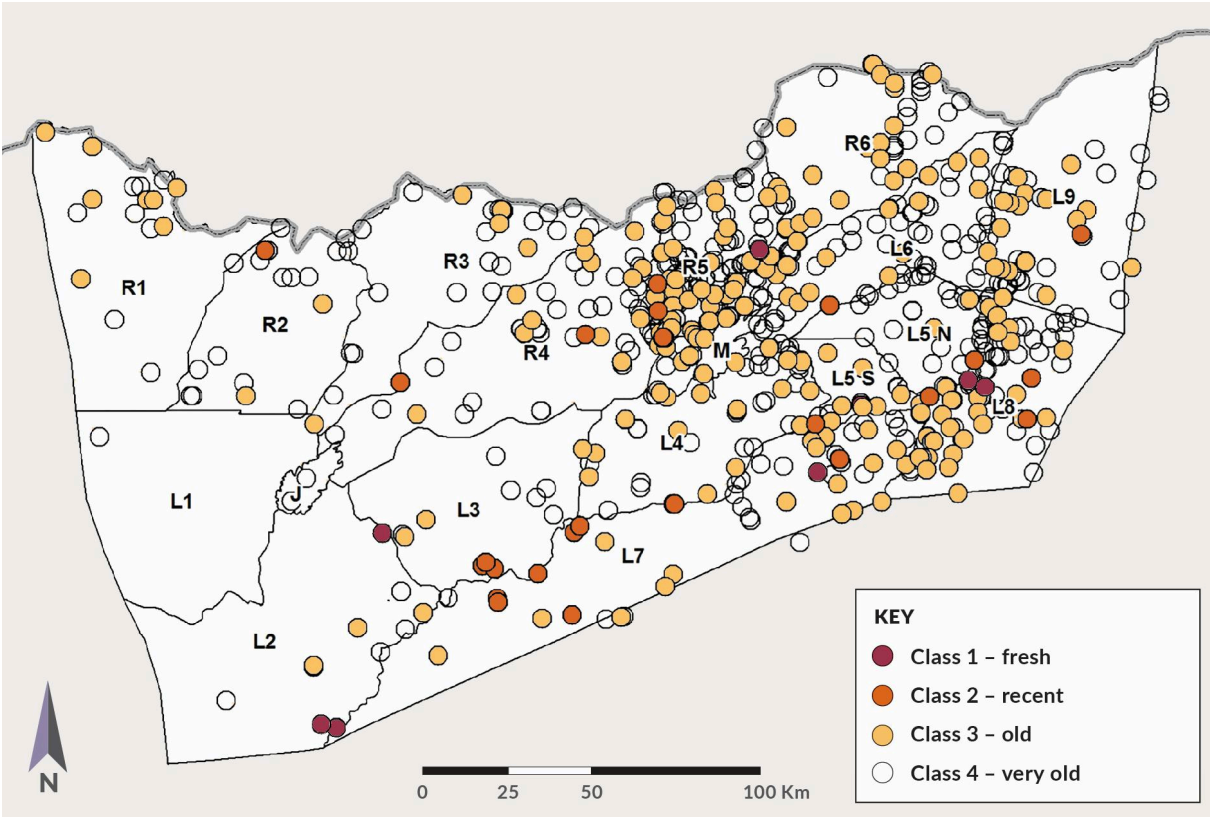


FIGURE 2 Elephant carcass distribution in the Niassa National Reserve, Mozambique during a dry-season aerial survey in 2014
National Administration of Conservation Areas, Mozambique

