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Conference Report

Organised Crime and Illicit Trade in Europe

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Introduction

‘Commodity counterfeiting, illicit trade in sub-standard goods, and goods violating health and safety regulations, are among the most important emerging criminal markets in the EU.’

Rob Wainwright, Director of Europol, speech given at RUSI/OLAF conference in Brussels, 21 November 2016

ILLICIT TRADE IS not only dominated by organised crime, it has grown to become one of its driving forces across Europe.¹ Within the EU, annual revenues from counterfeiting now exceed those from narcotics, accounting for approximately €42.7 billion and €27.7 billion respectively.² Global estimates present a similar picture. In 2016, the OECD estimated the global revenue from counterfeit products to be \$460 billion, far exceeding the estimated \$320 billion generated through drug trafficking,³ and that is before losses from smuggling genuine goods or manufacturing unlicensed generic products are taken into account.

In addition to providing a substantial source of income for organised crime, illicit trade denies EU governments billions of euros in lost taxes each year. In 2015, EU governments lost an estimated €11.3 billion through the consumption of illicit cigarettes.⁴ Trade in counterfeit wine and spirits deny the public finances of EU member states approximately €1.2 billion each year,⁵ while counterfeit pharmaceuticals account for further losses of approximately €1.7 billion.⁶ Beyond these considerable financial implications, illicit trade violates EU regulations on manufacturing, distribution and sales that are intended to protect consumers and prevent dangerous goods entering the market.

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1. Europol, *SOCTA 2017: European Union Serious and Organised Crime Threat Assessment – Crime in the Age of Technology* (The Hague: European Police Office, 2017), p.10.
 2. Savona U Ernesto and Riccardi Michele (eds), *From Illegal Markets to Legitimate Businesses: the Portfolio of Organised Crime in Europe. Final Report of Project OCP – Organised Crime Portfolio* (Trento: Transcrime – Università degli Studi di Trento, 2015), p. 9.
 3. Jack Radisch, ‘Illicit Trade Convergence of Criminal Networks’ in *Illicit Trade: Converging Criminal Networks* (Paris: OECD Publishing, 2016), p. 24; Jeremy Haken, ‘Transnational Crime in the Developing World’, *Global Financial Integrity*, February 2011.
 4. KPMG, ‘Project Sun: A Study of the Illicit Cigarette Market in the European Union, Norway and Switzerland: 2015 Results’, June 2016, p. 7.
 5. Losses to public finances were defined as ‘the resulting losses of tax revenue by government, specifically income taxes and social contributions, corporate taxes, and indirect taxes such as excise duties or VAT’. See European Union Intellectual Property Office (EUIPO), ‘The Economic Cost of IPR Infringement in Spirits and Wine’, July 2016, p. 8. Please note that this study focused only on IPR infringement, omitting other forms of illicit trade.
 6. In this case, losses to public finances were defined as ‘the resulting losses of tax revenue by government, specifically income taxes and social contributions or corporate taxes’. See EUIPO, ‘The Economic Cost of IPR Infringement in the Pharmaceutical Industry’, September 2016, p. 8. Please note that this study focused only on IPR infringement, omitting other forms of illicit trade.

There is a widespread public perception that illicit trade is a minor, victimless crime; however, this stands in stark contrast to the reality seen by law enforcement agencies and governments across the EU. Illicit trade is a major, cross-border crime, which requires a well-informed and well-coordinated response across member states.

Conference Outline

In November 2016, RUSI convened the two-day conference 'Organised Crime and Illicit Trade in Europe'. Supported by the EU's Hercule III Programme (2014–2020), the event brought together representatives from nine member states to assess the scale and scope of illicit trade across the region, and the extent of organised criminal involvement. It also provided a forum for law enforcement and customs officials to discuss national experiences and exchange best practice on initiatives to disrupt these networks and their activities.

The conference was opened by the Commissioner for the Security Union, Sir Julian King, who underscored the importance of cooperation across member states and the role of EU agencies and institutions in tackling this cross-border threat. Europol Director Rob Wainwright then delivered the keynote address, providing a comprehensive overview of the threat posed by illicit markets across Europe and highlighting the need to enhance the capabilities and operational effectiveness of law enforcement agencies.

The panel discussions began with an examination of the routes, methods and trends identified in the smuggling and counterfeiting of tobacco products. The second panel discussed the scale of alcohol fraud in the EU, with national experts sharing their experiences of criminal networks establishing illegal factories and exploiting trade initiatives to commit product diversion and 'missing trader intra-community' fraud. The final panel of the day assessed the extent and scope of trading in illicit medicines and pharmaceutical products within the EU.

