

## **Advisory Committee on Enforcement**

**Fourteenth Session**  
**Geneva, September 2 to 4, 2019**

### **COORDINATING INTELLECTUAL PROPERTY ENFORCEMENT**

*Contributions prepared by Brazil, Greece, Morocco, the Republic of Korea, Spain and the United States of America*

1. At the thirteenth session of the Advisory Committee on Enforcement (ACE), held from September 3 to 5, 2018, the Committee agreed to consider, at its fourteenth session, among other topics, the “exchange of information on national experiences relating to institutional arrangements concerning IP enforcement policies and regimes, including mechanism to resolve IP disputes in a balanced, holistic and effective manner”. Within this framework, this document introduces the contributions of six Member States (Brazil, Greece, Morocco, the Republic of Korea, Spain and the United States of America) on their experiences with coordinating IP enforcement.

2. In Brazil and Greece, governments responded to increasing illicit trade in IP-infringing goods by setting up dedicated entities, composed of public and private sector representatives, responsible for coordinating national efforts against piracy and counterfeiting. The contribution by Brazil outlines the structure and functioning of the National Council on Combating Piracy and Intellectual Property Crimes (CNCP). Through a coordination of efforts amongst various levels of government, the CNCP aims to combat piracy in Brazil through educational and repressive means; the former entailing awareness-raising activities amongst consumers, with the latter focusing on enforcement operations against trade in IP-infringing goods. In Greece, the Coordinating Authority for Market Supervision and the Fight Against Illicit Trade (SYKEAAP) endeavored to create a single response to illicit trade of IP-infringing goods through sharing intelligence and fostering a culture of cooperation amongst all relevant enforcement authorities. Under this augmented joint approach to IP enforcement, the contribution outlines how Greek IP rights enforcement authorities were able to identify and seize an impressive amount of counterfeit goods over the past four years.

3. The Spanish contribution describes the government’s multi-disciplinary approach to industrial property rights enforcement in the country. To this end, the Spanish Patent and Trademark Office (OEPM) coordinated the development of a comprehensive action plan involving various actors in the public, private and tertiary sectors to coordinate IP enforcement efforts. The Spanish initiatives aim at countering counterfeit trade include regulatory and awareness-raising initiatives, the improvement of judicial and prosecutorial processes for IP infringement cases, as well as improving the collection of data on IP rights infringements.

4. The Republic of Korea recently implemented legislative amendments to strengthen the protection of industrial property rights. These amendments increase the amount of compensatory damages and deter intentional IP infringements by introducing a system of punitive damages for patent and trade secret infringements and expanding the definition and scope of criminal liability of trade secret infringements. The Korean Intellectual Property Office (KIPO) also expanded the authority of the Special Judicial Police, administrative officials who previously only took enforcement actions against trademark infringements, to investigate all types of IP crimes.

5. The contributions by Morocco and the United States of America address government action against IP infringements in more specific circumstances. Focusing on a particular industry affected by counterfeiting, the contribution by Morocco explains the government’s new *SALAMATOUNA* certification mark that aims to deter the trade of counterfeit auto spare parts in the country. In recognizing the threat posed by counterfeit auto spare parts to producers and users of these goods, the Moroccan Institute of Standardization (IMANOR) implemented a labelling system that certifies authentic auto spare parts according to detailed terms of use. Also tackling a particular practical challenge faced by enforcement authorities, the contribution by the United States of America details the threat to IP rights enforcement in Foreign Trade Zones (FTZs). Highlighting how the unique economic features of FTZs may attract illegal activities, such as the production and trade of IP-infringing goods, the contribution describes the measures that were taken to improve IP protection in these defined areas.

6. The contributions are in the following order:

The Actions of the National Council on Combating Piracy and Intellectual Property Crimes in Brazil .....	3
The Coordination of IP Enforcement in Greece – The Collaboration Between the Coordinating Authority for Market Supervision and the Fight Against Illicit Trade and the Greek Enforcement Authorities .....	9
A New Labelling System for Auto Spare Parts Distribution Channels in Morocco: The <i>Salamatouna</i> Certification Mark Combats Counterfeiting .....	15
Recent Legislative Amendments to Strengthen the Protection of Industrial Property in the Republic of Korea.....	21
The Comprehensive National Action Plan to Combat the Sale of Counterfeit Goods and Enforce Industrial Property Rights in Spain .....	26
Enforcing IP Rights in Foreign Trade Zones .....	30

[Contributions follow]

## THE ACTIONS OF THE NATIONAL COUNCIL ON COMBATING PIRACY AND INTELLECTUAL PROPERTY CRIMES IN BRAZIL

*Contribution prepared by Mr. Luciano Timm, National Secretary for Consumer Affairs and President, National Council on Combating Piracy and Intellectual Property Crimes (CNCP), and Ms. Isabela Maiolino, Advisor, National Secretariat for Consumer Affairs, Brasilia, Brazil\**

### ABSTRACT

The National Council on Combating Piracy and Intellectual Property Crimes (CNCP), the Brazilian entity responsible for coordinating the fight against piracy and intellectual property crimes, was created in 2004. This contribution presents an overview of past and present CNCP activities, the CNCP's composition and its ongoing projects until 2022.