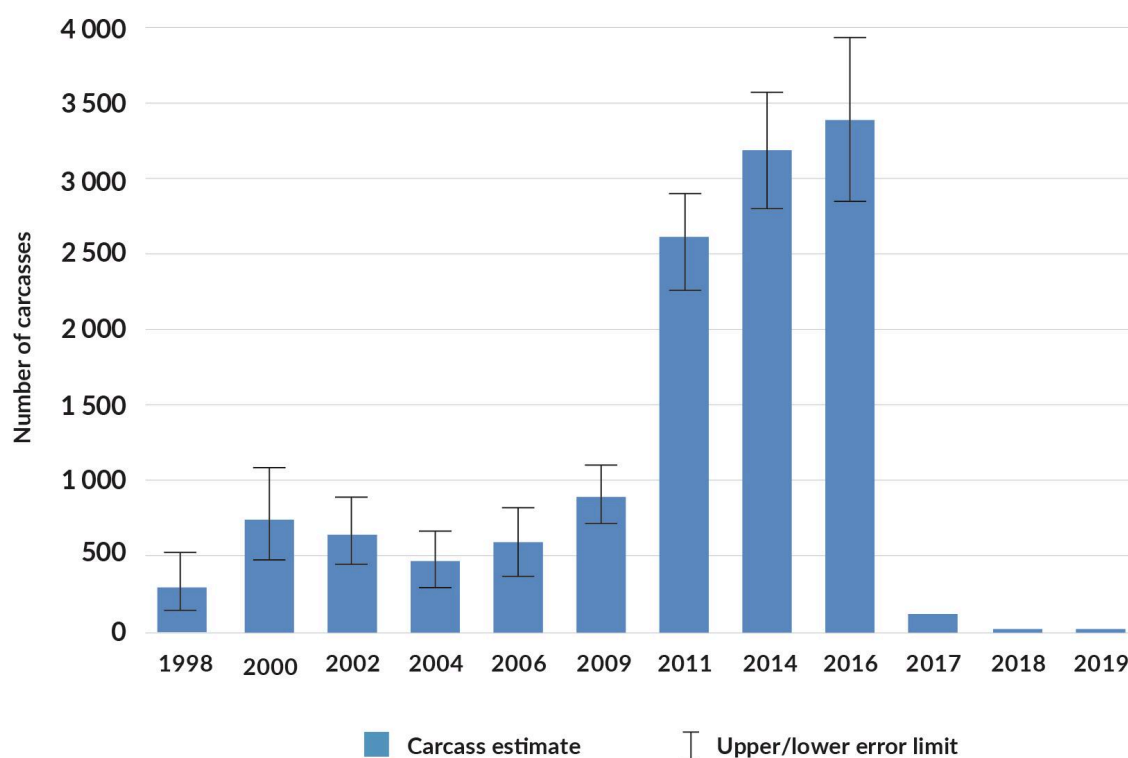


FIGURE 3 Estimated number of elephant carcasses and margin of error

Note: Estimating the count of elephant carcasses across a vast terrain, such as the Niassa National Reserve, faces a number of practical barriers, such as the scale of the area and the difficulty of finding carcasses via an aerial count in woodland areas.

Source: National Administration of Conservation Areas, Mozambique

By late 2014, northern Mozambique, and the port of Pemba in particular, had become a significant hub for ivory trafficking.⁸ Ivory was trafficked from Uganda, and possibly further west, overland and by dhow down the coast from Tanzania to northern Mozambique and then to Asia. By 2016, ivory stockpiles in Mozambique were being raided,⁹ and poaching of the Niassa Reserve elephants continued, even though the low density of elephants made them hard to find. Before 2014, most ivory from elephants poached in northern Mozambique was moved into Tanzania and exited the African continent from East Africa; but with the shift of trafficking to Pemba and Nacala in northern Mozambique, ivory stolen from stockpiles and poached in the Niassa Reserve began moving directly from Mozambique.

The first actions that contributed to the later reduction in poaching started in 2017 and 2018 (see Figure 3). A key event was the July 2017 arrest and repatriation to Tanzania of a major ivory trafficker who had been operating in northern Mozambique with impunity since 2013.¹⁰ The arrest and transfer were the result of a three-year investigation involving a multi-agency

collaboration between ANAC, the National Criminal Investigation Service of the Police, and the Attorney General's Office, with NGO and donor support. In 2014, this trafficker had been operating five poaching gangs in the Niassa Reserve. Just two of the gangs had together supplied him with 825 kilogrammes that year alone. There is also evidence tying him to the theft of 867 pieces of ivory from a stockpile in northern Mozambique in late 2016. He was well known for maintaining a local network of bribery payments to maintain his anonymity and security – making his arrest and repatriation even more notable.