The second day opened with a keynote address from the Director of the Policy Directorate at the European Anti-Fraud Office (L'office européen de lutte antifraude, or OLAF), Margarete Hofmann. She provided details on the European-level policy responses and regulatory instruments available to tackle illicit trade in Europe, emphasising the importance of increased consistency across member states in their approach to this form of organised crime.

This was followed by further panel sessions, the first of which focused on the organised crime networks involved, their size, composition and operational capabilities. The second panel examined the factors that facilitate illicit trade, such as the internet and social media, postal and haulage services, and corruption. Speakers in the third panel shared operational experiences of responding to illicit trade, covering information exchange and cooperation with other law enforcement agencies and regulatory bodies. The final session focused on strategic responses to illicit trade at both the national and European level, including discussion of further approaches to address market demands and dismantle criminal networks.

This report presents a summary of the key issues raised during the conference discussions, offering a resource for policymakers and law enforcement practitioners engaged in fighting illicit trade. To promote open discussion, it was agreed that remarks would not be attributed to either individuals or institutions, with the exception of the keynote speakers. The report therefore attributes information only to ‘conference participants’.

Organised Crime and Illicit Trade

Illicit trade in tobacco, alcohol and pharmaceutical products is dominated by organised crime; while some opportunistic individuals may be active in illicit trade, large-scale activity is coordinated and executed by organised crime groups (OCGs).⁷ This is not surprising: engagement in illicit trade is comparatively low-risk, yet offers substantial profits.⁸

Several conference participants noted that illicit trade is often linked to poor economic conditions, and it was suggested that recent European economic instability might have increased the demand for cheaper, albeit illegal, products. It was also argued that the lucrative nature of illicit trade encourages people previously involved in smaller-scale illegal activities – such as burglary or theft – to migrate towards larger-scale economic criminality. Illicit trade was thus held to attract both established and emerging organised criminals. The flexibility of modern OCGs was cited as allowing them to profit from the sale of illegal goods wherever there is demand, recognising and responding to market opportunities.

This flexibility is well documented. In 2015, Europol highlighted an emerging trend of OCGs evolving from a strictly hierarchical model and predicted that the organised crime landscape would become ‘increasingly dominated by loose, undefined and flexible networks’.⁹ The results of Europol’s 2017 Serious and Organised Crime Threat Assessment offer evidence to support this, acknowledging that while some large ‘traditional’ OCGs remain, there are also now ‘smaller groups and loose networks supported by individual criminals, who are hired and collaborate *ad hoc*’.¹⁰

This development facilitates an increasingly entrepreneurial approach, with groups able to draw on expertise from a broader network to capitalise on new technologies and respond to market opportunities. Panellists offered examples of network members providing expertise on specific illegal actions, such as creating false documentation or acting as intermediaries with border agents. This cooperation also extends beyond individuals selling expertise as a service, encompassing direct cooperation between OCGs, with different groups responsible for distinct elements of the illicit supply chain.

7. Clare Ellis, ‘On Tap Europe: Organised Crime and Illicit Trade in Tobacco, Alcohol and Pharmaceuticals’, *Whitehall Report*, 2-17 (March 2017), p. 5

8. Europol, *SOCTA 2013: EU Serious and Organised Crime Threat Assessment* (The Hague: European Police Office, 2013).

9. Europol, *Exploring Tomorrow’s Organised Crime* (The Hague: European Police Office, 2015), p. 12.

10. Europol, *SOCTA 2017*, p. 14.

Europol has also identified overlaps between illicit trade and other organised criminal activities such as people smuggling and drug trafficking.¹¹ These links can take various forms, including sharing common infrastructure such as smuggling routes, support from the same OCG personnel or the reinvestment of profit. There is evidence of illicit trade being funded by – or providing the funds for – other types of organised crime.¹²

Conference participants agreed that across the EU, the OCGs behind illicit trade adjust their routes, methods and operational approaches in response to emerging opportunities or to evade known law enforcement tactics. Differences in countries' geographic locations also shape the routes used by OCGs. For example, Greece sees illicit trade originating from Northern Cyprus, Turkey, North Africa, the Middle East and Balkan countries and faces particular difficulties monitoring its extensive coastline.¹³ Spanish experts similarly emphasised the influence of geographic factors in driving illicit trade activity: the comparatively low price of tobacco in neighbouring Gibraltar, Andorra and the Canary Islands makes Spain an easily accessible and attractive destination market, while even higher prices in nearby states drive Spain's role as a transit country, with products transported on to more lucrative markets such as France and the UK.¹⁴

In another example shared during discussions, experts cited Poland and Romania as targets for illicit trade because they have extensive land borders with non-EU states where taxes on products such as tobacco are substantially lower. Poland, for example, is a transit country located between source countries – in particular Russia (Kaliningrad), Lithuania, Ukraine and Belarus – and large destination countries such as Germany.¹⁵

Participants also observed that OCGs will alter the methods they use depending on the kind of product they are working with. This was illustrated with reference to illicit trade in tobacco, alcohol and pharmaceuticals, in turn.