### I. THE NATIONAL COUNCIL AGAINST PIRACY AND INTELLECTUAL PROPERTY CRIMES (CNCP)

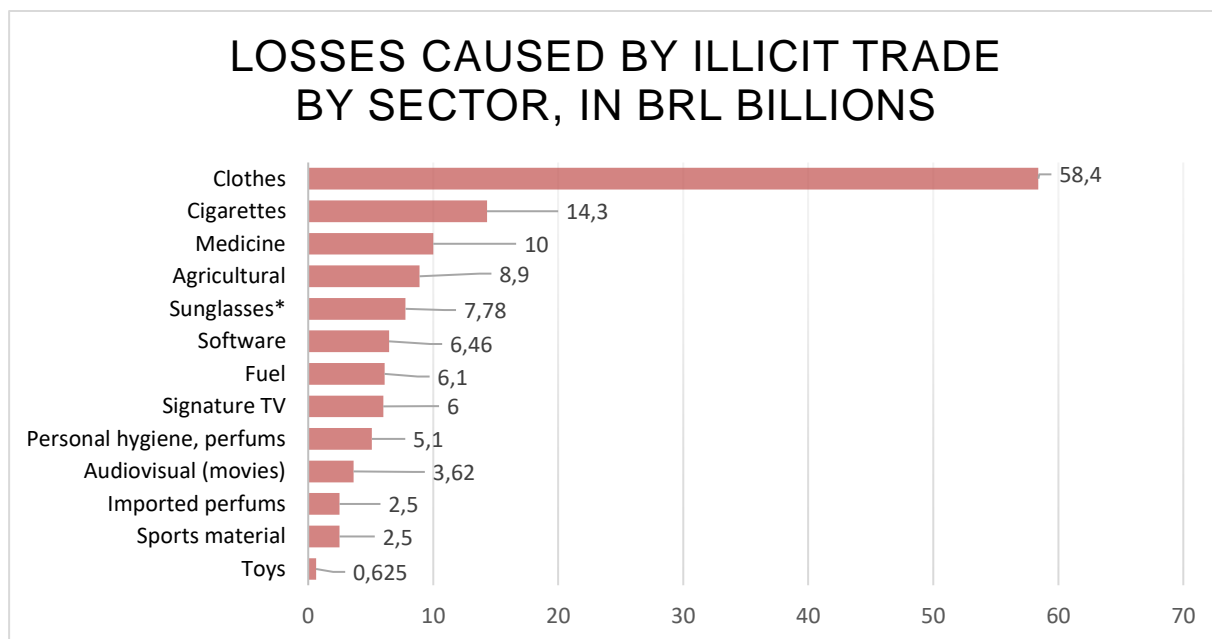
1. There are many reasons for combating intellectual property (IP) crimes, especially piracy. It is a highly complex transnational crime with worldwide repercussions, perpetrated by international organized crime. It is closely related to other offenses, such as money laundering or drug and arms trafficking. Given the gravity of the issue, the State should not forgo strong action to combat it. In addition to combating organized crime, there are other reasons for unrelentingly combating piracy, including the risks piracy poses to a country's image and economy, to innovation and the health and safety of consumers.

2. The Organization for Economic Co-operation and Development (OECD) puts the value of international trade in counterfeit and pirated products worldwide at USD 509 billion, based on 2016 customs seizure data<sup>1</sup>. Data from Brazil's National Forum Against Piracy and Illegality shows that in 2018 alone, Brazil lost BRL 193 billion (approximately USD 48 billion) as a result of piracy and the illicit trade in counterfeit products in 13 industrial sectors, including lost taxation, as shown in the figure below:

---

\* The views expressed in this document are those of the author and not necessarily those of the Secretariat or of the Member States of WIPO.

<sup>1</sup> Organization for Economic Co-operation and Development (OECD) and European Union Intellectual Property Office (EUIPO) (2019), *Trends in Trade in Counterfeit and Pirated Goods*, available at: <https://doi.org/10.1787/g2g9f533-en>.



Source: National Forum Against Piracy and Illegality. Data from 2018.

\* The data regarding the losses in the sunglasses sector is from 2017.

3. In this context, combating IP crimes and piracy in Brazil<sup>2</sup> requires employing public policies on different fronts. Government action needs to be legislative, institutional, repressive, educational, and international in character. To this end, the National Council on Combating Piracy and Intellectual Property Crimes (CNCP), under the Ministry of Justice and Public Safety, was created in 2004 by presidential Decree nº 5.244/04, after a final report by the Parliamentary Inquiry Committee on Piracy described the evolution of Brazilian piracy in international organized crime and recommended the CNCP's creation.

4. The CNCP is composed of members from the private sector and government, in a bid to represent all stakeholders, given that it is responsible for coordinating and involving government agencies, linking those agencies with the private sector and proposing public policies to combat piracy and IP crime.

5. The government is represented by members of the Ministry of Justice and Public Safety; the Federal Police; the Federal Highway Police; the Secretary of Public Safety; the Federal Revenue Service; the Ministry of Economy; the Ministry of Foreign Affairs; the Ministry of Science and Technology, Innovations and Communications; the Ministry of Citizenship; the Chamber of Deputies; the Federal Senate; the National Telecommunications Agency; the National Agency for Sanitary Surveillance; the National Cinema Agency; the National Institute of Metrology; and the National Institute of Industrial Property.

<sup>2</sup> Brazilian law typifies IP crimes in the Criminal Code, the Industrial Property Act (Law 9,279/1993), the Software Act (Law 9,609/1998) and the Copyright and Related Rights Act (Law 9,610/1998). Piracy is the most frequently committed IP crime in Brazil. It is commonly understood to consist of the reproduction of a product without the consent of the original manufacturer or the payment of a copyright or patent license fee. Piracy would also comprise the manufacture or trade in counterfeit goods that copy or imitate a third party's trademark. The Criminal Code speaks of piracy as the act of infringing copyright, and Presidential Decree 5,244/2004 (through which the CNCP was created) understands piracy as the acts of committing the offences listed in the Software Act and the Copyright and Related Rights Act. There are other IP crimes, such as misuse of a name and a pseudonym without authorization, the infringement of inventions, and crimes against trademark law and unfair competition. These crimes are listed in the Industrial Property Act.

6. The private sector is represented by associations covering sectors including software, textiles, sports, video, games, commerce and services, glass and tobacco, audiovisual, medicines and medical equipment for human and animal health, orthoses, and beverages. In addition to those that are part of the Council, there is a Collaborators Panel composed of representatives of the public sector and societal bodies that provide professional services or have expertise in the CNCP's areas of focus. The CNCP president may invite these collaborators to participate in its activities whenever their collaboration is required to fully achieve the CNCP's objectives.

7. Since early 2019, Mr. Luciano Timm, the current National Secretary for Consumer Affairs, has presided over the CNCP.

## II. CNCP PURPOSE AND ACTIVITIES

8. The CNCP's approach to combating piracy entails a close coordination of efforts with a view to adopting measures that address the problem in all its complexities. The fight against piracy concerns all and should involve municipal, state and federal governments and society at large in the implementation of initiatives to deter both the supply of pirated products (repressive initiatives) and the demand for such products (educational initiatives and economic incentives).

9. The CNCP is responsible for examining and proposing measures and actions against piracy and IP crime in Brazil. In addition, it initiates, assists in and promotes the training of public workers involved in operations and information processing concerning IP crimes. It also proposes mechanisms to combat the importation of pirated products or products that, even if legally imported, may constitute materials facilitating piracy or other IP crimes.

10. In order to fulfill its responsibilities, the CNCP drafted its first national strategic plan in 2005. The plan triggered 99 specific initiatives to fight piracy in Brazil, such as the seizure of pirated products by the Federal Police, the Federal Highway Police and the Federal Revenue Secretariat. It is worth noting that under the Brazilian policy on combating piracy, the target of repressive initiatives should be the criminal organizations that control such illegal activities, whilst consumers should be the subject of educational initiatives – as information is the population's most powerful weapon – and should benefit from economic incentives to purchase legitimate products.

