

# Criminals are not alone

## Some observations on the social microcosm of illegal entrepreneurs

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### Introduction

The concept of ‘organised crime’ can be understood – historically – as a fundamental reinterpretation of the crime problem. It juxtaposes the image of psychopathic and sociopathic criminals who exist on the fringes of society with that of socially skilled offenders well embedded in associational and cooperative structures that span both the illegitimate and legitimate spheres of society. This conception, in a sense, is counterintuitive. Everything else being equal, it is surprising to find criminals exposing themselves to others at all, because accomplices, friends ‘in-the-know’, and bystanders increase the level of risk for offenders in one way or the other.<sup>2</sup> Yet, the notion as such that ‘organised crime’ is determined by certain patterns of social interaction has not received much attention. For the most part its implications are either ignored or taken for granted. Relatively little has been done to systematically examine the patterns of relations and interactions which define a particular criminal conduct.

In this chapter I will examine the patterns of interaction of offenders involved in the importation and wholesale distribution of contraband cigarettes in Germany. Data were obtained from a sample of 63 criminal cases. Assuming for argument’s sake that under ‘normal’ circumstances offenders would operate alone and in complete isolation I will describe in what ways and to what degree smugglers and wholesale distributors of contraband cigarettes come into contact with other individuals in the course of their illegal activities. In so do-

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<sup>2</sup> Another peculiar facet is the societal power ascribed to criminal structures. Conventional wisdom in political science stresses that in the long run power requires legitimacy because it cannot rest on the tip of bayonets alone, as Talleyrand reportedly told Napoleon. Against this background it is difficult to accept that criminal structures of all structures should emerge as a challenge to state authority, After all, by definition they negate the normative consensus of society and therefore, at least in theory, should not have any legitimacy.

ing I will present empirical evidence in support of the notion that the patterns of interaction of offenders are to a substantial degree shaped by the scale of criminal activities (Arlacchi, 1986: 202; van Duyne, 1997: 206; 2006: 186).

## **The social microcosm of illegal entrepreneurs**

The social microcosm of an illegal entrepreneur, one might say, includes all those individuals he or she encounters in the course of his or her criminal activities who are in a position to influence the success or failure of that particular illegal enterprise.

The concept of the “social microcosm of illegal entrepreneurs” encompasses three aspects that have variously been addressed in the criminological and organized crime literature: co-offending, the social embeddedness of criminal networks, and the interaction between illegal and legal spheres of society.

Co-offending embraces the actual collective execution of an offence (Weerman, 2003: 398). In a broader sense, as proposed by Pierre Tremblay (1993: 20), the term “refers not only to the subset of an offender’s pool of accomplices but rather to all those other offenders he must rely on before, during, and after the crime event in order to make the contemplated crime possible or worthwhile”. From this view emerges the picture of egocentric “networks of criminally exploitable ties” through which an illegal entrepreneur is linked to all those actors who wittingly contribute to a criminal venture, be it in the form of business partner, employee, contact broker, supplier, customer or in the form of someone who provides relevant information or merely moral support (von Lampe, 2003a).

The second aspect, social embeddedness, places criminal networks in a broader societal context, recognizing that criminals do not exist in a vacuum: they belong to social networks and they participate in social transactions that do not have a criminal connotation as such but nonetheless may have some bearing on the commission of crime (Best and Luckenbill, 1994: 244). One example for this “social embeddedness of organized crime” (Kleemans & Van de Bunt, 1999) is provided by the phenomenon of “borrowed loyalty” where, for instance, familial or business relations form a basis of trust for criminal cooperation (von Lampe & Johansen, 2004). However, the social embeddedness can manifest itself in far more practical and tangible forms, for example when friends or relatives unwittingly provide information or infrastructure that is used by illegal entrepreneurs for their criminal purposes.

The third major aspect encompassed by the concept of the “social microcosm of illegal entrepreneurs” is the interaction between the legal and illegal spheres of societies, more specifically the interaction between actors adhering to a criminal lifestyle and being embedded in criminal networks with individu-

als holding positions within legitimate institutions such as government and legal business. In the organized crime literature this aspect is typically addressed in terms of corruption and infiltration (see e.g. Albanese, 1995). However, illegal entrepreneurs may also take advantage of the legal infrastructure outside of collusive patterns of interaction, for example when they use communication and transportation systems to pass criminally relevant information or move illegal goods (see e.g. Vander Beken *et al.*, 2005).

The concept of the “social microcosm of illegal entrepreneurs”, thus, is broader than most conceptions of criminal collectives which, although distinguishing between core and peripheral actors, are confined to the circle of criminal co-conspirators (see e.g. Lemieux, 2003: 12-13). At the same time the concept is more exclusive than, for example, Dwight C. Smith’s conception of multi constituencies (Smith, 1994: 132) or the concepts of ‘buffer’ and ‘support group’ proposed by the President’s Commission On Organized Crime (1986, Appendix A). These embrace individuals and institutions such as regulatory agencies and the media which only play an abstract role for a particular criminal endeavour.

While research on all of the key aspects referred to above (co-offending, social embeddedness, and illegal-legal nexus) in some way or other deals with the social dimensions of ‘organised crime’, as far as can be seen no attempts have been made yet to systematically take stock of the patterns of social interaction of offenders or to provide comprehensive explanations in response to the original puzzlement over offenders who choose association and cooperation rather than isolation (see also Tremblay, 1993).

It is interesting to note, for example, that one of the first exercises in studies of criminal networks is typically to single out the circle of criminal co-conspirators for analysis and thereby excluding other individuals who without being criminally liable, nonetheless play a role in the overall context of crime (see e.g. Lupsha, 1983; Morselli & Giguere, 2006; Natarajan, 2000; 2006). One exception to this rule is provided by Finckenauer and Waring’s (1998) study of Soviet Emigré crime in the US. They include in their analysis a broad range of individuals that had been linked to certain target persons through various law enforcement and open sources irrespective of the connection with any criminal activity. Attending the same social event as a known criminal, for example, led to the inclusion of an individual. However, by proceeding in this way, Finckenauer and Waring analyze the web of social contacts of alleged criminals, not the patterns of interaction that define criminal conduct.