Tobacco

Of the three products discussed at the conference, it was noted that the greatest amount of data exists in relation to illicit tobacco, far exceeding that for illicit alcohol and pharmaceuticals, both in terms of volume and detail. Alongside law enforcement seizure data, KPMG's Project Sun¹⁶ was cited as a useful estimation of the scale of illicit markets within member states.

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11. Europol and the Office for Harmonization in the Internal Market, '2015 Situation Report on Counterfeiting in the European Union', April 2015, p. 42; UN Interregional Crime and Justice Research Institute (UNICRI), 'Counterfeit Medicines and Organised Crime', 2012, pp. 88–90.
 12. *Ibid.*, p. 90; Europol and the Office for Harmonization in the Internal Market, '2015 Situation Report on Counterfeiting in the European Union', p. 44.
 13. Calum Jeffray, 'On Tap Europe: Organised Crime and Illicit Trade in Greece: Country Report', *RUSI Occasional Papers* (January 2017); p. 21
 14. Clare Ellis, 'On Tap Europe: Organised Crime and Illicit Trade in Spain: Country Report', *RUSI Occasional Papers* (January 2017), p. 36
 15. Calum Jeffray, 'On Tap Europe: Organised Crime and Illicit Trade in Poland: Country Report', *RUSI Occasional Papers* (August 2016), p. 36
 16. KPMG, 'Project Sun'.

Participants noted that OCGs engage in the illicit tobacco trade in three specific ways: first, smuggling genuine products within the EU to take advantage of substantial price differentials between member states; second, manufacturing unlicensed or counterfeit tobacco products within member states; and third, smuggling unlicensed or counterfeit products into the EU.¹⁷ ‘Cheap’ or ‘illicit whites’ – cigarettes manufactured for the sole purpose of being smuggled into and sold illegally in another market – are estimated to have accounted for more than one third of illicit cigarettes in Europe in 2015,¹⁸ with 28% of such products believed to have originated in Belarus.¹⁹

Conference participants also identified Russia, China, and the United Arab Emirates as prominent sources for counterfeit and illicit tobacco products. Research by Transcrime supports this view, with these countries – along with Ukraine, Moldova, Latvia, Turkey, Poland, Egypt and Serbia – identified as the key starting points for illicit cigarette flows to the EU.²⁰

Panellists outlined the continuing use of shipping containers to bring illicit tobacco products into the EU. As will be discussed later in this report, such containers often pass through free-trade zones (FTZs). In FTZs, OCGs can disguise the original point of manufacture by re-documenting containers while they are inside the zone.²¹ OCGs are also known to use complex routes, transiting multiple jurisdictions before reaching Europe in an attempt to further obscure the point of departure.²²

To enter European ports, OCGs use a variety of methods to conceal the nature of their shipment. In addition to the use of forged documents, conference participants highlighted the practice of establishing registered businesses, enabling OCGs to obtain genuine documents to accompany imports and exports, as illustrated in Box 1 (below). Similar methods are used to conceal the nature of goods imported by road, with OCGs establishing logistics and transportation companies to facilitate their activities.

Participants also described the extensive use of misdeclaration and corresponding cover loads, citing examples of illicit tobacco being hidden among shoes and towels. Field research conducted by RUSI further underscored the imaginative methods employed by OCGs to evade law enforcement detection, including encasing packets of cigarettes in cement blocks or concealing them inside hollowed timber logs.

17. Clare Ellis, ‘On Tap Europe’, p. 5.

18. KPMG, ‘Project Sun’, p. 7.

19. *Ibid.*, p. 16.

20. Transcrime, *European Outlook on the Illicit Trade in Tobacco Products* (Trento: Transcrime and Università degli Studi di Trento, 2015), p. 44.

21. World Economic Forum Global Agenda Council on Organized Crime, ‘Organized Crime Enablers’, July 2012, p. 21; International Chamber of Commerce, Business Action to Stop Counterfeiting and Piracy (BASCAP), ‘Controlling the Zone: Balancing Facilitation and Control to Combat Illicit Trade in the World’s Free Trade Zones’, May 2013, p. 6.

22. OECD and EUIPO, *Trade in Counterfeit and Pirated Goods: Mapping the Economic Impact* (Paris: OECD Publishing, 2016), pp. 76, 82.