11. The second and third national plans were drafted in 2008 and 2013, respectively. In 2008, the CNCP created 23 new projects in partnership with federal, state and municipal public bodies, as well as with the participation of civil society<sup>3</sup>. In 2011, the CNCP signed cooperation agreements with entities in Brazil to fight piracy in the audiovisual and medical sectors.

12. The CNCP's most recent plan is its fourth, drafted in 2018, covering the years 2018 to 2021. It defines strategic objectives consistent with the CNCP's mission to develop and propose public policies on combating piracy and related crimes and broadens the scope of the actions of the CNCP to include activities to combat smuggling, misconduct and tax evasion alongside activities to protect IP rights. For this purpose, the CNCP formed technical

---

<sup>3</sup> The projects are: 1) Free Piracy City; 2) Legal Fair; 3) Trade Against Piracy; 4) Portal to Combat Piracy; 5) Partnerships and Cooperation with Internet Providers; 6) Specialized Police Stations in the States; 7) Piracy Out of School or Education Against Piracy; 8) MERCOSUR Anti-Piracy Council; 9) Training of Public Agents; 10) National Prize for Combating Piracy; 11) Database; 12) Radiography of Piracy; 13) Administrative Management; 14) Panel of Contributors; 15) International Partnerships to Combat Piracy; 16) Legislative Improvement; 17) Innovative Solutions to Fight Piracy; 18) 0800 – Piracy; 19) Advertising Concept; 20) Advertising Campaigns; 21) Monographs Competition; 22) Integration of the theme "piracy" in other government programs; and 23) Economic Initiatives.

commissions, including the E-commerce Commission and the Online Publicity and Payment Methods Commission. Additionally, the Hardware Commission, which focuses on the telecommunications sector, implements a project named Legal Cellphone, which, since March 2019, has blocked cellphones that have been tampered with and alerted consumers.

13. For 2019, the CNCP intends to negotiate agreements with e-commerce platforms and the issuers of electronic payment means (such as credit cards) and develop a public data base on the volume of product seizures resulting from IP crimes and related offenses. In addition, the CNCP intends to integrate police and customs operations with various public agencies (Federal Police, Federal Highway Police, Federal and State Revenue, Civil Police and the Consumer Defense and Protection Programs).

14. Additionally, a number of actions are proposed to strengthen legal security and the business environment in Brazil through public policies, together with business initiatives aimed at strengthening the formal economy. These actions aim to support innovation management and entrepreneurship and fall under three areas: education, repression and economic incentives.

15. With regards to educational initiatives, the CNCP seeks, through the technical commissions, to undertake specific studies on combating smuggling, hardware marketing, means of payment, digital advertising and e-commerce. The CNCP intends to sign agreements with the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the United Nations Development Programme (UNDP) for consultation on relevant subjects, such as best practices for fighting piracy on digital platforms and the most efficient public policies on prevention and repression. The CNCP also considers it important to hold a strategic alliance with the Department of Justice and the National Intellectual Property Rights Coordination Center of the United States of America. Additionally, the CNCP will follow up on relevant legislative measures and restore and improve the National Directory to Combat Trademark Counterfeiting in partnership with the National Institute of Industrial Property.

16. A challenge is the lack of social awareness of the risks that illicit products pose to consumer safety. For this reason, the CNCP attempts to engage the media in order to trigger discussions with consumers and raise public awareness of how illicit products finance organized crime. The CNCP is also developing campaigns based on OECD guidelines on this same matter<sup>4</sup>.

17. In addition to these measures, the CNCP also intends to continue to take repressive actions, and it is very important to highlight what has been done so far in the new administration. Even though many substantial but isolated activities have been conducted since the impeachment of the former president Ms. Rousseff in 2016, the collection of data among different public entities (municipal, state and federal police, food and drug regulators and tax authorities) is a challenge in Brazil, as is coordinating them and encouraging them to collaborate with one another. To solve this problem, the CNCP envisages that it will request UNDP and UNESCO to provide training on experiences made and lessons learnt around the world.

18. Although there is no complete data available on all the efforts made by CNCP members in the last years (an issue which is currently being addressed as the CNCP is building a database of its activities), it is important to highlight some of the ongoing operations. Operation

---

<sup>4</sup> The OECD work on consumer product safety aims to improve co-operation amongst jurisdictions, with a focus on facilitating information sharing and promoting greater co-operation among product safety market surveillance, enforcement and regulatory authorities worldwide. For more information, see: OECD (2010), *Report on Enhancing Information Sharing on Consumer Product Safety* Committee on Consumer Policy, available at: [http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?doclanguage=en&cote=dsti/cp\(2010\)3/final](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?doclanguage=en&cote=dsti/cp(2010)3/final).

Labarus 2019, conducted by the Federal Highway Police, is one of the most important of such initiatives. This operation, aimed to reduce cross-border crime and trade in illicit goods (including IP-infringing goods), started on March 14, 2019, and its objective is to intensify the fight against organized crime by operating on state borders and in strategic regions, according to police intelligence and criminal analysis. In this operation alone, a total of 666,095 vehicles and 598,697 people were inspected, which led to the seizure of 18.37 tons of marijuana, 2.11 tons of cocaine, 10.7 million packs of cigarettes, 155 guns and 10,000 rounds of ammunition. For the operation, 25 training events were organized for the police force, resulting in the training of 703 police officers in total. In addition, the police detained 2,294 people and recovered 611 vehicles involved in illegal activities. There were also other operations by police, tax authorities and regulators.

19. An additional priority of the CNCP is addressing the trade in counterfeit goods, with a particular focus on cigarettes. Currently, smuggled cigarettes account for 54 per cent of the cigarette market in Brazil. These cigarettes pose a significant threat to human health, owing to poor manufacturing conditions and lack of health and safety standards.

20. In order to change this situation, the CNCP is taking repressive actions, such as those conducted in the framework of Operation Labarus. In addition, the Federal Revenue Service, the Federal Highway Police and the Federal Police employ continuous efforts. For instance, in April 2019, the Federal Revenue Service intercepted at least 200,000 smuggled packages of cigarettes. In the same month, the Federal Police put in motion Operation Saúva, with the purpose of arresting and disbanding five criminal groups that transported illicit goods, including cigarettes. In that operation, 60 federal police officers arrested 10 criminals and carried out 15 search warrants.

