

# **The links between intellectual property crime and terrorist financing**

*Text of public testimony of Ronald K Noble, Secretary General of Interpol.*

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## **Executive Summary**

Intellectual Property Crime (IPC) is the counterfeiting or pirating of goods for sale where the consent of the rights holder has not been obtained. Terrorist financing is the generation of funds via licit or illicit means that are then remitted to a terrorist organization or its front organization via formal or informal financial channels.

The global trade in counterfeit goods has recently been estimated at US\$ 450 billion, representing between 5 to 7% of the value of global trade. The Federal Bureau of Investigation (FBI) in the United States estimates losses to counterfeiting to United States businesses at US\$200 to 250 billion a year.

In Northern Ireland the counterfeit products market is estimated to cost the economy in excess of US\$167 million. In 2002, the police seized in excess of US\$ 11 million in counterfeit products. It is known that paramilitary groups are involved in IPC, including counterfeit cigarette trafficking.

In 2000, a joint operation between Russian law-enforcement agencies and private industry resulted in the break-up of a CD manufacturing plant. According to the police officials involved, this counterfeit CD plant was a source of financing for Chechen separatists. The CD plant was run by Chechen organized crime which then remitted funds to Chechen rebels. The FSB (Russian Federal Security Service) estimated that the average monthly earnings of the criminal organization are estimated to have been US\$500,000 - 700,000.

A militant active in Europe, known for his activities in radical fundamentalist organizations over the last decade has been recently convicted for trafficking in counterfeit goods. The individual's counterfeiting associates are also known members of radical fundamentalist groups.

Interpol is aware of three cases of IPC-related activity and terrorist funding in South America. These cases involve ethnic-Lebanese who are involved in the remittance of funds to Hizbullah.

## Introduction

Intellectual Property Crime (IPC) is the counterfeiting or pirating of goods for sale where the consent of the rights holder has not been obtained. Terrorist financing is the generation of funds via licit or illicit means that are then remitted to a terrorist organization or its front organization via formal or informal financial channels. These funds may be used for either the running costs of the organization or to carry out attacks.

## Scope and purpose

This testimony seeks to examine the links between IPC and the financing of terrorist organizations. It examines what is known to the International Criminal Police Organization (Interpol).

The testimony is produced for the Congress of the United States, House of Representatives Committee on International Relations hearing on the links between IPC and the financing of terrorist organizations.

## Methodology

The testimony draws on information held in files at the Interpol General Secretariat (Interpol), from Interpol Member States, trade bodies, manufacturers and rights holders, and a range of open sources.

## The Nature of intellectual property crime

Intellectual Property refers to the legal rights that correspond to intellectual activity in the industrial, scientific, and artistic fields. These legal rights, most commonly in the form of patents, trademarks, and copyright, protect the moral and economic rights of the creators, in addition to the creativity and dissemination of their work. Industrial property, which is part of intellectual property, extends protection to inventions and industrial designs.

Based on this understanding Intellectual Property Crime (IPC) *refers to counterfeited and pirated goods, manufactured and sold for profit without the consent of the patent or trademark holder.* <sup>(1)</sup>

Intellectual Property Crime (IPC) represents one aspect of the informal economy (black market) which operates in parallel to the formal economy. Other activities within the informal economy include illicit drugs, stolen vehicles, or counterfeit credit cards. The informal economy has expanded with globalisation, and represents a significant level of economic activity even in developed countries.

The global trade in counterfeit goods has recently been estimated at US\$ 450 billion, representing between 5 to 7% of the value of global trade <sup>(2)</sup>. In Europe, in 2001, the European Union reported the seizure of 95 million items of counterfeit or pirated goods, representing approximately US\$2 billion. The Federal Bureau of Investigation (FBI) in the United States estimates losses to counterfeiting to United States businesses at US\$200 to 250 billion a year <sup>(3)</sup>. IPC is a lucrative

criminal activity with the possibility of high financial returns. It is also relatively low risk as prison sentences tend to be light when compared to other criminal activity such as drug trafficking.

IPC involves a wide range of criminal actors ranging from individuals to organised criminal groups. IPC includes the manufacturing, transporting, storing and sale of counterfeit or pirated goods. Generally, the above is organised and controlled by criminals or criminal organizations. In Northern Ireland, however, paramilitary groups are known to control some manufacturing through their links to organised crime groups.