The increasing manufacture of illicit tobacco products within EU member states was also mentioned – a trend previously highlighted by Europol and the Office for Harmonization in the Internal Market.²³ Factories may produce counterfeit versions of legitimate brands, illicit whites and fine-cut or handrolling tobacco. The scale of production varies. In some cases, it is only the final assembly of component parts that is conducted within the EU; in others, industrial-scale factories are established to process raw tobacco, fill tubes and print packaging.²⁴

Finally, participants highlighted the growing demand for cheaper products such as loose tobacco,²⁵ which has created new opportunities for OCGs to exploit. The scale of this emerging threat is particularly difficult to measure, as it is not captured by the empty-pack survey methodology most prominently used to estimate the size of the illicit market.²⁶

Box 1: Case Study – Establishing Registered Companies for Illicit Trade

In 2014, the Hellenic Police received intelligence indicating that a multinational OCG was smuggling large quantities of illicit tobacco from North Africa and Asia into Greece.

The OCG had purchased a large number of forged Cypriot identities, which it had used to acquire Greek Tax Identification Numbers and establish limited liability companies. The sole purpose of these companies was to act as senders and recipients for container shipping.

From 2011 to 2014, the OCG established fifteen such companies, using them to import 45 containers to Greece, principally through the port of Piraeus. The group employed a complex system to conceal its activities, falsifying documentation and creating the appearance of legitimate business transactions.

Following investigation by the Greek authorities, 30 members of the OCG were arrested. In total, almost 500 million cigarettes were seized, amounting to lost taxes of more than €80 million.

Source: Conference participant.

Alcohol

Participants agreed that the data relating to illicit alcohol are extremely limited by comparison to those for illicit tobacco. Where information does exist, it often lacks sufficient detail to identify trends across regions or across time.

23. Europol and the Office for Harmonization in the Internal Market, '2015 Situation Report on Counterfeiting in the European Union', p 17.

24. Clare Ellis, 'On Tap Europe', p. 15.

25. 'Fine-cut', 'loose' or 'roll-your-own' tobacco refers to tobacco that has been cut into small shreds, typically used to make self-made cigarettes by handrolling the tobacco into rolling paper or injecting it into filter tubes.

26. For example, in KPMG's Project Sun study.

While illicit trade is notoriously difficult to measure, given its covert, transnational nature, participants argued that alcohol presents further challenges due to the lack of a shared taxonomy, with terms such as ‘unrecorded’, ‘surrogate’ and ‘informal’ used by different studies but without agreed definitions.

OCG engagement in the illicit alcohol trade was divided into two broad categories: first, the smuggling of genuine alcoholic beverages from countries with lower taxes to more expensive markets, thereby evading the payment of excise duties and VAT; and second, the production of unlicensed or counterfeit alcohol, often using industrial alcohol not fit for human consumption.²⁷

Industrial ethanol alcohol has a number of legitimate applications, from household cleaning products to decontamination sprays. In contrast to alcohol intended for drinks production, it is exempt from excise duty within the EU. This unintentionally creates opportunities for OCGs to make substantial profits by using it to produce illicit wines or spirits.

To prevent such exploitation, and ultimately to protect consumers, there are regulations at both the national and EU level that require industrial ethanol alcohol to be ‘denatured’, which renders it undrinkable through the addition of foul-tasting or foul-smelling chemicals. However, OCGs can take steps to filter out and remove these denaturants.

Participants also described the discovery of large-scale production factories, with fully automated pouring and capping equipment. Illicit alcohol products are sold as either counterfeits of genuine brands or are unlabelled. When producing counterfeits, it was noted that OCGs are known to refill genuine bottles or alternatively produce fake labels and caps.

Pharmaceuticals

Conference participants highlighted the sophistication of many OCGs involved in the illicit pharmaceutical trade. It was observed that OCGs make extensive use of the internet and social media to sell illicit pharmaceutical products. One panellist also described an OCG operating from outside the EU, having remotely established and registered a company within a member state, in order to facilitate their smuggling activities and distribute counterfeit medicines.

Illicit pharmaceutical products are also produced within EU borders, in ‘laboratories’ ranging from crude operations in basements or garages, to larger facilities with more sophisticated machinery. As with completed products, active ingredients are imported from various countries, but conference participants cited China and India as the most prevalent sources in both cases.

Conference participants also highlighted the practice by OCGs of targeting countries with perceived legislative weaknesses in relation to pharmaceutical crime, whether in relation to law enforcement powers or lenient sanctions upon conviction. It was suggested that such factors often influence their decisions about where to establish factories or distribution facilities.

