Counterfeiting, Piracy & Smuggling - Growing threat to national security

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1. Executive summary

Terrorism is a well-known problem that is prevailing around the world and poses an imminent threat to civilians, the industry and governments. Terrorist organizations may operate with different operational goals including regional, ideological or economic. However, to carry out their operations, they require large amounts of financing.

The costs incurred by terrorist organizations can be divided into direct and indirect costs. The direct costs incurred by terrorist organizations include those of materials used in attacks, e.g., explosives, vehicles, weapons, communication equipment, etc. The indirect costs incurred, which are usually much higher than direct ones, include those of running terrorist organisations, including recruitment, training, propagation of agenda, cost of inactive terrorist cells, etc. As per news and media reports during the past several decades and cases disclosed by law enforcement agencies, terrorist organizations raise funds from a wide range of sources, largely from state funding and donations and charities. However, in the past few decades, they have expanded their funding avenues and have been actively using counterfeiting, piracy and smuggling as means of funding their operations.

During the past few decades, leading intelligence and law-enforcement agencies around the world have found conclusive evidence of the increasing involvement of terrorism organizations in counterfeiting, piracy and smuggling activities to fund terrorist attacks. While several counterfeiting outfits are transferring portions of their proceeds to terrorist organizations, some of these are set up for the sole purpose of financing terrorism. Counterfeiting of drugs, luxury goods, cigarettes, etc., is a major source of contribution to funding extremist groups. Similarly, smuggling of goods is used by terrorist organizations to raise funds and launder proceeds from other businesses, and use these to finance terrorism. Investigations by law enforcement agencies the world over have revealed that smuggling of gold, cigarettes, oil, precious gems and stones, music and film DVDs, narcotic drugs, etc., are the major contributors to financing of terrorism.

As per the recent news reports, apart from their direct involvement in counterfeiting, piracy and smuggling to raise funds, terrorist organizations have increasingly begun to develop strong linkages with organized crime and mafia organizations to fund their operations. Given their vast network, it is easier for organised crime outfits to raise funds through counterfeiting, piracy and smuggling, which are then laundered to finance terrorist organizations.

India has taken several initiatives to curtail the menace of counterfeiting, piracy and smuggling, and its nexus with financing of terrorism. The Government has passed and enacted several laws and enforcement agencies have been enabled to detect and prevent counterfeiting, smuggling and financing of terrorism. Significant technological advancements have been made by the industry and the Government, which has implemented capacity-building measures to create awareness among consumers, industry and enforcement agencies to sensitize them about this menace.

FICCI's Committee against Smuggling and Counterfeiting Activities Destroying the Economy (CASCADE) has released a landmark study in 2013 on the Socio-Economic Impact of Counterfeiting, Smuggling and Tax Evasion in India. The study also recommends concrete steps to be taken by the Government in order to curtail such activities. In addition to efforts made till now, it is essential for the Government and industry to collaborate on tackling the menace of counterfeiting, piracy and smuggling. Some effective measures could include:

- Setting up of government agencies that are solely responsible for preventing counterfeiting and piracy
- Strengthening laws and regulations to aid enforcement agencies in investigating and prosecuting perpetrators of such crimes
- Working on creation and implementation of standard technical solutions for anti-counterfeiting / piracy and smuggling to be adopted across industry sectors
- Creating awareness among consumers and enforcement agencies on the importance of effectively tackling counterfeiting, piracy and smuggling

This knowledge paper explores the dimensions of financing of terrorism through counterfeiting, piracy and smuggling. Due to the sensitivity of the topic, our analyses are presented from the qualitative point of view, based on secondary research carried out in the field.

2. Foreword from FICCI

3. Foreword from Ernst & Young

The fight against terrorism has united the entire nation, government and citizens alike. It is unilaterally felt that in order to curb terrorism, it is essential to cut the financing of terrorism activities. While the conventional modes of terrorism financing such as state sponsorship, donations and charities continue to play a big role; newer modes of terrorism financing such as counterfeiting, piracy and smuggling have started emerging and the terrorism organisations worldwide are exploiting such means to further their cause.

India has come a long way in countering terrorism and financing of terrorism through several initiatives in the form of regulations, setting up of intelligence agencies and building capacity in IT infrastructure and personnel. One of the major initiatives taken in this direction is the enactment of regulations such as the Prevention of Money Laundering Act (PMLA) and the Unlawful Activities Prevention Act (UAPA). Another was setting up of the Financial Intelligence Unit (FIU), which plays a leading role in countering financing of terrorism (CFT) by collecting and monitoring activities in the financial and banking network, and thereby identifying potential transactions leading to financing of terror. Furthermore, agencies such as the National Intelligence Grid (NATGRID) and the National Investigation Agency (NIA) have been established and will be responsible for prevention and investigation of cases relating to financing of terrorism and other national security issues.

We have tried to analyze the links between counterfeiting, smuggling and financing of terrorism through this knowledge paper, "Counterfeiting, Piracy & Smuggling - Growing threat to national security". We hope you find this paper insightful and useful to understand the nexus between terrorism and counterfeiting, piracy and smuggling.

We are deeply thankful to FICCI for giving us the opportunity to present our viewpoint through this knowledge paper at the "Trade in Counterfeit, Pirated and Smuggled Goods — A Threat to National Security and Economy" conference to be held in New Delhi on 19 and 20 September 2013.

Rahul Rishi

Partner, Advisory Services
Ernst & Young LLP

4. Introduction to terrorism and financing of terrorism

"Money is the lifeblood of terrorist operations. Today, we're asking the world to stop payment."
President George W. Bush, 24 September 2001

Terrorism is an evil witnessed around the world. It poses an imminent threat to civilians and governments. Terrorist attacks not only affect the victims, but also civilization as a larger audience. There is no common definition of terrorism, which is globally accepted by all. Different countries and organizations working to eradicate it have defined it differently. Terrorism is defined in the Code of Federal Regulations as "*the unlawful use of force or violence against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives*."[1]

According to the Global Terrorism Index, India is the fourth most terrorism-afflicted country in the world after Iraq, Pakistan and Afghanistan. There were 529 incidents of terrorism in India in 2011[2]. The Global Terrorism Database (GTD) has a specific definition of terrorism — "*...covering acts of intentional violence perpetrated by sub national non-state actors.*" Furthermore, the acts must satisfy two of the following three criteria:

- They must be aimed at attaining a specific political, economic, religious or social goal.
- There must be evidence of an intention to coerce, intimidate or convey a message to a larger audience than the immediate victims.
- The acts must be outside the context of legitimate warfare-related activities.

Some major terrorist attacks:

- September 2001: A series of coordinated attacks on the Twin towers of the World Trade Centre
- July 2006: Seven explosions in Mumbai trains
- August 2007: Twin bomb blasts in Hyderabad
- 2008: Series of bomb blasts in Jaipur, Bengaluru and Ahmedabad
- November 2008: Terrorist attack in Mumbai
- July 2013: Explosion of nine bombs in Bodhgaya

4.1. Overview of terrorist organizations

Before delving into the details of financing of terrorism, let us understand the various types of terrorist organizations and their need for funds. While perpetrators of terrorism can be classified in several ways, for the purpose of this section, we have classified them on basis of their affiliations, geographical spread and operational goals. The various categories of terrorist organizations overlap to describe a single terrorist organization and helps in identifying the motivation factor of these groups.

Figure 1: Categories of terrorist organizations



[1] U.S. Department of Justice, Federal Bureau of Investigation. *Terrorism 2002-2005* from the world wide web*:* http://www.fbi.gov/stats-services/publications/terrorism-2002-2005.
[2] Global Terrorism Database.

Non-state-supported terrorist groups: Such groups operate independently and receive no significant support from any government for intelligence, operations, and access to weapons, e.g., the Naxalites.

State-supported terrorist groups*:* These operate independently and receive the support of one or more government bodies for intelligence, operations, protection and access to various types of weapons.

International/Transnational terrorist groups*:* These have operations across the borders of their countries. They partner and work in collaboration with local/regional terrorist groups to share knowledge, plan and carry out terrorist activities on foreign soil.

Domestic terrorist groups*:* Such groups promote violence against the people and infrastructure in their own country. They may be provided operational support and weapons by international terrorist bodies.

Regional terrorist groups: The operations and influence of such groups are predominant in specific geographies. They may be regional affiliates of international terrorist organizations or independent entities.

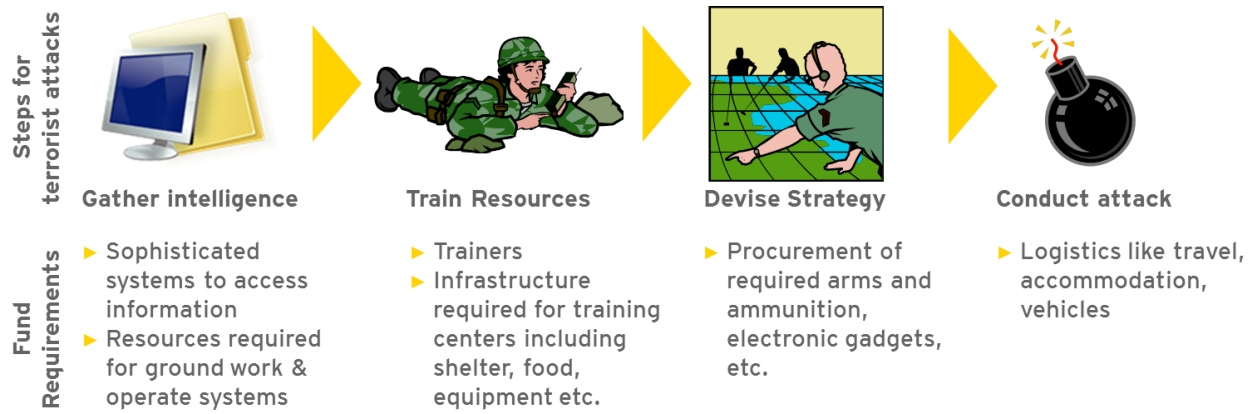
Ideological terrorist groups: These groups attempt to impose their ideals on others. These ideals can be religious, political or dedicated to a particular cause such as anti- globalism, animal rights, ecology, and so on. Religious terrorist groups are motivated by religious ideologies and are most common. These perpetrator groups are dedicated to a religious cause. Terrorists associated with such organizations are trained, indoctrinated with religious teaching and even encouraged to sacrifice themselves for a religious cause. These perpetrators generally use terrorist tactics such as suicide bombing.

Economic terrorist groups: These aim to disrupt the economic stability of a country or region.

4.2. Need of financing for terrorist organizations

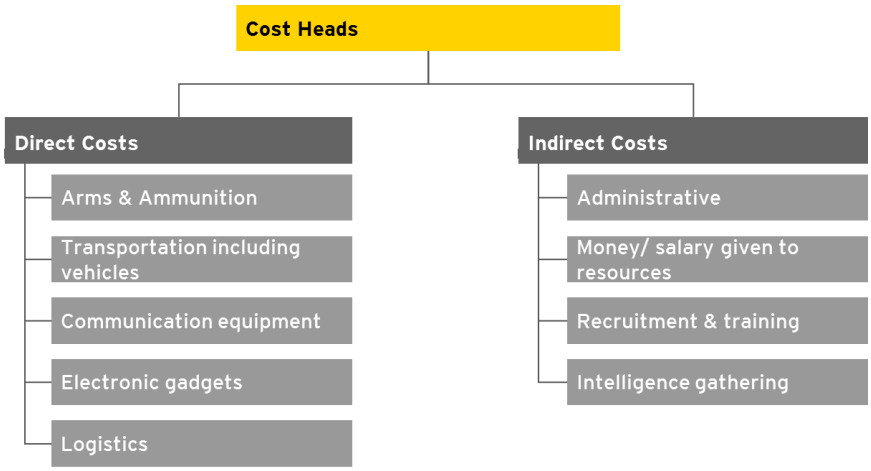
No terrorist organization can work without resources such as manpower, funds, intelligence, weapons and logistics. Terrorist organizations need funds at each every step of their operations. An indicative chain of events with need of funding is shown below.