Following this arrest, and based on information gained from interrogations, a further six ivory traffickers operating on the eastern side of the Niassa Reserve were arrested and convicted in court in the province of Cabo Delgado in northern Mozambique.¹¹ At the same time, higher-level networks trafficking ivory from the ports of northern Mozambique were being exposed, and in some cases dismantled and individuals arrested.¹² Recent fieldwork in Pemba, Mozambique, by a Global Initiative team found no indication of ivory being

trafficked through that port.¹³ Other sources in the area have indicated that the local ivory trade has ceased because the perceived threat of arrest and conviction is high.¹⁴ The same sources suggested that local ivory traders are holding small stockpiles from the past but are too afraid to move or sell them.

In early 2018, changes were also made on the ground in the Niassa Reserve. Key partners – ANAC, the police, the Wildlife Conservation Society (ANAC's co-management partner for the Reserve), the Niassa Conservation Alliance and other operators – began to implement a coordinated anti-poaching strategy. This included deploying a specialized rapid-response police unit, appointing a senior police liaison officer to coordinate all police forces with Reserve scouts, better equipping the scouts, making a light aircraft available year-round, and chartering a helicopter during the 2018 and 2019 wet seasons. Improvements in communications were also made through investment in a radio network and regular meetings between the partners. In addition, the partnership cleared out illegal mining and fishing camps in the reserve. Finally, a

significant proportion of the elephant population were collared and tracked in order to focus protection activities. In the first 12 months that the police rapid-response unit operated in the reserve, they arrested 46 people, of whom 26 were convicted.¹⁵

A final key component of the reduction in elephant poaching in Niassa Reserve has been high-level political support. In November 2018, Mozambique's president, Filipe Nyusi, visited the reserve and participated in a widely publicized elephant-collaring operation.¹⁶ He used this opportunity to emphasize the need to restore the rule of law, while also reducing resource conflicts with local people.¹⁷

It is unlikely that the decline in elephant poaching in the Niassa Reserve is purely the result of effective anti-poaching operations and increased sentencing. Our recent fieldwork ascertained that while ivory from the Niassa Reserve was not for sale, live pangolins are, and local sources confirm that pangolin scales and lion bones originating from the reserve still transit Pemba and can be sourced if wanted. It is not surprising that



During the poaching crisis, Mozambique lost almost 10 000 elephants – including this one from the Niassa National Reserve – in just five years. A combined effort of law enforcement and park management has helped bring poaching in the reserve down to nothing today.

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anti-poaching operations alone in an area the size of the Niassa Reserve have not stopped illegal wildlife trade across the board. Further, there is evidence that sentence length alone is not a good deterrent, but rather the likelihood of being caught and a sanction occurring have a higher impact on deterrence.¹⁸ This may be exacerbated in Mozambique where prison overcrowding means that prisoners are fairly regularly released early to make space for new offenders. Therefore, while effective anti-poaching operations and effective sentencing are key components of improving the rule of law in and around protected areas, there may be several other key factors that are critical to reducing organized high-value poaching. In this instance, key specific factors include:

- the 2017 arrest of northern Mozambique's most notorious ivory trafficker, who was the key link between poaching and stockpile thefts in northern Mozambique and the Pemba ivory traffickers
- the immediate follow-on arrests of lower-level ivory traffickers
- disruption of the corrupt protection of ivory traffickers and poachers, which has, in turn, broken the general perception of impunity

- the increased perception of the likelihood of arrest and conviction for ivory trafficking resulting from the recent crackdown
- reduced demand for ivory from traffickers in Pemba, which had become a major centre for transnational ivory trafficking
- cooperation between trusted individuals in key government law enforcement agencies (ANAC, the National Criminal Investigation Service and the Attorney General's Office) to overcome information leakage from local law-enforcement agencies
- direct operational support from donors and NGO partners for these cooperating law-enforcement activities
- the work of international law-enforcement agencies to dismantle the ivory-trafficking networks operating from northern Mozambique; and
- high-level political support.

