International Trade and Terrorism: A Brief Assessment of Cost and Consequences

By David Wemhoff[1]

The events of 9/11 are a part of history and the images from that day are etched in our memories. The symbolism of jet airplanes crashing into the Twin Towers of the World Trade Center is one of terrorism destroying world trade. The actual effect of terrorism on international trade has been the subject of a number of studies over the years. This article is a summary of some of the more prominent research in the area, and also a summary on how United States, or Federal, criminal law addresses terrorism's effect on trade.

The conventional wisdom as to the general effect of terrorism on the American economy was raised in an article written about one year after the events of September 11, 2001. Llewellyn D. Howell, the International Affairs Editor of *USA Today*, authored an article entitled "The Economics of Terrorism" in which he stated in general terms that the American economy had to be defended. Those economic interests revolved around foreign investment in the United States, American investments overseas, tourism in the United States, and the exchange of international students.[2]

As to terrorism's effect on the global economy, Kenneth Rogoff, an economics columnist for *Foreign Policy* and a professor of economics and public policy, set forth that it was the reaction to terrorism that served to hinder the movement of goods and people as well as slowing the development of product innovation and the free movement of ideas. The result is increased

[1] David Wemhoff is the Chair of the Committee on International Trade and Customs Law, International Law Section, Federal Bar Association and a solo practitioner from South Bend, Indiana.
[2] Llewellyn D. Howell, "The Economics of Terrorism," *USA Today,* September, 2002.

prices for the consumer, increased taxation and regulation and hence distortion of the global economy that is so interconnected and dependent on free markets.[3]

In summarizing the overall effects of terrorism on economies, Professors Walter Enders and Todd Sandler found terrorism affects economies in general because of the government response to terrorist acts and the psychological effects on individuals of these terrorist acts. Enders and Sandler concluded that smaller, less diversified economies tend to suffer more than larger, more diversified economies. They also concluded that the industries which most stand to suffer are those depending on tourism, foreign direct investment, and international trade.[4]

These general conclusions of Enders and Sanders were reinforced with later research and study by other researchers. Terrorism does impose an economic burden that includes loss of national income, slowing of economic growth with reduced production, reduced foreign direct investment, and does inflict some harm to international trade.[5]

A number of different researchers have attempted to quantify the effect of terrorist acts on international trade. These studies have made a number of distinctions such as distinguishing between acts of domestic terrorism versus acts of international terrorism, and distinguishing between terrorist acts that target governments and those that target private entities. The studies have also examined different periods of time, different lengths of time, different geographic areas of the attacks, different motivations for the attacks, and have done all of this in the context of varying economic models.

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[3] Kenneth Rogoff, "The Cost of Living Dangerously," *Foreign Policy,* November/December, 2004.

[4] Walter Enders and Todd Sandler, *The Political Economy of Terrorism* (2nd Ed.) (New York: Cambridge University Press, 2012), 288-316.

[5] Subhayu Bandyopadhyay, Todd Sandler, and Javed Younas, "The Toll of Terrorism," *Finance & Development,* June 2015, 26-28.

Perhaps one of the earlier and better known studies was that conducted by Volker Nitsch and Dieter Schumacher the results of which were preliminarily published in June, 2002. Nitsch and Schumacher examined data for the period of 1960 to 1993 from more than 200 countries. The two researchers applied an augmented gravity model that examined distance and economic size of two trading countries and analyzed bilateral trade flows. Their general conclusion was that terrorism negatively impacted international trade because the transactional costs were raised thereby lowering the volume of international trade. Aside from any generalized effect on the economy, Nitsch and Schumacher found that the data pointed to a reduction in bilateral trade in the amount of six percent (6 %) when the number of terrorist incidents doubled. These researchers, however, did note that terrorism's effects are not all that clear. For instance, terrorists seldom target freight directly, which are insurable, and, since most terrorist actions had only "local implications," the "overall magnitude of the effect of terrorism on trade remains a priori unclear."[6]

Peter Egger and Martin Gassebner conducted a study on international trade and terrorism using data for the period of January,1970 to December, 2008 between thirty countries comprising the Organisation for Economic Cooperation and Development (OECD) and 181 trading partner countries. Their work distinguished earlier works in a number of important arenas. Egger and Gassebner used monthly data as opposed to yearly data, and they also employed a general equilibrium effects model in analyzing their data. The former lead these researchers to identify and minimize time aggregation bias that improperly attributes past changes in trade to future terrorist attacks or events. The latter, according to Egger and Gassebner, allowed them to account for what they termed a cushioning of an increase in bilateral

[6] Volker Nitsch and Dieter Schumacher, "Terrorism and International Trade: An Empirical Investigation," *European Journal of Political Economy* 20 (June 2004): 423-433.

trade costs as a result of terrorist activities by virtue of trade with third countries. In other words, terrorist attacks not only had bilateral effects, but also multilateral effects. These researchers stated that in "contrast to the existing literature we do not find a strong negative effect of terrorism" and that "the effects of terror on trade but also on income…are negligible." The evidence does, however, support the idea that terrorism has effects on bilateral and multilateral trade in the medium run, or more than one and a half years after an attack or incident.[7]