Figure 2: Need of financing for terrorist organizations



The costs incurred by terrorist organizations can be divided into direct and indirect costs. Direct costs include those of materials used in attacks, such as bombs, vehicle, weapons and communication equipment. Indirect costs include those of planning and executing attacks and operational expenses for running such organizations.

Figure 3: Cost heads of terrorist organizations



These organizations are well linked to each other and provide financial support to each other for organizing terror activities.

4.3. Sources of financing terrorism

Terrorist organizations gather funds from illegal and legal sources to conduct their activities.

4.3.1. Legitimate sources of funds

Legitimate sources of funds include state sponsorship, donation from individuals and corporate organizations, religious financing, public charities and legal businesses.

State-sponsored terrorist groups: These receive significant funding from the state.

Ideological terrorist groups: These seek funding through religious financing and donations. These donations are from people who share the same ideology or religious beliefs as the groups. One of the methods to collect funds is through international Non- Profit Organizations (NPOs) as a front and then transferred from one country to another without any regulatory issues being faced.[3]

Transnational terrorist groups: Such groups raise funds through their legal businesses, e.g., shares in trading and real estate companies, banks, venture capital firms, and import and export companies[3]. By conducting their businesses, they generate funds and also transfer these from one location to another in their networks.

4.3.2. Illegitimate sources of funds

Illegitimate sources of funds include smuggling of various goods and oil, counterfeiting, piracy, trafficking in drugs, trading of gems and stones and arms and ammunition, money laundering, kidnapping and extortion. Countries such as Iran, Cambodia, China, Russia and Tanzania face a significant oil-smuggling problem. Illegal diamond trade is another source for funding terrorist groups.[3]

Counterfeiting and piracy seem to be funding terrorism directly and indirectly. Some perpetrator groups manufacture and sell fake goods in the market and remit a portion for financing their terrorist activities. Counterfeiting of drugs and

[3] Schneider, Friedrich G. (2010) : The (hidden) financial flows of terrorist organizations: A literature review and some preliminary empirical results, Discussion paper series // Forschungsinstitut zur Zukunft der Arbeit, No. 4860

cigarettes are key sources of funding for extremist groups[4]. A terrorist organization was engaged in various counterfeiting activities to generate money, e.g., production of counterfeit commodities and sale of such products in a free trade zone.

Smuggling seems to be another key source of funding terrorism activities. Many terrorist organizations are engaged in smuggling gold, oil, precious gems and stones, music and film DVDs, narcotic drugs, computer parts, cigarettes and many other items.

Counterfeiting, piracy and smuggling are emerging as the likely sources for financing of international terrorist organizations, non- state sponsored terrorist organisations and domestic terrorist groups.

[4] Irina Caunic and Gabriela Prelipcean (2011), *The Market for Counterfeit Goods and Financing of the Extremist Organizations in Europe in the Last Decade,* 2nd International Conference on Humanities, Historical and Social SciencesIPEDR vol.17 (2011) © (2011) IACSIT Press, Singapore

5. Menace of counterfeiting, piracy and smuggling

As discussed in earlier sections, there are numerous cases highlighting the involvement of counterfeiting and smuggling activities in financing of terrorist operations. It is therefore important to study these in detail and discover their linkages with terrorist organizations and their sources of funding. In the following sections, we try and understand the nexus between these and highlight the continuum that has emerged between various criminal and terrorist activities.

5.1. Counterfeiting and piracy

Counterfeiting and piracy is a source of terrorism financing. This has been increasingly reported all over the world over the past few years. Although it has not been conclusively proven till date that an increase in counterfeiting leads to a corresponding rise in terror activities, the quantum of counterfeit activities found to be associated with terrorists is too large to ignore. In the current scenario of varying patterns witnessed in the operations of terrorist groups, and their changing organization structures, counterfeiting seems to have become a lucrative and relatively simpler means for raising funds. In this context, it is important to study counterfeiting in detail and its linkage with organized crime and terrorism.

Counterfeiting has been defined differently by different agencies engaged in combating terrorism. Some of the definitions given below will help to set the context:

According to the Indian Penal Code, a person is called a counterfeiter when he or she causes one thing to resemble another, intending by means of their resemblance to practice deception or knowing it to be likely that the deception will be practical.

According to the trade-related aspects of Intellectual property rights (the TRIPS agreement), "counterfeit trademark goods" shall mean any goods, including packaging, bearing without authorization a trademark which is identical to the trademark validly registered in respect of such goods, or which cannot be distinguished in its essential aspects from such a trademark, and which thereby infringes the rights of the owner of the trademark in question under the law of the country of importation"

5.1.1. Worldwide scale of counterfeiting and piracy

Counterfeiting is rapidly growing in scale. It is a fast-growing industry that not only makes a huge impact on world trade, but has much more sinister consequences, such as harmful effects on health and links to financing of terrorism. The Frontier Economics study commissioned by ICC BASCAP found that the total global economic value of counterfeit and pirated products was as much as US$650 billion in 2008. This figure is expected to more than double to US$1.7 trillion by 2015, due in part to rapid increases in physical counterfeiting and piracy (measured by reported customs seizures and increased worldwide access to high-speed internet and mobile technologies)[5].

Counterfeiting in the US
U.S. Customs reported a 24% increase in seizure of counterfeit goods from 2010 to 2011. These goods represented more than US$1.1 billion in lost sales.

Counterfeiting in the European Union
According to statistics published by the European Commission in July 2012, more than 91,000 detention cases were registered by Customs in 2011 — an increase of 15%, as compared to 2010. The value of the intercepted goods represented nearly €1.3 billion, as compared to €1.1 billion in 2010.

The counterfeit trade has been given a tremendous boost in the present eco-system, with the breakdown of international borders, evolving technology (which is available to the common man) and pervasive globalization. On the demand side, people's aspirations to own branded products at low costs have in some measure contributed to the proliferation of the counterfeiting industry. International Anti-Counterfeiting Coalition (IACC) professes that low risk

[5] Business Action to Stop Counterfeiting and Piracy (BASCAP), Confiscation of the Proceeds of IP Crime, 2013.

of prosecution and enormous profit potential has made criminal counterfeiting an attractive source of funding for organized crime groups. There are connections between intellectual property theft and terrorist groups and terrorists can use intellectual property crimes as both source of funding and means of attack[6]. For example, convicted counterfeit retailers in France face two-year prison sentences and fines of €150,000, as opposed to the 10-year prison terms and €7.5 million fines for drug dealers. Furthermore, profit margins are huge in counterfeiting. Researchers have noted that counterfeited goods can bring returns of as much as 900%. All these factors have contributed to a massive explosion in counterfeiting[7].

Table: Counterfeit sectors by value[8]

Counterfeit Sector	Value in USD
Aircraft Parts	2 Billion
Alcohol	1 Billion
Auto parts	45 billion
Batteries	23 million
Clothing	12 Billion
Cosmetics	3 Billion
Drugs	200 Billion
Electronics	169 Billion
Foods	49 Billion
Fake Diplomas and Degrees	1 Billion
IDs and Passports	100 Million
Lighters	42 Million
Money	182 Million
Pesticides	735 Million
Purses	70 Million
Shoes	12 Billion
Sporting Goods	6.5 Billion
Tobacco	4 Billion
Toys	34 Billion
Watches	1 Billion
Weapons	1.8 Billion

Counterfeiting has managed to acquire a foothold in virtually all important sectors/domains. According to FICCI's *CASCADE* report, the counterfeit goods market can be divided into two categories —deceptive and non-deceptive counterfeiting. Deceptive counterfeiting refers to consumers' purchase of counterfeit products, believing they have purchased genuine articles, whereby counterfeiters earn huge profits on account of the premiums charged for low-cost alternatives. Non-deceptive counterfeiting refers to consumers knowingly buying counterfeit products, looking for what they believe to be bargains.[9]

The spread of counterfeiting is far and wide, and ranges from counterfeit automobile and aerospace parts to fake luxury items. As per Euromonitor International report "Tobacco: Illicit trade in tobacco products 2012", world's illicit penetration excluding China is around 11.5% which means an illicit market worth around US$ 34 billion. Counterfeiting of illicit tobacco accounts for approximately 13% which is worth US$ 4 billion. The adjoining table presents counterfeiting figures in different sectors.

From the table, it is evident that counterfeiting has managed to become a huge business in itself. Reports compiled by agencies working on counterfeiting indicate that penetration of counterfeiting is huge in some sectors. According to these publications, almost 10% of all the drugs sold worldwide are fake, and this number goes up to 25% in India. Similarly, the percentage of fake products is alarmingly huge in the electronics and software industry, with one estimate putting the number of fake software and music CDs to one in three of the total number produced.

FICCI conducted detailed study of seven sectors in India to study the impact of grey market on the sales loss to industry and taxation loss to the Government. The impact of grey market is shown below.

Industry sector	Grey market (percentage)	Sales loss to industry (in Rs. Crore)	Direct tax loss to Government (in Rs. Crore)	Indirect tax Loss to Government (in Rs. Crore)
Auto components	29.6	9198	421	2305

[6] Socio – Economic impact of counterfeiting, smuggling and tax evasion in seven key Indian industry sectors, FICCI, 2012
[7] from balenciaga to bombs: how terrorist groups are exploiting the global counterfeit goods trade for profit and murder ,Zachary A. Pollinger, Harvard University 2008
[8] havocscope.com/products
[9] Socio – Economic impact of counterfeiting, smuggling and tax evasion in seven key Indian industry sectors, FICCI, 2012.

Alcohol	10.2	5626	260	2250
Computer hardware	26.4	4725	47	1187
FMCG (personal goods)	25.9	15,035	867	3779
FMCG (packaged food)	23.4	20,378	552	5108
Mobile phones	20.8	9042	496	2678
Tobacco	15.7	8965	861	5379
Total loss		72,969	3,504	22,686

The menace of piracy has also assumed significant proportions, and is causing significant economic loss to the industry as well as the Government. As per the Motion Pictures Distributors Association (MPDA), India is among the top nations in the world in terms of video piracy. MPDA India estimates that the loss due to piracy in 2012 was $1.1 billion, an increase of 15.79% from 2008. Further, Business Software Alliance has estimated global software piracy rate to be 42% in 2011, with the commercial value of software theft to be $63.4 billion. In India, BSA estimates the software piracy rate as 63%, with the commercial value of software theft as $2.9 billion. One of the estimates puts the number of pirated software and music CDs to one in three of the total produced[10].

5.1.2. Perpetrators of counterfeiting and piracy

Understanding and analyzing the dimensions of counterfeiting and piracy would not be complete without becoming aware of the details of agencies involved in counterfeiting.

Organized criminal organizations engaged in illegal activities including drug trafficking, arms smuggling, illegal employments, etc., have been found to be increasingly involved in counterfeiting and piracy activities to make profits and also as a means of laundering money. Innumerable instances have been reported by agencies, which point to the involvement of such organizations. For example, there have been instances where smuggled drugs and counterfeited goods were caught on the same vessel[11]. Similarly, there have been incidents of organizations using illegal immigrants and under-age employees to manufacture counterfeit products. According to statistics released by the National Criminal Intelligence Service, 26% of counterfeiters are also involved in more serious criminal activities such trafficking in drugs and money laundering. Drug traffickers employ similar operational mechanisms as counterfeiters. According to experts, techniques (including false bottoms, transhipments, vague air waybills, etc.) used by drug traffickers and counterfeiters to surreptitiously cross borders are identical. Therefore, these are increasingly being carried out together.