27. Clare Ellis, ‘On Tap Europe’, p. 6.

Enablers of Illicit Trade

OCGs are quick to recognise and respond to opportunities, adjusting their *modi operandi* to exploit technological advances or any perceived weaknesses in enforcement tactics or state legislation, making such factors unintentional enablers of illicit trade. During the conference, participants highlighted several such enablers: FTZs; the internet and social media; postal and courier services; corruption; legislative weaknesses; and social acceptability.

Free-Trade Zones

Experts repeatedly referred to the exploitation of FTZs by OCGs. FTZs have become an integral part of international trade, offering warehousing, storage and distribution facilities without the requirement to pay national duties and taxes.²⁸ However, these simplified procedures are accompanied by systemic weaknesses in FTZ management. Limited oversight by competent domestic authorities, weak inspection procedures and limited coordination between zone authorities and customs officials were all cited as creating opportunities for abuse by OCGs.²⁹

OCGs exploit these weaknesses to facilitate and conceal their activities in illicit trade. Warehousing facilities are used to conduct part of the manufacturing process, with products repackaged or relabelled.³⁰ FTZs are also used as a means to disguise the original point of manufacture, with containers transiting multiple ports or being re-documented.³¹ Participants observed that this creates significant challenges for customs authorities when the goods are finally imported, as the point of origin is an important indicator in the risk-profiling that determines which containers should be subject to detailed inspection.³²

Internet and Social Media

OCGs have been quick to recognise the opportunities provided by technological advances, particularly for sales and communication. Indeed, the online sale of illicit goods offers numerous advantages to OCGs. First, it vastly increases their potential consumer base, removing geographic restrictions and making their products more easily accessible. Second, online distribution incurs minimal running costs in comparison to physical retail. Third, although more easily detectable by law enforcement, the internet offers significant anonymity, especially where domains are registered using false identities and locations obscured using proxy servers. Finally, the disruption caused by law enforcement action can be minimised, as dismantled websites

28. Financial Action Task Force (FATF), 'Money Laundering Vulnerabilities of Free Trade Zones', March 2010, p. 8; BASCAP, 'Controlling the Zone', p. 9.

29. FATF, 'Money Laundering Vulnerabilities of Free Trade Zones'; Europol and the Office for Harmonization in the Internal Market, '2015 Situation Report on Counterfeiting in the European Union', p. 16.

30. World Economic Forum Global Agenda Council on Organized Crime, 'Organized Crime Enablers', July 2012, p. 21; BASCAP, 'Controlling the Zone', p. 6.

31. *Ibid.*

32. *Ibid.*

can be quickly re-established.³³ Conference participants cited numerous examples of online sales of tobacco and pharmaceuticals by OCGs through bespoke websites, auction sites and – increasingly – through social media. Participants also highlighted the use of social media apps and gaming ‘chat services’ to communicate securely, taking advantage of increasingly widespread end-to-end encryption.

Box 2: Social Media and Courier Services as Enablers of Illicit Trade

In March 2015, an advert for medicinal substances was discovered on Facebook. The ensuing investigation uncovered an OCG made up of Bulgarian and Spanish nationals that was distributing large quantities of anabolic steroids to amateur athletes throughout Spain.

Operating a clandestine factory in the city of Gandia, the active ingredients were principally sourced from Bulgaria, and either delivered by courier or collected by members of the OCG and transported across the border by car. Orders were made over the internet, with delivery by express courier services.

Raids by the Spanish National Police also uncovered genuine products that had been diverted from legal channels, and counterfeit products from Portugal and Greece.

In total, 700 kg of illicit pharmaceutical products were seized, equivalent to 1.8 million doses. This seizure comprised 130 different products, including anabolic steroids, sexual stimulants and growth hormones. It was estimated that the group’s quarterly profit from their illicit activities was more than €50,000.

Source: Information provided by the Spanish National Police.

Postal and Courier Services

The practice of high-frequency, low-volume trafficking through the postal system was also highlighted by conference participants. Here, as elsewhere, OCGs mirror practices seen in the legitimate economy. In recent years, online sales and delivery by postal and courier services have grown exponentially and OCGs are now using the same business model for delivering illicit goods to their customers.³⁴

While smuggling illicit goods in bulk in containers is a high-risk, high-reward strategy, smuggling in low volume through postal services is attractive because it substantially reduces both the risk of interception and the potential losses. OCGs are aware that only a small percentage of parcels can be subjected to detailed scans or inspection, and even if a parcel is detected, the low quantity of goods contained represents only a small loss. In addition to national postal services, conference participants highlighted the increasing use by OCGs of small courier services.

33. Europol and the Office for Harmonization in the Internal Market, ‘2015 Situation Report on Counterfeiting in the European Union’, pp. 32–33.

