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Interpol's Silver Bullet – An analysis of Interpol's Silver Notice

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Executive Summary

1. The International Criminal Police Organization (ICPO/INTERPOL) has created a pilot project with an Expert Working Group comprising 52 nations, including India, to allow member states to make requests for the identification of laundered assets in another INTERPOL member state.
2. The pilot project, due to conclude in November 2025, grants each nation roughly 9 Silver Notices or Diffusions through which they can seek information from nations in the Expert Working Group about financial assets of an individual / entity involved in criminal activity.
3. The effectiveness of the Silver Notice as a tool for asset tracing cooperation in law enforcement during this pilot project will decide whether it will become the new tool in the global arsenal against international laundering of proceeds of crime.

Introduction

4. INTERPOL's 91st General Assembly meeting took place in November 2023, where the assembly adopted Resolution No. 11¹ ("Resolution"). The Resolution created a new INTERPOL notice, the Silver Notice and a Silver Diffusion², and called for an Expert Working Group to launch a pilot project to test the latest additions to INTERPOL's arsenal.
5. An INTERPOL notice is a request for cooperation or alert sharing between police and law enforcement authorities of member countries and exist in several function-specific forms. For instance, the infamous INTERPOL Red Notice is a request concerning information relating to or the apprehension of a wanted criminal.
6. In 2015, INTERPOL's General Assembly conceptualised a silver notice to trace and help with the seizure of financial assets being laundered internationally. In 2022, the INTERPOL General Assembly through a resolution³ created an Expert

¹ GA-2023-91-RES-11

² An INTERPOL Diffusion is a means for countries to circulate information to other member nations through INTERPOL channels. This is different from an INTERPOL Notice in that it is initiated at a member country's volition. An INTERPOL Notice is issued by INTERPOL while an INTERPOL Diffusion is issued by a member nation.

³ "Strengthening our collaborative response to disrupting financial crime and corruption" | GA-2022-90-RES-01

Working Group of member nations to come up with a detailed proposal for the creation of a dedicated INTERPOL notice for asset identification and seizure. This study was completed in 2023⁴.

7. The Silver Notice is aimed at asset tracing and intends to identify assets that are regarded as laundered. This capability includes the ability to discreetly monitor assets belonging to a person or entity of interest.
8. During the pilot project, member states will be able to use the information as the basis for bilateral engagement on the seizure of the assets subject to the laws of the nation where the asset is located.
9. INTERPOL's Expert Working Group, headed by Italy, will work with the General Secretariat to implement a pilot project overseen by the Executive Committee and the General Assembly. India is one of the 52 Member States participating in the pilot project.
10. The pilot project has received its inaugural Silver Notice from the Guardia di Finanza (Financial Police), Palermo seeking information on the assets of a senior member of an Italian organized crime syndicate.
11. India will be channelling its Silver Notices through the Central Bureau of Investigation (CBI), the nodal agency to interface with INTERPOL. Member States will be able to collectively issue up to 500 Silver Notices and Diffusions, working out to about 9 per Member State during the pilot project, which is set to run until November 2025.
12. The CBI's new '*BHARATPOL*' portal, launched on 7 January 2025, allows officers at the ranks of Superintendent of Police, Commissioners of Police and Branch Heads to request interfacing with INTERPOL to issue an INTERPOL Notice or Diffusion.
13. A Multidisciplinary team of lawyers, police officers and operations specialists at INTERPOL, called the 'Notice and Diffusions Task Force' (NDTF), monitors requests from Member States for compliance with the INTERPOL Constitution.

⁴ See also General Assembly Report titled 'Outcomes of the Expert Working Group on Asset Tracing and Recovery | GA-2023-91-REP-19

14. A key protection in the INTERPOL Constitution is that the organization is forbidden from undertaking intervention or activities of a political, military, religious or racial character⁵.
15. Requests from Member States that do not conform to the INTERPOL Constitution face rejection by the NDTF.

Analysis

16. Prior to the Silver Notice, countries could request international cooperation on asset identification through:
 - (a) Letters Rogatory – A request between Courts of nations transmitted through diplomatic or consular channels;
 - (b) Mutual Legal Assistance Treaties (MLAT) – Bilateral or Multilateral Treaties between countries regarding mutual assistance among law enforcement agencies of signatory states.
 - (c) International Organisations – Organisations like the Financial Action Task Force (FATF) and the Global Focal Point Network on Anti-Corruption and Asset Recovery (GNFP) provide platforms for law enforcement agencies to exchange which might not be information on specific criminal cases or networks.
17. India currently has MLATs with 40 countries: Australia, Azerbaijan, Bahrain, Bangladesh, Belarus, Bosnia and Herzegovina, Bulgaria, Canada, Egypt, France, Hong Kong, Indonesia, Iran, Israel, Kazakhstan, Kuwait, Kyrgyz Republic, Malaysia, Maldives, Mongolia, Mauritius, Mexico, Myanmar, Russia, Singapore, South Africa, South Korea, Spain, Sri Lanka, Oman, Switzerland, Tajikistan, Thailand, Turkey, Ukraine, the UAE, the UK, the USA, Uzbekistan and Vietnam⁶.
18. India's experience with requests under its MLATs has been mixed. A recent instance where an Indian Court encountered the MLAT process is the decision of the Delhi High Court on bail in the case of *Adnan Nisar v. Directorate of Enforcement*⁷

⁵ Article 3, Constitution of the ICPO-INTERPOL.

⁶ <https://cbi.gov.in/MLATs-list>

⁷ *Adnan Nisar v. Directorate of Enforcement* | 2024 Supreme (Online)(Del) 16067

which revolved around alleged fraud on the Wazir X cryptocurrency platform. The Court, while granting bail to the accused, held however that –

“Even otherwise, once ED, on the basis of MLA request and other material collected, was satisfied that the offence being investigated by the US Department of Justice under the relevant US laws correspond to offences falling under Schedule of the PMLA and the proceeds of crime have found its way to India, it is well within its power to register an offence under Sections 3 and 4 of the PMLA, irrespective of the nature of the request in the MLA.”

19. Police Departments in India, however, have reported having a tough time navigating the rigours of the procedure under various MLATs and the privacy laws of different nations⁸.
20. India’s experience with INTERPOL’s Red Notice seems to have been slightly better. According to an answer in the Rajya Sabha by the Minister of State for Home Affairs, 27 accused persons were extradited between 2016 – 2019 with 247 requests being published on India’s behalf between 2016-2018. According to INTERPOL’s website, there are 272 active Red Notices from India.
21. INTERPOL’s Silver Notice comes in this context and at a time when there is growing global consensus that seizure of financial assets is one of the most effective ways to disrupt organized crime and terror networks.

Conclusion

22. The pilot project by INTERPOL’s Expert Working Group, of which India is a member is being watched by governments globally to assess its effectiveness in targeting financial assets of crime syndicates globally.
23. India will be able to form its own assessment of the process once it submits a request for a Silver Notice or Silver Diffusion in an ongoing investigation.
24. However, with several nations known for their banking secrecy laws, such as Switzerland, Luxembourg and overseas territories such as the British Virgin Islands

⁸ Chetan B C, Deccan Herald, ‘Karnataka’s legal assistance request to foreign countries: 27 pleas, 7 replies, 0 breakthroughs’, 29 November 2024 | <https://www.deccanherald.com/india/karnataka/k-taka-s-legal-assistance-request-to-foreign-countries-27-pleas-7-replies-0-breakthroughs-3296465>

not participating in the project, the overall effectiveness of the Silver Notices issued during this phase might prove to be limited.