Illicit trade: Fueling terror financing and organised crime

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Illegal trade in smuggled, counterfeited and pirated goods dampens the economy in multidimensional ways. It destabilises the legal industry, restrains innovation and investments, reduces government revenues and hampers the health and safety of consumers. Moreover, globally it fuels transnational crime, corruption, and terrorism. As it converges with other criminal activities it undermines the rule of law and the legitimate market economy, creating greater insecurity and instability around the world.

The Government of India at all levels has introduced laws that are not only compliant with our international obligations but are in many ways progressive. However, due to the complexity and alarming growth of the illicit trade, more inter-governmental efforts and public-private alliances are needed to identify approaches leading to the development of a holistic strategy. Reviewing of current regulations related to smuggling, counterfeiting and piracy; using of latest technology to aid security forces and enforcement agencies; raising the penalties for those committing this crime; allocating more financial and human resources to counter this activity, and running awareness campaigns are some areas where adequate thrust can be given.

This report on **Illicit Trade: Fueling terror financing and organised crime** is a product of a FICCI initiative, namely the Committee Against Smuggling and Counterfeiting Activities Destroying the Economy [CASCADE]. The report helps improve our understanding of the nexus between terror financing, organised crime and illicit trade.

We hope that this report would contribute to the debate on the subject and spur the stakeholders to find ways and means to mitigate the challenge.

I wish FICCI-CASCADE success in its future initiatives.
Message from Chairman - FICCI CASCADE

It has now been established beyond doubt that illicit trade is the fuel that energises the terror machine. Today, the world’s largest and most notorious terrorist organisations are relying on the proceeds from illicit trade to give shape to their evil designs. Illicit trade is damaging national progress by impacting its financial, social and physical health.

It is in this backdrop that we had arrived at the conclusion, that there is an urgent need for a comprehensive study and thus FICCI CASCADE approached KPMG in India to evaluate in a detailed manner these complex issues and their impact. KPMG has now prepared a detailed report titled- Illicit trade: Fuelling terror financing and organised crime. It is a compilation of facts and figures, best practices, case studies and initiatives at the national and international level to understand terrorism and organised crime, its finance mechanisms and chart a framework for preventing the financing of terrorism.

It is my firm view that in order to conquer this menace, all stakeholders will have to collectively put their might behind the cause. This will enable us to reach our desired goal of defeating the evil intentions of the terrorists and those indulging in organised crime.

I am confident that you will find this a useful read and I look forward to your valuable inputs so that we can further improve upon our strategies to deal with this growing menace.

Anil Rajput
Chairman
FICCI CASCADE
Growth of illicit trade has been one of the major challenges and concerns for the governments and industry stakeholders across the globe. With rapid technology evolution, illicit trade and organised crime have found a refined and vogueish nexus causing the problem to increase manifolds. Further, the advent of sophisticated technologies such as bitcoins, dark net, e-markets, e-commerce websites, money making in illicit trade has become a walkover, thereby increasingly posing security threat and danger to nations worldwide.

To this end, for dealing with the national threat of terrorism, as a nation, we need strong and sustainable policy system to deal with the constant danger of criminal activities and human life loss. Over the last few decades, governments have formulated strong policies and taken tough stances on terrorist bodies with strong support from industry where the organisations have established benchmarks to reduce the growing problem of illicit trade, a prime source of terrorism funding.

In this knowledge paper, ‘Illicit Trade: Fueling terror financing and organised crime’, KPMG in India has discussed the linkages between illicit trade, terrorism and organised crime. We hope you find the knowledge paper useful to understand the fine network of organised crime, terrorism and illicit trade.

We would like to express our gratitude towards FICCI CASCADE for providing us with an opportunity to provide our viewpoints on a topic of national importance at the conference ‘MASCRADE 2017: Protect your brand globally: Fight Counterfeiting, Smuggling and Piracy’ organised in New Delhi on 12 and 13 October, 2017.
“We are living in an era where parallel economy fuelling through illicit trade such as counterfeiting and smuggling is stifling the sustainable growth of developing nations like India. It is absolutely necessary for the policy makers and industry to tackle this issue by taking on the bull by its horns.”

- Mohit Bahl
Partner and Head
Forensic Services, KPMG in India

“Illicit trade and organised crime function hand-in-hand, with illicit trade being one of the most preferred means of criminal financing. These are issues which cannot be tackled in isolation. The industry should support to further government’s focus on breaking the backbone of financing of criminal activities– the industry could play a pivotal role in minimising the leakages in the supply chain”

- Ritesh Tiwari
Partner,
Forensic Services, KPMG in India
“The nefarious link between illicit trade and terrorism has been established beyond doubt. It is high time that all stakeholders join hands to defeat the evil designs of anti-national forces, failing which a huge price will have to be paid.”

- Anil Rajput
Chairman
FICCI CASCADE
Terrorism is a global problem that affects almost every country of the world, consequences of which are felt by the industry, government and the civilians alike. More than 55 per cent of all attacks in 2016 took place in Iraq, Afghanistan, Pakistan, India, and Nigeria. In order to fund and execute these attacks, terrorist organisations require financing for which they employ different financing mechanisms such as state-sponsored financing, charities and donations, kidnapping, extortion etc. It has been observed that illicit trade which includes smuggling, counterfeit and piracy is one of the most preferred mechanism used by these organisations to finance their operations. Many prominent terrorist organisations such as Hezbollah, Lashkar-e-Taiba, Al Qaida, Irish Republican Army, etc. rely on illicit trade for financing upto 20 per cent of the terror operations, recent example of which is Charlie Hebdo attacks.

Illicit trade is a problem that has high economic impact and is growing exponentially with time. In the report ‘Trade in Counterfeit and Pirated Goods: Mapping the Economic Impact’ published by Organisation for Economic Co-operation and Development (OECD) and European Union Intellectual Property Office (EUIPO) in April 2016, it is estimated that the total economic and social costs globally due to counterfeiting and piracy worldwide stood at USD737 to USD898 billion in 2013 and is expected to rise to USD1.54 to USD1.87 trillion by 2022, suggesting an approximate increase of 108 per cent. Apart from this, the total employment losses globally due to counterfeit and piracy stood at 2 to 2.6 million jobs in 2013 and is expected to rise to 4.2 to 5.4 million jobs in 2022, suggesting an approximate increase of 110 per cent.

Smuggling in India takes place in various forms- mis-declaration, undervaluation, misuse of end use and other means. The seizure value for mis-declaration of goods stood at INR1,187 crore in 2016, while that of undervaluation of goods stood at INR254 crore. The seizure value from misuse of end use was at INR2,780 crore, seeing a rise from INR953 crore in 2015, suggesting an increase of 190 per cent in 2016 from the
Recommendations:

1. Better awareness about counterfeit and smuggled products through government initiatives
2. Government and industry can join hands to run campaigns for reducing the market of counterfeit and pirated goods
3. Task forces can be formed to check the growth of illicit trade and links between terrorism, organised crime and illicit trade
4. Government can draw a balance between its revenue needs through taxation and the incentives illicit market gets through increased taxes on goods.

previous year. The most commonly counterfeited and smuggled goods are tobacco, cigarettes, electronic items, gold, machinery and parts, alcoholic beverages, auto components, Fast Moving Consumer Goods (FMCG) and mobile phones. As per KPMG in India’s analysis on UN COMTRADE data for years 2012-2016, average smuggling in electronics for these years is estimated to be INR 3,429.69 crore. Similarly, average smuggling in gold for these years is estimated to be INR 3,119.56 crore and for machinery and parts is estimated to be INR 5,913 crore. The percentage penetration of illicit trade in the cigarettes market increased from 15 per cent to 21 per cent over the years 2010-2015. Whereas, the number of smokers in India over years increased, the sales volume of cigarettes went down, thereby suggesting an increase in the penetration of illicit trade in the industry.