Egger and Gassebner did mention a number of studies that showed both "significant disruptive economic effects of terrorism" and those that presented "insignificant effects of terrorism." As to the former, they concluded these studies focused on certain countries with repeated terrorist acts over longer periods of time. As to the latter studies, these focused on developed countries also over a longer period of time.[8]

A study conducted by Subhayu Bandyopadhyay, Todd Sandler, and Javed Younas took note of the Egger – Gassebner work and summarized it by stating that it did not find any short-term effect on exports and imports of those countries comprising the OECD as a result of acts of international terrorism. Bandyopadhyay – Sandler – Younas sampled 151 countries during the period of 1995 through 2012 when there was a "dominance of the religious fundamentalist terrorists" using attacks to cause greater adverse affect on the economy. Using an augmented gravity model, these researchers came to a number of different conclusions. While domestic terrorism and transnational terrorism reduced trade of manufactured goods, they had "no significant effect on trade of primary products." Both types of terrorism had a larger negative influence on imports than on exports. However, distinguishing their study from earlier studies,

[7] Peter Egger and Martin Gassebner, "International Terrorism As A Trade Impediment?", *Oxford Economic Papers* 67: 1 (2015): 42-62.
[8] Ibid.

these same researchers found that transnational or international terror incidents had a greater impact on trade in manufactured goods than did domestic terrorist actions. The negative impact was more disproportionately felt amongst the medium and higher skilled manufacturing than those requiring less skill. With gravity model controls in place, Bandyopadhyay – Sandler – Younas concluded that any significant negative impacts on trade by transnational terrorism is the result of the consequences on transportation costs and the costs of doing business. [9] Reviewing some of the extant literature, the researchers noted that the greatest impact on trade found by other researchers was that found by Blomberg and Hess (2009) who estimated that various conflicts and international terrorism can amount to up to a thirty percent (30%) tariff on trade.[10]

Reasons for terrorism's negative impact on trade between countries are postulated by Bandyopadhyay – Sandler – Younas. First, government resources are diverted to deal with the threat. More inspections and safeguards slow the flow of trade, and lost income and assets result from terror attacks reducing available income for purchase of products. Insurance premiums and wages as well as certain fixed costs have to be raised in order for trade to be conducted in terror-prone areas.[11]

While this article has focused on terrorist acts, an important area of consideration is the effect that the misuse of the financial system (such as, money laundering) may have on trade and economic development in general. The studies referenced above concern kinetic or violent terrorist acts and have not addressed the impact of money laundering in general and trade based money laundering (TBML) in particular. TBML methods may take many forms. One is over-

[9] Subhayu Bandyopadhyay, Todd Sandler, and Javed Younas, "Trade and Terrorism: A Disaggregated Approach," *Research Division Federal Reserve Bank of St. Louis Working Paper Series,* January, 2017, 2, 26-27.
[10] Bandyopadhyay, Sandler, and Younas, "The Toll of Terrorism," 28.
[11] Bandyopadhyay, Sandler, and Younas, "Trade and Terrorism: A Disaggregated Approach," 5.

invoicing, and another is under-invoicing with variations of the two. The idea with money laundering is, of course, to conceal the existence, source, and application of the income or funds and is meant to make these funds look legitimate while transferring them.[12]

TBML uses international trade as a vehicle for financing terror activities. A major issue according to many commentators, it is used to legitimize “hundreds of billions of dollars” nationwide.[13] The World Bank recognizes that an important part of terrorism is funding it, and hence the necessity of anti-money laundering methods to reduce its spread. In a report from 2006, The World Bank noted that money laundering and the financing of terrorism have “particularly significant economic and social consequences for developing countries.” Money laundering, The World Bank concludes, hurts financial institutions in particular and so weakens the economy and the private sector. A weakened financial system hurts international trade which is so dependent on financial institutions.[14]

The Federal Government has for a long time punished attempts to unlawfully obstruct or impact commerce by violent acts, or by conspiring to commit violent acts. The Racketeering Chapter or Chapter 95 of Title 18, dealt with these situations and one of the most notable sections is probably 18 U.S.C. § 1951 et seq. In that same chapter we find the United States' prohibition on money laundering.[15]

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[12] Kimberly Caine, “Trade-Based Money Laundering Is On The Rise,” *Law360,* January 5, 2015. (https://www.law360.com/articles/605902/trade-based-money-laundering-is-on-the-rise as accessed April 10, 2017).
[13] Ross S. Delston & Stephen C. Walls, “Strengthening Our Security: A New International Standard on Trade-Based Money Laundering Is Needed Now,”
[14] Paul Allan Schott, “Reference Guide to Anti-Money Laundering and Combating the Financing of Terrorism: Second Edition and Supplement on Special Recommendation IX,” The World Bank (2006), II-1 to II-9.
[15] 18 U.S.C. §§ 1956, 1957.