The key questions which need to be answered within the conceptual framework of the “social microcosm of illegal entrepreneurs” refer to the individuals an illegal entrepreneur comes into contact with in the course of his or her criminal endeavours, how the observable patterns of interaction are shaped in terms of size and structure, and how variations in these patterns of interaction can be accounted for.

When we examine (organised) crime we can expect to find a continuum ranging from an offender who tries to avoid any exposure to and interaction with others in his or her immediate and broader social environment, to offenders who take advantage of existing social relations within confined, cohesive networks, to offenders who establish and use social relations beyond tightly knit networks in furtherance of their criminal undertakings. On a theoretical level, these variations in the patterns of interaction can be linked to two countervailing though potentially complimentary factors: safety and effectiveness. Safety is provided by cohesive, trust based networks whereas effectiveness is derived from exploring new opportunities through newly established contacts without a basis of trust (Kadushin, 2002; see also Burt, 2005). These same considerations which have been discussed for legal settings have also been applied to criminal contexts, although with an indication that under conditions of illegality other mechanisms may come into play (Morselli, 2005: 27–28; Morselli, Giguère & Petit, 2007; Tremblay, 1993: 26–27).

In this chapter, I am attempting to make a modest contribution to this debate by presenting some empirical findings on the offence-related social contacts of cigarette smugglers and by formulating some tentative hypotheses on the safety and effectiveness implications of particular patterns of interaction. The data I am drawing on are limited in their usefulness especially because they give no direct indication of the motivation and rationale behind the observed patterns of interaction. Furthermore it must be noted that the cigarette black market in Germany may not necessarily be representative of other areas of crime. On average, the offender population appears to be comparatively old, shows no involvement in other criminal activity and, correspondingly, does not seem to be embedded in any discernible underworld milieu (von Lampe, 2003b; 2005; see also van Duyne, 2003; van Dijck, this volume; for a deviating assessment of the cigarette black market in the UK see Hornsby & Hobbs, 2006).

## Data

Data for this analysis were obtained from two sources, the German Customs Service data base INZOLL, and a sample of criminal files (n=63) which document investigations conducted by the German customs service into smuggling and wholesale distribution networks that were active in the Berlin area during the time span 1990 until 1999.

The database INZOLL *inter alia* stores records on all cigarette-related proceedings initiated by the branches of the Customs Service at the German borders and across Germany, encompassing import, transit smuggling, and domestic wholesale and retail distribution (von Lampe, 2005: 213). Extracts from this

database were obtained for the years 1990 until 1999 including information on the number of cigarettes and the number of suspects per case.<sup>3</sup>

The 63 criminal cases used for writing this chapter constitute a sub-sample of some 100 case files included in a comprehensive, yet to be completed study of the cigarette black market in Germany (see also von Lampe, 2003b; 2005). Accordingly, the findings presented here are only tentative.

All files, which were accessed through public prosecution offices in different parts of the country, have been selected with the intention of grasping only the upper levels of the black market and those investigations which promised to have produced the most insights into illegal enterprise structures. To this end, only files with at least three suspects and with the highest number of cigarettes in each calendar year were considered for analysis. However, some cases turned out to pertain merely to the lower market levels, including retail selling, and some cases, even those on smuggling (import level), only involved minor amounts of cigarettes.

The 63 criminal files in the sub-sample were accessed through the Berlin public prosecution offices (*Amtsanwaltschaft* and *Staatsanwaltschaft*). These files contain information on the upper levels of the cigarette black market in the Berlin area, including import (smuggling) enterprises and wholesale enterprises where a vertical integration with smuggling operations appears to be likely so that in fact all enterprise structures in the sample may have operated on the import level. This selection method is intended to ensure some level of comparability with regard to logistics and *modus operandi*.

Some of the 63 files also contain information about enterprise structures on lower market levels which are separated from the import level structures by contractual supplier-customer relations. Where information on these lower-level operations has been available it is not included in the present analysis. Similarly not included are smuggling operations where only one individual has been identified. This means that the core units of analysis are co-offending networks of at least two known members, not counting other, less directly involved individuals.

In view of the underlying research question regarding the social microcosm of offenders it must be emphasized that the sample is highly biased towards offender collectives by selecting only case files with at least three suspects. The criminal file analysis, accordingly, cannot address the question under what conditions offenders in the cigarette black market cooperate with others in the first place. This would require comparing lone offenders and co-offenders. Rather, the focus will have to be on the criminal and broader social environment of those market participants who have been found to operate within some form of collective structure. In contrast, the INZOLL data, to a limited extent, allow a comparison between lone offenders and co-offenders in that they provide in-

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<sup>3</sup> Data were also obtained for the year 1989 which, however, are not included in this analysis.

formation on the number of suspects per case, but it is an open question to what extent valid inferences on co-offending can be drawn from these figures.

## **A tentative statistical analysis of co-offending**

In the INZOLL database at least one suspect is listed for every cigarette-related investigation. In other words, there is no case without a suspect. For the years 1990 until 1999 the number of suspects per case ranges from 1 to 21. This does not mean, however, that the number of suspects listed in INZOLL necessarily corresponds to the actual number of co-offenders. As both the communication with customs officers and the criminal file analysis indicate, limited investigative resources in many instances prevent the detection of co-offenders where single perpetrators are apprehended. One typical case, for example, would be the truck driver who is unwilling or unable to provide information on who is responsible for hiding contraband cigarettes in his cargo (see also Van Duyne, 2003: 293). Such a case would show only one suspect in the INZOLL database, the truck driver, even though numerous individuals may have been involved in the smuggling operation, and even though the truck driver himself who has brought the contraband across the border may only have been an unwitting accomplice.

These caveats notwithstanding, a glance at the available statistics on cigarette-related investigations may provide some insights that can be translated into hypotheses for further examination.

Table 1 shows the number of cigarette-related cases investigated by the German Customs Service in each year from 1990 until 1999. These numbers are broken down, for each year, to the number of cases involving one suspect, two suspects, and three or more suspects. The case files analyzed for this chapter, as indicated, exclusively fall in the latter category. The table also shows the percentage of cases in each category per year. As can be seen, the share of multiple-suspect cases (three or more suspects) is very low, ranging from 1,4 to 4,0 percent with a slight upward trend when one compares the period 1990-1994 with the period 1995-1999.