There are certain factors that drive the growth of illicit trade in the industry. Higher taxation rates, availability of cheaper alternative, lack of awareness and lack of enforcement mechanisms are key factors that encourage the consumers to opt for counterfeited, smuggled or pirated good without realising the after effects of promoting the illicit trade.
Introduction
1.1. Terrorism and organised crime

The United Nations (UN) panel in the year 2005 defined terrorism as an act intended to cause death or serious bodily harm to civilians or non-combatants with the purpose of intimidating a population or compelling a government or an international organisation to do or abstain from doing any act.¹

However, despite recognition of terrorism menace at a global level, the definition of terrorism could not be officially arrived at, due to the fact that a terrorism in one country can be viewed as an act of freedom movement in another country.

As per the most recent data available through the global report on terrorism by US Homeland Security,² India is the third most affected country by terrorist activities in 2016, with the first and second positions occupied by Iraq and Afghanistan respectively. India’s neighbour, Pakistan, however slipped down by a position from 2015 to occupy fourth position in the 2016 report.

A number of nations such as Afghanistan, Pakistan, Nigeria and Yemen on the other hand witnessed lesser number of terrorist activities in 2016, compared to 2015. Further, Iraq, Afghanistan, Pakistan, India and Nigeria accounted for nearly half the global terrorist attacks in 2016.³

Figure 1: Ten countries globally with the most number of terrorist activities

Source: National Consortium for the Study of Terrorism and Responses to Terrorism, U.S. Department of State

- As shown in figure 1, the number of terrorist activities in India increased to a total of 927 in 2016 from 798 in 2015, showing an alarming increase of approximately 16 per cent
- Nearly 75 per cent of all deaths in 2016 due to terrorist attacks took place in five countries (Iraq, Afghanistan, Nigeria, Syria, and Pakistan)
- More than 55 per cent of all attacks in 2016 took place in five countries (Iraq, Afghanistan, Pakistan, India, and Nigeria).

¹. Combating Terrorism, Eighth report of second Administrative Reforms Commission, June 2008
³. National Consortium for the Study of Terrorism and Responses to Terrorism, US Department of State, Accessed on 1 September, 2017

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1.2. Illicit trade

Smuggling, counterfeiting and piracy are currently affecting multi-billion dollar industries, such as tobacco, alcoholic beverages, computer hardware, auto components, FMCG, packaged food items and mobile phones, pervasive across countries. The losses caused due to smuggling, counterfeiting and piracy are not restricted to economic costs, but expand their scope to social costs as well such as increased crime rate in the society.

International Chamber of Commerce (ICC) identifies counterfeit and piracy as a form of theft, where the theft is associated with illegal acquisition and use of intellectual property (IP). Thus, the economic and social costs associated with counterfeiting and piracy is similar to those with other forms of theft.4

Organisation for Economic Co-operation and Development (OECD) estimates that the total economic and social costs due to counterfeiting and piracy stood at USD737-898 billion in 2013 and is expected to rise to USD1.54-1.87 trillion by 2022.

Further, total estimated tax loss due to counterfeiting and piracy was roughly calculated to be USD996-130 billion in 2013 and is expected to rise to USD197-270 billion in 2022.

Smuggling has been a point of concern for Indian administration for past many decades, with narcotic drugs, gold and tobacco accounting for the major smuggled goods. As per the Directorate of Revenue Intelligence (DRI), the value of seizures for gold and cigarettes in the year 2016-17 stood at INR435 crore and INR78 crore respectively and the seizure value for narcotic drugs in 2016-17 stood at INR4885 crore, thus suggesting the large magnitude of smuggling industry in India.5

Union des Fabricants (UNIFAB), while linking illicit trade to organised crime suggests that counterfeiters are increasingly associating themselves with organised crime and terrorism, with terrorist organisations relying upon the illicit trade as one of the sources of funding.

As per the United Nations Commission on Crime Prevention and Criminal Justice (UNCCPCJ), counterfeiting is the second largest source of income for criminal activities such as terrorism, globally. Terrorist organisations are manufacturing counterfeit goods and smuggling them across borders to finance their crime operations.

The OECD/European Union Intellectual Property Office (EUIPO) estimates that international trade in counterfeit and pirated products accounted for as much as 2.5 per cent of the value of international trade, or USD461 billion, in 2013.

Major components of illicit trade include tobacco, auto components, alcohol, computer hardware, fast-moving consumer goods (FMCG) and mobile phones.

1.3. Links between illicit trade, terrorism and organised crime

A large number of terrorist organisations across the world rely on illicit trade such as smuggling and counterfeiting as their sources of financing. One such terror unit, Al-Qaeda, operating globally, has illicit trade of cigarettes and apparels as one of the financing source. Lashkar-e-Taiba and Irish Republican Army also draw their source of income from illicit trade of cigarettes among other goods. D-Company is identified as a terrorist organisation thriving on the black market of counterfeit goods in India. The transformation of D-Company into a terrorist entity is believed to coincide with its entry into trade of counterfeit goods, according to the observers.7

The first large-scale cigarette trafficking case tied to terrorism was prosecuted in North Carolina, US, in 2002. A federal jury in Charlotte convicted Mohamad Hammoud of violating a ban on providing material support to terrorist groups by channeling profits from a multi-million dollar cigarette-smuggling operation to Hezbollah.

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5. Value of Seizures 2016-17, Directorate of Revenue Intelligence
7. COUNTERFEITING & TERRORISM, Union des Fabricants, 2016

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1.4. Changing nature of terrorism and organised crime

The evolution of terrorism in recent times is driven by the development of unique technologies that provides a platform to maneuver its operations. For example, Darknet, not accessible by normal search engines and requiring specific software to access, serves as being an illegal marketplace for counterfeited and smuggled goods. It also provides sellers and buyers the opportunity to remain anonymous, by facilitating the transactions through crypto currency such as bitcoins. The transactions through bitcoins are completely anonymous and are also untraceable, thereby providing a convenient mechanism for transactions across regions and borders to fund terrorism and organised crime.8

Essentially, Darknet has become one of the major platforms for supporting illicit trade which eventually helps in generating easy financing for organised crime and terrorism.

Today, terrorists’ profile has changed and almost each deviant individual can evolve from simple delinquency to terrorism. For isolated terrorists, counterfeit is the opportunity to finance themselves fast, while progressing unnoticed.