[10] Counterfeit Goods and Their Potential Financing of International Terrorism, Zachary A. Pollinger1,Harvard University, The Michigan Journal of Business

[11] Counterfeiting and Organised Crime, Report by Union des Fabricants

Some of the examples published in a report compiled by the Union des Fabricants (a European trade association fighting against counterfeiting) are suggestive of the inter-linkage between organized crime and counterfeiting:

- *At Interpol's first international conference on intellectual property, held in Lyons on 15 and 16 November 2001, Walter N. Clements, Deputy General Manager of P&G, reported that 22,000 counterfeit "Head & Shoulders" products had been seized in London at premises used for drug trafficking.*
- *Wanted notices issued by Interpol also reveal that it is relatively common for the same people to be wanted for drug trafficking and counterfeiting.*
- *According to a Criminal Intelligence Service report, a combined investigation of heroin import and trafficking of heroin in Canada in 1997 and 1998 revealed the existence of large-scale criminal activity linked to an organized criminal gang of Asian origin with international operations. In addition to importing and trafficking in heroin, the members linked with the main target were involved in many other profit-making criminal activities such as counterfeiting.*
- *A NATO report titled, Transnational organised crime: an escalating threat to the global market, highlighted the fact that "Nigerian criminal organisations are involved in a series of activities, such as exporting heroin to the United States, plus fraud, extortion and counterfeiting on a grand scale."*
- In an article published in Spain on music piracy, it was reported that "industrial piracy is conducted by well-organised international gangs. (...) A network brings in illegal immigrants who have to work to pay off their debts to the people smuggler. Some of them sell in the street, others cut the records, make the jackets or deal with distribution."

Perpetrators of counterfeiting and piracy can be divided into various levels.

Figure 4: Types of perpetrators of counterfeiting and piracy



Terrorist organizations have begun to see counterfeiting and piracy as an excellent source of funding[12]. Terrorists are increasingly becoming engaged in counterfeiting and piracy activities. Financing of terrorism assumed new dimensions with state sponsorship drying up after the end of the cold war in the 1990s, and led to increasing decentralization of the structures of terrorist organizations.

Criminal organizations are increasingly finding counterfeiting a lucrative business proposition due to the high profits involved[13] and because they already have existing networks for their other activities such as drug smuggling and arms trafficking, which can also be used to transfer counterfeit goods.

[12] Counterfeiting and Organised Crime, Report by Union des Fabricants
[13] Counterfeit Goods and Their Potential Financing of International Terrorism, Zachary A. Pollinger1,Harvard University, The Michigan Journal of Business

Apart from criminals and terrorists, counterfeiting and piracy has extended its net to many **big and small-scale business organizations** that have adopted it as their primary business. Such organizations can be financially strong and invest heavily in technology and capital infrastructure. There is large-scale counterfeiting of goods including sports apparel and leather products that requires huge capital expenditure in machinery and technology (€50,000–€100,000 for certain moulds and €300,000–€600,000 for certain plastics production lines[14]). As per Union des Fabricants report, counterfeiters are adept in adopting the latest technology and establishing global networks. Equipped with modern technology to make fake products ranging from textiles to automotive spare parts, these networks are a part of mass-production industries.

Individuals are also involved in activities, in which a local counterfeiter can produce counterfeit CDs of software using the simplest of devices, such as a computer and a CD writer, to make quick money.

Although it is not very apparent on the surface whether all other types of counterfeiters (other than terrorists) have any links with terror financing, it increasingly becomes clear in the following sections that there is a definite connection between organized crime and terrorism, through which the proceeds of counterfeiting are indirectly transferred to fund terrorist activities. Similarly, counterfeiters can be a part of a nexus aiding terrorism, as is witnessed in the involvement of members of the sleeper cells of terrorist organizations in small-scale counterfeiting activities[15].

5.2. Smuggling

Smuggling is defined as unlawful and secret import and export of goods, especially without paying duties imposed by the law[16].

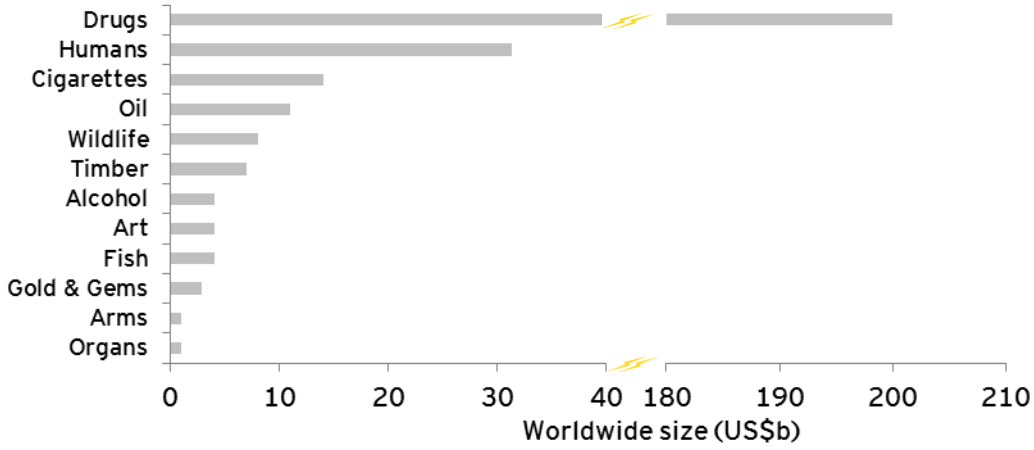
The legal definition of smuggling differs in each country and organization. The United Nations Convention against Transnational Organized Crime defines each form of smuggling separately. A closely related offense to smuggling is illegal trade. Smuggling relates to transportation of legally permitted goods through a secret unauthorized route to escape duties, and illegal trade refers to transportation of illegal goods. While the two have identical objectives for the criminal, consumer demand and costs differ due to the contrasting legality and availability of these goods. However, it is often difficult to differentiate these two offences due to inconsistent laws in various jurisdictions in the trade route, and these are considered synonymous by many social scientists. The Customs Act considers both these offences as smuggling.

5.2.1. Worldwide scale of smuggling

Although several studies have been conducted in this regard, it is difficult to measure the actual flow of smuggling in various types of goods. However, a conservative figure can be obtained, based on gathered anecdotal evidence and research conducted by organizations such as UNODC, Global Financial Integrity and other similar sources. The illicit global flow (due to smuggling) is estimated at around US$650 billion[17].

[14] Counterfeiting and Organised Crime, Report by Union des Fabricants
[15] Organised crime and Terrorism ,GAIL WANNENBURG, War and Organised Crime Research Fellow, South African Institute of International Affairs Journal, Volume 10 Issue 2 Winter/Spring 2003, page 77-90
[16] Customs Act, 1962
[17] Transnational Crime in the Developing World, February 2011, Global Financial Integrity

Figure 5: Size of worldwide smuggling flows in 2020

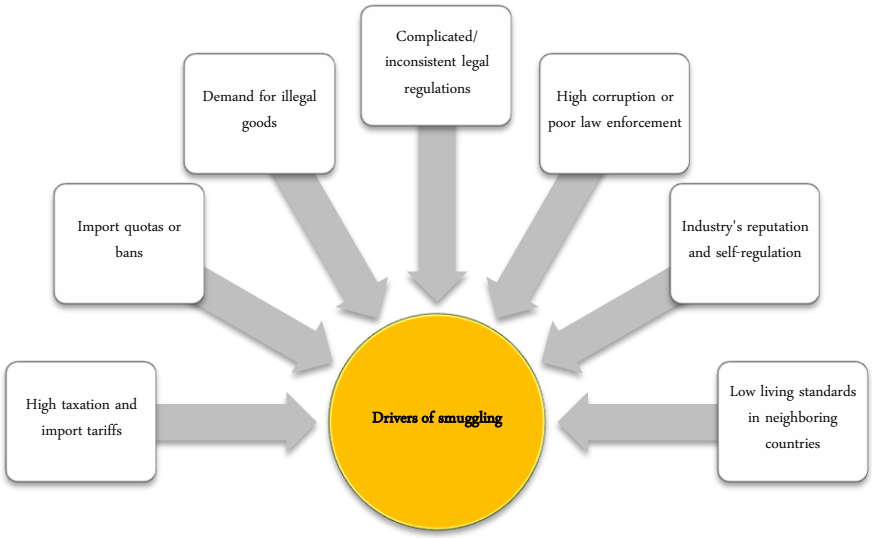


Recreational drugs outstrip all other goods smuggled worldwide, closely followed by smuggling and trafficking in humans, cigarettes and oil. The reasons for this are based on the drivers of smuggling detailed below.

5.2.2. Drivers of smuggling

In the economy, smuggling is in competition with locally produced goods that can be legally imported. It can be considered an import-substituting activity that diverts resources from the Government to the illegal private sector. Selection of smuggling over other money-driven crimes is influenced by the factors described below[18]:

Figure 6: Drivers of smuggling



As can be seen, restriction of trade in any form generally spurs smuggling. This is generally accentuated by corruption among various participants in the economy. The level of self-regulation by industry participants is also a deciding factor for smuggling. Industries in which brand equity and reputation are valued take effective measures to counter smuggling of goods by improving their distribution systems and promoting original brands for consumers.

[18] Research by UNODC and other sources

According to FICCI's *CASCADE* report, smuggling is directly linked to various types of crime, such as evasion of tax and import duties, bribery and corruption of public officials, and money laundering. Some researchers have also pointed out that the level of smuggling is correlated with the level of corruption in partner countries.[19]

5.2.3. Mechanisms of smuggling

While the most common method of smuggling may be conducted by concealing smuggled goods or transporting them through a relatively unprotected border area, criminal organizations utilize optimal methods to transport different types of goods. The various illegal methods are categorized below:

Mode of smuggling	Definition
Contraband	Concealment of goods or persons and avoidance of official customs controls, which may include use of mules
Re-labeling/ Reclassification	Camouflage of high-tariff products as low-tariff ones to reduce tax liability or change the name of the country of origin to take advantage of favorable economic relations with a country
Underreporting	Intentional marked down invoicing of goods by importer or reduced recording of quantity, possibly in collusion with customs authorities
Falsification	Tampering with documents relating to goods or faking passports to smuggle migrants
Short-landing transit Goods	Grey channel leakage of transit goods or bonded imports not meant for consumption in the domestic market

The particular method chosen may also depend on the existing network of a smuggling organization and its complicity with the local law enforcement authorities.

5.2.4. Perpetrators of smuggling

As in the case of counterfeiters, smugglers can be classified as follows:

- Terrorist organizations
- Criminal organizations
- Businesses (large and small)
- Individuals

Terrorist organizations undertake smuggling activities to finance their operations[20]. They smuggle goods such as recreational drugs, cigarettes and oil. Terrorists are also known to directly deal in arms smuggling to augment their resources and strengthen like-minded organizations. Their links with smuggling activities are on the rise due to the favorable risk-return characteristics of these activities.

Criminal organizations: Large and sophisticated criminal organizations engage in smuggling to generate increased profits. This is structured into separate wings such as counter-intelligence, bribes and money-laundering.

Businesses (large and small): Local businesses or groups smuggle raw materials for final goods[21].

[19] Socio – Economic impact of counterfeiting, smuggling and tax evasion in seven key Indian industry sectors, FICCI, 2012.
[20] Links between terrorism and other forms of crime, Foreign Affairs Canada and the United Nations Office on Drugs and Crime, April 2004
[21] Lichtenwald T.G, Drug Smuggling Behaviour – a developmental smuggling model, The Forensic Examiner, 2003

Individuals: Small groups or individuals only engage in smuggling for their own consumption and are most likely to smuggle drugs or human beings.

While organized criminals are present across the entire spectrum of products, other perpetrators are likely to be selective in the nature of the goods they smuggle. However, much of the available data is anecdotal rather than quantitative due to the highly clandestine nature of this topic.

5.3. Growth-related factors and impact of counterfeiting, piracy and smuggling

Due to easy and widespread access to technological advances, there are virtually no products that cannot be counterfeited or smuggled. It is easy to duplicate labels, packaging, documentation, authentication devices and/or symbols/marks/ logos with speed, accuracy and relative anonymity.