34. OECD and EUIPO, *Trade in Counterfeit and Pirated Goods*, p. 82.

Corruption

Participants also raised the issue of corruption as an enabler of illicit trade at both land borders and seaports. Corrupt officials can facilitate the transport of illicit goods across borders, helping them to evade detection through the provision of information to OCGs on patrol routes or customs checks, or simply by omitting inspections and therefore directly assisting their safe passage.³⁵

Although panellists described instances of successful prosecution of corrupt officials, it was also suggested that more needed to be done to tackle this threat. In particular, participants expressed the need for greater political will to drive activity. Further, specific measures were also discussed, such as the need to separate responsibility for different stages of the clearing process, as well as the need to establish more detailed vetting procedures during recruitment and throughout employment.

Legislative Weaknesses

Conference participants highlighted the exploitation of legislative and regulatory weaknesses by OCGs, both at national and EU levels. At the national level, particular frustration was expressed in relation to the sanctions imposed for crimes relating to illicit trade, which are perceived to be lenient compared to other types of organised crime. Not only do current sanctions fail to deter new participants, they similarly fail to prevent reoffending, and the same individuals and OCGs are often seen returning to the illicit trade following prosecution. Moreover, upon resuming their illegal activities, they do so with greater knowledge of law enforcement methods and capabilities, adapting in response and therefore becoming an increasingly difficult target for subsequent investigations.

Participants also noted growing indications that the potential sanctions within member states influence decisions by OCGs regarding where to conduct operations or which routes to take when transporting goods across the EU. Increased penalties were also called for, as was increased consistency across member states. The sentiment was encapsulated by OLAF's policy director, Margarete Hofmann:

We need to ensure that criminals are ... brought to justice, and that they are sanctioned according to the gravity of their acts, irrespective of where they may commit them. This means that we cannot afford to allow criminals the luxury of forum or sanction shopping across Europe.

At the EU level, it was noted that regulations intended to facilitate legitimate trade are also exploited by OCGs to conduct illicit trade, becoming unintentional enablers. For example, rules on excise holding and movement allow payment of duty on goods to be 'suspended' while they circulate between registered bonded warehouses. These regulations are designed to benefit traders who import goods; however, OCGs take advantage of vulnerabilities in the system,

35. Philip Gounev, Rositsa Dzhekova and Tihomir Bezlov, 'Study on Anti-Corruption Measures in EU Border Control', Center for the Study of Democracy, March 2012, pp. 46–47.

manipulating stock records or creating duplicate loads in order to smuggle goods (often alcohol) into the market without paying VAT in the relevant member state.

Social Acceptability

Public demand was highlighted as a critical factor in the persistence and growth of illicit trade. While some customers purchase illicit goods unwittingly, deceived by the professional appearance of illegal websites, many are complicit and aware of the illegality of their purchases. Panellists even described the growing popularity of some illicit brands of cigarettes, with consumers developing 'brand loyalty' towards products despite their unlicensed and illegal status.

High levels of demand are closely correlated with the social acceptability of purchasing illicit goods. The purchase of illegal – and therefore cheaper – tobacco and alcohol products is often perceived as a minor, victimless crime, even perhaps as a small victory over the tax agencies and governments that are seen as responsible for high prices in the legitimate market.

It was stressed, however, that drivers for purchasing illicit pharmaceutical products are not always financial. For example, in the case of lifestyle drugs (for erectile dysfunction, diet or muscle gain) embarrassment about approaching a doctor or the desire for a product that is unlikely to be prescribed also draws people towards illicit sources.

The key point, however, is that purchases made through illicit means are seen as minor crimes. This social acceptability is an important enabling factor for illicit trade, creating an environment in which demand for illicit products is tolerated. This substantially lowers the psychological barriers for entry into this form of activity, removing the social stigma attached to these crimes. Moreover, it increases the size of the market, with more people willing to make purchases through such routes.³⁶

Conference participants repeatedly emphasised the need to tackle social acceptability and public demand for illicit goods, claiming that, otherwise, strong incentives for OCGs to supply such products will remain. In line with this, as highlighted in RUSI's previous research: '[t]he acceptability of illicit trade and the tolerance shown towards the black market economy pose serious challenges to government policy to reduce organised crime'.³⁷

Strategic Approaches

The conference offered the chance for participants to discuss different tactics and strategies for tackling illicit trade, exchanging best practice on effective law enforcement and policy responses, and discussing ways to improve cooperation between policymakers, practitioners, academics and the private sector.

36. Gounev, Dzhekova and Bezlov, 'Study on Anti-Corruption Measures in EU Border Control', pp. 46–47; Clare Ellis, 'On Tap Europe', p. 35.

37. Charlie Edwards and Calum Jeffray, 'On Tap: Organised Crime and the Illicit Trade in Tobacco, Alcohol and Pharmaceuticals in the UK', *RUSI Whitehall Report 3-14* (December 2014), p. 75.