**Table 1.**  
**Cigarette-related investigations by number of suspects in Germany**  
**1990-1999**

Year	Investigations	1 suspect		2 suspects		3+ suspects	
	N	N	%	N	%	N	%
1990	3.932	3.653	92,9	223	5,7	56	1,4
1991	10.200	9.163	89,8	755	7,4	282	2,8
1992	15.398	13.766	89,4	1.156	7,5	476	3,1
1993	31.830	28.894	90,8	2.077	6,5	859	2,7
1994	33.241	29.660	89,2	2.553	7,7	1.028	3,1
1995	34.622	30.428	87,9	2.991	8,6	1.203	3,5
1996	32.724	28.641	87,5	2.978	9,1	1.105	3,4
1997	23.472	20.432	87,1	2.212	9,4	828	3,5
1998	18.089	15.443	85,4	1.927	10,6	719	4,0
1999	12.857	11.139	86,7	1.277	9,9	441	3,4
Mean	21.637	19.122	88,4	1.815	8,4	700	3,2

Source: INZOLL

While these figures have to be viewed with considerable caution it is interesting to note that there appears to be a connection between the number of suspects and the amount of seized cigarettes per case. Taking the year 1995 as an example, the year with the highest number of investigations (n=34.622), the data show that on average the higher the number of suspects, the higher the number of seized cigarettes: Cases against single suspects (n=30.428) on average involve the seizure of 10.926 cigarettes (median=3.400) and cases against two suspects (n=2.991) on average involve the seizure of 23.980 cigarettes (median=7.200). In contrast, proceedings directed against three or more suspects (n=1.203) show an average amount of seized cigarettes of 110.025 sticks (median=12.800). These figures may simply be indicative of greater investigative resources spent to investigate large scale smuggling and distribution, thereby increasing the chance that additional suspects are identified. But they could also be interpreted as reflecting the increasing practical need of black marketeers to work collectively the larger the volume of contraband that is being handled.

In the following sections, the information gleaned from the case file analysis will be reviewed to further examine this question and to describe in greater detail the patterns of social interaction among offenders and between offenders and their environment.

## **Criminal file analysis**

Criminal files in general, and the 63 files analyzed for this chapter in particular, do not consistently contain information, or information with the same level of detail, on every aspect of the phenomenon under study potentially relevant from a criminological point of view. And by far not all the available information appears to be reliable. Still, compared to crime statistics, media reports, expert interviews and offender interviews, criminal files permit the in-depth retrospective analysis of a fairly large number of criminal events and structures in a fairly standardized fashion. Criminal file analysis therefore is a valuable tool for criminological research, especially in the area of organised crime, as long as the shortcomings of this method are duly taken into account.

Similar to the INZOLL data, the information contained in a criminal file is not necessarily exhaustive, or accurate, especially not with regard to the extent and nature of the involvement of particular individuals. For example, a file documenting the investigation against three suspects charged with smuggling cigarettes may be confined to just three suspects because there simply were no other accomplices. But it may also be the case that the existence of additional accomplices has escaped the attention of the investigating officers, or that individuals are known but their criminal involvement has not been recognized on the basis of the available evidence, or that known co-offenders are not formally listed as suspects in a criminal file because they are already the subject of another, parallel investigation. In yet other cases it seems that the available information on accomplices is deemed insufficient to provide leads that could result in their identification and arrest. In the end it is up to the researcher to draw inferences about the number and different roles of suspects independent from the formal classification made by the investigating authorities, including police, customs service and public prosecutor, and also independent from the final verdict, if there is one (see also Natarajan, 2000: 290).

In many cases the file content is confined to information collected from one law enforcement intervention, for example the search of a suspicious vehicle by the police. In such a case the criminal file typically contains the most detailed information on the mode of transport while less, and less reliable information is available on the source and destination of the cigarettes, including the role of potential investors and background organizers.

On the other hand it is important to note that the criminal files, in contrast to the INZOLL data, often also contain information on the involvement of individuals below the level of co-offending, such as owners of transport vehicles or employees of hauling companies. Thus, the social dimensions of an offence beyond the circle of accomplices are captured to some extent as well.

In general, the amount of information contained in the criminal files used for writing this chapter varies depending on the type and diversity of the evidence collected in the course of an investigation. The most conclusive infor-

mation typically comes from suspect statements. Other types of information sources include witness statements, visual surveillance by police and customs, and documentary evidence such as freight manifests. Extensive use of modern investigative tools in the form of wiretaps was only made in one of the 63 investigations under study.<sup>4</sup>

No single piece of evidence can be taken at face value. All information contained in a criminal file has to be weighed in context and also with a view to patterns that emerge from the analysis of other criminal files and other types of sources. In the end, what can be achieved is only a more or less well empirically supported and more or less plausible version of the truth.

## Patterns of cigarette smuggling operations

The patterns of cigarette smuggling operations will be examined on the basis of the sample of 63 criminal files pertaining to investigations of the Berlin branch of the customs service. The information contained in the case files cover to various degrees the following typical phases in a smuggling scheme: procurement of cigarettes abroad, concealment for transport, cross-border transport, transport within Germany, unloading and reloading for immediate distribution or the storage of contraband in cases where the distribution further down the market chain is delayed.

Not surprisingly given the geographical location of Berlin, the observed smuggling schemes typically involve the Polish-German border. The most prominent pattern in the sample shows Polish offenders organising the cross-border transport and Vietnamese mid-level and low-level dealers being on the receiving end who in turn supply Vietnamese street vendors (see also von Lampe, 2002; 2003; 2005). 34 of the 63 cases fall into this category. Other patterns include smuggling schemes involving offenders based in countries other than Poland, namely Hungary and Bulgaria, smuggling schemes that employ container transport by sea or small-scale smuggling by boat across the Oder river in addition to road transport, and finally smuggling schemes that supply other than Vietnamese dominated distribution channels.