## **The nature of terrorist financing**

Terrorist financing is the remittance of funds to terrorist organizations or their front organizations. These sources of funding are multiple and vary between groups. Sources for funds depend on the needs of the group and its capacity to generate funds. A group like the FARC in Colombia, obviously needs to generate large amounts of money in order to support a large and relatively expensive infrastructure. In contrast some paramilitary groups in Northern Ireland have financial requirements under US\$ 1 million per annum. The September 11 attacks have been estimated as costing less than US\$500,000.

Funds given to terrorist organizations have diverse origins. Licit and illicit activities can be used to generate funds. Licit origins can include donations from sympathizers or legitimate enterprises owned by terrorist organizations. Illicit origins can include a wide range of criminal activity from drug trafficking in the case of narco-terrorists like the FARC, to credit card fraud by members of the Salafi Group for Call and Combat, or extortion or taxes by other terrorist groups.

### **Establishing the relationship between IPC and terrorist financing:**

The link between organized crime groups and counterfeit goods is well established. But Interpol is sounding the alarm that Intellectual Property Crime is becoming the preferred method of funding for a number of terrorist groups.

There are enough examples now of the funding of terrorist groups in this way for us to worry about the threat to public safety. We must take preventative measures now.

In general, law enforcement does not treat IPC as a high priority crime. Law enforcement does not always investigate IPC cases. Investigations when initiated often tend to be seizure-based and do not extend to following onward flows of money. Even if law enforcement were to follow onward flows of money, given the high level of cash-based transactions involved, it is difficult to establish with precision the end destination of the financial flows. In relation to private industry enforcement bodies, a number of whom conduct intelligence gathering operations, generally, money trails are not of interest as the primary task is to eradicate counterfeit production and seize counterfeit goods.

In contrast, terrorist financing is regarded as a high priority for law enforcement agencies. However, much of the information about terrorist financing is highly classified or strictly controlled at a national security level due to its sensitivity. This information is often not widely

available to Interpol. Interpol usually collects such information in the context of projects involving small groups of countries. Terrorist financing is difficult to investigate due to the complex flows of money often in cash form and often laundered. This is facilitated by complicated associations of individuals through which the money transits before becoming available to the relevant terrorist group.

All of the above complicates establishing links between IPC and terrorist financing. Furthermore, much of the financing is of an indirect nature and it is difficult to attribute direct links between an individual involved in IPC and funds remitted to a terrorist organization.

Nonetheless, Interpol does not believe an investigation into Intellectual Property Crime is over when there is a seizure of counterfeit or pirated goods. We think further work needs to be done to trace the proceeds, and to establish links if possible with groups benefiting from these funds.

Law enforcement agencies have to recognize that Intellectual Property Crime is not a victimless crime. Because of the growing evidence that terrorist groups sometimes fund their activities using the proceeds, it must be seen as a very serious crime with important implications for public safety and security.

The links between IPC and terrorist financing can be categorised as follows;

**Direct involvement** where the relevant terrorist group is implicated in the production, distribution or sale of counterfeit goods and remits a significant proportion of those funds for the activities of the group.

Terrorist organizations with direct involvement include groups who resemble or behave more like organized criminal groups than traditional terrorist organizations. This is the case in Northern Ireland where paramilitary groups are engaged in crime activities. These crime activities include IPC. Involvement by these groups ranges from control or investment in manufacturing or fabrication to taxing the market stalls where counterfeit goods are sold. It is possible for illicit profit to be generated for terrorist groups at different points in the process.

**Indirect involvement** where sympathizers or militants are involved in IPC and remit some of the funds, knowingly to terrorist groups via third parties.

Terrorist organizations whose sympathizers are involved in IPC and who use some of the funds generated from this activity to support the terrorist group. In many cases the funding is further attenuated, involving unrecorded movements of cash via third parties. This seems to be the case with some groups like Hizbullah and the Salafi Group for Call and Combat.

## **Specific examples**

The Interpol General Secretariat is in possession of the following examples of IPC and terrorist financing.

### **Northern Ireland**

In Northern Ireland the counterfeit products market is estimated to cost the economy in excess of US\$167 million. In 2002, the police seized in excess of US\$ 11 million in counterfeit products. It is known that paramilitary groups are involved in IPC, including counterfeit cigarette trafficking. It is unknown how much of the money generated by these counterfeiting operations goes to terrorist groups and how much is retained as criminal profit.

Paramilitary involvement in IPC in Northern Ireland is through their control of the markets where many counterfeit goods are sold. Other aspects of the IPC in Northern Ireland appear to have no terrorist involvement i.e. the importation and sale of counterfeit clothing is dominated by individuals in the South Asian community in Northern Ireland.