Understanding the Threat

Some participants first highlighted the need for increased understanding of the threat across Europe. The scale of different illicit markets is notoriously difficult to measure because of the covert, cross-border nature of criminal activities and the differences in the volume and value of commodities such as tobacco, alcohol and pharmaceuticals.

Indeed, panels that examined the illicit trade in specific sectors clearly illustrated disparities in the quantity and type of information available for different products; the data regarding illicit tobacco, both in terms of volume and detail, greatly exceeds those for illicit alcohol and pharmaceuticals. This is well established, and has been highlighted by previous RUSI research.³⁸

There are similar disparities in the data available to measure the scale of different criminal activities or routes, making it extremely difficult to accurately quantify different threats, such as smuggling across land in comparison to sea borders, or producing counterfeit goods in contrast to unlicensed products.

It was stressed that ways must be found to increase and improve the data on which assessments are made; otherwise the ability to tackle the illicit trade in a strategic manner, and effectively prioritise resources, will always be restricted.

Current Responses

During the conference, participants shared examples of successful investigations, drawing out the underlying strategies that offered the foundation for such success. One participant highlighted the importance of close collaboration and information exchange with law enforcement partners from other countries, both within and outside the EU. Other participants focused on the importance of developing intelligence in order to reveal and tackle the organised crime networks behind illicit trade.

Representatives from OLAF, Europol and Interpol also outlined the contribution of international action. Examples were drawn from successful cooperative action such as Operation *Snake* in 2014, a major joint customs operation (JCO) which prevented losses of over €80 million in customs duties.³⁹ The value of cross-border initiatives was further highlighted in discussions of annual coordinated action through Operations *Pangea*,⁴⁰ *In Our Sites*⁴¹ and *Opson*.⁴²

38. Clare Ellis, 'On Tap Europe'.

39. European Commission, 'Operation *Snake*: EU and Chinese Customs Join Forces to Target Undervaluation of Goods at Customs', IP/14/1001, press release, 12 September 2014.

40. Interpol, 'Operations: Operation *Pangea*', <<https://www.interpol.int/Crime-areas/Pharmaceutical-crime/Operations/Operation-Pangea>>, accessed 24 April 2017.

41. Europol, 'Operation *In Our Sites (IOS) VI*', <<https://www.europol.europa.eu/activities-services/europol-in-action/operations/operation-in-our-sites-ios-vi>> accessed 24 April 2017.

42. Europol, 'Operations: *Opson*', <<https://www.europol.europa.eu/operations/opson>>, accessed 24 April 2017.

In addition to joint operations across the EU, conference participants discussed the benefits of joint initiatives to facilitate data gathering and information exchange. For example, in September 2016 legislation came into force enabling customs authorities to access new databases that record the physical movement of maritime trade, gathering information on the goods entering, transiting and leaving the EU.⁴³

Participants also discussed pending international instruments such as the Protocol to Eliminate Illicit Trade in Tobacco Products, which builds on the commitments expressed in Article 15 of the World Health Organization Framework Convention on Tobacco Control.⁴⁴ While the Protocol was accorded formal confirmation by the EU in June 2016, it has not yet been ratified by a sufficient number of the other signatories to come into force.

Similarly, there was discussion of the Council of Europe's Medicrime Convention, which is recognised as the first major international treaty to make the production and distribution of illicit pharmaceutical products a criminal offence.⁴⁵ Though this Convention has come into force, it has not been ratified by the EU or by many member states.

Scope for Improvement

Participants agreed that illicit trade must be tackled more effectively. Several speakers underlined the need for a list of common priorities to be established, in order to better coordinate activity by law enforcement agencies across the EU. A number of participants also emphasised the importance of tackling OCG exploitation of common enabling factors such as those outlined above. Beyond this, however, there were three specific areas in which participants wished to see improved strategic approaches: information sharing and cooperation; asset recovery and financial sanctions; and prevention activities.

Information Sharing and Cooperation

Conference participants highlighted the obstacles to information sharing caused by legislative differences across jurisdictions, both within and outside the EU. Some states will not allow data about their citizens to leave their jurisdictions, which can pose challenges to operational cooperation between law enforcement agencies.

Speed was also highlighted as an issue in this area, with some participants expressing frustration at the time taken for information requests to be processed, even where agencies are

43. EU, 'Regulation (EU) 2015/1525 of the European Parliament and of the Council of 9 September 2015, Amending Council Regulation (EC) No. 515/97', *Official Journal of the European Union* (L 243/1, 18 September 2015); see OLAF, 'EU Customs Investigators Get New, Powerful Tools to Combat Fraud', 16/2016, press release, 1 September 2016.