Theoretically it is possible for a single person to run a smuggling operation without any assistance. This is obvious for small amounts, but even for large amounts of contraband cigarettes, provided an individual has a truck, a fork lift and sufficient warehouse space available. Therefore, the high share of cases involving a single suspect that show up in the INZOLL-data can not be dis-

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<sup>4</sup> One reason for the limited use of wiretapping is that tax offences, including the smuggling and illegal distribution of cigarettes, are not contained in the list of offences that may serve as predicate for the issuance of a wiretap order under German law (Harms and Jäger, 2004: 196-197).

carded off hand as a misrepresentation of reality. However, the analyzed cases indicate that individuals can usefully combine their efforts to run a smuggling scheme more effectively and that the interaction with outsiders in some form or other increasingly becomes a necessity the larger the volume of contraband cigarettes that are being handled. To clarify this point, three broad types of smuggling schemes can be distinguished from the data contained in the analyzed criminal files. This threefold typology is based primarily on one dimension, the level of interaction with legitimate third parties, but it is also largely consistent along the dimension of shipment size, i.e. the volume of contraband cigarettes handled at one time. Finally, some link can be observed between the three types and the number of individuals involved in a smuggling enterprise.

### **Small-scale smuggling operations**

The most common pattern emerging from the criminal file analysis, characterizing 50 of the 63 cases, is constituted by self-sufficient small-scale smuggling operations that apparently do not rely on any interaction with legitimate third parties that could hint to the fact that commercial goods – legal or illegal – are being transported or stored. Where third parties are involved, this occurs in an inconspicuous way in a purely private, non-commercial context. For example, cigarettes are smuggled by train or overland coach in carry-on luggage, which involves –unwitting– interaction with conductors, drivers etc., or stored in private apartments, which involves, though very indirectly, the interaction with landlords. In most cases, however, cigarettes are moved using private cars which are either registered in the name of one of the smugglers or in the name of some other private person who may be a friend or relative but is likely to claim ignorance of the use for illegal purposes.

Small-scale smuggling schemes in the sample are mostly run by partnerships or small teams of three to five individuals, typically Polish nationals residing in Poland who smuggle minor amounts of cigarettes for direct retail sale or for sale to mid-level and low-level dealers. The *modus operandi* does not differ fundamentally from that of individual smugglers, judging from anecdotal evidence drawn from interviews and media reports. In fact, some of the cases in the sample involve suspects who have been apprehended at the same time at the same place but it appears that they have not cooperated in any way. This is true for passengers in overland coaches *en route* from Poland to Germany who each have a few cartons of cigarettes concealed in their luggage. Occupants of the same car who are caught in the possession of contraband cigarettes sometimes also claim that they are acting independently from each other.

On this level, the patterns of co-offending appear to follow a simple logic. Cooperation occurs to meet an immediate need, namely the pooling of resources. Resources include transport vehicles, a driver's licence, investment capital for purchasing cigarettes and covering transport costs, and knowledge

regarding distribution outlets in Germany (see also von Lampe, 2003). Where information on previous and later involvement of suspects in cigarette smuggling is available, cooperation involving the same individuals is a rather rare occurrence while continuity in *modus operandi* appears to be fairly common.

Hierarchical structures are the exception rather than the rule. Where they do exist they typically involve relations between an employer and an employee who is recruited on a one-time-only basis or for a short series of transports. Employees are typically used as courier drivers by which means employers can insulate themselves from the contraband. In a few cases employers were apprehended in the same car but the courier drivers, apparently following a prearranged plan, accepted all the blame for themselves.

The main security strategy adopted in small-scale smuggling operations is stealth and camouflage. The greatest threat, accordingly, emanates from law enforcement agencies who use offender profiling, and from witnesses who become aware of activities that are not in line with the conduct of private citizens. Numerous small-scale smuggling operations failed because they fit a certain pattern, namely involving a car with Polish licence plates and young male occupants appearing in the middle of the night in front of a housing complex inhabited by Vietnamese. In other cases neighbours alerted police or customs after they observed suspicious behaviour in the form of the unloading of bulky bags or packs from cars into cellars or apartments.

### **Medium-scale smuggling operations**

In contrast to small-scale operations, medium-scale smuggling operations, of which eight appear in the sample, involve some interaction with outsiders in a way that is not typical for the daily routines of an average private citizen, for example renting a van for transport or, most commonly, leasing a garage for storage. In some cases the interaction may even occur under the guise of a commercial business, but one that is not connected to the importation of goods. In one case, for example, a garage was leased under the pretence of storing items for a snack bar; in another case a garage was sublet for storing “foodstuff”.

The smuggling operations in the sample fitting this pattern of interaction with legitimate third parties on average move higher volumes of contraband cigarettes at a time and involve higher numbers of co-offenders than small-scale operations.

Medium-scale operations also have a greater tendency than small-scale operations not to be just one-time-only events and to display a structure with some vertical and horizontal differentiation. Like in the case of the more sophisticated among the small-scale operations, the cooperative structures characterizing medium-scale operations appear to facilitate certain tasks while also

insulating, through employer–employee relations, illegal entrepreneurs from the contraband.

The main security strategy of medium-scale operations seems to be camouflage rather than stealth, because the activities they are involved in, namely the moving and storing of boxes, is in line with the kind of interaction with legitimate third parties (garage owners and van rental companies) defining the category of medium-scale operations. In other words, there is nothing suspicious as such about transporting boxes in rental vans, as opposed to private cars, and storing these boxes in rented garages, as opposed to private apartments. So should this kind of behaviour come to the attention of outsiders it is not likely to trigger criminal investigations.

### **Large-scale smuggling operations**

Large-scale smuggling operations are by definition characterized by the embeddedness in legitimate business processes. Interaction with legitimate third parties occurs on a continuous or at least recurring basis within the context, and following the logic of international business. This includes the setting up of front companies, the leasing of warehouses and the renting of trailer trucks on behalf of these front companies, the use of hauliers for cross-border transport and of dispatch forwarding agents for the clearing of cover loads with customs.

Smuggling operations embedded in the legal economy consistently involve large amounts of contraband cigarettes and high numbers of participants, and they can have a long life-span of up to several years. All of the five large-scale operations in the sample had a vertically and horizontally differentiated structure, typically with a multi-level hierarchy, and some division of labour.

