

The background of the slide is a composite image. The upper portion shows a nighttime city skyline with numerous illuminated skyscrapers and streetlights, creating a bokeh effect. The lower portion shows a large container yard filled with stacks of colorful shipping containers (red, blue, yellow, green) and yellow gantry cranes. The text is overlaid on the middle section of this background.

Recommendations To Combat Illicit Trade Prepared For European Chamber of Commerce, Singapore

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INTRODUCTION

- The Intellectual Property Rights (IPR) Committee of the European Chamber of Commerce fully understands and appreciates that combating illicit trade requires close collaboration between brand owners, service providers such as carriers and forwarders as well as relevant regulatory and enforcement authorities across international jurisdictions.
- On the regulatory and enforcement front, much has been done in many countries. This includes implementation of customs recordal systems in Hong Kong and China to facilitate seizures and inspections of suspect shipments, sharing of illicit trade intelligence between enforcement agencies. That said, given the opportunistic nature of illicit traders and their ability to constantly evolve to take advantage of enforcement and regulatory gaps, there is a need for governments to constantly enhance their regulatory controls, detection and enforcement efforts. Free Trade Zones (FTZs), which typically have more relaxed trade and customs regulatory/documentary requirements, are one such known area that illicit traders tend to exploit.
- The objective of this paper is to provide practical and actionable recommendations to combat illicit trade. These recommendations take into account the economic need to facilitate legitimate trade without unnecessary impediments of red tape and operating costs for involved parties. They are based on various international agreements on intellectual property protection and enforcement, selected best practices from various countries and actual operational experience from members of the IPR Committee in their respective efforts to combat illicit trade.
- This paper is the summary of key recommendations which are non-jurisdiction specific. Following this recommendation paper, it is envisaged that further discussions should take place among all stakeholders where details and particulars will be agreed.
- KPMG is keen to continue its engagement with government authorities and other stakeholders to render any other support required to combat illicit trade.

I. ENHANCING IPR PROTECTION

A balanced and efficient enforcement environment is essential combat illicit trade. To facilitate the interests of enforcement bodies, brand owners and intermediaries, practical recommendations include:-

- ***Implement Customs Recordal System*** (12-18 months)
 - Introduce digital recordal system where key information (e.g. IP rights, contact details, authorised shippers etc.) can be easily accessed by enforcement officers.
- ***Streamline Enforcement Processes*** (12-18 months)
 - Review requirement for bond payment.
 - Adopt remote product verification (e.g. email photos).
- ***Private vs. Public Duties*** (12-18 months)
 - Review requirements for civil infringement actions for continued detention and disposal of seized goods.
 - Adopt system where brand owners are responsible for pursuing civil liability but the government will publicly prosecute to prove criminal liability and to obtain a Court Order to dispose of the seized goods.

II. PUBLIC-PRIVATE PARTNERSHIPS

Collaboration between all stakeholders (e.g. governments, brand owners and intermediaries) fosters strong partnerships to bring about effective change and information sharing in order to combat illicit trade. Such public-private partnerships also enhance a jurisdiction's international reputation as a secure port of call for legitimate trade. To advance this, recommendations include:-

- ***Establish Anti-Illicit Trade Working Group*** (12-18 months)
 - A formal public-private partnership arrangement which serves as a platform to build trust and to share and implement best practices.
- ***Elevate Ex-Officio Powers*** (12-18 months)
 - Empower front-line officers to facilitate compliance with Article 58 of TRIPS.
 - Integrate monitoring for illicit goods as part of the inspection process carried out by front-line officers.
- ***Data Disclosure*** (12-18 months)
 - Publish statistics (e.g. (1) number of cases, (2) quantity of illicit goods seized, broken down by industry categories, (3) percentage of shipments against the total shipments through the jurisdiction in question)
 - “Name & Shame” illicit traders in successful enforcement cases.

III. FREE TRADE ZONE GOVERNANCE

Free Trade Zones have been established to facilitate trade and are a source of significant revenue for all legitimate stakeholders. Much progress has already been made by the implementation of national Authorised Economic Operator programmes. However, FTZs could still be abused by illicit traders. In order to achieve an optimal balance of having a sufficiently robust supply chain and not hampering the efficiency of legitimate trade, activities within FTZs can be enhanced through the following recommendations:-

- ***Define Permissible Activities in FTZs*** (12-18 months)
 - Implement policy which defines permissible acts supported by periodic checks and audits.
- ***Track & Trace within FTZs*** (12-60 months)
 - Implement requirements to report product movement and reconciliation.
 - Devise digital platform for ease of reporting and to flag exceptions.
- ***Authorised Economic Operator Programmes*** (12-60 months)
 - Add specific IPR protection standards and procedures to existing national AEO programmes.
 - Extend coverage of national AEO programmes to include Port Operators to attract legitimate trade.



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