1.5. Changing nature of illicit trade

Evolution of internet, and with it, e-commerce has defined new ways for illicit trade to prosper. E-commerce provides clear benefits to both consumers and businesses and is therefore, believed to be one of the easiest ways of trading in the modern world. However, e-commerce is increasingly becoming a major enabler for the distribution and sale of counterfeited and pirated tangible goods as it opens new possibilities to get access to such goods in areas that were traditionally beyond the reach of counterfeiters. In addition, counterfeiters are able to function across multiple jurisdictions, evading capture, and are also able to take down and set up new websites overnight without losing their potential customer base.

With the development and penetration of e-commerce in traditional markets, the problem of counterfeiting is increasing multi-fold. The e-commerce industry is becoming structured and matured across the world, but the legal framework is far from being comprehensive, thus making online platform a breeding ground for illicit trade.9 Growth of technology and the increasing use of internet has also paved the way for piracy, providing a convenient platform to deal in pirated content through easily downloadable content, torrents and magnets.

Internet has become one of the distribution channels for counterfeit goods par excellence, because of its apparent anonymity, its ability to operate across different jurisdictions and its potential to resent sophisticated replicas in seemingly official online boutiques.

Internet is full of websites failing to respect the protection of personal data. The purchase of counterfeit goods online may expose consumers to many damages such as spams, computer virus, and theft of personal and banking data.

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8. The Deep Web, darknets, Bitcoin and brand protection, by Akino Chikada, Markmonitor Inc, accessed on 14 August, 2017
9. China’s e-commerce legislative and regulatory framework, China Briefing, Lu Yao, Zhang Shirley, Ku Eunice, 2013

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2.1. Terrorism

Global terrorism database defines terrorism as ‘threatened or actual use of illegal force and violence by a non-state actor to attain a political, economic, religious, or social goal through fear, coercion, or intimidation’. \(^1\)

The following criteria should be satisfied for an activity to be classified as a terrorist action:

- It should be intentional in nature
- It should be perpetrated by sub-national actors
- It should entail violence or immediate threat of violence

Eighth report by the 2\(^{nd}\) Administrative Reforms Commission\(^2\) identifies the following forms of terrorism:

1. **Ethno-nationalist terrorism:** Such violence usually focuses either on the creation of a separate state or on the elevation of the status of one ethnic group over others

2. **Religious terrorism:** Practitioners of terrorism motivated either in whole or in part by a religious imperative consider violence as a divine duty or a sacramental act

3. **Ideology oriented terrorism:** Any ideology can be used to support the use of violence and terrorism. Ideology oriented terrorism is generally classified into two ideologies: Left-wing and Right-wing terrorism

4. **State-sponsored terrorism:** One distinction of state sponsored terrorism from other forms of terrorist activity is that it is initiated to obtain certain clearly defined foreign policy objectives rather than grabbing media attention or targeting the potential audience

5. **Narco-terrorism:** Narco-terrorism has been defined by the Canadian Security Intelligence Service as "the attempt by narcotics traffickers to influence the policies of the Government by systematic threat or use by violence."

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1. Global Terrorism Database, accessed on 3 August, 2017
2. National Consortium for the Study of Terrorism and Responses to Terrorism, US Department of State, accessed on 1 September, 2017

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2.2. Overview of organisation of terrorism and organised crime

As per the insights from South Asia Terrorism Portal, the total annual fatalities in India have decreased to 898 in 2016 from 3,259 in 2005 due to terrorist activities. However, the annual fatalities in 2016 saw an increase of approximately 20 per cent, thus suggesting an increase in the number of both attacks and fatalities. Thereby it can be inferred that the annual fatalities in India due to terrorist attacks have increased over 20 per cent in 2016 from the year 2015, which is an alarming increase in the number of fatalities.

Figure 3 shows the conflict map of India presenting the affected areas and the organisations affecting them. It can be interestingly noted that majority of the affected states share the international border or coastline from where smuggling can be facilitated.

Figure 2: Number of fatalities in India

Source: South Asia Terrorism Portal, satp.org accessed on 11 August, 2017

While India ranked highly among countries that experienced the most terrorist attacks in 2016, the lethality of these attacks remained relatively low and declined by 31 per cent compared to 2014.

Table: Means of terrorism identified by the 2nd Administrative Reforms Commission

<table>
<thead>
<tr>
<th>Means of Terrorism</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chhattisgarh</td>
<td>18%</td>
</tr>
<tr>
<td>Manipur</td>
<td>12%</td>
</tr>
<tr>
<td>Jammu and Kashmir</td>
<td>19%</td>
</tr>
<tr>
<td>Jharkhand</td>
<td>10%</td>
</tr>
</tbody>
</table>

More than half of the terrorist attacks in India in 2016 took place in four states.
Figure 3: India conflict map 2017

Source: South Asia Terrorism Portal, satp.org accessed on 11 August, 2017
2.3. Financing terrorism and organised crime

According to the U.S. Homeland Security Department, terrorist financing is the generation of funds via licit or illicit means that are then remitted to a terrorist organisation or its front organisation via formal or informal financial channels. These funds may be used either to run the costs of the organisation or to carry out attacks.

The costs associated with terrorist organisations can be categorised as direct and indirect costs.³

On 28 September 2001, the United Nations Security Council adopted Resolution 1373, which says that nation states should ‘prevent and suppress the financing of terrorist acts’.

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³ Combatting Terrorism, Eighth report of second Administrative Reforms Commission, June 2008

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2.4. Source of financing of terrorism and organised crime

Financing of terrorist organisations can be classified as through legitimate and illegitimate means. The legitimate means include state-sponsored financing, charities and donations, front companies and legitimate businesses. The illegitimate means of financing include smuggling, sale of counterfeit goods, piracy and activities such as kidnapping and extortion.

Ideological and religious terrorist groups seek finance for their activities by appealing to their ideological followers and raise most of their corpus through donations and charities.

These groups make fund transfers from one region to another either through proxy front-companies or through crypto-currency, thus making the monitoring of transfers difficult.

Smuggling, counterfeiting and piracy appeal to the terrorist organisations more than the other means of financing because of the low risks associated with it. The legal frameworks in most countries are not as stringent for IP theft compared to the theft of other goods or other illegal activities such as kidnapping and extortion.4

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Illicit trade: Fueling terror financing and organized crime
3.1. Economic impact of smuggling, counterfeiting and piracy

Illicit trade is a widespread and ever growing problem with significant amount of trade taking place in various commodities. According to The Economic Impacts Of Counterfeiting And Piracy,1 total value of counterfeit and pirated goods stood between USD923 billion and USD1.13 trillion in 2013 which is greater than the gross domestic product of 178 countries in the world. Out of this, approximately USD249 - USD456 billion is estimated to contribute to domestic production and consumption and USD461 billion towards international trade in counterfeit and pirated goods. Total value of counterfeit and pirated goods is estimated to rise further to USD1.90 trillion - USD2.81 trillion by 2022.2

The tax loss caused due to this is estimated to reach USD199 billion - USD270 billion in 2022 from the current USD96 billion – USD130 billion.3 The effects of this trade are not limited to mere tax loss to the governments. Counterfeiting and piracy will lead to an estimated net employment loss of 4.2 million - 5.4 million in 2022, compared to 2 million - 2.6 million in 2013.4 Piracy also plays a contributing factor to this total value with total digital piracy in movies, music and software standing at USD213 billion and is estimated to further grow to around USD384 billion - USD856 billion.5 Further breakup of piracy is given in the Table 1.