At the same time, the wider context of the breakdown of the rule of law in northern Mozambique due to ongoing violence, and other ongoing illicit trades in the region, must be borne in mind. The specific successes described here should be attributed to improved rule of law that focused on a specific product – ivory. This has overcome a culture of impunity and created a feeling of vulnerability in the criminal networks dealing with that product.

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The Global Initiative's IUU Fishing Index provides insights into illegal, unreported and unregulated fishing in East and Southern African countries.

In January 2020, a study highlighting an innovative methodology – using sensors attached to live albatrosses to monitor illegal, unreported and unregulated (IUU) fishing – revealed that up to a third of the 353 fishing boats the birds encountered fishing in the southwestern Indian Ocean between November 2018 and March 2019 had turned off their automatic identification systems.¹ These systems are used by national authorities to inform maritime security efforts and to track vessel movements. As they are required to be switched on at all times, when vessels turn them off it is a likely sign of illegal activity.

Over the last decade, successful and sustainable exploitation of the ocean has become a development objective for many East African countries, with Mauritius (2013), the Seychelles (2018) and, most recently, Zanzibar (2020) launching 'blue economy' development strategies – yet along with these aspirations come anxieties that IUU fishing will undermine them.² Although comprehensive information about the extent of IUU fishing in East and Southern Africa (ESA) as a whole is not available, it is likely that IUU fishing is a significant problem throughout the region.

Somalia has been recognized as an IUU fishing hotspot,³ as civil unrest has weakened its ability to control fishing in its waters, and there is evidence of illegal fishing in Tanzania⁴ and South Africa.⁵ The south-western Indian Ocean (of which ESA countries are coastal states) contains a wide variety of valuable fish resources, such as tuna and abalone, which incentivizes IUU fishing.

In the last few years, IUU fishing has become an increasingly prominent geopolitical issue in the region. In 2018, the European Commission cut funding for fisheries development in the Comoros and identified it 'as a non-cooperating third country in fighting IUU fishing'.⁶ EU member states have also come under criticism – including Spain, which civil-society groups in the Seychelles alleged had underreported its tuna catch in the Indian Ocean, leading to EU sanctions in 2019.⁷

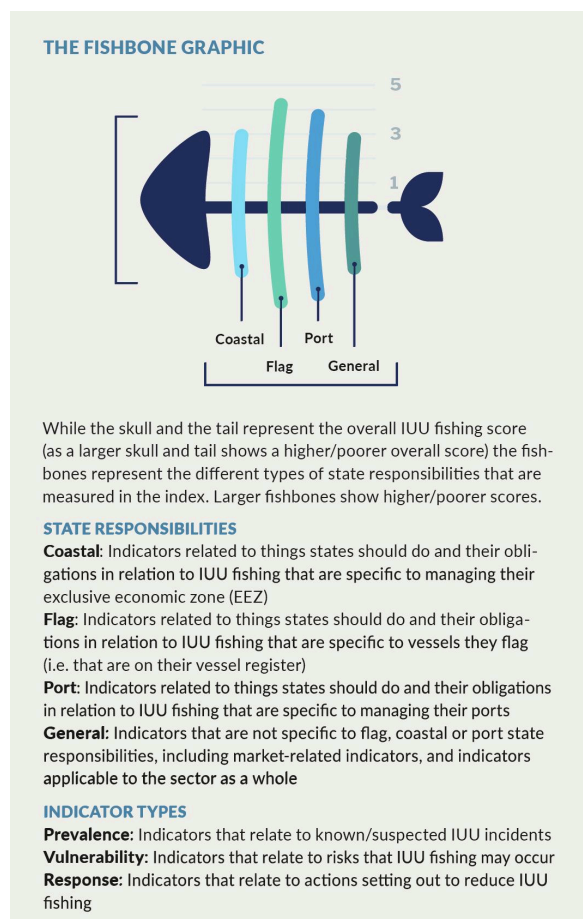


FIGURE 4 Indicators considered in the IUU Fishing Index

Many ESA countries rely heavily on the fisheries sector for its contribution to gross domestic product, export earnings, employment and food security. Failure to reduce IUU fishing in the region threatens these benefits, with potentially serious consequences for the countries concerned.