21. The CNCP also aims to promote economic incentives in order to reduce IP crimes. To that end, the CNCP's members are constantly studying ways to promote business in the formal economy and reduce the informal markets in which IP-infringing products are sold. In addition, the CNCP organizes one national event per year to foster cooperation between its members.

22. Finally, the CNCP can also propose legislative amendments through the National Secretariat for Consumer Affairs of the Ministry of Justice (Senacon). Its 2019 national event was held on June 5, and, as a result of the discussions, Senacon will propose to the Congress an amendment aimed to increase the minimum punishment for IP crimes, especially those related to smuggled, pirated or counterfeit goods.

## **II. CONCLUSION**

23. Given certain cultural obstacles and citizens' limited purchasing power, combating the consumption of illegal goods is a challenge. The culture in Brazil is such that it is difficult to promote legitimate products, given that some parts of the population prioritize prize savings. Additionally, given the economic situation of the population, is often regarded as acceptable to pay less for illicit goods, for which producers do not pay taxes and which even present a risk to consumer health. Consumers' limited purchasing power correlates with a lack of full understanding of how the purchase of such illegal and smuggled products helps to finance organized crime.

24. With a view to changing this situation, the CNCP was created in 2004 and has recently been reinforced by a government committed to protecting private property as a human right. This paper presents the CNCP's structure, functioning and current activities, as well as the activities conducted by the Federal Police, the Federal Highway Police, the Federal Revenue Service and other regulators against illegal trade.

[End of contribution]



## THE COORDINATION OF INTELLECTUAL PROPERTY ENFORCEMENT IN GREECE – THE COLLABORATION BETWEEN THE COORDINATING AUTHORITY FOR MARKET SUPERVISION AND THE FIGHT AGAINST ILLICIT TRADE AND THE GREEK ENFORCEMENT AUTHORITIES

*Contribution prepared by Mr. Vasileios Mastrogiannis, Executive Director, Coordinating Authority for Market Supervision and the Fight Against Illicit Trade (SYKEAAP), Ministry of the Economy and Development, and Mr. Spyridon Peristeris, Representative of the General Secretariat of Trade and Consumer Protection of the Ministry of the Economy and Development, SYKEAAP, Athens, Greece\**

### **ABSTRACT**

The Coordinating Authority for Market Supervision and the Fight Against Illicit Trade (SYKEAAP), initially named Coordinating Authority Against Illicit Trade (SYKAP), was created in 2012. SYKEAAP consists of representatives from both the public and the private sector and operates under the supervision of the Greek Ministry of the Economy and Development.

The main mission of SYKEAAP is to develop a common strategy to combat the phenomenon of illicit trade, and the battle against infringements of intellectual property (IP) rights is one of its main actions. SYKEAAP coordinates and cooperates with all competent national authorities to efficiently implement joint action.

The most important tool in SYKEAAP's operating model is intelligence. As soon as relevant information concerning IP right infringements is brought to SYKEAAP's attention, the representatives of all competent enforcement authorities draw up an action plan, which will be simultaneously implemented by the appropriate authorities without delay or bureaucratic barriers. The results of these actions are notable.

### **I. THE COORDINATING AUTHORITY FOR MARKET SUPERVISION AND THE FIGHT AGAINST ILLICIT TRADE (SYKEAAP)**

1. The Coordinating Authority for Market Supervision and the Fight Against Illicit Trade (SYKEAAP) was established in 2012 within the Greek Ministry of the Economy and Development, and works under the supervision of the Ministry, in response to the need to coordinate all authorities that deal with illicit trade and works under its supervision. Initially founded as the Coordinating Authority Against Illicit Trade (SYKAP), it was renamed in 2017, when market supervision was added to its responsibilities.

2. Under Greek legislation, illicit trade comprises all kinds of trade that is not supported by legal documentation (invoices, shipping documents etc.). Infringements of IP rights are also considered as illicit trade.

---

\* The views expressed in this document are those of the authors and not necessarily those of the Secretariat or of the Member States of WIPO.

3. SYKEAAP's mission is to:

- develop a common strategy to tackle illicit trade, including IP rights infringements,
- ensure the implementation of the relevant legislation for the handling of goods and services in the market, and
- safeguard the orderly and legitimate functioning of the market in the interests of consumer health and safety.

4. SYKEAAP's vision is to optimize the efficiency and readiness of the market control by developing a culture of cooperation among competent enforcement authorities and providing a single response to any occurrences of illicit trade while continually providing high-level services. To combat illicit trade, including IP infringements, SYKEAAP collects and analyzes information and data derived from controls carried out by each competent authority.

5. SYKEAAP's competence covers the entire territory of Greece and its responsibilities comprise:

- coordinating actions of the competent authorities to clamp down on the trafficking and control the movement of goods and services;
- organizing, in cooperation with the relevant authorities and bodies, action plans at local, regional and national level to set up joint task forces;
- dealing with complaints and information brought before it by any appropriate means; and
- coordinating meetings with representatives of the central government, regional and local authorities or other bodies (including the private sector).

6. SYKEAAP consists of representatives from both the public and the private sector, which creates the necessary synergies to monitor the market effectively. More specifically, its Board consists of:

- the General Secretary for Trade and Consumer Protection, who acts as Chair and may be replaced by the SYKEAAP Executive Director upon the former's authorization;
- the Executive Director;
- a representative of the General Secretariat for Trade and Consumer Protection of the Ministry of the Economy and Development;
- a representative of the Greek Police;
- a representative of the Greek Coast Guard;
- a representative of the Special Secretariat for the Financial and Economic Crime Unit, Ministry of Finance;
- a representative of the General Directorate of Customs and Excise of the Independent Public Revenue Authority (AADE);
- a representative of the Central Union of Greek Municipalities;
- a representative of the Union of Regions;
- a representative of the General Secretariat of Industry;
- a representative of the General Secretariat of Agricultural Development;

- a representative of the Combined Transport Directorate of the Ministry of Infrastructure and Transport;
- a representative of the Central Union of Greek Chambers;
- a representative of the Greek Confederation of Trade and Entrepreneurship; and
- a representative of the General Confederation of Professional Craft Traders in Greece.

7. In addition to the Board, SYKEAAP has its own market control team, consisting of controllers from the Ministry of the Economy and Development. In the future, however, it is envisaged to create a control body that would consist of market controllers from all the enforcement authorities involved and would be able to intervene directly without any bureaucratic barriers. To this end, a new legislative proposal has already been submitted to the Greek Parliament by the Minister for the Economy and Development.