### **Kosovo**

An example similar to the situation in Northern Ireland is in the United Nations-administrated province of Kosovo. A significant proportion of consumer goods, (CDs, DVDs, clothes, shoes, cigarettes and computer software) available for sale, are counterfeit. The sale of counterfeit goods occurs openly and there is limited enforcement against counterfeit products due to significant legal loopholes. In Kosovo, there is a long-standing relationship between criminal organizations and local ethnic-Albanian extremist groups. This relationship is based on family or social ties. It is suspected that funds generated from IPC benefit both criminal organizations and extremist groups.

### **Chechen separatists**

Interpol is aware of a case in 2000 in Russia, where Chechen organized crime groups and terrorist organizations were benefiting from counterfeit good manufacturing and trafficking. Specifically, in 2000, a joint operation between Russian law-enforcement agencies and private industry resulted in the break-up of a CD manufacturing plant. According to the police officials involved, this counterfeit CD plant was a source of financing for Chechen separatists. The CD plant was run by Chechen organized crime which then remitted funds to Chechen rebels. The FSB (Russian Federal Security Service) estimated that the average monthly earnings of the criminal organization are estimated to have been US\$500,000 - 700,000. A number of explosives and arms were also confiscated by the police during raids on the residences of the suspects.

## **North African radical fundamentalists terrorists in Europe**

Interpol possesses information that indicates the following in relation to IPC and terrorist financing in Europe to radical fundamentalist networks. Sympathizers and militants of these groups may engage in a range of criminal activity including IPC. Sympathizers will indirectly pass a portion of the funds generated from their illicit activity to radical fundamentalist networks. The sympathizer passes money in the form of charitable giving or zakat (charitable giving based on a religious obligation in Islam) via Mosques, Imams or non-profit organizations that are sympathetic to radical fundamentalist causes. This money is eventually moved to the radical fundamentalist terrorist group. The transactions are predominantly cash-based leaving no paper trail or way of verifying the origin or final destination of the funds. In terms of radical fundamentalist militants, these persons may for long periods of time not be directly involved in terrorist activity. During these periods, while not on active service duty, they support themselves through criminal activity like IPC or credit card fraud. A portion of the money earned in these activities is kept while a portion is remitted to radical fundamentalist terrorist groups in cash form, in ways similar to the methods used by sympathizers.

A militant active in Europe, known for his activities in radical fundamentalist organizations over the last decade has been recently convicted for trafficking in counterfeit goods. The individual's counterfeiting associates are also known members of radical fundamentalist groups. They are reported as still being involved in large-scale counterfeit goods trafficking. This individual fits the profile outlined above of militants being involved in criminal activity to support themselves while not on active service duty. Funds are remitted to the group with which they are aligned.

## **Al-Qaeda**

In general al-Qaeda and affiliated groups benefit from funds raised by sympathizers. This may include funds originating in either licit or illicit activities. One estimate is that over a ten-year period al-Qaeda received between \$300 million and \$500 million, averaging US\$30 to US\$50 million a year (4). According to the same source approximately 10% of spending went on operations while 90% was used to maintain the infrastructure of the network, including payments to other groups to support them or to increase al-Qaeda's influence in these regions. A further use of these funds was the payment of money to guarantee the protection of the group in Afghanistan or Sudan.

One counterfeiting case has been reported in the media where there are alleged connections to al-Qaeda. The investigation into a shipment of fake goods from Dubai to Copenhagen, Denmark, suggests that al-Qaeda may have indirectly obtained financing through counterfeit goods. Danish customs intercepted a container, containing counterfeit shampoos, creams, cologne and perfume. The sender of the counterfeit goods is allegedly a member of al-Qaeda. A

transnational investigation involved agencies from three countries; Denmark, the United Kingdom and the United States (5). It is difficult to know whether the funds from this traffic went directly to al-Qaeda or whether only a part of them were remitted. In general, it is possible that funds generated through IPC are remitted to al-Qaeda indirectly through zakat-based (a religious duty to give money) giving. Although given the cash-based nature of this giving it is difficult to establish the provenance of the funds.

## **Hizbullah**

Interpol is aware of three cases of IPC-related activity and terrorist funding in South America. These cases involve ethnic-Lebanese who are involved in the remittance of funds to Hizbullah. As in the case of European radical fundamentalist groups funds are thought to be indirectly remitted via organisations associated with Hizbullah. Interpol's information suggests that these persons are involved in the distribution and sale of counterfeit goods, not in the manufacturing or fabrication of counterfeit goods. It is suspected that most counterfeit manufacturing and fabrication is dominated by organized crime. Three examples illustrate this:

Funds generated from IPC may be remitted to Hizbullah using the following modus operandi. Counterfeit goods produced in Europe are sent to a free-trade zone in South America by a group of Lebanese criminals sympathetic to Hizbullah. The goods are then smuggled into a third country, to avoid import duties, where they are sold via a network of sympathizers and militants originating in the Middle East. An unknown amount of the money generated through this activity is suspected to be remitted to Hizbullah.