According to FICCI's *CASCADE* report, some of the factors driving counterfeiting, piracy and smuggling include:

- **Technological advances**: New technologies benefit original manufacturers and counterfeiters alike. Technological development enables counterfeiters to produce fakes relatively cheaply and easily. Distribution of fakes is becoming increasingly sophisticated through international networks
- **Increased international trade**: International trade, including trade in counterfeited goods, has increased substantially. Resource-related constraints imposed by the Customs departments of many countries leads to reduced surveillance and increased smuggling in them.
- **Emerging markets**: Free markets and enforcement agencies/institutions are not growing in tandem. This is leading to increased counterfeiting and smuggling in free markets.
- **Emerging products**: The share of manufactured and processed products increasing in international trade provides an opening for counterfeiting.
- **Demand side**: The drivers of known consumer demand for counterfeit goods include low prices, acceptable perceived quality, ability to conceal status, no health or safety concerns, personal budget constraints, a low regard for intellectual property rights, and low risk of discovery and prosecution.
- **High profitability**: Large potential market size, genuine brand power, moderate need for investments and technology requirements, unproblematic distribution and sales, the ability to conceal operations, low risk of discovery, weak enforcement and penalties leads to high profitability for counterfeiters.
- **Risk-to-reward balance**: Till date, anti-counterfeiting laws are non-existent or penalties imposed by most governments have been vague or not tough enough to act as a deterrent to counterfeiting and smuggling.

The impact of counterfeiting, piracy and smuggling is seen across several segments.

- **Government**
  - Loss of taxes (direct and indirect)
  - Anti-counterfeiting and anti-smuggling measures such as police raids, customs seizure and mass public awareness campaigns
  - Public welfare costs including monetary compensation and health care-related ones
  - Legislative costs
- **Original right holder**
  - Loss of sale and profitability
  - Loss of brand value
  - Infringement of copyright
  - Special advertising campaigns
  - Increased packaging costs
  - Reputational risk
  - Consumer patronage
- **Economy**

- Reduced GDP
- Increase in black money
- Increased criminal activity and terrorism
- Reduced employment and deteriorating working conditions
- Degradation of environment
- Reduced expenditure on research and development

- **Consumers**
  - Defrauding of consumers
  - Health care costs

Country focus: India — illicit trade dominated by home-produced DNP[22]
Illicit trade in cigarettes in India includes duty-not-paid (DNP) smuggled branded cigarettes and counterfeit goods. According to Euromonitor International data, India is the world's sixth-largest market for illicit cigarettes, which has grown by 50% over 2006–2011, to account for 17% of the market. An independent study conducted by the Tobacco Institute of India in 2008 revealed that 16% of the domestic market was captured by domestic DNP products, placing the proportion of smuggled cigarettes in the country at 1% of the domestic market. Growth factors of illicit cigarette trade in India: ► Rise in excise tax on cigarettes resulting in establishment of unlicensed but legal cigarette factories that clear most of their products without paying tax ► Rise in Value Added Tax (VAT) up to 16%–18%, resulting in growth of illicit trade in tobacco ► Rise in the per stick cost of cigarettes manufactured by legitimate cigarette manufacturers and availability of illegal cigarettes at the price of *bidis* ► Easy availability of illicit brands in the market, retail outlets and hawkers due to their low prices and high trade margins

[22] Euromonitor International, Tobacco: Illicit trade in tobacco products, 2012

6. Links between counterfeiting, piracy, smuggling and financing of terrorism

Terrorist activities have changed and evolved over the last two decades or so. And so have the structures of terrorist organizations! Over the past few decades, counterfeiting has seen huge changes and has emerged from its small-scale industry origins to a huge network of "international entrepreneurs," who are engaged in mass production of counterfeit goods by leveraging technology, intricate networks and huge financial strengths. Similarly, the outreach of smuggling has gone beyond some precious articles to almost all products. More decentralized structures began to evolve, in which the central units are responsible for overall administration and management, and operational activities are carried out by independent and frequently self-financed units with largely locally recruited employees.

Similarly, changing trends are being seen in organized criminal activities due to increasing globalization and breaking up of international borders. Criminal organisations have now acquired a more global character, are operationally stronger and better networked, and are capable of executing large-based international criminal activities.

The links between counterfeiting, piracy and smuggling organizations and terrorist units are in the following four modes:

Operational: Although research has established sharp similarities between terrorist and counterfeiting, piracy and smuggling operations and their prevalence in India, lack of long-term trust between different criminal groups means that this type of cooperation is more the exception than the rule. It was observed that foreign terror organizations worked with criminal organizations smuggling in India in the Mumbai blasts in 1993[23].

Logistical: Along with financial linkage, this is the most common way in which terrorist and counterfeiting, piracy and smuggling organizations work together. Terrorist organizations in India have been known to use the networks of the top smuggling organizations. For example, it has been found that leveraging established smuggling pipelines was the second most preferred method used by terrorists to enter the US[24].

Financial: Organizations in counterfeiting, piracy and smuggling have been known to provide financial assistance to terrorist organizations[25]. This is due to shared ideological links elaborated below.

Ideological: While the goals of counterfeiting, piracy and smuggling and terrorist organizations differ by definition, i.e., the counterfeiter or smuggler is more concerned with personal profit than any set agenda, it is not unusual to see purely criminal groups transform themselves by adopting political roles.

6.1.1. Counterfeiting, piracy and terrorism

Perpetrators defined in previous chapter can be linked to counterfeiting, based on numerous reported incidents.
The study of research papers and the views of experts indicate that there is high probability the involvement of "criminal organizations" in manufacture of fake drugs and counterfeiting of currency, which is a highly specialized trade and therefore requires investment and technology beyond the scope of individuals.

Terrorist and criminal organisations both seem to have links with counterfeiting and piracy, although this is more so in the case of criminal organizations. Moreover, although counterfeiting and piracy is perpetrated on a much larger scale

[23] Ryan Clarke and Stuart Lee, The PIRA, D-Company and the crime –terror nexus, Terrorism and Political Violence, Vol. 20, No. 3, July 2008
[24] The relationship between criminal and terrorist organizations and human smuggling, Naval Postgraduate School, December 2009
[25] Links between terrorism and other forms of crime, Foreign Affairs Canada and the United Nations Office on Drugs and Crime, April 2004

by criminal organizations as compared to terrorists, the proceeds only indirectly finance terrorists due to their links with organized crime.

Case focus: Counterfeiting and Terrorism[26]
One recent example of counterfeiting linked to terrorist organizations was the Interpol-led Operation "Black Poseidon" in May 2012. The operation targeted products being traded illicitly across Eastern Europe by transnational organized crime groups. Counterfeit products included computers, pharmaceuticals, agrochemicals, electronics, alcohol and cigarettes. The operation led to the seizure of goods worth over €120 million and 1,400 persons under arrest or investigation

Similarly, from various studies it is observed that individuals, who may not be involved in large-scale counterfeiting and piracy, are engaging in small-scale counterfeiting in FMCG goods, software piracy, etc. It is no coincidence that members of sleeper cells are often involved in counterfeiting of such goods. This highlights the fact that such counterfeiting and piracy activities are in line with the capabilities of small individual members of sleeper cell groups, which are largely self-financed and do not depend on core terror networks for their financing needs.

Case focus: financing of terrorism[27]
The Real IRA has flooded Ireland with contraband cigarettes and imported counterfeit versions of popular brands, and cigarette smuggling has emerged as a top funding source for the organization. Combined IRA groups have reaped an estimated US$100 million from cigarette smuggling over a five-year period.

Several cases that directly link terrorist groups with counterfeiting and piracy activities have been reported through various reports[28]. The following are some of these:

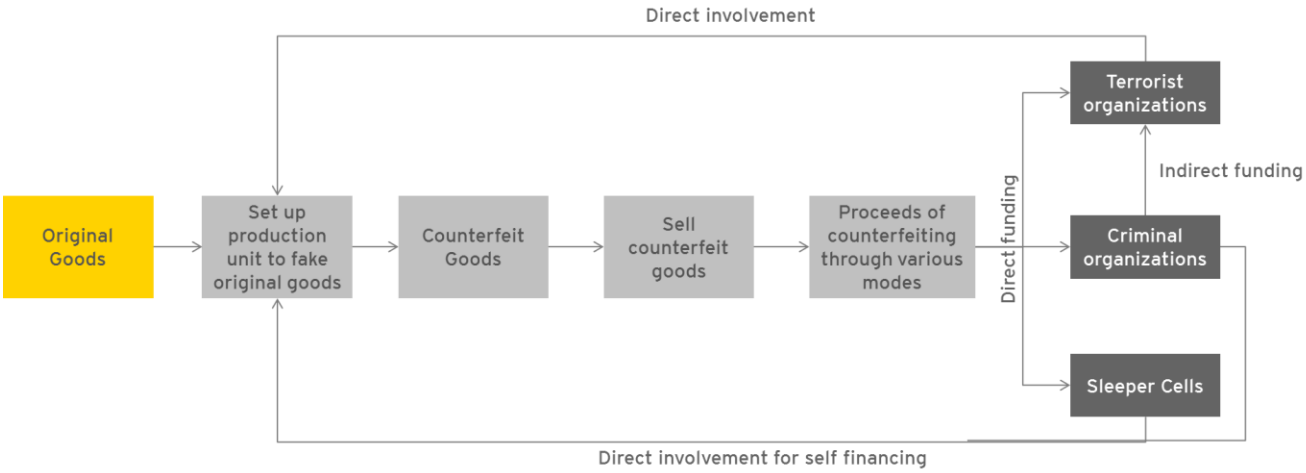
- Interpol seized US$1.2 million worth of counterfeit German brake pads in 2004. Later, investigations revealed that these were to be used to support the Lebanese terrorist organization Hezbollah.
- Based on evidence with FBI, the terrorists who bombed the World Trade Center In 1993 used funds channelled from counterfeit textile sales in New York.
- It was found that Chechen rebels were financing their operations by selling pirated CDs.
- According to New York's Police Commissioner, the Madrid train bombing incident was funded through the sale of pirated CDs.
- According to an interview, published in French daily *Le Monde*, of the head of a French security agency, Afghan terrorist groups have been found to use the proceeds of duplicates of credit cards and counterfeit designer products.
- A suspect, Faruk Aksu, who is allegedly linked to several terrorist groups, was arrested in Turkey with US$3.2 million fake US dollars, which he had obtained from Iraq. These dollar notes used the paper used by the US Government and incorporated all the security features of a real US dollar.
- Al Qaeda training manuals recovered in 2002 reveal that the organization recommends the sale of fake goods as a means of fundraising for cells.

The following diagram represents the chain of events illustrating links between counterfeiting and terrorist groups. As depicted in the diagram, the proceeds from counterfeiting not only go directly to fund terrorist organizations (as has been exemplified by numerous examples), but also help terrorist sleeper cells engage in small-scale counterfeiting to

[26] Counterfeiting and Organised Crime, Report by Union des Fabricants
[27] FATF, Illicit Tobacco Trade 2012.
[28] Counterfeiting and Organised Crime, Report by Union des Fabricants, Links between terrorism and other forms of crime, Foreign Affairs Canada and the United Nations Office on Drugs and Crime, April 2004

finance themselves. Furthermore, a significant chunk of counterfeiting activities is under the control of criminal organizations, which indirectly fund terrorist operations through their links with terrorists.

Figure 7: Link between counterfeiting and terrorism



According to a report in a journal on global crime: "*It is in the interest of criminal and terrorist groups—invariably within unstable regions—to form alliances to ensure that an environment conducive to both their needs is sustained. Instability is in the interest of terrorists because it diminishes the legitimacy of governments in the eyes of the mass populations—the very people terrorists seek to gain support from; and it is in the interest of criminal groups seeking to maximise criminal operations.*"

6.1.2. Smuggling and terrorism

Based on numerous reported incidents, perpetrators of offences mentioned in previous chapters can be linked to various smuggled products.