## **II. SYKEAAP'S OPERATING MECHANISM**

8. The most important tool for SYKEAAP is intelligence. Since the early years of SYKAP, and now for SYKEAAP, it has been crucial, for its mission to succeed, to persuade all enforcement authorities to cooperate by sharing information and to undertake joint actions. Information must be shared with other authorities in order to develop a common action plan. As illicit trade is a crime most often committed by criminals with international connections, an enforcement authority takes a great risk by acting on its own to achieve its goal. There are many cases in which enforcement authorities encountered difficulties when they acted on their own (delays in controls, injured controllers, escape of offenders etc.). Finding themselves unable to control the situation, they were ultimately obliged to request the collaboration of other services but still ended their actions with disappointing results.

9. As soon as SYKEAAP receives information regarding an IP rights infringement, the representatives of all relative enforcement authorities draw up an action plan, which will be implemented directly by the competent authorities without delay or bureaucratic barriers. The following example is important to illustrate the way in which SYKEAAP operates to combat illicit trade.

10. In March 2019, SYKEAAP received anonymous information concerning imported counterfeited goods. The importer was a big company on Rhodes Island. The Board of Representatives took the following action:

- The representative of the General Secretariat for Trade and Consumer Protection in the Ministry of the Economy and Development sought more information about the company at the Commercial Enterprises Registry. The registered offices and warehouses were identified.
- The representative of the General Directorate of Customs and Excise of AADE requested the customs authorities of Piraeus and Rhodes to conduct controls on containers imported on behalf of the company and were given its tax identification number.
- The representative of the Greek Police requested the police authorities to carry out controls on the warehouses of the company in Rhodes.

- The representative of the Special Secretariat for the Financial and Economic Crime Unit requested colleagues in Rhodes to audit the registered offices of the company on the island.

11. All authorities acted directly and at the same time, under the instructions of SYKEAAP. The results were notable:

- customs at Piraeus and the police in Rhodes seized almost 15,000 items of counterfeit goods leading to criminal proceedings; and
- the Special Secretariat for the Financial and Economic Crime Unit imposed thousands of euros of fines on the company for financial infringement.

12. It follows that effective implementation of an action plan requires the timely and joint participation of enforcement authorities and other relevant authorities, depending on the type and nature of the action required.

### III. ACHIEVEMENTS OF THE GREEK IP RIGHTS ENFORCEMENT AUTHORITIES

13. The results of the IP rights enforcement authorities which participated in SYKEAAP from 2015 to 2018 are worth noting:

#### 2018

	CONTROLS	TOTAL SEIZED GOODS (as illicit trade)	COUNTERFEIT GOODS		
			CLOTHING/ FOOTWEAR	ACCESSORIES, ETC.	ELECTRICAL/ ELECTRONIC DEVICES
Domestic Market Enforcement Authorities	70,963	2,298,271 items	884,071 items	1,112,292 items	5,491 items
Customs	6,455	23,956,224 counterfeit items	287,339 items	213,812 items	4,948 items

#### 2017

	CONTROLS	TOTAL SEIZED GOODS (as illicit trade)	COUNTERFEIT GOODS		
			CLOTHING FOOTWEAR	ACCESSORIES, ETC.	ELECTRICAL/ ELECTRONIC DEVICES
Domestic Market Enforcement Authorities	82,813	2,246,912 items	213,341 items	1,058,917 items	24,234 items
Customs	236	22,113,175 counterfeit items	238,576 items	1,367,365 items	7,218 items

#### 2016

	CONTROLS	TOTAL SEIZED GOODS (as illicit trade)	COUNTERFEIT GOODS		
			CLOTHING FOOTWEAR	ACCESSORIES, ETC.	ELECTRICAL/ ELECTRONIC DEVICES
Domestic Market Enforcement Authorities	95,305	1,994,288 Items	61,735 items	272,314 items	10,004 items
Customs	219	28,876,426 counterfeit items	49,495 items	12,231,006 items	439 items

**2015**

	CONTROLS	TOTAL SEIZED GOODS (as illicit trade)	COUNTERFEIT GOODS		
			CLOTHING FOOTWEAR	ACCESSORIES, ETC.	ELECTRICAL/ELECTRONIC DEVICES
Domestic Market Enforcement Authorities	29,244	266,606 items	9,953 items	42,735 items	3,043 items
Customs	4,003	10,358,016 counterfeit items	73,003 items	410,572 items	757 items

14. Before 2015, the results were less remarkable since the authorities needed time to organize themselves under the new SYKEAAP model. Data from 2015 to 2018, however, demonstrates the active work of all enforcement authorities in the fight against illicit trade and the infringement of IP rights.

15. In 2015, only 29,244 controls were carried out in the domestic market, while in 2016 (a year later), the number of controls reached 95,303, an increase of 226 per cent.

16. In 2016, 95,305 controls were carried out in the domestic market, while in 2017 the controls carried out were 82,813. However, the total amount of seized goods in 2017 was higher than the total amount of seized goods in 2016 and 2015, owing to the quality of controls based on specific management tools, such as risk analysis, and the experience acquired by SYKEAAP and its members in setting up joint task forces.

**2017**

CONTROLS	TOTAL SEIZED GOODS (as illicit trade)	COUNTERFEIT GOODS		
		CLOTHING FOOTWEAR	ACCESSORIES, ECT.	ELECTRICAL/ELECTRONIC DEVICES
82,813	2,246,912 items	213,341 items	1,058,917 items	24,234 items

**2016**

CONTROLS	TOTAL SEIZED GOODS (as illicit trade)	COUNTERFEIT GOODS		
		CLOTHING FOOTWEAR	ACCESSORIES, ETC.	ELECTRICAL/ELECTRONIC DEVICES
95,305	1,994,288 items	61,735 items	272,314 items	10,004 items

17. This trend continued in 2018. Even though in 2018, 70.963 controls were carried out, a decrease of 11,850 controls as against 82,813 controls in 2017, the total amount of seized goods in 2018 increased by 51,359 items compared with the total amount of seized goods in 2017.