While front companies are being set up, the adoption of business practices does not go so far as to integrate all accomplices into legitimate business structures. In interactions with the outside world it is only the individual entrepreneur who has registered the front firm in his or her own name, or a ‘representative’ who in some form claims power of representation for a company, who is formally linked to a legal business. Internally, relations between co-offenders are not framed in a legal context so that individuals working for an illegal enterprise are not formally employed by or otherwise legally associated with any front company. Only in one case in the sample the attempt was made to give the appearance of formal employment by handing overalls with the logo of a front company to those individuals who were (informally) recruited for unloading cover goods and boxes containing contraband cigarettes from a container truck into a warehouse leased in the name of this same front company.

In contrast to small- and medium-scale operations, the main security strategy of large-scale smuggling operations is mimicry by blending into the legal economy (see also Van Duyne, 2006: 186). The illegal nature of the activity is concealed, but not the fact as such that goods are commercially moved across

borders and commercially distributed. The greatest threat to large-scale smuggling operations emanates from random customs controls of cross-border traffic and from profiles developed by customs based on successful random controls, for example relating to certain types of goods frequently used as cover loads. Otherwise, suspicions raised further down the distribution chain may lead back to large-scale smuggling operations, or, as is the case with all types of smuggling operations, ‘unfortunate’ coincidences such as a traffic accident lead to exposure.

## A more detailed analysis of the three types of smuggling operations

A fairly consistent link between the level of interaction with legitimate third parties, the amounts of cigarettes involved, and also –to some degree– the number of participants emerges from the initial analysis of the smuggling enterprises found in the sample of 63 criminal files. This connection can be further explored through a more systematic and more detailed review of the available data. Table 2 summarizes some of the data pertaining to small-, medium- and large-scale operations, respectively.

**Table 2.**  
**Cigarettes and co-offenders per smuggling operation, sample from Berlin 1990-1999 (n=63)**

		<i>Maximum seizure per case (no. of cigarettes)</i>				<i>No of co-offenders</i>		
Type	N	low	high	mean	median	range	mean	median
Small	50	1.660	639.960	65.990	39.400	2-7	3,50	3,00
Medium	8	253.200	2.735.000	986.962	769.040	2-6	4,38	4,50
Large	5	3.395.200	11.465.000	6.093.080	5.700.000	4-19	9,00	8,00
All types	63	5.920	11.465.000	661.279	48.000	2-19	4,05	3,00

Source: Analysis of selected criminal files

## Illegal-legal interaction and amounts of cigarettes

As mentioned above, the classification of three types of smuggling operations by the level of involvement with legitimate third parties is fairly consistent with the volume of cigarettes that are being moved. The highest amount of seized cigarettes per investigation ranges in the case of small-scale smuggling operations from 1.660 to 639.960 sticks, which on average (65.990 sticks; median=39.400 sticks) is significantly lower than the amounts recorded in investigations against medium-scale operations (253.200 – 2.735.000; average =

986.962; median = 769.040) and against large-scale operations (3.395.200 - 11.465.000; average = 6.093.080; median = 5.700.000). It is interesting to note that except for two cases of small-scale smuggling involving the seizure of 265.000 and 639.960 sticks, respectively, there is no overlap between the three categories in this respect. This may be taken as an indication of the existence of critical levels which, once reached, force offenders to fundamentally change their patterns of interaction with the outside world. The first critical level appears to be at shipment sizes of around 200.000 - 250.000 cigarettes when it becomes impossible to use a single car for transport. Likewise, it is difficult to imagine that shipments of this size could be unloaded and stored in an outwardly purely private setting without raising suspicion.

The two deviant cases underscore these points. The case where 265.000 cigarettes were seized from an alleged small-scale smuggling operation, the cigarettes had reportedly been transported across the border in a truck, of which the ownership remained unclear, and had then been loaded on to two separate cars for further delivery to Vietnamese customers. In the case involving the seizure of 639.960 cigarettes, the exact conditions under which these had crossed the border remained obscure. It is only known that a Polish individual was hired on the spot by fellow countrymen to drive a van from a highway rest area outside the city to a meeting place in Berlin. In both cases it is quite possible that the cigarettes had been brought across the border as part of large-scale smuggling operations and perhaps the cigarettes that were seized were only part of larger shipments. One may also speculate that the customers in the latter case, most likely Vietnamese whole-sale dealers given the fact that the van was owned by a Vietnamese individual, would have stored the shipment in a garage or warehouse and not in an apartment or a cellar in an apartment building, provided they had not arranged for immediate redistribution of the cigarettes to low-level dealers.

The next critical threshold level seems to be around 1 million cigarettes. There are three cases in the sample classified as medium-scale operations based on the available evidence, where amounts of about 1 to 2,7 million cigarettes have been seized. However, two of them involved storage facilities as opposed to transport, so that shipment sizes in all likelihood were smaller than the seized amounts. The accompanying circumstances illustrate the challenges offenders face when handling amounts of cigarettes of this magnitude without the protection of an outwardly legal business facade. In one case 1,18 million cigarettes had been stored in a sublet garage. Interestingly, some of these cigarettes did not stem directly from smuggling but from a break-in into a customs warehouse where seized contraband cigarettes had been stored. An anonymous tip-off led the police to search the garage. In the other case resulting in the seizure of 1,25 million cigarettes from a rental truck no information was produced during the investigation about the mode of smuggling and the apparent warehousing of the contraband cigarettes prior to distribution to Vietnamese whole-

sale dealers. There is a good chance, however, that here too in reality a large-scale smuggling operation was at work. The vulnerable spot of the operation turned out to be the repeated use of rental trucks from the same company which attracted the attention of a customs service patrol. Finally, in one case involving the seizure of 2,7 million cigarettes hidden on the premises of a junk yard by what appears to be a smuggling operation, the owner of the junk yard was aware of the illegal activities. Otherwise it would be hard to imagine how the smugglers had been able to find sufficient warehouse space without the cover of an outwardly legal import-export business.