The obvious attraction for terrorists is the relatively large value of these goods, another reason for their linkage with smuggling organizations (and their networks) is their ability to leverage these and thereby reduce their operational risks. Use of illegal sources of funding to support local terrorist cells is a trend that has been observed through increased tracking of donations and other legal sources of income. Terrorist organizations have been quick to spot local patterns of crime and have been obtaining finance from major sources of smuggling, including drugs, cigarettes and oil. This has been confirmed by the following reputed sources:

- The Drug Enforcement Administration has linked 14 designated foreign terrorist organizations as having ties with the drug trade. It was also found that these foreign terrorist organizations are generating illicit proceeds through international drug trafficking[29].
- Leveraging established smuggling pipelines is the second most preferred method used by terrorists to enter the US[30]. This was revealed by senior US officials who participated in interviews. Other methods terrorists use include fraudulent documentation, corruption etc. They also depend on the support provided to them by smuggling organizations.

[29] Links Between Terrorism and Other Forms of Crime, Foreign Affairs Canada and The United Nations Office on Drugs and Crime, April 2004

[30] The relationship between criminal and terrorist organizations and human smuggling, Naval Postgraduate School, Dec 2009

- Colombia, Kenya, the Kyrgyzstan, Myanmar and Turkey, among others, reported a direct link between the illegal drug trade, trafficking in firearms, smuggling of migrants and terrorism[31]. It was noted that terrorists trafficked in small arms and drugs by corrupting public officials and using illegal migrants.

While drug trafficking was earlier the preferred mode of financing for various terrorist organizations, cigarette smuggling seems to be the fastest growing revenue stream in recent years[32]. Cases of illegal cigarette sales, with ties to major terrorist groups, have been documented. The low risk involved makes cigarette smuggling an attractive source of revenue for terrorist organizations.

6.1.3. Crime syndicates in India[33]

In the 1970s, crime syndicates in India were involved in extortion, contract killing and infiltrating Bollywood by distributing and pirating films. After flourishing in these activities throughout the 1980s, their transformation into criminal terrorist groups began with a series of bombing attacks in Mumbai in 1993, killing 257 people in response to the destruction of the Babri Mosque in Uttar Pradesh. Investigations revealed that a major Mumbai-based criminal gang was responsible for this terror attack. This act reflected the tactical transformation of profit-minded criminal gangs to terrorist organizations with ideological goals. Many such organizations shifted their base to the Middle East and have been known to receive the clandestine backing of countries opposed to India. The US Government has also identified many former Mumbai-based crime syndicates that provide finance and share smuggling routes with major terrorist organizations in India and worldwide.

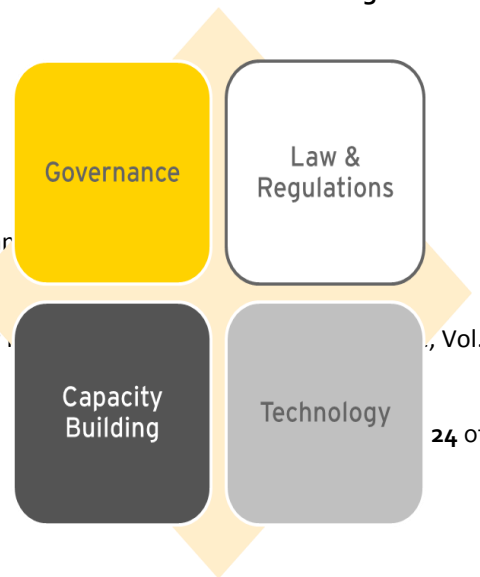
The incident mentioned above is a warning not only about the links that criminal organizations can form with terrorist organizations, but also of the fact that it does not take much to convert a purely criminal organization into terrorist one. Criminal syndicates already have the operational expertise to transfer huge amounts of money and buy weapons, as well as the necessary ammunition, to engage in terrorist activity.

Therefore, it is evident that not only is there the possibility of organized criminal organizations becoming terrorist ones, but that counterfeiting, piracy and smuggling have evolved significantly, leading to close interaction and links between these activities.

7. Framework for preventing financing of terrorism

The current state of financing of terrorism in today's world can be studied from four different perspectives. We shall look at the Indian and international scenarios to study the following initiatives to prevent financing of terrorism.

Figure 8: Framework for assessing financing of terrorism



Governance: The Government has set to counter financing of terrorism and is facilitating the operations of law enforcement agencies with financial intelligence reports.

[31] Links Between Terrorism and Other Forms of Crime, Foreign Affairs Can
[32] Van Djick, the link between the financing of terrorism and cigarette s
[33] Gregory F. Treverton et al., Film Piracy, Organized Crime, and Terror
Ryan Clarke and Stuart Lee, The PIRA, D-Company, and the Crime-Terror , Vol. 20, No. 3, July 2008

Laws and regulations: These form a part of the Government's legal framework to counter financing of terrorism through the implementation of Acts and Rules.

Technology: The technological infrastructure set up by the Government captures information, analyzes data and produces intelligence reports.

Capacity-building: This includes infrastructure set up to train resources to identify cases of terrorism financing and take the appropriate action through set procedures.

Each aspect of the framework is discussed in detail in further sections.

7.1. Governance

India, with its rapidly growing economy and demography, faces risks relating to money laundering and financing of terrorism. The country continues to be a target for terrorist groups and has been the victim of numerous attacks. As mentioned in earlier chapters, there are several sources of terrorist financing in the country. India has successfully put in place a governance setup in the form of the Financial Intelligence Unit (FIU) to combat money laundering and financing of terrorism. The FIU is a specialized government agency that was created to form a bridge between law enforcement agencies and the financial sector.

7.1.1. Current status of India's governance mechanism

In June 2010, India became a full member of the Financial Action Task Force (FATF), the premier international body, which is dedicated to anti-money laundering (AML) and counter financing of terrorism (CFT). Recommendation 29 (earlier R 26) of FATF requires member countries to establish FIU to serve as their national center for collection and analysis of information about Suspicious Transaction Reports (STRs) and other relevant information on money laundering, associated predicate offences and financing of terrorism, and disseminate the analyzed results to relevant law enforcement bodies. FIU India (FIU-IND) was established by the Government of India vide its Office Memorandum dated 18 November 2004. It is an independent body that reports to the Economic Intelligence Council (EIC) headed by the Finance Minister. FIU-IND is headed by its Director, who is of the rank of Joint Secretary to the Government. FIU-IND does not investigate cases; it collects, analyzes and disseminates information to the concerned law enforcement agencies.

Role of FIU-IND in combating financing of terrorism and money laundering[34]
A. **Preventing misuse of financial system:** Regulators have issued detailed Know Your Customer/Anti Money Laundering/Counter Financing of Terrorism guidelines, covering the areas of acceptance and identification of customers, monitoring of transactions and risk management.
B. **Detection and reporting of suspected cases of financing of terrorism**: FIU-IND is actively involved in sensitizing reporting agencies to report STRs related to suspected cases of financing of terrorism and providing guidance on detection and reporting of such transactions.
C. **Information exchange with domestic agencies on suspected cases of financing of terrorism**: FIU–IND not only collects and disseminates information on financing of terrorism, but also supports intelligence agencies by providing information specifically requested by them.
D. **Exchange of information with foreign FIUs on terrorism-financing cases**: FIU-IND became a member of the Egmont Group of FIUs in 2007 and currently has MOUs with 19 countries for cooperation and exchange of information to combat financing of terrorism.

[34] Annual Report 2012, FIU

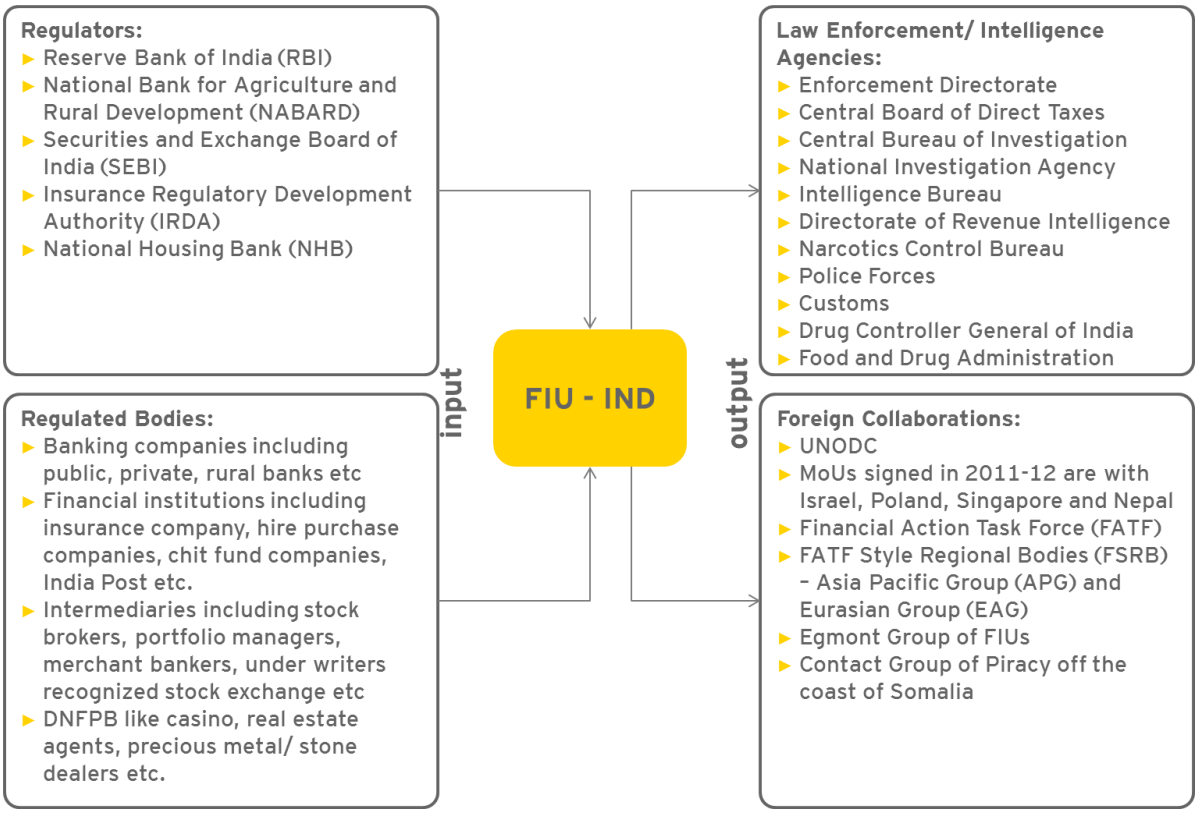
Role of FIU-IND in combating financing of terrorism and money laundering[34]
E. **Contribution to global efforts to combat financing of terrorism**: FIU-IND participates in various international working groups such as the Egmont Group and the Joint Working Group (Government of India) to combat financing of terrorism F. **Providing input to strengthen legal and operational framework to combat financing of terrorism**: FIU-IND monitors the latest trends in financing of terrorism and provides input for policy changes to strengthen CFT regime in India. ***Source**: FIU-IND Annual Report, 2012*

India is also member of two FATF-style regional bodies, the Eurasian Group on Combating Money Laundering and Terrorist Financing and the Asia/Pacific Group (APG) on Money Laundering. The US has worked with India through FATF to help improve the latter's anti-money laundering initiatives and on combating financing of terrorism in the country.

7.1.2. Organizations involved in preventing financing of terrorism, counterfeiting, piracy and smuggling

FIU–IND is the link between the financial sector and law enforcement agencies. The input provided by FIU-IND is continuously monitored by LEAs to refine the quality of reports. The landscape of various agencies interacting with the FIU is depicted in the figure below.

Figure 9: Organizations involved in preventing financing of terrorism, counterfeiting and smuggling



- **Regulators**

  FIU-IND has developed relationships with regulators for better monitoring of the financial sector by ensuring suitable modifications in KYC, CFT, AML circulars issued by the regulators, regular interactions with industry associations, development of a common understanding of PMLA obligations, identification of sector-specific issues through analyses of Suspicious Transaction reports and provision of training to regulators staff members. The steps taken by FIU-IND aided effective monitoring of AML/CFT systems.