Table 1: Digital piracy in 2013 and forecast for 2022

<table>
<thead>
<tr>
<th>Piracy</th>
<th>2013 (USD billion)</th>
<th>Estimate for 2022 (USD billion)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Digital piracy in film</td>
<td>160</td>
<td>289-644</td>
</tr>
<tr>
<td>Digital piracy in music</td>
<td>29</td>
<td>53-117</td>
</tr>
<tr>
<td>Digital piracy in software</td>
<td>24</td>
<td>42-95</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>213</strong></td>
<td><strong>384-856</strong></td>
</tr>
</tbody>
</table>


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Illicit trade is a problem that affects almost all major economies across the world. European Union saw 81,098 cases of IPR seizures in 2015 which was a reduced number from 95,194 in 20146 (Figure 5). It is interesting to note that immediately after the Great Depression in 2010, the number of IPR seizures in European Union saw a massive rise of more than 80 per cent from 43,572 in year 2009 to 79,112 in year 2010 and more than 100 per cent to 91,254 in 2011. Similar trends can be noticed for the United States between the year 2009 and 2011 where the number of seizures rose from 14,841 in 2009 to 24,792 in 20117 (Figure 6). While the economy was recovering from the Great Depression, the number of IP seizures also saw a growth. The number of seizures reached their peak in 2014 with 95,194 seizures and United States witnessed the maximum number of seizures in 2016 with 31,560 seizures. Increased number of seizures can be attributed to two factors, first being the increase in the trade of counterfeited and pirated goods and second being the enforcement by the countries getting stricter. As the awareness regarding intellectual property is rising and the countries are taking it more seriously, the seizures are bound to increase but as the above reports suggested, the trade in such goods is also increasing manifold.


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For U.S., in Fiscal Year (FY) 2016, the number of IPR seizures increased 9 per cent to 31,560 from 28,865 in FY 2015. The total estimated manufacturer’s suggested retail price (MSRP) of the seized goods, had they been genuine, increased to USD1.38 billion from USD1.35 billion in FY2015. The source economies majorly include China and Hong Kong.

3.2. Counterfeiting

Figure 8 shows the countries whose right holders are most affected by counterfeit and piracy. According to a report by OECD and EUIPO, the right holders in United States are the major victims of counterfeit and piracy followed by Italy and France. It can be noted that India is not among the top economies of origin of right holders whose IP rights are infringed.

It can be noted that China and Hong Kong cumulatively provided for 89.5 per cent of seizures of counterfeited and pirated goods making China and Hong Kong as the largest provenance economies.


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If further details are explored regarding the components of counterfeit in the major economies, it is found that the apparels, consumer electronics and footwear are the major commodities that are counterfeited in the United States as per the data from the U.S. Homeland Security\(^9\) (Figure 9).

Counterfeiting has managed to acquire a foothold in virtually all important sectors/domains. 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.

Counterfeits are also prominent in pharmaceuticals leading to lethal effects. According to Transnational Crime\(^{12}\), one million people are killed annually because of counterfeit pharmaceuticals.

Another facet of illicit trade is terror financing. Counterfeits have contributed to the major terrorist attacks in different parts of the world. According to the UNIFAB report\(^{13}\), the Charlie Hebdo attack was partly funded by the sale of counterfeit goods such as footwear and apparel obtained from China by Kouachi brothers. Thus, counterfeiting can be said to be hampering all of the aspects of global economy, from taxes to jobs to terror financing.


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10. Against Organised Crime: INTERPOL Trafficking and Counterfeiting Casebook, INTERPOL, 2014
13. COUNTERFEITING & TERRORISM, Union des Fabricants, 2016

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3.3. Smuggling

Smuggling is considered as one of the most widespread and dangerous illicit trade as it is said to be widely associated with terror financing. It is defined and explained by various statutes in different jurisdictions. World Customs Organisation defines smuggling as 'customs offence consisting in the movement of goods across a Customs frontier in any clandestine manner, thereby evading Customs control.’ In India, smuggling is dealt by the Customs Act, 1962.

There can be various factors driving smuggling in various domains and jurisdictions. There may be different reasons and means by which smuggling operations are carried out across the world. According to Invisible Enemy, the factors that affect the smuggling and its extent are:

**Smuggling can be of two types:**
1. For legal goods
2. For prohibited goods

For prohibited or illegal goods such as drugs and narcotic substances or arms and weapons, smuggling is done in order to make the products available in jurisdiction on demand. The purpose of smuggling legal goods is generally for evasion of duties, taxes, etc.

### Table 2: Illicit trade and their estimated annual values in 2014

<table>
<thead>
<tr>
<th>Goods</th>
<th>Estimate annual value (USD)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drugs</td>
<td>426 billion to 652 billion</td>
</tr>
<tr>
<td>Small arms and light weapons</td>
<td>1.7 billion to 3.5 billion</td>
</tr>
<tr>
<td>Human</td>
<td>150.2 billion</td>
</tr>
<tr>
<td>Organ</td>
<td>840 million to 1.7 billion</td>
</tr>
<tr>
<td>Cultural property</td>
<td>1.2 billion to 1.6 billion</td>
</tr>
<tr>
<td>Illegal wildlife trade</td>
<td>5 billion to 23 billion</td>
</tr>
<tr>
<td>Logging</td>
<td>52 billion to 157 billion</td>
</tr>
<tr>
<td>Mining</td>
<td>12 billion to 48 billion</td>
</tr>
<tr>
<td>Crude oil theft</td>
<td>5.2 billion to 11.9 billion</td>
</tr>
</tbody>
</table>

Source: Transnational Crime and the Developing World, Global Financial Integrity, March 2017
According to the Transnational Crime and the Developing World, tobacco and cigarette smuggling remains one of the most smuggled and seized goods. In 2015, the total illicit trade in tobacco and cigarette is worth USD40 billion, out of which USD5.2 billion is contributed by the illegal and counterfeit products.

Chewing tobacco, on the other hand saw an increase in number of seizures globally. Different types of tobacco saw different trends in the global seizure scenarios, as can be noticed in Figure 10 and Figure 11.

Further, smuggling is said to be contributing to the excessive taxation loss and terror financing. According to UNIFAB Report, 15-20 per cent of terror funds in Waziristan area are contributed by cigarette smuggling. According to the same report, after the rise of Islamic state, the cigarette smuggling has grown by two times, oil smuggling has grown by four times and mobile phone smuggling has grown by six times in Turkey-Syria border.

3.4 Piracy
The World Trade Organisation (WTO) in its agreement on Trade Related Intellectual Property Rights (TRIPS) defines pirated copyright goods as goods which are copies made without the consent of the right holder or person duly authorised by the right holder. The piracy exists in various domains.

According to Global Piracy Report released by MUSO, number of visits to piracy sites as a ratio to the country’s user internet population were calculated. Poland, despite having very less population contributed to the maximum piracy visits per internet user of 197 visits per user followed by Turkey with 153 visits per user.

India was found to have one of the lowest piracy visits per user with 21 piracy visits per internet user. One of the main reason for this trend is that India also has 35 per cent of population using internet which is one of the lowest whereas countries such as Germany, Poland and Spain have more than 70 per cent of population using internet.