### **Group size, group structure and amounts of cigarettes**

From the INZOLL data it could be surmised that increasing amounts of cigarettes put pressure on smugglers to develop collective patterns of cooperation with increasing numbers of participants. From the sample of 63 smuggling operations in the Berlin area a more complex picture emerges, although overall a fairly clear connection remains. At this point it must be re-emphasized that the figures taken from the INZOLL database and the information gleaned from the criminal files are not fully compatible. The INZOLL datasets list the sum total of all seizures made during a particular investigation so that in cases of multiple seizures a series of small shipments is assigned the same value as one large shipment. From the case file analysis, in contrast, it is possible to obtain data specifically on the highest seizure per case which appears to be a more valid measure for determining the scale of an operation.

As Table 2 (above) shows, the threefold typology of small-, medium- and large-scale operations does not neatly group co-offending networks according to their size. On the contrary, the ranges in the numbers of co-offenders greatly overlap. Still, the average group size does increase with each category, from 3,5 co-offenders in small-scale operations (median=3,00), to 4,38 co-offenders in medium-scale operations (median = 4,50) and 9,00 co-offenders in large-scale operations (median = 8,00).

The increasing group size, as indicated, corresponds to an increasing degree of vertical and horizontal differentiation and a longer life-span of an illegal enterprise. Whereas only 11 out of the 50 case files on small-scale smuggling operations (22 percent) contain information on a hierarchical structure, 6 out of the 8 case files on medium-scale enterprises and all of the 5 files on large-scale operations do so. Likewise, all medium- and large-scale enterprises display some division of labour, mainly between organizers and menial labourers, but also among these respective role sets. In contrast, the division of labour in small-scale operations is largely confined to the fact that in a smuggling vehicle only one can be the driver at a given point in time. And whereas only 10 out of 50 case files pertaining to small-scale enterprises contained evidence of continuous cooperation, all medium-scale and with one exception all large-scale

enterprises showed signs of continuity. In the one case of a large-scale smuggling operation with no indication of continuous operation it is likely that the one seizure that was made involved the first of a number of planned smuggling shipments, given the fact that the smugglers had set up a front company and had rented a warehouse.

### **Other involved individuals**

Up to this point the focus of the analysis has been on the size of illegal enterprises. But, to return to the initial research question, it is not just the number of co-offenders that is of relevance here, but the overall number of individuals with whom the members of a given smuggling enterprise interact. Several types of other involved individuals have been distinguished in the preliminary analysis. These individuals demarcate the social microcosm of cigarette smugglers: contact brokers, suppliers, customers, persons in-the-know, involved outsiders possibly aware of illegal conduct, and involved outsiders who are apparently unaware of the illegal conduct. A separate but also highly relevant category, demarcating the social microcosm of offenders from the outside, is formed by bystanders who become aware of illegal activities by accident or due to the carelessness of offenders.

*Contact brokers*, without directly participating in activities of the illegal enterprise in question, connect individuals either on the same market level (business partners, employer/employee) or on different market levels (supplier/customer). *Suppliers* and *customers* are those individuals who operate on a market level above, respectively below, the smuggling enterprise in question. *Persons in-the-know* socially interact with members of the illegal enterprise in question in such a way that they become aware of the criminal conduct. Typical examples of persons in-the-know are family members of suspects who are privy to the storage, transport or exchange of contraband cigarettes. *Involved outsiders possibly aware of illegal conduct* are individuals who interact with offenders in the context of the illegal enterprise in question and who with varying degrees of probability have become aware of the fact that crimes are being committed. It is often difficult to determine with any degree of certainty whether or not an outsider such as a dispatch forwarding agent has grown suspicious. Involved outsiders tend to claim ignorance irrespective of indications to the contrary. Grounds for suspicion could be, for example, the apparent lack of expertise in international trading by self-proclaimed representatives of import-export businesses who contract a forwarding agent on a cash basis. *Involved outsiders apparently unaware of illegal conduct* are individuals who interact with offenders in the context of their illegal activities and who thereby are in a position to detect what is transpiring, but from the available evidence have not taken the necessary steps to actually uncover illicit activity. A typical example

for this category would be customs officers who check a truckload without discovering the contraband.

Some of these categories do not seem to be closely linked to a particular type of enterprise (small-, medium-, or large-scale). For example, there are small-scale as well as large-scale smuggling enterprises supplying just one customer, respectively, according to the available data. Other categories, by definition, are typical for medium-scale and even more so for large-scale operations, but not for small-scale smuggling enterprises. This is particularly true for involved outsiders with varying degrees of awareness of criminal conduct. In the case of medium-scale enterprises, offenders have to interact with outsiders for renting transport vehicles and leasing warehouse space. For large-scale operations embeddedness in legal business structures may also entail dealing directly with authorities when registering a company or clearing a shipment with customs. In addition it may entail contracting legal businesses for transporting and storing cargo and for clearing shipments with customs.

While there does not seem to be a clear distinction between small-scale, medium-scale and large-scale enterprises with regard to the number of involved individuals, similar to the number of co-offenders (see Table 2), possibly due to incomplete data, it seems that core offenders in medium- and large-scale operations find themselves in increasingly complex patterns of interaction. They have to deal with individuals with increasingly diverse roles and across increasingly greater social distances.

In the case of small-scale enterprises interaction related to criminal conduct tends to be confined to the immediate circle of co-offenders. In 29 out of 50 cases (58 %) the criminal files do not give any indication of the involvement of other individuals. And where others are involved, these individuals tend to belong to the close social environment of co-offenders or their customers. In one case of small-scale smuggling, for example, three Polish smugglers delivered cigarettes to two Vietnamese buyers in an apartment where another six Vietnamese individuals were present. These six individuals were apparently aware of the illegal transaction without taking a part in the deal. In other cases, individuals involved in small-scale operations outside the circle of co-offenders are typically the owners of the vehicles used for smuggling. These persons are often designated in suspect statements as relatives or friends.

In contrast, medium-scale and large-scale operations, by definition, involve the interaction with third parties who provide transport vehicles, storage space and a number of relevant services. Interactions of this kind tend to take place across substantial social distances. Transport vehicles and storage space, it seems, are typically provided by third parties without pre-existing ties. Illegal entrepreneurs, in these cases, are walk-in customers or answer to classified ads in a paper. For medium-scale operations, these contacts appear to be confined to one or two third parties whereas large-scale operations fully embedded in legal business are linked up to outsiders in multiple ways, including interaction with

legitimate businesses and government agencies. It is important to note that in all of these cases no indications were found of attempts by cigarette smugglers to infiltrate legitimate businesses or to bribe public officials.