- **Regulated bodies**

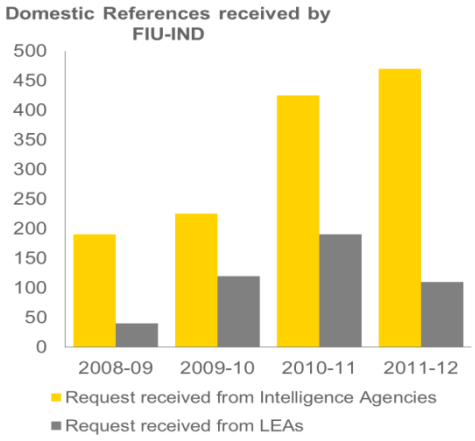
  According to Section 12 of PMLA, every banking company, financial institution and intermediary needs to furnish information on prescribed transactions to the Director of FIU-IND. It also empowers the Director of FIU-IND to obtain records of any suspicious transactions and enquire into cases of non-compliance with the provisions of PMLA.

- **Law enforcement agencies (LEAs)**

  FIU-IND supports law enforcement agencies (LEAs) in combating money laundering and financing of terrorism through timely dissemination of financial intelligence reports.

  The police forces are empowered to deal with counterfeiting matters and acts on complaints filed by individuals. The police also provide assistance in civil raids on counterfeiters.

  Customs authorities are empowered to seize all goods that infringe Intellectual Property at the point of entry.



The Health Department and the Drug Controller General of India are vested with powers to raid and confiscate spurious drugs.

The Food and Drugs Administration of each state also is empowered to deal with counterfeiting issues and tackle the menace.

- **Foreign collaborations**
  FIU-IND actively contributes to international efforts to combat money laundering and financing of terrorism. India adheres to the Egmont principles of free exchange of information. All requests for information, including those for which no information is available, receive a prompt response. India has seen increasing exchange of information with foreign FIUs over the years.

7.1.3. International leading practices and efforts

Money laundering, financing of terrorism and smuggling are an increasing international phenomenon. There have been efforts made by various international organizations such as the UN and the EU, as well as by various countries, to curb such crimes. Some of these efforts are detailed below.

- **United Nation (UN)**
  The Anti-Money-Laundering Unit (AMLU) of the United Nations Office on Drugs and Crime (UNODC) is responsible for implementing the Global Programme against Money-Laundering (GPML), which was initiated in 1997 in response to the mandate given by the 1988 Convention against "Illicit Traffic in Narcotic Drugs and Psychotropic Substances." The AMLU's mandate was strengthened in 1998 by the Political Declaration and Action Plan against Money-Laundering of the United Nations General Assembly Special Session (UNGASS), which broadened its jurisdiction beyond drug offences to all serious crime. GPML's broad objective is to strengthen the ability of member states to implement measures in anti-money- laundering and countering the financing of terrorism (AML/CFT) and assist them in detecting, seizing and confiscating illicit proceeds, as required under UN-related instruments and global accepted standards, by providing relevant and appropriate technical assistance on request from states.

- **World Health Organization (WHO)**
  WHO has set up Framework Convention on Tobacco Control (FCTC) which includes almost all countries of the world. FCTC wants to fight illicit trade of tobacco and tobacco products to promote public health, to promote public revenues and to fight organized crime. In November 2012, more than 140 parties of the WHO FCTC adopted a new international treaty to reduce illicit trade by means of technology measures, which attempt to track and trace legitimately manufactured products and enable retailer and customer to distinguish between duty paid pack, a smuggled pack, a cheap white and a counterfeit.

- **European Union (EU)**
  The Member States of the European Union have identified the fight against financial crime (money-laundering, corruption, counterfeiting of the euro and goods, trafficking in high-value goods and serious economic crime) as a top priority. EU members opted for cooperation between the FIUs of member states. They have also adopted a framework on money laundering; identification, tracking, freezing and confiscation of criminal assets and the proceeds of crime. A second anti-money- laundering directive has been agreed on. This widens the definition of criminal activity resulting in money laundering to include all serious crimes, including offences related to terrorism.

- **USA**

The Department of Treasury, Department of Justice, Department of Homeland Security, Board of Governors of the Federal Reserve System and the United States Postal Service are together responsible for checking the menace of money laundering and financing of terrorism in the US and abroad. Treasury and the federal functional regulators have greatly expanded the scope and reach of regulations under the Bank Secrecy Act since the US Congress passed the USA Patriot Act.

- **UK**

  The UK Home Office is responsible for prevention of organized crimes, money laundering and countering financing of terrorism in the UK. Serious Organized Crime Agency (SOCA) is set up in UK to tackle serious organized crime including Class A drugs, people smuggling and human trafficking, major gun crime, fraud, computer crime and money laundering. UK Financial Intelligence Unit (UKFIU) is part of SOCA that focuses on the proceeds of crime and financing of terrorism.

7.1.4. Overall assessment of governance in India

India has set up a Financial Intelligence Unit on the basis of FATF's recommendations and has been collaborating with foreign FIUs to combat financing of terrorism.

The country has taken many steps in this respect but improvement is required in financial institutions, interactions with law enforcement agencies, interactions with the regulators of financial institutions, etc.

S No	Component of governance framework in India	Progress
1.	Setting up of governance structure including FIU, Customs Department, National Intelligence Agency etc.	Progress being made
2.	Collaboration with foreign FIUs on exchange of information	Progress being made
3.	Coordination and cooperation between financial institutions and enforcement agencies in generating intelligence reports	On track

Needs improvement Progress being made On track

7.2. Laws and regulations

7.2.1. Laws/Acts to combat financing of terrorism

India plays an increasingly important role in combating terrorism and financing of terrorism in the world. The country's AML/CFT regime is relatively young. The Prevention of Money Laundering Act, 2002 (PMLA) came into force in 2005 and was amended in 2009. The Unlawful Activities (Prevention) Act (UAPA), 1967 was amended in 2004 to criminalize, inter alia, financing of terrorism. The UAPA was further amended in December 2008 to broaden its scope and to bring legislation more in line with the requirements of the United Nations Convention for the Suppression of the Financing of Terrorism (FT Convention).

India has outlawed money laundering under the Prevention of Money Laundering Act, 2002 (PMLA), as amended in 2005 and 2009, and the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act), as amended in 2001. While ML provisions under the NDPS Act only relate to predicate drug offences, the PMLA applies to a much broader range of predicate offences, including those relating to narcotics. India has made a serious effort to bring criminalization of money laundering in the PMLA in line with FATF standards by expansion of the list of predicate offences under Schedule A and B and addition of Schedule C (offences with cross-border implications) since 1 June 2009.

Key clauses of the PMLA and the UAPA
Section 3 of the PMLA criminalizes the activity of money laundering in the following terms: "Whoever, directly or indirectly, attempts to indulge or knowingly assists or knowingly is a party or is actually involved

Key clauses of the PMLA and the UAPA

in any process or activity connected with the proceeds of crime and projecting it as untainted property shall be guilty of offence of money laundering."

Section 40 of the UAPA criminalizes raising of funds for terrorist organizations listed in the Schedule to UAPA in the following terms:
"A person commits the offence of raising fund for a terrorist organization, who, with intention to further the activity of a terrorist organization, (a) invited another person to provide money ot other property, and intends that it should be used, for the purpose of terrorism; or (b) received money or other property, and intends that it should be used, or has reasonable cause to suspect that it might be used, for the purpose of terrorism; or (c) provides money or other property, and knows, or has reasonable cause to suspect, that it would or might be used for the purposes of terrorism. A person, who commits the offence of raising fund for a terrorist organization under sub-section (1), shall be punishable with imprisonment for a term not exceeding fourteen years, or with fine, or with both."

7.2.2. Laws to combat counterfeiting and piracy

The rising spread of counterfeiting and piracy has led to various changes being made in legislations and regulations to control the menace of counterfeiting and piracy — both domestic and international — in India. Other than Acts that are directly aimed at controlling counterfeiting and piracy in the country, acts that are targeted at preventing smuggling, etc., indirectly help agencies counter counterfeiting by blocking the channels of movement for counterfeited goods. Some Acts and legislations to prevent counterfeiting and piracy in various fields are discussed below.

The **Trademarks Act of 1999** allows registration of trademarks and also provides for statutory protection of registered trademarks. The Act provides for penalty extending from six months to three years of imprisonment in addition to a fine of minimum INR50, 000 for selling or applying false trademarks, trade descriptions, etc.

The Dug Controller General of India stipulated procedures in 2011 to counter the spread of fake drugs in India and their export to other countries. In addition, an amendment was required in rule 96 of the **Drugs and Cosmetics Act, 1940,** which makes it mandatory for every drug manufactured in India to carry on its primary label the Unique Identifier Code and 2D bar code by which a drug can be verified by an SMS. The Drugs and Cosmetics Act, 1940 provides definitions of "adulterated," "spurious" or "misbranded" drugs and cosmetics. It empowers certain government agencies to not only inspect but also seize and confiscate any product that is found to be adulterated, spurious or misbranded. The Drugs and Cosmetics (Amendment) Act, 2008 provided for a flexible procedure, heavier penalties and longer prison terms for those convicted of offences relating to counterfeiting of drugs

Similarly, the **Prevention of Food Adulteration Act, 1954** vested powers in the hands of agencies to seize and confiscate adulterated or misbranded goods. It also gave them the power to suspend the manufacturing licenses of those engaged in such illegal and criminal activities.

Another significant development with regard to the border enforcement of IPR with the enactment of the **Intellectual Property Right (Imported Goods) Enforcement Rules, 2007** was adoption of TRIPS procedures and norms in Articles 51 to 60. The Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007 issued by the Central Board of Excise and Customs empowers Customs authorities to seize counterfeit goods.

In addition to these Acts, various bodies have also been constituted, sometimes as an initiative by the victim industry to fight the spread of counterfeiting. For example, the Alliance against Copyright Theft (the Bollywood-Hollywood anti-piracy coalition) was responsible for 301 raids being carried out on suspected counterfeiters of hard goods (DVDs) in Mumbai and 19 such raids were conducted across north India. This has had a significant impact on counterfeited sales of DVDs, which has declined significantly at the street level.

7.2.3. Laws to combat smuggling

There are many laws and regulations for combating smuggling. Some of the key laws and regulations to are highlighted below:

The Customs Act, 1962 defines various acts that constitute smuggling into and outside the country and goods covered under its ambit

The Conservation of Foreign Exchange and Prevention of Smuggling Activities Act (COFEPOSA), 1974 allows preventive detention of currency smugglers and drug traffickers

The Narcotics Control Bureau was constituted as the enforcement body under **The Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1985 (Amended 1988)** to tackle the menace of drug trafficking. The minimum punishment under the Act is 10 years of rigorous imprisonment and a fine of INR100, 000, while repeat offenders can be sentenced to death in certain situations. Enforcement agencies are also empowered to trace and freeze or seize any property acquired through funds generated by illicit drug trafficking to prevent money laundering.

Immoral Traffic (Prevention) Act, 1986: Originally, the Suppression of Immoral Traffic in Women and Girls Act, 1956, this was re-enacted to rectify lacunae in enforcement agencies and strengthen their operations.

The Emigration Act, 1983 makes it mandatory for any agent intending to recruit Indian citizens for employment outside India to obtain a certificate from the Prosecutor-General of Emigrants and provides for imprisonment of up to two years with fine up to INR2,000.

The Extradition Act, 1962 provides for extradition of fugitive criminals under 18 specified offences including smuggling.

The Wildlife Protection Act, 1972 (Amended 2006) provides for the creation of the National Wildlife Crime Bureau to monitor trade and gather intelligence on criminal activities related to wildlife.

7.2.4. International leading practices and efforts

- **FATF recommendations**

  There are 40 FATF recommendations pertaining to FIUs and reporting entities. FATF's recommendations focus on assessment of risks and application of a risk-based approach, national co-operation and coordination, customer due diligence, record-keeping, new technologies, reporting of suspicious transactions, regulation and supervision of financial institutions and DNFBPs, etc.