The United States despite having 89 per cent of population using internet, has only 71 piracy visits per user, which is relatively low as compared to other countries with high percentage of internet using population.
Maximum number of visits were attributed to pirated streaming of content followed by public torrents.

‘A drugs dealer buys a kilo of cocaine for about USD47,000 and can hopefully sell it on the street for about USD94,000: he therefore makes a profit of 100 per cent. However, for the same lay-out - and a much lower risk - an enterprising counterfeiter can buy pirated copies of advanced software and resell them at a profit of 900 per cent’ was published by Time magazine in its article ‘Busting Software Pirates’ by Jennifer L on 18 November, 2002.\

From illegal streaming to unauthorised web downloads and torrents, every unauthorised use and reproduction of copyrighted material comes under piracy.\n\nGlobally, piracy in films, music and software was a market of USD213 billion in 2013 which is estimated to grow to USD384 - USD856 billion in 2022.\

19. COUNTERFEITING & TERRORISM, Union des Fabricants, 2016
4

Focus: Impact of terrorism, organised crime and illicit trade on India
4.1. Menace of illicit trade, terrorism and organised crime in India

India has been a region affected by terrorism, organised crime and illicit trade ever since its independence in 1947. Of all forms of illicit trade, smuggling happens to affect the most. The nexus of smuggling is used to finance criminal activities, as suggested by various reports by the Government of India.

The seizures of smuggled goods in India, throws light on the magnitude of smuggling industry. The largest number of seizures, as per the Directorate of Revenue Intelligence (DRI), were for narcotic drugs, the value of which stood at INR4,885 crore. The seizure value of smuggled narcotic drugs, is therefore, almost equal to the seizure value of all other smuggled goods put together, as suggested by the data available from the Union Report 1 of 2017 by Revenue Customs of India. Gold, cigarettes and apparel occupy the second, third and fourth positions with respect to the number of seizures. Figure 14 provides a detailed understanding of the seizure values as reported by DRI.

With respect to gold smuggling, Government of India has taken several steps such as demonetisation. However, the nexus of gold smuggling appears to find its way out of all measures. Smuggling of gold in 2017 has risen again, after observing a temporary dip following demonetisation.1

Figure 14: Commodity wise seizures, 2017

Source: Directorate of Revenue Intelligence, 2017

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Smuggling in India takes place in various forms—mis-declaration, undervaluation, misuse of end use and other means. The seizure value for mis-declaration stood at INR1,187 crore in 2016, while that of undervaluation stood at INR254 crore. The seizure value from misuse of end use was at INR770 crore and the seizures from other means was at INR2,780 crore, seeing a rise of 191 per cent from INR953 crore in 2015. This suggests evolution of means of smuggling in India with the evolution of government policies to deal with smuggling. Figures 15-18 illustrate the number of seizures and value of seized products smuggled by various means in India.
4.2. Impact of illicit trade on industries

The following sub-sections provide insights into the impact of illicit trade on a few key industries in India.

4.2.1. Tobacco and cigarettes
Smuggling and counterfeiting of tobacco products, specifically cigarettes have been a point of concern for both government and industry in India. As indicated in the graphs below, the percentage penetration of illicit trade in the cigarette industry has seen a constant rise in recent years. It will be fair to conclude that the sale of counterfeited and smuggled cigarettes has increased since legal sales of cigarettes has fallen from 2010-2015 with number of smokers not decreasing.

India, having ratified the WHO Framework Convention on Tobacco Control (FCTC) in 2004, identifies the elimination of illicit trade in tobacco as a key goal in its policies. Article 15.1 of WHO FCTC states that ‘The parties recognise that the elimination of all forms of illicit trade in tobacco products, including smuggling, illicit manufacturing and counterfeiting, and the development and implementation of related national law, in addition to sub-regional, regional and global agreements, are essential components of tobacco control’.

Legal sales of cigarettes in India by volume fell from 98.58 billion stick units in 2010 to 88 billion stick units in 2015. However, the actual consumption fell by just 4.9 billion stick units during the same time, thus suggesting an estimated rise of 5.5 billion stick units in illicit trade market. Estimating the value of one stick unit at an average of INR10.5, as per the data available of seizures from Directorate of Revenue Intelligence, the market of illicit trade in cigarettes rose by INR5,775 crore between the years 2010 and 2015, making the illicit trade market for cigarettes in India worth INR25,000 crore.

Figure 19: Illicit trade estimate of cigarettes: Volume 2010-2015

Several reports from DRI suggest that smuggling of cigarettes is increasing in recent years due to:

a. Increase in taxes by the Government of India on cigarettes and

b. Availability of cheap cigarettes in the neighbouring countries, thereby leading to an increased demand for smuggled cigarettes.

As observed in the previous sections, apart from evasion of taxes, the illicit trade of tobacco products has been a catalyst for terrorism and organised crime. Therefore, it becomes instrumental for both the government and industry to come up with policy measures for mitigating illicit trade of tobacco and its products. The effect of sin tax on cigarettes should be evaluated vis-à-vis the threat which is posed to the security of the country by indirect financing of terrorism and organised crime.

The figures below suggest that the legal sales of cigarettes are further expected to fall from 2015-20, thus providing a larger market share to the illicit market. It has been observed that the percentage of illicit trade in cigarettes has increased in the past and is expected to increase further in future.

The percentage penetration of illicit trade in the cigarettes market increased from 15 per cent to 21 per cent over the years 2010-2015. Tax structure during the same time also suggests an increase in the tax on cigarettes, thus suggesting a direct link between increased taxes and increased illicit trade of cigarettes.

The number of smokers in India has increased from 50 million in 2010 to 54.5 million in 2015.

Figure 21: Forecast sales of tobacco by category: Value 2015-2020

4.2.2. Alcoholic beverages

Alcoholic beverages industry faces a major problem of grey marketing at both global and national level. According to Illicit Markets- A Threat to our National Interests: The Alcoholic Beverages Industry, published by FICCI and Thought Arbitrage Research Institute(TARI) in 2015, the grey market loss to the alcoholic beverage industry stood at INR14,140 crore in 2014 which had increased from INR5,626 crore in 2012 observing an increase of over 150 per cent.

This resulted in a huge tax loss to the government with an estimated revenue loss of INR6,309 crore.

There may be several reasons that contribute to such an extensive grey marketing of alcoholic beverages. The primary reason being lack of awareness regarding the consequences on health because of counterfeit alcohol. The consumer, lured by the lowered prices tends to purchase the cheaper alternative.

Another reason for proliferation of counterfeit alcohol is prohibition of alcohol in many states in India. There is a prohibition on alcohol in states such as Gujarat, Bihar etc. Despite the ban, the consumption of the alcohol in these states is not nil. One of the major sources of the alcohol in such states is considered to be counterfeit alcohol.

Figure 23: Estimated grey market loss to government and industry (INR crore) - alcoholic beverages


4.2.3. Auto component
The auto component market is similarly plagued by counterfeits and grey market. The Indian auto component industry suffered a loss of INR10501 crore in 2014 due to grey market which increased from INR9198 crore in 2012, according to Illicit Markets- A Threat to our National Interests: The Auto Components Industry, released by FICCI and Thought Arbitrage Research Institute (TARI) in 2015.