**2018**

CONTROLS	TOTAL SEIZED GOODS (as illicit trade)	COUNTERFEIT GOODS		
		CLOTHING FOOTWEAR	ACCESSORIES, ETC.	ELECTRICAL/ELECTRONIC DEVICES
70.963	2.298.271 items	884.071 items	1.112.292 items	5.491 items

**2017**

CONTROLS	TOTAL SEIZED GOODS (as illicit trade)	COUNTERFEIT GOODS		
		CLOTHIG FOOTWEAR	ACCESSORIES, ETC.	ELECTRICAL/ELECTRONIC DEVICES
82.813	2,246,912 items	213,341 items	1,058,917 items	24,234 items

#### **IV. INTERNATIONAL COLLABORATION ON THE ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS**

18. Under the oversight of the Greek Ministry of Foreign Affairs, SYKEAAP, in 2018, established a cross-border cooperation with the Bulgarian authorities to address the trafficking of smuggled and IP-infringing products. The cooperation is in progress.

19. SYKEAAP is also carrying out consultations with the Chinese authorities. A delegation from the State Intellectual Property Office of China (now renamed China National Intellectual Property Administration) visited SYKEAAP in 2016 to exchange views on addressing IP rights infringements. The cooperation is in progress, under the oversight of the Greek Ministry of Foreign Affairs.

20. Finally, representatives of SYKEAAP attended meetings with the Consulate of France in Athens in 2017 and with members of the Embassy of the United States of America in 2019, which created opportunities to share views on IP rights infringements and illicit trade.

#### **V. CONCLUSION**

21. IP rights infringements and illicit trade in general are part of the global phenomenon of the underground economy, which is composed of all kind of commercial activities that operate outside of laws, regulations and taxes. The underground economy causes losses for legitimate industries (which cannot compete with low-cost illegal operations). It also leads to losses in government revenues (illegal activities are not taxed), inaccurate national income and employment statistics, shortages in legal goods (forcing people to purchase illegal goods) and threats to global health. Accordingly, combating IP rights infringements and illicit trade requires a holistic approach. Coordination of all enforcement authorities is key to victory in this battle. SYKEAAP is a good example, not only in the specific battle against IP rights infringements, but also for successfully eliminating bureaucratic barriers in establishing direct and rapid collaboration between various governmental entities and the private sector.

#### **BIBLIOGRAPHY**

Law 4497/2017 to Govern the Performance of Outdoor Business Activities, Modernizing the Legislation of the Chambers of Commerce and Instituting Other Provisions. Article 100 of that law is the legal basis for the establishment and functioning of SYKEAAP. The law is available, in Greek, at <http://www.et.gr/index.php/nomoi-proedrika-diatagmata>.

[End of contribution]

## A NEW LABELLING SYSTEM FOR AUTO SPARE PARTS DISTRIBUTION CHANNELS IN MOROCCO: THE SALAMATOUNA CERTIFICATION MARK COMBATS COUNTERFEITING

*Contribution prepared by Mr. Larbi Benrazzouk, Director General, and Ms. Nafissa Belcaid, Director, Distinctive Signs, Moroccan Office of Industrial and Commercial Property (OMPIC), Casablanca, Morocco*

### ABSTRACT

The SALAMATOUNA label is a means of organizing the distribution channels for auto spare parts and of combatting the use of counterfeit spare parts. Founded in 2017 by the Minister for Industry, Investment, Trade and the Digital Economy of Morocco, SALAMATOUNA is the result of a successful public-private partnership initiated by the National Board for Industrial Property and Anti-Counterfeiting (CONPIAC). This labelling system helps support auto spare parts sellers and ensure consumer safety. SALAMATOUNA is a collective certification mark that aims to certify, upon request, businesses active in the spare parts distribution network (manufacturers, importers, vendors, wholesalers and retailers) that meet a set of requirements determining technical specifications including compliance of marketed spare parts with quality standards and traceability of spare parts distribution services. The right to use the label is granted by a labelling committee, chaired by the Ministry of Industry, Investment, Trade and the Digital Economy, after an initial audit to determine whether the above technical specifications are met. The labelling process is managed through the digital platform developed and administered by the Moroccan Office of Industrial and Commercial Property (OMPIC). This platform references certified businesses across Morocco and provides the geolocation of certified spare parts sales points.

### I. INTRODUCTION

1. The National Board for Industrial Property and Anti-Counterfeiting (CONPIAC)<sup>1</sup> conducted a study on the economic impact of counterfeit goods in Morocco in 2012 to evaluate counterfeiting in Morocco, shedding light on its scope and prevalence, and to develop an action plan to improve the efficiency of anti-counterfeiting tools and programs. The consolidated results of this study were presented during the eighth session of the WIPO Advisory Committee on Enforcement (ACE)<sup>2</sup>.

2. The study estimated that counterfeit goods in the Moroccan market were worth between MAD six and 12 billion (or 0.7 to 1.3 per cent of Morocco's gross domestic product (GDP)). It also identified the five sectors that were most vulnerable to counterfeiting: textiles, leather, electrical equipment, auto spare parts and cosmetic and hygiene products.

---

\* The views expressed in this document are those of the author and not necessarily those of the Secretariat or of the Member States of WIPO.

<sup>1</sup> CONPIAC was created in 2008 to strengthen coordination between public/private sectors and to offer an effective long-term solution to the problem of counterfeiting in Morocco. CONPIAC is chaired by the Minister for Industry, Investment, Trade and the Digital Economy and its Secretariat is provided by OMPIC.

<sup>2</sup> See Adil El Maliki (2012), *Study on the Economic Impact of Counterfeiting in Morocco – Summary Notes* (document WIPO/ACE/8/5), available at: [https://www.wipo.int/meetings/en/doc\\_details.jsp?doc\\_id=224164](https://www.wipo.int/meetings/en/doc_details.jsp?doc_id=224164).

3. In relation to the auto spare parts sector, the study found that informal spare parts distribution networks contributed to the increase of counterfeit goods on the market. It recommended that the distribution channels in this sector be formalized, in particular through the development of a “clean shop” label.

4. Therefore, in order to foil the counterfeiting of auto spare parts, which is detrimental not only to the automotive sector, but also to the national economy at large, CONPIAC established a public-private partnership involving stakeholders from the auto spare parts distribution sub-sector (manufacturers, importers and vendors) and from consumer associations. This led to the adoption of *SALAMATOUNA*, a labelling system for auto spare parts distribution services.

5. This approach is helpful both in supporting auto spare parts sellers and in ensuring consumer safety.

## II. THE *SALAMATOUNA* LABEL APPROACH

### A. WHAT IS THE *SALAMATOUNA* LABEL?

6. *SALAMATOUNA* is a collective certification mark registered by the Moroccan Institute of Standardization (IMANOR)<sup>3</sup> based on a regulation governing its use by any business involved in the auto spare parts distribution network.