Reliable and comparable data

Recognizing its negative impacts on local, national and global development, eliminating IUU fishing by 2020 was included as a target in UN Sustainable Development Goal 14. A global IUU Fishing Index (www.iuufishingindex.net) was launched in February 2019 to evaluate countries' exposure and the quality of

their response. The IUU Fishing Index was developed by Poseidon Aquatic Resource Management (www.consult-poseidon.com) and the Global Initiative Against Transnational Organized Crime (<https://globalinitiative.net/>). The index addresses the lack of reliable and globally comparable estimates of IUU fishing that enable comparisons across countries and over time. The lack of such data has made it difficult to identify where interventions are most needed, and thus has hindered efforts to reduce and eliminate IUU fishing. The index allows countries to be comparatively ranked as well as individually assessed in terms of their exposure and responses to IUU fishing.

The index applies 40 indicators to 152 countries with a maritime coastline. Each country is scored on a scale of 1 (good) to 5 (poor), based on the weighted indicators. The scores do not establish how much IUU fishing there is in each country; rather, they measure the relative risk of IUU fishing incidence.

The 40 indicators are based on a combination of four state responsibilities and three indicator types, as shown in Figure 4.

The index thus provides the basis for comparing countries, world regions and ocean basins in terms of IUU prevalence, vulnerability and response. The index can help to identify the countries, regions and areas where action would be beneficial and would reduce levels of IUU fishing.

East and Southern African country scores

Index scores for 12 ESA coastal countries – Comoros, Djibouti, Eritrea, Kenya, Madagascar, Mauritius, Mozambique, Namibia, Seychelles, Somalia, South Africa and Tanzania – are slightly worse than average global scores for IUU fishing (Figure 5).

The higher (worse) scores are mostly driven by higher scores on prevalence and vulnerability. The region fares particularly poorly for the indicator groups of coastal **prevalence** and coastal **vulnerability**, due to continuing disputes over maritime boundaries, a large number of foreign vessels fishing in the waters of coastal states, and the large size of their exclusive economic zones (EEZs) (the area of sea from the coast to 200 nautical miles offshore), which makes it harder to monitor IUU fishing.

On the other hand, the ESA region scores slightly better than the global average on government **response**, as most countries in the region are either contracting parties or cooperating non-contracting parties to all relevant regional fisheries management organizations (RFMOs), and operate a national vessel monitoring system (VMS) and fisheries monitoring centre. RFMOs manage regionally shared fish stocks, typically highly migratory stocks, such as tuna, that move between EEZs; a VMS tracks fishing vessels using transponders, placed on the vessels, which emit location data that are read by satellites and transmitted to graphical displays on computer terminals in the fisheries monitoring centres.

Comoros, Somalia and Tanzania have the worst scores and rank poorly in global terms. Kenya, Mauritius, Namibia and the Seychelles are the best-performing countries in the ESA region, although these scores nevertheless still indicate a high risk of IUU fishing, and poor performance in terms of global comparisons (Figure 6).

Somalia has suffered from decades of civil war and a weak central government that has not been able to control or police its coastal waters. Unsurprisingly, it performs poorly in most indicator groups, with a particularly below-average score for government response – 2.82, compared to the regional average of 2.44 (Figure 7). The government, for example, has not

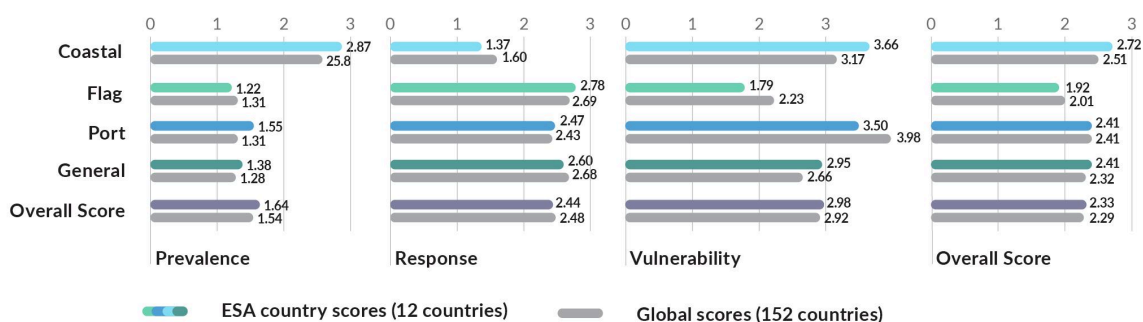


FIGURE 5 East and Southern Africa coastal country scores from the IUU Fishing Index compared to global average scores