However, according to Indian Automotive Aftermarket; The Road Ahead by ACMA, the counterfeit penetration has reduced from 36 per cent 2010-11 to 5 per cent in 2016-17.

According to Illicit Markets- A Threat to our National Interests: The Auto Components Industry, a report prepared by FICCI and Thought Arbitrage Research Institute(TARI) in 2015, there are various factors that contribute to the growth in auto component grey market:

- Ease of manufacturing, packaging and import of the products
- Higher margins earned by retailers and mechanics for the sale of counterfeits
- Uninformed customers buying counterfeit parts
- Short replacement cycle of some parts
- Supply constraints faced by components manufacturers
- Shortcomings of existing legislation
- Availability of technology to copy products
- Lower cost of duplicate product
- Lack of awareness of potential loss of counterfeit product
- Supply constraints in smaller towns and rural areas.

Figure 24: Estimated grey market loss to government and industry (INR crore) – auto components

<table>
<thead>
<tr>
<th>Year</th>
<th>Loss to Government</th>
<th>Loss to Industry</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>2726</td>
<td>9198</td>
</tr>
<tr>
<td>2014</td>
<td>3113</td>
<td>10501</td>
</tr>
</tbody>
</table>


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4.2.4. Fast Moving Consumer Goods (FMCG)
The FMCG industry is expected to grow at a compounded annual growth rate (CAGR) of 14.7 per cent to USD110.4 billion during 2012-2020, according to India Brand Equity Foundation (IBEF) of the Ministry of Commerce and Industry, Government of India. It comprises of three components namely packaged food or food and beverages, personal goods and house care products.

The extent of grey market in FMCG industry can be estimated by a survey conducted by FICCI CASCADE in 2015 which stated that 30 per cent of the products in the industry were found to be fake and 80 per cent of the consumers believed they were using genuine products. In 2014, FMCG personal goods industry suffered an estimated loss of INR19,243 crore due to grey market with INR5,954 crore loss to the government.

According to Illicit Markets- A Threat to our National Interests: The FMCG –Personal Goods Industry, key factors driving the grey market in FMCG goods industry are:

**Figure 25: Estimated grey market loss to government and industry (INR crore) – FMCG goods**

<table>
<thead>
<tr>
<th></th>
<th>2012</th>
<th>2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Loss to Government</td>
<td>4646</td>
<td>19243</td>
</tr>
<tr>
<td>Loss to Industry</td>
<td>15035</td>
<td>5954</td>
</tr>
</tbody>
</table>

4.2.5. Packaged foods
The packaged foods industry is expected to grow at 9 per cent annually to become a USD100 billion industry by 2030, dominated by milk, sweet and savoury snacks and processed poultry, according to Illicit Markets - A Threat to our National Interests: The FMCG – Packaged Food Industry, by FICCI and Thought Arbitrage Research Institute (TARI), released in 2015.

The packaged food industry also lost an estimated INR 21,957 crore to grey market in 2014 with INR 6,096 crore loss to the government.

According to Illicit Markets - A Threat to our National Interests: The FMCG – Packaged Food Industry, by FICCI and Thought Arbitrage Research Institute (TARI), released in 2015, there are certain factors that contribute to the counterfeiting of food industry that are:

- A large unorganised sector in the packaged food industry
- Weak regulatory and implementation mechanism
- High price of branded and premium products
- Huge income disparities creating a market for cheap alternatives to the branded and premium products among the low income population

Figure 26: Estimated grey market loss to Government of India and industry (INR crore) – food industry

4.2.6. Mobile phones

There are reports of seizures of counterfeit phones and phone accessories on a regular basis. According to the India Brand Equity Foundation (IBEF) of the Ministry of Commerce and Industry, Government of India, as of February 2017, the total number of subscribers in India are 1.185 billion, making India the second largest subscriber base in the world.

The mobile phone market in India witnessed one of the highest grey market losses increase to industry with an estimated loss of INR 19,066 crore in 2014 increased from INR 9,042 crore in 2012. According to Illicit Markets- A Threat to our National Interests: The Mobile Phones Industry, by FICCI and Thought Arbitrage Research Institute(TARI), released in 2015, there are many factors contributing to the grey market such as:

1. People buy counterfeit/ substandard mobiles because of social influence
2. Desire to have more complex gadgets
3. Rapid changes in the technology and the need to keep up with such changes
4. Availability of latest technology at lower cost
5. Higher profit margins for the counterfeiters
6. Limited life of mobile phone and need for frequent replacement

Figure 27: Estimated grey market loss to Government of India and industry (INR crore) – mobile phones

4.2.7. Computer hardware

According to National Association of Software and Services Companies (NASSCOM)’s strategic review, 2017, India’s IT-Business Process Management industry is projected to grow at 8 per cent in FY2017 to USD154 billion. One of the major segment of this industry is computer hardware industry.

In 2014, the computer hardware industry lost nearly INR7344 crore to grey market.\(^7\)

Government also suffered a loss of INR1923 crore in form of revenues from the computer hardware market. According to Illicit Markets- A Threat to our National Interests: The Computer Hardware Industry, by FICCI and Thought Arbitrage Research Institute (TARI), released in 2015, major factors that contributed to the increase in grey market are:

- Lower cost of production
- Higher profit margins as compared to originals due to low cost of production
- Lack of awareness of potential losses due to counterfeit product
- Limited reach of original products in small towns
- Replacement of counterfeit products is cheaper and easy

**Figure 28: Estimated grey market loss to Government of India and industry – Computer hardware**

<table>
<thead>
<tr>
<th>Year</th>
<th>Loss to Government (INR crore)</th>
<th>Loss to Industry (INR crore)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>1234</td>
<td>4725</td>
</tr>
<tr>
<td>2014</td>
<td>1923</td>
<td>7344</td>
</tr>
</tbody>
</table>


\(^7\) Illicit Markets- A Threat to our National Interests: The Computer Hardware Industry, FICCI CASCADE, 2015
4.3. Smuggling on the rise in India

4.3.1. Methodology for estimation of smuggling in India

The size of smuggling in India for three industries, viz. gold, electronics and machinery has been analysed by calculating the difference in the exports that were reported by different countries to India and the imports of the same product reported by India. The statistics for import and export are collected from the UN COMTRADE’s database for the following HS codes:

### Table 3: Industry and HS codes for UN COMTRADE data

<table>
<thead>
<tr>
<th>Industry</th>
<th>HS code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gold</td>
<td>7108</td>
</tr>
<tr>
<td>Machinery and parts</td>
<td>8402, 8403, 8404, 8405, 8406, 8407, 8408, 8409, 8410, 8411, 8412, 8413, 8414, 8415, 8416, 8417, 8418, 8419, 8420, 8421, 8423, 8424, 8425, 84231, 8432, 8433, 8434, 8435, 8436, 8437, 8438, 8439, 8440, 8441, 8442, 8444, 8445, 8446, 8448, 8449, 8451, 8452, 8453, 8454, 8455, 8456, 8457, 8458, 8459, 8460, 8461, 8462, 8463, 8464, 8465, 8466, 8467, 8468, 8469, 8474, 8475, 8476, 8477, 8478, 8479, 8480, 8481, 8482, 8483, 8484, 8485</td>
</tr>
<tr>
<td>Electronics</td>
<td>8517, 8518, 8519, 8520, 8521, 8522, 8523, 8524, 8525, 8526, 8527, 8528, 8529, 8532, 8533, 8534, 8540, 8541, 8542</td>
</tr>
</tbody>
</table>

The export statistics are provided in Free on Board (FOB) prices. In order to estimate the smuggling accurately, imports are adjusted for various factors such as Cost, Insurance and Freight (CIF). The import values are adjusted by 21 per cent, complying with the CBEC guidelines in order to calculate the FOB prices.