In February 2000, an individual was arrested for piracy and suspected fundraising for Hizbullah. The individual sold pirated music CDs, Sega, Sony and Nintendo game discs to fund a Hizbullah-related organization. Among the discs recovered were discs containing images and short films of terrorist attacks and interviews with suicide bombers. The discs were allegedly used as propaganda to generate funds for Hizbullah. Interpol is in possession of some of these films. This individual is currently a fugitive.

Another individual was arrested for his alleged ties with the Hizbullah in Foz do Iguazú in June 2002 after evading arrest in October 2001. The individual is wanted for tax evasion and the collection and remittance of funds to extremist organizations. Interpol files do not mention involvement in IPC. The alleged IPC connection is stated in open sources. Law enforcement sources indicate that numerous letters from organizations, suspected of being associated with Hizbullah in Lebanon, were found thanking the individual for financial contributions.

## **Future evolutions**

Based on the following factors it is possible to state that IPC may become a more important source of illicit financing for terrorist groups.

IPC crime is a low priority for law enforcement agencies and investigations are poorly resourced when compared to illicit narcotics or counter-terrorism investigations. There is also a lack of generalised expertise among law enforcement agencies in recognising and investigating counterfeit and pirated goods.

The size of the informal economy and the demand for inexpensive consumer goods means that a wide-range of products are vulnerable to counterfeiting and piracy. The demand for counterfeit or pirated goods is widespread due to perceptions that purchasing these goods is not criminal. There is a large illicit market for persons seeking to engage in low risk criminal activity.

Trafficking in counterfeit goods is a relatively easy criminal activity. A terrorist could make profit solely from the sale of counterfeit or pirated goods and does not need to be involved in the actual production or fabrication. Thus, there are relatively low entry costs and the illicit profit margins are high.

One estimate is that the profits from counterfeiting are similar to drugs trafficking; there is a return of €10 euros for each €1 invested <sup>(6)</sup>.

Other estimates are that counterfeiting is more profitable than drugs trafficking, one kilo of pirated CDs is worth more than one kilo of cannabis resin. The kilo of CDs is worth €3000 and the kilo of cannabis resin is valued at €1000 <sup>(7)</sup>. The same source states that a computer game costs €0.20 to produce and sells at €45 while cannabis costs €1.52 a gram and sells at €12 <sup>(8)</sup>.

In terms of the levels of risk involved, the penalties are low, for example, in France selling counterfeit products is punishable by a two-year prison term and a €150,000 fine, while selling drugs is punishable by a ten-year prison term and a €7,500,000 fine.

It follows that the profit/risk ratio is attractive not only to criminals but also to loosely networked terrorist groups, like Salafi Group for Call and Combat, who do not have the capacity to generate funds through sophisticated criminal activity.

In the case of terrorist groups who resemble organized crime groups counterfeiting is attractive because they can invest at the beginning of the counterfeiting cycle and extract a illicit profit at each stage of the counterfeiting process from production to sale, thus maximising returns.



## Conclusions

There is a limited amount of information available from IPSP criminal files and Interpol Member States on IPC and terrorist financing. Drawing generally valid conclusions about IPC and terrorist financing is difficult based on the information available to IPSP. However, based on the information relating to IPC and terrorist financing available to IPSP it is possible to state with a reasonable degree of certainty the following;

1. IPC is global in its scale and scope, generating significant amounts of illicit profit;
2. IPC is a low risk/high return activity, due to the low penalties if caught, and the high return in relation to the initial investment.
3. While this testimony does not address organized crime involvement directly, it is possible to state that IPC is now dominated by criminal organizations, due to the relatively low level of risk and comparatively high level of profit.
4. IPC, as with other crime activities, involves a number of different types of criminal actors from individuals to organized criminal groups.
5. It is generally true that terrorist groups have multiple sources of funding. These sources of funding include both licit and illicit activities. One illicit activity could be revenue generated from IPC. This can be from either direct involvement in IPC, or indirect involvement where supporters or sympathizers involved in IPC remit funds from this activity to terrorist groups.
6. Most terrorist groups do not take responsibility for the development and control of counterfeit production and distribution; rather they benefit indirectly from funds remitted to them from sympathizers and militants involved in IPC.
7. It is not possible to estimate the level of funds remitted to terrorist groups from IPC. First, terrorist financing is by its nature opaque. Second, the scale and scope of intellectual property crime is difficult to realistically estimate as the number of cases known to IPSP is limited.
8. It is, however, possible to state with certainty that paramilitary groups in Northern Ireland have financially benefited from IPC. Individuals in the Tri-border region in South America have remitted funds generated from IPC to Hizbullah-associated organizations. Funds generated from the informal economy, specifically IPC-related activities may also find their way indirectly to terrorist organizations.
9. It is possible to state that intellectual property theft is likely to become a more important source of financing for terrorist groups because it is low risk/high return. This is probably more true for terrorist groups like those in Northern Ireland due to the increasing resemblance of these groups to organised crime groups.