## **Interpretation**

Overall, the information gleaned from the customs statistics and the 63 criminal files suggests that there are critical levels in the volume of contraband cigarettes which, once reached, force smugglers to adapt their patterns of interaction in the direction of more and more complex relations with a more diverse and socially more distanced set of individuals.

### **Size and internal structure of smuggling enterprises**

There appears to be a tendency, first of all, that the larger the consignments of contraband cigarettes the more individuals are directly involved in a smuggling enterprise and the more differentiated the internal enterprise structure. This tendency, which has already been noted in other contexts (Arlacchi, 1986: 202) and which is discernible in the customs statistics as well as in the criminal files, can be explained by both efficiency and security concerns. Fairly straightforward, it becomes more and more difficult for a single person to load, unload and carry cigarettes as the volume increases. A carton of 200 cigarettes weighs only about 300 grams. But the average shipment handled by a small-scale smuggling operation, 66.000 cigarettes according to the criminal file analysis, already constitutes a load of around 100 kilograms, whereas the average shipment of a medium-scale operation (987.000 cigarettes) weighs around 1.500 kilograms, and the average shipment of a large-scale operation (6.093.000 cigarettes) weighs around 10.000 kilograms. Apart from the pure weight of the cigarettes (including packaging), the unloading of large consignments of contraband is a fairly time consuming activity. From the case files it seems that to unload a container and to separate the contraband from the cover load takes a team of three to five persons at least 3,5 to 4 hours and may take up to 12 hours depending on the circumstances. Therefore, it is in the interest of efficiency that smugglers join forces or recruit additional labour to handle large amounts of contraband cigarettes. At the same time, larger numbers of participants may translate into increased security in the sense that core offenders can insulate themselves from actually handling the contraband. In fact, this insulation strategy is widely assumed to be a defining characteristic of sophisticated criminal enterprises (Morselli, Giguère & Petit, 2007: 152; Potter, 1994: 87-88; Zaitch, 2002: 241). On the other hand, every additional employee is a potential informant and witness who poses an additional risk to illegal entrepreneurs (Reuter, 1983: 115). This is especially true where employment is not based on

trust (von Lampe and Johansen, 2004), as seems to be true for many of the analyzed enterprises. Employees are often recruited on the spot, for example in bars (see also von Lampe, 2003b: 59). This is a pattern that has also emerged in other areas of crime, namely trafficking in stolen motor-vehicles, and may be particularly typical for Polish offenders (Bundeskriminalamt, 1999: 49), although in the analyzed sample of cigarette related cases precarious relations also linked, for example, Vietnamese and Germans. While such weak links add to the insulation of core entrepreneurs, they increase the likelihood that in the event of an arrest, employees are willing to disclose what information they have about their employers.

### **Use of legitimate third parties**

A second tendency discernible in the analyzed data concerns the use of legitimate third parties. Once the size of consignments of contraband cigarettes goes beyond critical levels, smugglers extend their interactions into the legal spheres of society (see also Van Duyne, 1997: 206; 2006: 186). Here, also, practical considerations in all likelihood come into play. From a certain volume (around 200.000 to 250.000 cigarettes) it appears no longer feasible to transport and store contraband cigarettes within a private person's normal infrastructure of private residence and private car. At this point it becomes necessary to obtain appropriate transport vehicles and storage facilities, which in the analyzed cases are mostly rented instead of purchased. This entails repeated interaction with garage owners and employees of rental truck companies. Typically no pre-existing relations link the illegal entrepreneurs to these third parties. In a double sense this move into the legitimate spheres of society can be seen as a security measure. First, as mentioned before, large volumes of cigarettes can be moved in a less conspicuous way than would be the case in a purely private setting. Second, by renting vans and leasing storage space instead of acquiring ownership protects assets from confiscation. However, illegal entrepreneurs also expose themselves to the scrutiny of outsiders they have little control over. Illegal entrepreneurs in most of the analyzed cases had to present a cover story about the intended use of garages with which they had to conform in order not to raise suspicion. The same was not true for renting vans. As far as can be seen, no explanation had to be given to rental company agents about the intended use of the rented vehicles. Still, avoiding suspicion seems to have been a concern for illegal entrepreneurs given the fact that preference was given to particular rental companies where, one may speculate, no questions were asked. The preference for particular companies, in turn, proved disastrous in several cases where this had come to the attention of the customs service and the mere sighting of a vehicle from one of those companies gave customs agents on patrol sufficient reason for closer inspection.

At a volume of around 1 million cigarettes per shipment another threshold appears to be reached where smugglers seem to feel the need to integrate their operations into the legal cross-border traffic of goods. This means that the cigarettes are transported in trucks and container trucks with false documents describing inconspicuous goods, or concealed with such goods (see also High Level Group, 1998: 12). In these cases, at a minimum some form of interaction with customs is required for officially clearing the shipment. Many smugglers seem to avoid direct interaction with customs and instead contract a dispatch forwarding agent for the purpose of customs clearance. In addition, trucks for transport are rented from commercial businesses or the entire transport is outsourced to a haulier. Dealing with these legal companies requires the smugglers to be reachable by phone and mail. In some of the analyzed cases, cell-phone numbers and private addresses were used, but also an office service and an actual business. Overall, the integration into legal cross-border traffic forces smugglers to interact with legitimate third parties who in all likelihood are able to quickly detect the lack of expertise and experience a smuggler will show without a background in legal foreign trade, which in turn puts at least less sophisticated smugglers at risk of exposure. Furthermore, the use only of cell-phones or payments only in cash which, on one hand, protects the identity of a smuggler, on the other hand may give rise to suspicion. These vulnerabilities are aggravated by the fact that even more so than in the case of medium-scale operations illegal entrepreneurs operating on a large scale have to bridge social and cultural cleavages as they typically do not share the same social and ethnic background as the representatives of the businesses and agencies they have to deal with. It must be added, though, that from the available evidence it appears that hauliers and forwarding agents are not necessarily eager to report their observations to the customs service. In one case a self-employed haulier subcontracted by a large transport company, which in turn was contracted by a front company set up by smugglers, to bring a cover load of lumber from a Baltic Sea port to a warehouse in the Berlin area was bought off with one carton of cigarettes after he became aware of the true nature of the cargo.