### Table 4: Estimated smuggling for electronics industry

<table>
<thead>
<tr>
<th>Year</th>
<th>Export to India reported by world in USD million (A)</th>
<th>Import from world reported by India in USD million (Y)</th>
<th>Adjusted Imports: CIF-FOB margin at 21 per cent (in USD million) (B)</th>
<th>Technical smuggling: CIF-FOB margin at 21 per cent (in USD million) (A-B)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>18,863.86</td>
<td>19,971.34</td>
<td>15,777.36</td>
<td>3,086.30</td>
</tr>
<tr>
<td>2013</td>
<td>18,758.21</td>
<td>20,618.92</td>
<td>16,288.95</td>
<td>2,469.26</td>
</tr>
<tr>
<td>2014</td>
<td>20,839.46</td>
<td>22,792.38</td>
<td>8,005.98</td>
<td>2,833.48</td>
</tr>
<tr>
<td>2015</td>
<td>24,947.47</td>
<td>26,707.14</td>
<td>21,098.64</td>
<td>3,848.83</td>
</tr>
<tr>
<td>2016</td>
<td>26,550.41</td>
<td>27,392.20</td>
<td>21,639.84</td>
<td>4,910.57</td>
</tr>
<tr>
<td>Average</td>
<td>21,991.84</td>
<td>23,496.40</td>
<td>18,562.15</td>
<td>3,429.69</td>
</tr>
</tbody>
</table>

Source: UN COMTRADE, 2017 and KPMG in India’s analysis, 2017

---

8. Invisible Enemy, FICCI CASCADE, 2016
### Table 5: Estimated smuggling for gold

<table>
<thead>
<tr>
<th>Year</th>
<th>Export to India reported by world in USD million (A)</th>
<th>Import from world reported by India in USD million (Y)</th>
<th>Adjusted Imports: CIF-FOB margin at 21 per cent (in USD million) (B)</th>
<th>Technical smuggling: CIF-FOB margin at 21 per cent (in USD million) (A-B)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>46,134.48</td>
<td>52,606.77</td>
<td>41,559.35</td>
<td>4,575.13</td>
</tr>
<tr>
<td>2013</td>
<td>35,064.76</td>
<td>37,711.85</td>
<td>29,792.36</td>
<td>5,272.41</td>
</tr>
<tr>
<td>2014</td>
<td>26,804.45</td>
<td>31,039.69</td>
<td>24,521.35</td>
<td>2,283.10</td>
</tr>
<tr>
<td>2015</td>
<td>29,463.27</td>
<td>34,999.55</td>
<td>27,649.64</td>
<td>1,813.62</td>
</tr>
<tr>
<td>2016</td>
<td>19,779.70</td>
<td>22,944.49</td>
<td>18,126.15</td>
<td>1,653.55</td>
</tr>
<tr>
<td><strong>Average</strong></td>
<td><strong>31,449.33</strong></td>
<td><strong>35,860.47</strong></td>
<td><strong>28,329.77</strong></td>
<td><strong>3,119.56</strong></td>
</tr>
</tbody>
</table>

Source: UN COMTRADE, 2017 and KPMG in India’s analysis, 2017

### Table 6: Estimated smuggling for machinery and parts

<table>
<thead>
<tr>
<th>Year</th>
<th>Export to India reported by world in USD million (A)</th>
<th>Import from world reported by India in USD million (Y)</th>
<th>Adjusted Imports: CIF-FOB margin at 21 per cent (in USD million) (B)</th>
<th>Technical smuggling: CIF-FOB margin at 21 per cent (in USD million) (A-B)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>28,176.53</td>
<td>26,066.44</td>
<td>20,592.49</td>
<td>7,584.04</td>
</tr>
<tr>
<td>2013</td>
<td>24,484.29</td>
<td>22,455.15</td>
<td>17,739.57</td>
<td>6,744.72</td>
</tr>
<tr>
<td>2014</td>
<td>24,135.55</td>
<td>21,866.32</td>
<td>17,274.39</td>
<td>6,861.16</td>
</tr>
<tr>
<td>2015</td>
<td>22,482.52</td>
<td>22,060.48</td>
<td>17,427.78</td>
<td>5,054.74</td>
</tr>
<tr>
<td>2016</td>
<td>21,300.69</td>
<td>22,756.50</td>
<td>17,977.63</td>
<td>3,323.06</td>
</tr>
<tr>
<td><strong>Average</strong></td>
<td><strong>24,115.92</strong></td>
<td><strong>23,040.98</strong></td>
<td><strong>18,202.37</strong></td>
<td><strong>5,913.54</strong></td>
</tr>
</tbody>
</table>

Source: UN COMTRADE, 2017 and KPMG in India’s analysis, 2017
The magnitude of illicit trade is much larger than commonly perceived either by the people or governments world over. An alarming aspect of this is that with the passage of time, instead of being contained, it is, in fact, only proliferating further, and that too, at an accelerated pace. There is an urgent need for all concerned to make sincere concerted efforts to eliminate this menace before it perils our existence.

- PC Jha
Advisor
FICCI CASCADE & Former Chairman, Central Board of Excise and Customs

“Smuggling and counterfeiting are found to be the major source of funding for terrorist groups world over and only by controlling these can we expect a control on terrorism in the world.”

- Deep Chand
Advisor
FICCI CASCADE & Former Special Police Commissioner, Delhi Police
Conclusion and way ahead
5.1. Conclusion

Counterfeiting, smuggling and piracy is a widespread menace with far reaching effects. There are different factors for various industries that lead to the increased smuggling, counterfeiting and piracy. The factors that affect most of the markets are:

- Sector being unorganised
- Weak regulatory and implementation mechanism
- Higher taxation/duty rates
- Counterfeit or smuggled good being the cheaper alternate
- Lack of awareness among consumers.

Figure 28 shows how increased taxation and duty rates lead to increased illicit trade and ultimately defeats the purpose of increase in taxation due to allocation of more funds in security expenditure to curb terrorism, a part of which is financed by illicit trade.

Figure 28: Linkage between higher taxation and illicit trade

In order to fight against illicit trade, various stakeholders such as government, manufacturers and enforcement agencies can play an instrumental role, further elaborated in subsequent parts of the chapter.
5.2. Key recommendations for Government of India

The government has taken various measures to curb the growing menace of illicit trade in recent times, but the magnitude of the problem remains large. Smuggling, counterfeiting and piracy used by criminal organisations are proving to be a challenge for the administration, given their financial enormity. Therefore, it becomes instrumental for the government to take further actions on its growing menace in order to provide a healthy environment to businesses and reduce the security threats posed to the country.