## Recommendations

The International Criminal Police Organization (Interpol) is uniquely positioned to act to combat this criminal threat. Interpol should work to reduce organized crime involvement in IP crime and reduce the risk that IP crime becomes a preferred source of terrorist financing. There is a need to allocate resources to the investigation of IP crime and to trace the proceeds of it.

Based on the key judgments above, the following should be considered as appropriate responses to the financing of terrorism by IP crime.

1. Interpol recommends that good practice and successful models for investigating IP crime nationally should be established. Interpol should help to coordinate international action against IP Crime. The models should be based on professional law enforcement and intelligence agency investigations into terrorist involvement in IP crime and other forms of criminality. A good example is the multi-agency Organized Crime Task Force (OCTF) in Northern Ireland.
2. The work of the Interpol Intellectual Property Crime Action Group (IPCAG) should be enhanced and developed by including a wide range of stakeholders from customs, police and private industry. Under the auspices of Interpol the Group should continue to address the following IP crime enforcement issues:
  - a. Encourage Interpol's 181 member countries to identify a national law enforcement IP crime central point of contact to facilitate the exchange of IP crime related information
  - b. Enhance the exchange of information and intelligence on IP crime between law enforcement agencies
  - c. Enhance and strengthen the operational contact network of private and public partners throughout Interpol's four regions - Africa, the Americas, Asia and Europe
  - d. Develop and disseminate the IP crime best practice guide
  - e. Develop and deliver training for IP crime investigations to law enforcement agencies
  - f. Raise awareness of the issue of IP crime and its link to terrorist organizations and serious organized crime
3. Interpol proposes establishing a three-year private/public IP crime program of activities. It will be coordinated by a dedicated IP Crime Unit at the General Secretariat and supported throughout Interpol's 181 Member States by a network of dedicated IP crime liaison officers located in the four Interpol Regions. The aim of the program will be to develop and maintain a private/public IP crime partnership to:
  - a. Develop strategies and programs to combat international criminal activity linked to IP infringement
  - b. Raise awareness of IP crime and its links to terrorism and serious organized crime
  - c. Facilitate and improve the exchange of information and intelligence on IP crime
  - d. Coordinate international cross-border multi-agency investigations into IP crime

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<sup>1</sup> Definition as used on page 11 by The Organised Crime Taskforce, Northern Ireland, in '*The Threat: Assessment 2002 Serious and Organised Crime in Northern Ireland*' The Police Service of Northern Ireland

<sup>2</sup> '*The Economic Impact of Counterfeiting*', Organization for Economic Co-operation and Development, 1998

<sup>3</sup> The Federal Bureau of Investigation and the U.S. Customs Service today announced the National Intellectual Property Rights Coordination Center's first conference for members of Congress and industry in Washington. FBI National Press Office, Washington D.C., July 17, 2002 available at <http://www.fbi.gov/pressrel/pressrel02/outreach071702.htm>

<sup>4</sup> Jean-Charles Brisard, JCB Consulting, Report prepared for the President of the Security Council, United Nations, 'Terrorism Financing: Roots and trends of Saudi terrorism financing', December 19, 2002

<sup>5</sup> *BBC Monitoring Reports*, (United Kingdom), 'Al-Qa'idah Trading in Fake Branded Goods,' 11/09/2002; *Australian Financial Review*, (Australia), Big Business Targets Terrorist Pirates, 29/01/2003

<sup>6</sup> 'Explosion de la contrefaçon', *Affiches Parisiennes et Départementales*, 4th-5th July 2002.

<sup>7</sup> Report broadcast on France 2, 1pm news, 26th June 2002, and TV, *Journal Mondial des Journaux*, 27th June 2002.

<sup>8</sup> 'La contrefaçon de CD plus rentable que le trafic de hasch', *Marianne*, 10th-16th December 2001.