FIGURE 6 Three highest- and lowest-performing countries on the IUU Fishing Index in East and Southern Africa

provided data on its vessels to the FAO Global Record of fishing vessels, a repository of government-certified information intended to combat IUU fishing. It does not comply with all RFMO flag and port state

responsibilities, and it has not ratified the UN Fish Stocks Agreement.

On the other hand, the Seychelles performs very well on most response indicators, and is the best-performing country in the region overall. Its high response score derives from the fact the country has signed and accepted most relevant international fishing agreements, has developed a national plan of action to combat IUU fishing, tracks its fishing vessels using a VMS, and has supplied data on its vessels to the FAO Global Record.

Yet while the Seychelles has good scores for government response, it has the second worst scores in the region for prevalence, and the third worst for vulnerability. The poor prevalence score is driven by the assessment of IUU fishing levels by the people involved in monitoring, control and surveillance, and by the number of vessels on the lists of IUU vessels maintained by RFMOs, suggesting that vessels operating under the country's flag are involved in IUU fishing. The Seychelles is also vulnerable to IUU fishing because of its large EEZ and the large number of foreign vessels fishing in its waters and landing fish into its ports (Figure 8).

The way forward

The index clearly shows that many countries in the ESA region are at above-average risk of IUU fishing. There are only a limited number of actions that can be taken to mitigate vulnerability to IUU fishing. Countries would not want to reduce the size of their EEZs, and resolving maritime boundaries will take a long time. But several actions can be taken by countries in the ESA region to improve responses to IUU:

- Develop a national plan of action to combat IUU fishing.
- Sign international fisheries agreements that aim to reduce IUU fishing.
- Better track vessel activity using a VMS.
- Provide data on their fishing vessels to the UN Food and Agriculture Organization.
- Ensure full, or at least better, compliance with all RFMO obligations in relation to vessel and port management.

While some of the actions would have cost implications, the costs may not be significant, and the actions are relatively easy to achieve if the political will is there.

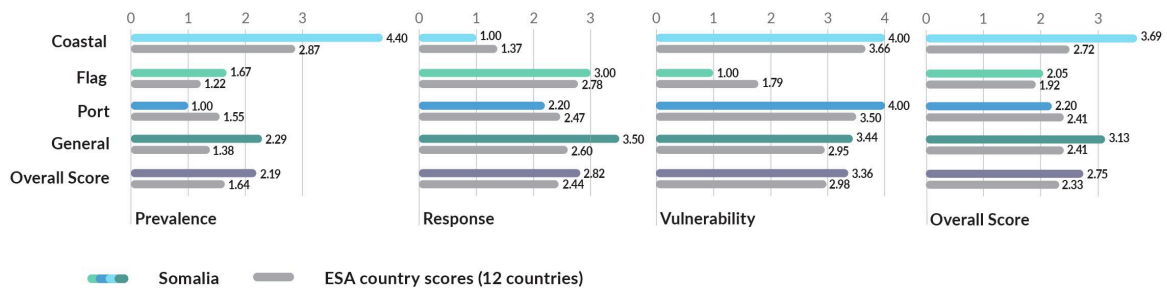


FIGURE 7 IUU Fishing Index scores for Somalia compared to average scores for East and Southern Africa