We recommend the following detailed framework for the government in order to help curtail the extent of illicit trade in India, and thereby, the organised crime associated with it.

<table>
<thead>
<tr>
<th>Category</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Increased consumer awareness</td>
<td>Advertisements and campaigns can be initiated to increase awareness in areas prone to the menace of illicit trade. Awareness about counterfeit and smuggled goods through seminars, road shows, conferences and workshops can be arranged by various departments and ministries. The companies can be given a statutory obligation to use their Corporate Social Responsibility (CSR) funds in raising awareness about such issues, which will help in strengthening the socio-economic structure of the country</td>
</tr>
<tr>
<td>Enforcement of laws</td>
<td>The government can take measures to strengthen the IP laws and enact new regulations which make IP theft a crime of equal magnitude as other thefts. The Trade Marks Act, 1999 and the Copyright Act, 1957 can be strengthened further, whereby its infringement should be made a non-bailable offence</td>
</tr>
<tr>
<td>Creation of single nodal ministry</td>
<td>A single nodal ministry can be entrusted with the responsibility for coordination of all national efforts against illicit trade</td>
</tr>
<tr>
<td>Creation of special task force</td>
<td>A special task force can be created to counter illicit trade, with stakeholders from the government and industry. The task force hence created can coordinate with security forces of the country to keep a check on the illicit trade</td>
</tr>
<tr>
<td>Engage with international organisations</td>
<td>Indian ministries can engage with international organisations such as WIPO, WTO, OECD, INTERPOL, EUROPOL, etc. to strengthen international IP protection laws, in order to decrease both illicit trade and organised crime globally</td>
</tr>
<tr>
<td>Balance between taxation policies and revenue needs</td>
<td>The government may consider redefining its taxation policies. The Ministry of Finance can take steps so that indirect taxes on goods do not prove to be an incentive for their smuggling, and hence poke a hole in the state coffers in form of security maintenance to curb organised crime funded by illicit trade. Figure 28 provides a socio-economic perspective due to increased taxation</td>
</tr>
</tbody>
</table>
5.3. Key recommendations for the industry

Various stakeholders can collaborate in different ways in order to limit the illicit trade and grey market of an industry. Instead of a one-time process, where the counterfeit, pirated or smuggled goods are identified and the law takes its course, the manufacturers and right owners should make it a continuous process of the collaborating with the enforcement agencies from time to time. The manufacturers should not limit their interests to mere arrest of the offenders and seizure of the goods. The conviction of the offender should be ensured as well in order to create a deterrence.

The manufacturers must adopt anti-counterfeiting solutions and technologies such as coding and printing technology, forensic markers, tamper evidences, RFID, hologram, security labels, packaging design, digital mass sterilisation, digital mass encryption and surveillance technologies. There must be a strict mandate to the manufacturers to employ these solutions and technology.

Manufacturers and right holders must be aware of their rights with respect to the IP they hold in order to better enforce their rights. Multiple and regular checks should be made in order to ensure that there are no counterfeits present in the market.

5.4. Key recommendations for the enforcement agencies

The enforcement agencies play the most important role in combating a menace such as illicit trade. There are certain challenges that the enforcement agencies face.

The Economic Offences Wing (EOW) deals with the violation of fiscal laws also faces several challenges such as resource crunch, staff stability, limited training etc.
<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>OECD</td>
<td>Organisation for Economic Co-operation and Development</td>
</tr>
<tr>
<td>EUIPO</td>
<td>European Union Intellectual Property Office</td>
</tr>
<tr>
<td>BASCAP</td>
<td>Business Action to Stop Counterfeiting and Piracy</td>
</tr>
<tr>
<td>INTA</td>
<td>The International Trademark Association</td>
</tr>
<tr>
<td>UNIFAB</td>
<td>Union des fabricants- Pour La Protection Internationale De La Propriete Intellectuelle</td>
</tr>
<tr>
<td>WCO</td>
<td>World Customs Organization</td>
</tr>
<tr>
<td>SATP</td>
<td>South Asia Terrorism Portal</td>
</tr>
<tr>
<td>FMCG</td>
<td>Fast moving consumer goods</td>
</tr>
<tr>
<td>UN</td>
<td>United Nations</td>
</tr>
<tr>
<td>ICC</td>
<td>International Chamber of Commerce</td>
</tr>
<tr>
<td>IP</td>
<td>Intellectual Property</td>
</tr>
<tr>
<td>DRI</td>
<td>Directorate of Revenue Intelligence</td>
</tr>
<tr>
<td>UNCCPCJ</td>
<td>United Nations Commission on Crime Prevention and Criminal Justice</td>
</tr>
<tr>
<td>WTO</td>
<td>World Trade Organization</td>
</tr>
<tr>
<td>TRIPS</td>
<td>Trade Related Intellectual Property Rights</td>
</tr>
<tr>
<td>FCTC</td>
<td>Framework Convention on Tobacco Control</td>
</tr>
<tr>
<td>TARI</td>
<td>Thought Arbitrage Research Institute</td>
</tr>
<tr>
<td>CAGR</td>
<td>Compounded annual growth rate</td>
</tr>
<tr>
<td>IBEF</td>
<td>India Brand Equity Foundation</td>
</tr>
<tr>
<td>NASSCOM</td>
<td>National Association of Software and Services Companies</td>
</tr>
<tr>
<td>FOB</td>
<td>Free on board</td>
</tr>
<tr>
<td>CIF</td>
<td>Cost, Insurance and Freight</td>
</tr>
<tr>
<td>CSR</td>
<td>Corporate Social Responsibility</td>
</tr>
<tr>
<td>EOW</td>
<td>Economic Offences Wing</td>
</tr>
</tbody>
</table>
Established in 1927, FICCI is the largest and oldest apex business organisation in India. Its history is closely interwoven with India’s struggle for independence, its industrialization, and its emergence as one of the most rapidly growing global economies.

A non-government, not-for-profit organisation, FICCI is the voice of India’s business and industry. From influencing policy to encouraging debate, engaging with policy makers and civil society, FICCI articulates the views and concerns of industry. It serves its members from the Indian private and public corporate sectors and multinational companies, drawing its strength from diverse regional chambers of commerce and industry across states, reaching out to over 2,50,000 companies.

FICCI provides a platform for networking and consensus building within and across sectors and is the first port of call for Indian industry, policy makers and the international business community.

In the recent past India’s economic growth story has attracted world’s attention bringing new challenges for the domestic economy. One of the challenges currently faced is the growing illicit trade in counterfeits, pass offs and smuggled goods. These activities are also threatening brands not only in every region of the country but across the globe.

Contraband and counterfeit products hurt the integrity of the brand, further diluting the brand owner’s reputation. This not only results in erosion of sales of the legitimate product but further [CASCADE]s onto affect the consumers in the form of health and safety hazards. With the above insight the Federation of Indian Chambers of Commerce and Industry (FICCI) took the initiative to dedicate a forum by establishing the Committee Against Smuggling and Counterfeiting Activities Destroying the Economy - CASCADE on 18th January, 2011.

FICCI Committee Against Smuggling and Counterfeiting Activities Destroying Economy (CASCADE)

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