- **USA**

  The US has imposed several legislative and regulatory standards to deter money laundering. The most significant out of these include the Bank Secrecy Act, the Money Laundering Control Act of 1986, the Anti-Drug Abuse Act of 1988, Section 2532 of the Crime Control Act of 1990, Section 206 of the Federal Deposit Insurance Corporation Improvement Act of 1991, the Annunzio-Wylie Anti-Money Laundering Act, the Money Laundering Suppression Act of 1994 and the Money Laundering and Financial Crimes Strategy Act of 1998. The US Senate passed the Patriot Act after the 11 September attack in New York. The official title of the US Patriot Act is "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 200130." The purpose of the Act is to deter and punish terrorist acts in the US and around the world, enhance law enforcement investigatory tools, and others including the following:

- To strengthen US measures to prevent, detect and prosecute international money laundering and financing of terrorism
- To subject to special scrutiny foreign jurisdictions and financial institutions, and classes of international transactions or types of accounts that are susceptible to criminal abuse
- To require all appropriate elements of the financial services industry to report potential money laundering

- **UK**

  The following forms the current legislative framework in the UK:
  - Money Laundering Regulations 2003: These set out the scope of the regulated sector and the preventive measures that must be taken as well as the powers of the supervisor over money service businesses and high-value dealers.
  - The Proceeds of Crime Act 2002, as amended by the Serious Organized Crime and Police Act 2005: This sets out principal money laundering offences and reporting obligations.
  - The Terrorism Act 2000: This Act covers terrorism and financing of terrorism and makes temporary provision for Northern Ireland on prosecution and punishment of certain offences, preservation of peace and maintenance of law and order.

7.2.5. Overall assessment of laws and regulations in India

Laws against financing of terrorism are relatively new in India and there is a need for further amendments made to the Bill. Its association with the FATF has helped India improve the legal scenario in the country with respect to countering financing of terrorism.

S No	Components of laws and regulations	Progress
1.	Acts to combat financing of terrorism, counterfeiting, piracy and smuggling	Progress being made
2.	Outreach of Acts and regulations to DNFBP sectors	Needs improvement
3.	Publishing of reports on trends and typologies on an annual basis	Progress being made

Needs improvement Progress being made On track

7.3. Technology

Advances made in technology, particularly in Information and Communication Technology (ICT), have enabled the Government and industry to devise several mechanisms to prevent, detect and deter counterfeiting, piracy and smuggling. This section explores advances made in India as well as leading international technological practices to aid prevention and detection of counterfeiting, piracy and smuggling. It also assesses the current role of technology in preventing and detecting how the proceeds of counterfeiting, piracy and smuggling are being used to fund terrorism.

7.3.1. Adoption of technology by industry to prevent and detect counterfeiting, piracy and smuggling

The industry bears the brunt of the menace of counterfeiting, piracy and smuggling, and therefore, has always been at the forefront of technological measures to prevent and detect such acts. According to the *FICCI CASCADE Report 2013*, two primary types of technological measures are adopted by industry in their fight against counterfeiting and piracy — authentication packaging, and track and trace packaging. While authentication packaging can help consumers or enforcement agencies to verify the authenticity of goods, track and trace technology helps them in tracing movement of goods through various stages of the supply chain. Some common technologies employed by industry include radio frequency identification (RFID), holograms, non-clonal identity, optical technology, smart cards, microscopic tags, plastic tags, biotechnology, etc.

In India, anti-counterfeiting / anti-piracy technology employed by industry varies from sector to sector, and has evolved over a period of time. However, there is lack of coordination and collaboration among industry players on research and development of such technologies. The cost and effort of developing anti-counterfeiting/ anti-piracy technologies is not recoverable from consumers in the short run, and therefore, making it difficult for the industry to devote sizeable part of their R&D budgets and efforts for development and propagation of technologies.

7.3.2. Adoption of technology by the Government to prevent and detect counterfeiting, piracy and smuggling

It is essential for the Central and state governments, as well as various government agencies, to promote technologies and help in their implementation to prevent and detect counterfeiting, piracy and smuggling in the country.

While the industry has been developing several types of anti-counterfeiting / anti-piracy technologies, the success of these is limited by the extent to which they are mandated by government laws and regulations. For instance, the Drug Controller General of India has proposed an amendment to the Drugs and Cosmetics Act, mandating that every drug manufactured in the country should have a Unique Identifier Code and 2D bar code on each pack, whereby their authenticity can be verified through an SMS. There is a similar mandate for medicine packs manufactured in India for export. However, such initiatives need to be implemented across more industries, and law enforcement agencies must have adequate technical expertise to identify fake goods by using advanced technology.

Government intelligence and law enforcement agencies have also begun using technology to prevent and detect cases of counterfeiting, piracy and smuggling. For instance, the Directorate of Revenue Intelligence (DRI) of the Central Board of Excise and Customs has put in place a system to analyze data from the Customs office and proactively identify smuggled consignments. However, it is essential to integrate this with other intelligence databases and also share information with Customs' databases maintained by international agencies to improve the efficiency of such systems.

7.3.3. Adoption of technology to prevent and detect proceeds of counterfeiting, piracy and smuggling and how this is used to finance terrorism

It is becoming increasingly difficult to detect and prevent financing of terrorism due to the evolving nature of this menace and the sophisticated measures adopted by terrorist organizations to conceal their fund flows. Terrorist organizations utilize the network of banks and other financial institutions to disguise and transfer funds. Given the large number of transactions that take place in the financial domain, it is extremely difficult to identify transactions leading to financing of terrorism from normal ones. Therefore, sophisticated IT solutions are required at the micro and macro levels to detect such transactions and identify the perpetrators.

Proceeds towards financing of terrorism, especially from counterfeiting, piracy and smuggling activities, seem like normal business transactions, with regular inflows and outflows, in the financial system. However, on deeper analysis, patterns of transactions could be found, which indicate disproportionate fund flows and specific measures taken by terrorist organizations to hide the trail of such funds.

The growth of information and communication technologies in the past few decades has facilitated innovations that can be used by terrorists to solicit and receive funds. These technologies can however also be used to counter financing of terrorism due to their ability to record and detect financial activities. India is facing the major challenge of tackling the threat posed by financing of terrorism due to most terrorist organizations exploiting advances in technology to raise and move funds.

One of the major initiatives taken by the Government of India in this regard was the establishment of the Financial Intelligence Unit (FIU), which has the mandate to detect and prevent money laundering and counter financing of terrorism. The FIU initiated its flagship Project FINnet, in 2006, which included deployment of advanced technical solutions to build a financial intelligence network and identify suspicious transactions that may be linked to financing of terrorism.

The RBI's KYC/AML/CFT guidelines require banks and financial institutions in India to deploy Anti-Money Laundering (AML) IT systems to identify potential transactions that may lead to financing of terrorism. Furthermore, under the Prevention of Money Laundering Act (PMLA), India has brought Designated Non-Financial Businesses and Professions (DNFBPs) under the purview of FIU reporting, and these are now required to report any suspicious transactions that may lead to financing of terrorism.

Another initiative is being planned by the National Intelligence Grid (NATGRID), which was set up as a nodal agency to analyze all the data accessed from various systems and agencies to identify issues pertinent to national security. Similarly, the National Investigation Agency (NIA) is in the process of setting up an IT system to assist in analyzing various sources of data in order to investigate cases of terrorism. These systems are expected to analyze "big data" and have the potential of enabling a breakthrough in tackling the nexus between counterfeiting, piracy, smuggling and financing of terrorism.

7.3.4. International Leading Practice: Australian Transaction Reports and Analysis Centre (AUSTRAC)

AUSTRAC is the Australian financial intelligence unit that counters money laundering and financing of terrorism. It has used technological advancement and innovation to strengthen its capabilities to collect, analyze and disseminate information to effectively fight financing of terrorism. Some of AUSTRAC's technological deployments include:

- **Electronic data delivery**
  AUSTRAC uses an electronic data delivery solution that enables cash dealers to transmit financial transaction reports through the internet, increase the timeliness of receipts provided and easy retrieval of information.
- **Advanced database capabilities**

AUSTRAC has implemented a number of advanced capabilities in its database including:

- Improved search capabilities through text-mining solutions with the integration of data mining tools
- Document-linking capabilities to integrate and enhance case management functionality
- Geo coding functionality to enable searches, based on geographical information found in addresses

- **Data mining**

  Implementation of its data mining function has greatly strengthened AUSTRAC's ability to analyze data, identify financial networks and locate reporting- and compliance-related information to assist in its regulatory function. AUSTRAC has increased its analytical and regulatory capabilities by implementing this function.

7.3.5. Overall assessment of progress made on adoption of technology adoption in India

It is evident that while the industry is conducting research on and developing technological measures to prevent counterfeiting and piracy, the Government also needs to increase its efforts in this area. Although government agencies have recently made technological advances in tracking proceeds of counterfeiting, piracy and smuggling leading to finance terrorism, it is essential for them to coordinate their initiatives to realize the full potential of these systems.

S No	Adoption of technology	Progress
1.	Adoption of technology by industry to detect and prevent counterfeiting, piracy and smuggling	On track
2.	Adoption of technology by Government to detect and prevent counterfeiting, piracy and smuggling	Progress being made
3.	Adoption of technology to detect and prevent proceeds of counterfeiting, piracy and smuggling being used to finance terrorism	Progress being made

Needs improvement Progress being made On track

7.4. Capacity-building

It is essential that all involved participants are equipped with the requisite training and skillsets to effectively implement anti-counterfeiting/piracy and anti-smuggling initiatives to detect and prevent financing of terrorism in the country. This section explores efforts being made in this area as well as in leading training and capacity-building practices for industry players, consumers and law enforcement agencies

7.4.1. Capacity-building for controlling counterfeiting, piracy and smuggling

It is essential to build awareness among consumers, industry and enforcement agencies on available means for stopping counterfeiting, piracy and smuggling, and sensitize them to the implications of this menace for India and industry. The Government and industry have been running consumer-awareness programs such as "Jaago Grahak Jaago," which utilize various media including television, print, art, etc., to increase consumers' awareness of their rights.

The large players in the industry are well aware of their intellectual property rights, and are well staffed with legal professionals to protect their interests. However, awareness needs to be built among small and medium enterprises, which are often vulnerable to counterfeiting and piracy, and require support from the Government and industry associations.

The Government has taken some initiatives to train personnel of enforcement agencies on laws, regulations and procedures for detecting and preventing counterfeiting, piracy and smuggling. Specialized agencies such as the Directorate of Revenue Intelligence (DRI), the Central Board of Excise and Customs (CBEC) and the Narcotics Control Bureau (NCB) are actively involved in handling smuggling and counterfeiting cases. However, it is important to ensure that local police forces in each state are trained to handle such cases, such that they can proactively identify these and provide additional capacity to other enforcement agencies, when required.

7.4.2. Capacity-building to prevent proceeds of counterfeiting, piracy and smuggling towards financing of terrorism

Counterfeiters and smugglers generally make use of banking and financial institutions to transfer the proceeds of their activities to terrorist organizations. It is therefore essential to create awareness among the employees of banks, financial institutions, as well as intelligence and enforcement agencies, on identification and prevention of suspicious transactions that may be related to financing of terrorism.

The FIU-IND conducts training programs and workshops on financing of terrorism, money laundering, the Prevention of Money Laundering Act and other relevant topics. It conducts training sessions for banks and financial institutions, in collaboration with the RBI and the Indian Bankers' Association (IBA), to build their capabilities and help them identify suspicious transactions and report these. The FIU has been supporting industry associations, professional bodies, regulators and financial sector entities to conduct training programs. Furthermore, it also provides technical assistance to banks on their anti-money laundering initiatives and efforts to combat financing of terrorism.