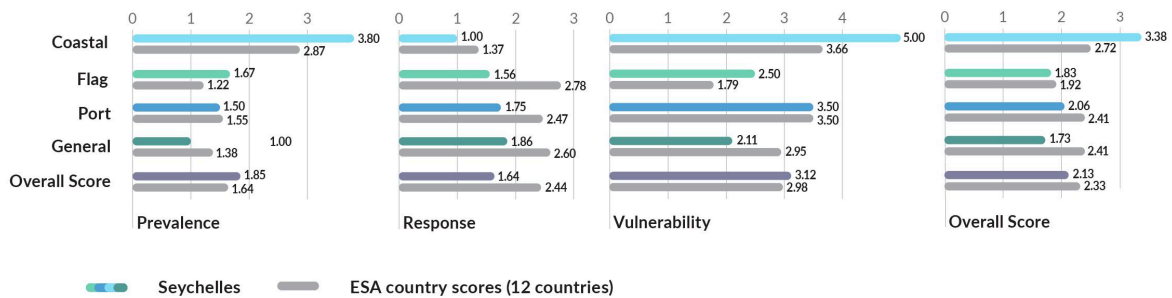


FIGURE 8 IUU Fishing Index scores for Seychelles compared to average scores for East and Southern Africa

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Uganda's Narcotic Drugs and Psychotropic Substances Act 2016 has left individuals vulnerable to abuse while failing to deter major drug traffickers.

In February 2016, after three years of lobbying and repeated attempts to pass the draft bill in Uganda's parliament, the Narcotic Drugs and Psychotropic Substances (Control) Act came into force. The Act intensified Uganda's already prohibitionist approach to drugs by significantly increasing penalties for all drug-related offences.

The Act has been controversial from the outset. Although lawyers in Uganda and law-enforcement officials praised the legislation, human-rights activists and rehabilitation centres criticized the harsh sentences it prescribed. The legislation also fails to properly distinguish between the offences of possession and trafficking, and places an overarching emphasis on a criminal-justice response to drugs rather than a public-health approach.¹

Civil-society members argue that, while the Act has had a negligible impact on drug-trafficking networks, the most tangible change has been the level of abuse suffered by people who use drugs at the hands of law enforcement, and in the bribes they must pay to evade arrest.² Law-enforcement officers highlight the dearth of alternatives to criminal-justice approaches, such as state-run rehabilitation clinics, in countering drug use.³

The Ugandan Human Rights Commission held a consultation on the Act in October 2019, in which a number of civil-society groups advocated the decriminalization of drug use.⁴ However, in Uganda's current political climate, any reform is unlikely until after the 2021 national elections.

As part of its ongoing research into the political economy of illegal drug markets in Uganda, the Global Initiative has investigated how the technical practicalities of implementing the 2016 Act have had differing impacts on the rights of vulnerable people who use drugs and on organized-crime groups trafficking drugs.

Context

Following an established and familiar pattern across East and Southern Africa, Uganda has, over the past decade, become a significant transit country for Afghan heroin brought to the East African coast and destined for European markets. To a lesser extent, Uganda is also a transit state for South American cocaine destined for Europe. Rising rates of heroin consumption within Uganda also follow the patterns seen in countries across the region.⁵ Nominally, the 2016 Act was passed to counter these two trends.

High-level corruption connected to drug trafficking also provides a significant backdrop to implementation of the 2016 Act. The delays faced in passing the Act through parliament were attributed by interviewees to entrenched resistance among members of parliament, many of whom are believed to draw large profits from drug trafficking and therefore to have vested interests in blocking higher sanctions for traffickers.⁶ According to a US government submission in the 2019 drug-trafficking trial of the Kenyan brothers Baktash and Ibrahim Akasha, they and two associates attended a meeting at which Ugandan President Yoweri Museveni's sister-in-law allegedly 'offered to provide a license to import...ephedrine, two tons at a time, in exchange for a percentage of the profits'. The documents show that the Akasha network had 'discussed using laboratories in Burundi, Uganda, and Tanzania to manufacture the ephedrine into methamphetamine'.⁷

Implementation of the Act

The 2016 Act adopts an approach common in African drug legislation, with escalating penalties for use, possession and trafficking. According to legal practitioners, the logic behind ascribing higher sanctions to possession than to use is that a person possessing narcotics could be seeking to deal in them.⁸ The higher penalty for possession applies even if the amount of drugs is small, although of course this can be taken into account during sentencing.