44. World Health Organization, 'The WHO Framework Convention on Tobacco Control: An Overview', January 2015; FCTC, *Protocol to Eliminate Illicit Trade in Tobacco Products* (Geneva: World Health Organization, 2013).

45. Council of Europe, 'Council of Europe Convention on the Counterfeiting of Medical Products and Similar Crimes Involving Threats to Public Health', CETS 211, 28 October 2011.

established partners. Instances were described where investigations had concluded before the requested information was received.

Trust was also underscored as a key prerequisite for effective information exchange, and opportunities for agencies to meet and build relationships through joint investigation teams or JCOs were described as valuable tools in this regard.

Asset Recovery and Financial Sanctions

Participants provided a number of suggestions for improving operational responses; however, one theme recurred throughout the conference: ‘follow the money’. Asset recovery and the imposition of financial sanctions were perceived as priorities, given that profit is the fundamental driver for OCG engagement in illicit trade. Moreover, the confiscation of assets can disrupt future activities by preventing the purchase of further ingredients, machinery or replacement stock.

The availability and use of such measures across the EU was described by participants as uneven, and a source of some frustration. However, it was highlighted that the EU has already taken steps to impose minimum requirements for national powers and therefore increase harmonisation across member states,⁴⁶ with further plans under consideration for mutual recognition of freezing and confiscation orders.⁴⁷

Prevention

While much of the conference focused on the activities of OCGs in producing and supplying illicit goods, there was notable enthusiasm among participants for measures that seek to reduce demand for illegal products. Comprehensive approaches, addressing both supply and demand, were seen as crucial for significant and sustained impact in tackling illicit trade.

Participants lamented the limited impact of public information campaigns that simply outline the illegality of certain actions. Instead, there was support for drawing on experimental social psychology to design innovative campaigns, instilling public commitment to fight against illicit trade and the organised crime behind it.

There is already a body of evidence on which to draw in this area. As one panellist explained, experimental social psychology informs us that good intentions and information are not necessarily enough to change people’s behaviour; active commitment is also required.

46. European Parliament and the Council of the European Union, ‘Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the Freezing and Confiscation of Instrumentalities and Proceeds of Crime in the European Union,’ *Official Journal of the European Union* (L 127/39, 29 April 2014).

47. European Commission, ‘The European Agenda on Security’, COM(2015) 185 Final, 28 April 2015; European Commission, ‘Action Plan on Financing Terrorism’, COM(2016) 50 Final, 2 February 2016; European Commission, ‘Inception Impact Assessment: Strengthening the Mutual Recognition of Criminal Assets’ Freezing and Confiscation Orders’, November 2016.

This was demonstrated through the study of Pallak et al. in 1980.⁴⁸ A series of experiments were conducted, taking different approaches to encouraging people to reduce their energy consumption during the winter. In the initial iteration, the researchers gave residents advice about reducing their energy consumption, but although the residents agreed to follow the advice, their energy usage remained consistent. In the second iteration, residents were informed that if they successfully reduced their energy consumption, they would see their names published in the press, as citizens demonstrating 'social conscience'. Energy usage fell substantially. Although their names were not printed in the press as expected, energy consumption continued to fall throughout the winter. The researchers concluded that the promised publicity had been sufficient to induce commitment which, once established, remained, despite the withdrawal of the initial incentive. The residents had committed to the idea of reducing energy consumption and began to believe that they were participating in a collective effort, taking pride in their role in protecting the environment.

It was suggested by one of the panellists that the principles illustrated by such studies could be applied to the fight against illicit trade, providing valuable guidance for establishing effective measures to reduce social acceptability and consumer demand.

Conclusion

The conference brought together representatives from law enforcement agencies across the EU in order to share their operational experiences and discuss strategic responses to tackling illicit trade. Throughout the two-day conference, it became clear that participating agencies are tackling a common threat, with the same actors, activities and emerging trends across member states; the value of cooperation across borders and common initiatives through European and international agencies was repeatedly highlighted.

However, the importance of local factors and context was an equally clear theme to emerge. It was observed repeatedly that OCGs are quick to recognise and exploit the advantages offered by geography or any legislative weaknesses; participants thus highlighted the need to consider local complexities even when tackling the global threat of illicit trade.

There is, therefore, no single tactic or strategy that will act as a panacea in tackling illicit trade; instead participants called for a combination of local and cross-border measures, with increased focus on tackling demand alongside supply.

48. Michael S Pallak, David A Cook and John J Sullivan, 'Commitment and Energy Conservation' in Bertram H Raven (ed.), *Policy Studies Review Annual* (Vol. 4, Chapter 22, 1980).

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