7. The collective certification mark for *SALAMATOUNA* is shown below:



8. *SALAMATOUNA* aims to certify businesses involved in the distribution of spare parts from the initial release into the market to the final consumer.

9. Its goal is to eliminate counterfeit auto spare parts, which are detrimental to the automotive sector and put people’s lives at risk.

---

<sup>3</sup> IMANOR is a public institution responsible for standardization, certification and accreditation. It is under the supervision of the Ministry of Industry, Investment, Trade and the Digital Economy. The Ministry has tasked IMANOR with managing the *SALAMATOUNA* label.



## B. IMPORTANCE OF THE *SALAMATOUNA* LABEL

10. Businesses using the label can be distinguished from businesses offering unauthenticated or even counterfeit spare parts. The logo is displayed at authorized sales points. A list of businesses using the label and their sales points is also published online.

11. In the automotive sector, the label facilitates the development of a “green circuit” along the supply chain, most notably at the import stage, and thereby contributes to the development of this sector.

12. For consumers, the label provides a way to identify vendors or retailers of genuine auto spare parts. The *SALAMATOUNA*-certified shops are “clean shops”, from which consumers can buy authentic spare parts without risking their safety or that of others.

## C. WHO CAN BE *SALAMATOUNA*-CERTIFIED?

13. The *SALAMATOUNA* label can be granted upon request to manufacturers, importers, vendors, wholesalers and retailers that comply with the terms of use and the technical requirements of the specifications of *SALAMATOUNA*.

14. The label is intended for stakeholders in the auto spare parts distribution network and covers spare parts for all land transport vehicles (motorbikes, heavy trucks, etc.).

## D. *SALAMATOUNA* TERMS OF USE

15. The collective certification mark *SALAMATOUNA* is based on terms of use that define the conditions of use and technical requirements of the quality label (specifications) of auto spare parts distribution services with regard to of:

- the compliance of marketed spare parts with quality standards; and
- the traceability of spare parts distribution services.

16. The terms of use also include provisions concerning:

- the scope and significance of *SALAMATOUNA*;
- the process of applying for and being granted the label;
- the formalities for filing the application, such as specifying the list of auto spare parts according to agreed categories (mechanical, bodywork, interior);
- the creation and purpose of the labelling committee tasked with granting usage rights for *SALAMATOUNA*;
- the rights of beneficiaries of *SALAMATOUNA*; and
- sanctions for non-compliance with the terms of use of *SALAMATOUNA*.

17. The *SALAMATOUNA* terms of use are publicly available at [www.salamatouna.ma](http://www.salamatouna.ma).

## E. HOW TO GET THE SALAMATOUNA LABEL

18. An application for obtaining the label must be made through the website [www.salamatouna.ma](http://www.salamatouna.ma).

19. After an admissibility review, the applicant undergoes an initial audit to determine the traceability of the spare parts and their compliance with quality standards.

20. Based on the audit report, the labelling committee chaired by the Ministry of Industry, Investment, Trade and the Digital Economy decides whether to grant the use of the label.

21. Spot checks of the labelled products make it possible to ensure compliance with the terms of use. The committee may therefore decide to maintain, revoke or suspend the use of the label.

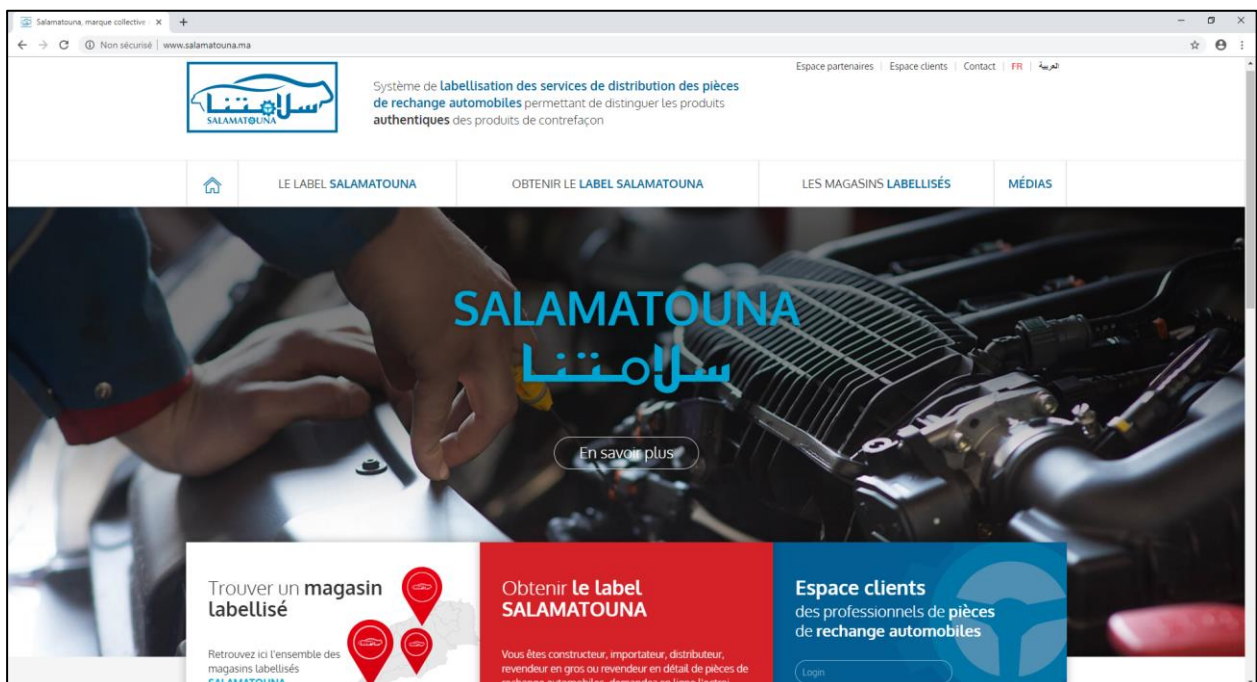
22. An updated list of labelled products approved by the labelling committee is available to the public at [www.salamatouna.ma](http://www.salamatouna.ma).

## F. DIGITAL PLATFORM DEDICATED TO THE SALAMATOUNA LABEL

23. The labelling process is managed through the website [www.salamatouna.ma](http://www.salamatouna.ma) and administered by the Moroccan Office of Industrial and Commercial Property (OMPIC), which offers applicants a means of filing and monitoring the status of their applications.

24. The website is also used by the labelling committee, allowing it to consider the admissibility of applications, read audit reports, deal with spot checks and grant labels.