Although Uganda’s penalty structure is the same as, for example, Ghana’s, the impacts of the Ugandan legislation have reportedly been particularly punitive.⁹ While Ghanaian law-enforcement officers commonly charge

those found in possession of a small quantity of illicit narcotics with use rather than possession, to enable a less punitive sentence,¹⁰ this trend has not been reported in Uganda.



Four years after Uganda’s parliament passed a draconian anti-narcotics law, civil-society groups say the legislation has created an opportunity for corruption and persecution of people who use drugs. Here in Kisenyi, a slum in the heart of Kampala, photographer Michele Sibiloni captured a glimpse into the daily lives of addicts existing on the margins of society.

© Michele Sibiloni

Most cases of possession are tried in Uganda's lower courts, which are not courts of record, so it is impossible to know the exact number of people arrested and charged under the Act. However, legal practitioners and law-enforcement officials reported that the vast majority of those arrested are charged with possession, and that the number of individuals charged with possession has significantly increased.¹¹ Few trafficking cases are reported, and people who can afford a bribe are never charged.¹²

For the trafficking cases that do come to trial, there are additional difficulties. The Act does not provide a clear distinction between the offences of possession and trafficking, such as a specific amount of narcotics. This is a crucial distinction, as sanctions for possession grant the judge discretion to sentence the perpetrator to a fine or imprisonment, or both, while those for trafficking mandate life imprisonment as well as a fine.

In spite of this mandate, trafficking penalties handed down by Ugandan courts since the Act came into force have been almost exclusively limited to fines.¹³ This is reportedly due to judicial fear of appeals against decisions.

The financial penalties imposed under the Act have been meaningless to higher-level drug traffickers but harshly punitive for disadvantaged people who use drugs. The Act dictates the same financial penalty for possession and trafficking: either a fine of not less than 10 million Ugandan shillings (€2 425),¹⁴ or 'three times the market value of the narcotic drug ... whichever is greater.'¹⁵ While the Act sets a minimum fine, in practice courts appear to have adopted the minimum as the standard amount.

As regards the market value of the drug, beyond stating that this should be documented in a certificate signed by an officer appointed by the minister responsible for internal affairs,¹⁶ the Act provides no guidance as to how the value is to be determined and, crucially, which market the price is based on. As of December 2019, no officer had been appointed, 'market value' remained undefinable and courts exclusively set fines based on the Act's mandated minimum.

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One 2019 lower court judgment reported to the *Risk Bulletin* confirms some of the trends identified, while calling others into question. A Venezuelan national arrested carrying 1.7 kg of cocaine and convicted on parallel counts of trafficking and possession, was reportedly sentenced to 11 years imprisonment on each count (22 years in total), together with the standard fine. While consistent with reports that the fines imposed are the minimum prescribed by the Act, it presents an exception to the reported lack of imprisonment for trafficking cases, although it still does not amount to the life sentence prescribed by the Act.¹⁷

One lawyer interviewed by the Global Initiative suggested that the intention of the Act is that the market value of seized narcotics is calculated based on the value at their intended destination, with the street price of drugs in New York or London used as a proxy. However, this presents significant challenges in accurately determining the drugs' destination, and, in any case, an officer responsible for determining the price has not been designated.

Although the fines currently imposed are insignificant for large-scale traffickers, they outstrip what most drug users can afford. Failure to pay the fine is punishable by a 10-year prison term (a mandatory minimum sentence not subject to judicial discretion). The Act is noted to have fuelled extortion by law-enforcement officers, who give people who use drugs a choice between 10 years' imprisonment and a bribe. Families and friends are often prevailed upon to provide funds to pay the bribe.¹⁸

Although imposing arguably disproportionate sanctions on people who use drugs, the current application of the Act's sanctioning regime has made Uganda attractive as a transit country for drug-trafficking networks, for whom the relatively low penalties are merely a cost of doing business.¹⁹ In large part due to ineffective judicial implementation, and a lack of government guidance, the Act's impact on large-scale drug-trafficking networks has been at best negligible and at worst counter-productive.

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