### **Exposure to bystanders**

Another related aspect is the visibility and vulnerability to uninvolved outsiders. Assuming that cigarette smuggling is met neither with hostility nor with acceptance, but rather with indifference, it seems that small-scale and medium-scale operations are far more likely than large-scale operations to be exposed to bystanders who happen to observe illegal activities and recognize them as such. Out of the 63 investigations under study, ten were triggered by tip-offs coming from private citizens. In another four cases investigations were initiated following up on intelligence provided by police or customs service informants. Of the ten cases triggered by reports from private citizens, eight involved small-scale

operations and two medium-scale operations. These cases illustrate the vulnerability of illegal enterprises with a *modus operandi* that does not blend into an inconspicuous social context. In most instances, accidental onlookers observed unloading and transaction activities which seemed out of place or which could be directly identified as involving contraband cigarettes. Indicators included the removal of packages from Polish cars, the transaction of packages between European and Asian looking individuals, or, most obviously, the markings on boxes where the cigarettes were still contained in the original packaging. In one case, involving a medium-scale operation, a private citizen observed the reloading of contraband cigarettes from a rental truck to a small vehicle on the parking lot of an apartment complex. It so happened that the onlooker was an employee of the very same tobacco manufacturer from which the contraband cigarettes originated. In the second case of a medium-scale operation failing because of the visibility to uninvolved outsiders, a private person repeatedly observed the distribution activity of a smuggling enterprise in the form of the delivery of boxes to an apartment building. Three cases are unusual in that they involved private citizens with some proximity to the offenders. In two cases, tip-offs referred to particular apartments where Vietnamese dealers received deliveries from Polish smugglers, and in another case a taxi driver alerted the police after he had driven two Poles to deliver contraband cigarettes to Vietnamese customers. It is noteworthy that all of these constellations pertained to transport and loading activities but not to the storage of contraband cigarettes by smuggling enterprises, which can be explained in part by the fact that most small-scale smuggling schemes do not involve the storage of cigarettes on German territory. As regards medium-scale operations, authorities received a tip from a private citizen in only one out of six cases where garages were leased for storage; and this occurred at a point in time when investigations were already ongoing. In all other cases leads picked up elsewhere eventually led to the discovery of the garages used for storage of contraband cigarettes.

The five large-scale operations under study proved immune to bystanders, presumably because they successfully blended into legitimate business and their visible activities raised no suspicion. This is underscored by the one case of a large-scale operation where a private citizen did indirectly trigger an investigation. An employee of a smuggling operation caused a minor traffic accident when driving a customer's van from a pre-arranged pick-up point to the warehouse in which a container with contraband cigarettes was being unloaded. While manoeuvring the van, the employee hit a parked car and without stopping proceeded to the warehouse. A bystander informed the police who quickly discovered the van and subsequently the contraband cigarettes.

## Conclusion

Cigarette smugglers, like any other offender, do not operate in a social vacuum. They interact with and are exposed to other individuals who may or may not be directly and wittingly involved in these illegal activities. The patterns of interaction between illegal entrepreneurs and their social environment vary along different dimensions. One crucial aspect typically addressed in analyses of organised crime is to what extent and in what way they integrate their social environment through the recruitment of accomplices, which in turn affects the size and internal structure of illegal enterprises. Another crucial aspect, less often considered in analyses of organised crime, is the level of interaction with legitimate third parties from which illegal entrepreneurs obtain resources and services in support of their illicit activities. Finally it is an often neglected question of some relevance to what degree illicit activities are (potentially) exposed to the attention of uninvolved outsiders.

From the analysis of the customs service statistics on cigarette related investigations and from the analysis of 63 criminal files a fairly consistent pattern emerges: while most cigarette smugglers operate within self-sufficient, small sized enterprise structures, those entrepreneurs who move beyond critical levels in the scale of contraband shipments are bound to interact in profoundly different social microcosms comprising larger and more diverse sets of individuals across greater social distances.

The different patterns of interaction characterizing small-, medium- and large-scale smuggling operations entail different risk profiles. Interestingly, as the stakes increase, cigarette smugglers increasingly rely on actors from outside their immediate social environment. Labourers integrated into illegal enterprises have typically been recruited on the basis of weak or even absent pre-existing ties. This also means that there is no indication that cigarette smugglers are embedded in a criminal milieu from which new recruits could readily be drawn. Likewise, contacts with legitimate third parties are seemingly established *ad hoc*, and also across social and cultural cleavages and, as far as can be seen, without the safeguards of corruption and intimidation. The expanded social microcosm of medium- and large-scale cigarette smugglers, compared to small-scale smugglers, can in part be explained by gains in efficiency and also in security as certain risks, namely the detection by uninvolved outsiders, are minimized. But at the same time new risks emerge with the increased exposure of illegal entrepreneurs to other individuals they likewise cannot easily predict or control.

The present analysis could only tentatively highlight some aspects that come into play when offenders are conceptualized as actors operating within a specific social microcosm populated by individuals who are in a position to influence, in one way or the other, the success and failure of an illegal enterprise. A more in-depth analysis drawing on a broader database, and also covering other

crime-markets, may provide a better understanding of the mechanism at play. This analysis would also have to pay attention to factors such as differences in the material incentives for small-, medium- and large-scale smugglers, their respective perception and management of risks, and the resources in terms of the financial, human, and social capital they have at their disposal. However, the data presented here do suggest that the patterns of interaction of offenders are to a substantial degree shaped by the scale of criminal activities and the nature of the commodity. And at least large-scale smuggling operations, it appears, cannot be understood without taking the complete patterns of social interaction of illegal entrepreneurs into account. More generally, it seems necessary to examine the social microcosm of offenders more systematically and more consistently in the future in order to obtain a better understanding of 'organised crime'.

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