With the Anti-terrorism and Effective Death Penalty Act of 1996, The United States Government took a giant step in the process of dealing with the growing problem of terrorism, especially international terrorism. Chapter 113B of Title 18 of the US Code, entitled "Terrorism," set out a somewhat comprehensive regimen of dealing with terrorist acts. A central provision defines prohibited acts as those involving killing, kidnapping, maiming, assaulting, and another defines prohibited acts as those destroying structures, conveyances, or other real or personal property within the US, or by attempting or conspiring to do so.[16] The jurisdictional basis for invoking Federal law is set forth in 18 U.S.C. § 2332b(b)(1) and includes that which "obstructs, delays, or affects interstate or foreign commerce, or would have" done so if consummated. Additionally, jurisdiction is conferred the Federal Courts if the U.S. Government, its employees and agents and members of the uniformed services is targeted, or if a "structure, conveyance, or other real or personal property is, in whole or in part, owned, possessed, or leased to the United States" or one of its departments or agencies.[17]

With Federal jurisdiction, the Department of Justice can prosecute acts of terrorism, and upon conviction, a defendant may be incarcerated for a mandatory maximum of up of life depending on the circumstances of the terrorist act. Determination of the economic harm done by terrorist acts is an important consideration for determining the possible sentence. While incarceration may serve to deter others from considering attacks, protect the public, and render inert the perpetrator of terrorism against international trade there still remains the economic harm caused by terrorist acts.

[16] 18 U.S.C. § 2332b(a)(1) and (2).
[17] 18 U.S.C. § 2332b(b).

Statutes may prescribe certain terms of incarceration and fines if convicted of an offense. The United States Sentencing Guidelines (USSG) has an important influence on determining the exact sentence as well as the amount of restitution ordered, if any. The USSG, or Guidelines as they are known, are advisory and have been so considered since the United States Supreme Court handed down *United States v Booker* 543 U.S. 220 (2005), however, they must at least be considered by the courts.

Convictions of 18 U.S.C. 2332b require that the courts apply the provisions of § 2B1.1 of the Guidelines in performing the first step of the sentence calculation. That section is contained in the Guidelines' Part B which is titled Basic Economic Offenses. Section 2B1.1 contains a table that provides increases in the Base Offense Level[18] calculation depending on the amount of pecuniary harm inflicted on a victim that was caused by the terrorist act. The Commentary to § 2B1.1 states that "`Pecuniary harm' means harm that is monetary or that otherwise is readily measurable in money…."[19] The amount of pecuniary harm suffered must therefore be ascertainable, or calculable, in terms of money. The standard of that proof is preponderance of the evidence by the use of "reliable and specific evidence."[20] The Courts have allowed this standard to be met a number of different was to include expert witness testimony and statistical sampling.[21]

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[18] Federal criminal sentences are determined by a two part process. The first part is the proper calculation of a sentence suggested by the Guidelines. This requires, in summary, determining the criminal history of the convicted person and the Base Offense Level of the specific offense. Each of these categories is quantified by a system that assigns points to certain prior criminal sentences (as to criminal history) and points to certain offenses with additional points added or some subtracted from these offenses given the characteristics of the offense of which a person is convicted. A cross-referencing of the two results in a sentence delineated in months.

[19] United States Sentencing Guidelines § 2B1.1, Commentary 3.(A)(iii).

[20] Roger W. Haines, Jr., Frank O. Bowman, III, and Jennifer C. Woll, *Federal Sentencing Guidelines Handbook: Text and Analysis 2015-2016 Edition* (Thomson Reuters, 2015), 372-373.

[21] Ibid., 373-374.

An important part of this consideration is that the harm must be suffered by a specific victim.[22] That victim could be the Government or it could be individuals or businesses of whatever form of organization.[23] With a determination of the pecuniary harm suffered by a specific victim, an order of restitution may be entered against the convicted terrorist. It may be unlikely that the restitution award is recovered in its entirety, but at least the Government or individual companies involved in international trade stand to be compensated for the harms they have suffered.

When it comes to convictions for money laundering, USSG § 2S1.1 sets forth the method to determine the base offense level for determining the appropriate sentence. That base offense level is the same as that for the "underlying offense from which the laundered funds were derived." If that cannot be determined, then the base offense level is ascertained from the loss table contained in USSG § 2B1.1 and mentioned above. The amount of money that is derived from criminal activities and laundered is the figure to be used for purposes of employing the loss table.[24]

In general, the amount of harm directed at a specific identifiable victim, or the amount of money laundered, is something that can be quantified and used to increase a sentence if not also constitute the basis of a restitution determination. There does not currently seem to be a mechanism to assess responsibility against a criminal defendant convicted of a terrorist act or TBML for a generalized impact of that act on the economy or international trade.

[22] Ibid., 380-381.
[23] Ibid., 380.
[24] USSG § 2S1.1, Commentary 1.