7.4.3. International cooperation

India is a founding member of the Global Counterterrorism forum (GCTF). It is also a member of the Financial Action Task Force (FATF), the Asia Pacific Group (APG), the Eurasian Group (EAG) and the International Criminal Police Organization (INTERPOL).

INTERPOL and India's Central Bureau of Investigation co-hosted a three-day training and capacity-building seminar on fighting criminal networks behind illicit trade in November 2012. The seminar showcased measures to combat illicit trade that would indirectly assist enforcement agencies track funds flowing to terrorist organizations. It was attended

by enforcements agencies and representatives from industries affected by illicit trade in garments, movies, tobacco and skin care products, who shared their experiences with the other participants.

India has participated in several courses held by the US Department of State's Anti-terrorism Assistance programme as well as other regional capacity-building programs. In addition, the annual US-India Counterterrorism Joint Working Group meet enabled the two countries to share their counterterrorism perspectives.

7.4.4. International leading practice: Stopfakes.gov

The US Government has launched a web portal, stopfakes.gov, to enable businesses and consumers to file electronic complaints about counterfeit products and their IPR-related trade problems. These are answered by a trade specialist within 10 days. The portal also has a helpline on which answers are provided by trade specialists.

This initiative is part of a large program, Strategy Targeting Organised Piracy (STOP), which was implemented by the former US President George W Bush as a strategic priority measure to combat counterfeiting, piracy and theft of IP. The key objectives of this program include development of a global repository of information, organization of education outreach events on intellectual property for small and medium-sized businesses and education campaigns for local and overseas businesses, and training of government officials, including law enforcement and judicial officers, etc.

7.4.5. International leading practice: Australia's financial intelligence unit

AUSTRAC, Australia's financial intelligence unit has been actively contributing to building capacity in law enforcement, revenue intelligence and national security agencies and their international counterparts.

AUSTRAC conducts the following eight international programs to provide technical assistance to and build the capabilities of various stakeholders:

- PPATK–AUSTRAC Partnership Program (with Indonesia)
- Jakarta Centre for Law Enforcement Cooperation
- Combating Corruption and Anti-Money Laundering Program (with the Philippines, Thailand, Indonesia and Malaysia)
- Enhancing Capacity to Regulate the Indonesian Alternative Remittance Sector Program
- Financial Monitoring Unit of Pakistan Capacity Building Program
- Strengthening AML/CTF Regulation in South Asia Program
- Pacific Region FIU Capacity Building Program
- Strengthening the Rule of Law in Africa Program

AUSTRAC has also developed e-learning courses to provide training to regulated entities, industry associations and the public on the topics of anti-money laundering measures and countering financing of terrorism.

7.4.6. Overall assessment of capacity-building

Looking at initiatives taken to build the capabilities of financial institutions, intelligence and enforcement agencies, it is evident that concerted efforts have been made to upgrade the capabilities of personnel to detect money laundering and counter financing of terrorism. However, many more training and awareness sessions need to be conducted for the employees of financial institutions. There should be greater emphasis laid on building the capabilities of intelligence and enforcement agencies, including the Anti –Terrorist Squad, the Department of Revenue intelligence and National Intelligence Agencies, at the Central and state levels through training programs and online courses.

S No.	Components of capacity-building	Progress
1	Capacity-building to detect and prevent counterfeiting, piracy and smuggling	Progress being made
2	Capacity-building to detect and prevent financing of terrorism from the proceeds of counterfeiting, piracy and smuggling	Progress being made
3	International cooperation	On track

Needs improvement Progress being made On track

8. The road ahead

The menace of counterfeiting, piracy and smuggling has assumed enormous proportions across the world, and is not only hurting industry and governments in terms of economic loss, but these are also a major source of funding for terrorist outfits and organized crime. Counterfeiters and smugglers are taking advantage of gaps in legislation, governance and information capabilities in various jurisdictions as an arbitrage opportunity. It is therefore essential that all the countries should join hands and collaborate on creating a legal and regulatory framework, which is supported by effective enforcement mechanisms to prevent this menace.

The FICCI CASCADE Report 2013 provides a future roadmap for strengthening the anti-counterfeiting and anti-piracy framework in India, through proactive actions by the Government and the Industry. Some of the key steps required in India to stop counterfeiting, piracy and smuggling in India include:

- Revision of legislation on counterfeiting, piracy and smuggling to classify these beyond economic crimes
- Establishment of an inter-agency coordination mechanism to ensure that efforts made and intelligence can be coordinated to proactively prevent counterfeiting, piracy and smuggling
- Establishment of a single entity that is responsible for preventing the proceeds of counterfeiting, piracy and smuggling from being channelled to finance terrorism
- Strengthening of technological collaboration between industry and the Government on anti-counterfeiting and anti-piracy measures
- Implementation of strong capacity-building and training mechanism to increase awareness of the perils of counterfeiting, piracy and smuggling among industry players, consumers and enforcement agencies

With this objective in mind, we propose a framework with four different levels of maturity — basic, intermediate, good and advanced — in the areas of laws and regulations, governance, technology and capacity-building. The framework can be used to evaluate the current level of maturity in the current setup for countering the menace of counterfeiting, piracy and smuggling, and preventing financing of terrorism through the proceeds of these. Based on this evaluation, the Government can identify the steps required and set short-term, medium-term and long-term goals identify to achieve this.

	Basic	Intermediate	Good	Advanced
Governance	▶ No or very limited agencies to deal with counterfeiting, piracy and smuggling	▶ No separate agency for counterfeiting and smuggling. Uncoordinated agencies tackling issue of counterfeiting and smuggling ▶ Counterfeiting, piracy and smuggling not on high priority list of these agencies	▶ Prioritized actions taken against counterfeiting, piracy and smuggling activities ▶ Availability of well-trained specialized investigators and prosecutors in specialized anti-piracy, anti- counterfeiting and anti-smuggling cells ▶ Time-bound investigations conducted by enforcement agencies ▶ Engagement with international bodies including Egmont, INTERPOL and FATF	▶ Collaboration between industry and government agencies to combat counterfeiting, piracy and smuggling ▶ Mesh network of all enforcement agencies to track counterfeit/ smuggled goods ▶ National- level agencies to deal with the issue of cross-border counterfeiting/piracy and collaboration with international agencies on freezing/ seizures ▶ Governance agencies campaigning for sensitization of consumers to their Intellectual Property rights
Law and Regulation	▶ No or limited laws against counterfeiting, piracy and smuggling ▶ Proceeds of counterfeiting/ piracy /smuggling generating much higher returns than penalties ▶ Limited confiscation according to the law ▶ Complex police and judiciary system leading to delays	▶ Laws in place but with limited control on counterfeiting, piracy and smuggling activities ▶ Risk of conviction lower than benefits reaped from activities such as short imprisonment and low-value fines	▶ Confiscation of additional assets in addition to counterfeit/smuggled goods ▶ Rules allowing confiscation of assets transferred to third parties, but having connection with convicted criminal ▶ National jurisdictions to put in place comprehensive procedures to efficiently manage frozen/seized property, and dispose of and transfer confiscated assets to the state ▶ Introduction of Zero Piracy policy	▶ Non-conviction- based confiscation regimes which allows confiscation of goods even before the person is convicted ▶ Mechanisms that enable rapid access to high-quality information on ownership and manufacture of confiscated goods ▶ Laws to empower seizure of assets from other countries ▶ Harmonization of registration and control of trademarks
Technology	▶ No or very limited industries using technological measures to prevent counterfeiting/piracy ▶ Consumers with no or very limited ways of verifying authenticity of goods	▶ Industry and government to realize importance of using state-of-the-art technology in anti-counterfeiting/ anti-piracy/ anti-smuggling initiatives ▶ Industry using outdated	▶ Several industries employing advanced technical solutions to combat counterfeiting/piracy (no common standard adopted) ▶ Increased R&D on such technologies, but with a short-	▶ Harmonious effort made by industry and government on developing standard technologies to counter counterfeiting /piracy ▶ Increased expenditure on R&D to develop long -term technologies

	Basic	Intermediate	Good	Advanced
	▶ Government mainly using manual means of intelligence and data analyses to counter financing of terrorism	technologies and limited R&D to develop new technologies ▶ Limited or no government support provided to industry in its technological advancement initiatives ▶ Low penetration and adoption of technology by law enforcement agencies on anti-counterfeiting/ anti-piracy/ anti-smuggling initiatives ▶ Basic technological setup for collection and analysis of data for anti-counterfeiting/piracy/ smuggling and CFT initiatives	term focus ▶ Government organizations involved in and helping industry develop such technologies ▶ Increased penetration and adoption of technology ▶ Mature IT systems for collection and analysis of data for anti-counterfeiting /piracy/ smuggling and CFT; lack of system integration with different agencies	▶ Government organizations embedding such technologies in their systems to fight counterfeiting/piracy/ smuggling ▶ Significant government contribution to R&D efforts made by industry to develop such technologies ▶ Mature IT systems for collection and analysis of data for anti-counterfeiting /piracy/smuggling and CFT initiatives; integration with the systems of different agencies
Capacity Building	▶ Citizens not sensitized about the perils of counterfeiting/piracy/ smuggling ▶ Lack of awareness among industry players about legislation and mechanisms for preventing counterfeiting and piracy ▶ Lack of training for enforcement agencies on laws and procedures to prevent counterfeiting /piracy/ smuggling ▶ Absence of institutional mechanism in government and industry to build capacity and disseminate information	▶ Limited number of awareness and sensitisation campaigns for consumers / industry, run by either the industry or the government ▶ Enforcement agencies are provided high level training ▶ Development of independent capacities for self-consumption of organizations and to counter organization- specific counterfeiting/ piracy ▶ Capacity not diffused across industry and specific to organizations' individual objectives ▶ Government with limited role in capacity -building at this stage	▶ Industry-wide efforts to develop capacity under uniform guidelines issued by Government ▶ Active engagement of government agencies in building capacity ▶ Seminars and workshops conducted by Government and industry ▶ Public awareness campaigns launched to generate awareness	▶ Adoption of international best practices for training and capacity building; collaboration with international agencies ▶ Tie- ups with institutes in India and abroad on capacity-building and training ▶ Opening up of research and development institutes ▶ Inter-industry exchange of subject matter experts and cross - fertilization of technologies and expertise

9. Glossary

Abbreviation	Detail
APG	Asia Pacific Group
AML	Anti–money Laundering
ATS	Anti-terrorism Squad
AUSTRAC	Australian Transaction Reports and Analysis Centre
BI	Business Intelligence
CD	Compact disk
CFT	Counter financing of terrorism
CTR	Cash Transaction Report
DNP	Duty not paid
DNFBP	Designated Non-Financial Business and Professions
DRI	Directorate of Revenue Intelligence
EAG	Eurasian Group
EIC	Economic Intelligence Council
EU	European Union
FATF	Financial Action Task Force
FCTC	Framework Convention on Tobacco Control
FINCEN	Financial Crimes Enforcement Network
FIU	Financial Intelligence Unit
FIU-IND	Financial Intelligence Unit–India
GCTF	Global Counter Terrorism Forum
GPML	Global Programme against Money-Laundering
GTD	Global Terrorism Database
IBA	Indian Banks' Association
IMF	International Monetary Fund
INTERPOL	International Criminal Police Organization
IPR	Intellectual Property Rights
IRA	Irish Republican Army
IRDA	Insurance Regulatory Development Authority
LEA	Law Enforcement Agency
KYC	Know Your Customer
MOU	Memorandum of Understanding
NDPS	Narcotic Drugs and Psychotropic Substances Act, 1985
NIA	National Intelligence Agency
NPO	Non–Profit Organization
PMLA	Prevention of Money Laundering Act, 2002
STR	Suspicious Transaction Reports
RBI	Reserve Bank of India
UAPA	Unlawful Activities (Prevention) Act, 1967
UK	United Kingdom
UN	United Nations
UNGASS	United Nations General Assembly Special Session
UNODC	United Nations Office on Drugs and Crime
USA	United States of America
WHO	World Health Organization

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