25. The platform lists certified businesses across Morocco and allows the public to identify the geolocation of sales points for “SALAMATOUNA”-certified auto spare parts.



### III. IMPLEMENTATION OF THE *SALAMATOUNA* LABELLING SYSTEM

26. The application process was launched in 2017 and applications for the *SALAMATOUNA* quality label were filed online via the website [www.salamatouna.ma](http://www.salamatouna.ma). Applicants were businesses specializing in the manufacture, distribution and marketing of auto spare parts.
27. Information workshops on the labelling system were organized with stakeholders from the automotive sector, as were roundtable events at car shows in Morocco to promote the use of the label.
28. The first labels were granted to businesses involved in the distribution of auto spare parts in November 2018, during a ceremony chaired by the Minister for Industry, Trade, Investment and the Digital Economy.
29. The labelling committee, convened by its chair (a representative of the designated Ministry), holds regular meetings and its members include representatives of consumer associations and professional representatives of the automotive sector. The committee reviews audit reports prepared by the audit body in order to decide whether to grant the use of the collective certification mark *SALAMATOUNA* to interested businesses. At its first meetings, the committee also considered proposals to streamline the procedures required for filing applications in accordance with the label's terms of use, in particular the fees for granting the use of the mark, intended to cover the management costs of the *SALAMATOUNA* label.
30. Between the introduction of the labeling system and May 2019, the labelling committee has granted the label to 26 businesses. These businesses have 50 sales points selling *SALAMATOUNA*-labelled spare parts throughout Morocco.
31. The audit body conducts spot checks of the labelled parts to ensure their compliance with the terms of use and technical requirements, namely: compliance of the spare parts sold with the quality standards and the traceability of the services involved in their distribution. The labelling committee subsequently decides whether to maintain, withdraw or suspend the granted label.
32. The list of certified businesses and the geolocations of their sales points are available to the public at [www.salamatouna.ma](http://www.salamatouna.ma).

Systeme de **labellisation des services de distribution des piéces de rechange automobiles** permettant de distinguer les produits **authentiques** des produits de contrefaçon

Accueil > Les magasins labellisés > **Liste des Labellisés Salamatouna**

## Liste des labellisés

Dénomination sociale #	Adresse
Mister-auto	9 Rue Bachir Laalej VAL FLEURI 20390
FORAMAG	18 rue Raphael Mariscal, ain borja 20320

Trouver un magasin labellisé

Retrouvez ici l'ensemble des magasins labellisés SALAMATOUNA

En savoir plus

Obtenir le Label

## Cartographie des magasins Labellisés

Choisissez une entreprise labellisée

Chercher

Afficher le réseau des points de vente

Remonter la carte

Obtenir le Label SALAMATOUNA

Demandez en ligne l'ensemble des magasins labellisés SALAMATOUNA

DEMANDEZ VOTRE DEMANDE

Espace clients

Des professionnels de piéces de rechange automobiles

Nom

Prénom

DEMANDEZ

Nouveaux ? Cliquez vous

Mot de passe oublié ?

[End of contribution]

## RECENT LEGISLATIVE AMENDMENTS TO STRENGTHEN THE PROTECTION OF INDUSTRIAL PROPERTY IN THE REPUBLIC OF KOREA

*Contribution prepared by Mr. Bonghyun Cho, Assistant Director, Multilateral Affairs Division, Korean Intellectual Property Office (KIPO), Daejeon, Republic of Korea\**

### ABSTRACT

The Republic of Korea has consistently ranked among the top five countries in the world in terms of the number of filed patent applications. Nevertheless, the view has been expressed that the level of intellectual property (IP) protection should be further increased. The amount of compensation for infringement was considered relatively low and punishment was ineffectual in deterring infringement. Moreover, the recognition of trade secrets in lawsuits was difficult to establish due to their narrow legal definition.

To address these issues, various amendments were recently made to relevant laws. Firstly, a system of punitive damages was introduced for intentional infringements of patents and trade secrets. The limited protection of trade secrets was mitigated by extending the scope of activities subject to criminal charges and increasing the severity of sentencing for violations. Furthermore, the authority of the Special Judicial Police of the Korean Intellectual Property Office (KIPO) was extended to allow KIPO officials to directly investigate suspected infringement activities not only in relation to trademarks but also to patents, designs, trade secrets.

### I. INTRODUCTION OF A PUNITIVE DAMAGES SYSTEM FOR PATENT AND TRADE SECRET INFRINGEMENTS

1. Originally, the law required that the compensation by the patent or trade secret infringer be an amount equal to the actual damage incurred by the right holder. However, the compensation was meager, considering the scale of the Republic of Korea's economy, and resulted in the practice of intentional and habitual intellectual property (IP) infringement. Such continual infringement devalues IP and eventually discourages innovation by entrepreneurs. It was therefore deemed necessary to introduce a system that would increase the amount of compensation for damage and deter intentional infringements of IP.

#### A. AMENDMENT OF THE PATENT ACT (ADOPTED ON JANUARY 8, 2019)

2. Where patent infringement is found to be intentional, compensation may be awarded for an amount up to three times the damage incurred<sup>1</sup>. The intention and the amount of compensation for a given infringement are determined based on the following eight criteria:

- whether the infringer is unfairly taking advantage of a superior position;
- the degree to which an intent or a possibility of causing the loss is perceived;

---

\* The views expressed in this document are those of the author and not necessarily those of the Secretariat or of the Member States of WIPO.

<sup>1</sup> Article 128(8) of the Patent Act 1946, as amended January 8, 2019.

- the severity of damage caused by the infringement to the patent holder;
- the economic benefits that the infringer gained by committing the infringement;
- the fine and penalty surcharges imposed for the infringement;
- the duration and frequency of the infringement;
- the infringer’s financial standing; and
- the degree of the infringer’s efforts to remedy the damage.

3. In addition, provisions were laid down to place a partial burden of proof on the infringer. Accordingly, the law obliges a suspected infringer to provide relevant information in infringement litigation.

#### B. AMENDMENT OF THE UNFAIR COMPETITION PREVENTION AND TRADE SECRET PROTECTION ACT (ADOPTED ON JANUARY 8, 2019)

4. As with patent infringement, trade secret infringements that are found to be intentional may be awarded an amount up to three times the damage caused<sup>2</sup>. The criteria determining intention and the amount of compensation are also based on the same criteria mentioned in paragraph 2 above.

## II. ENHANCING THE PROTECTION OF TRADE SECRETS – AMENDMENT OF THE UNFAIR COMPETITION PREVENTION AND TRADE SECRET PROTECTION ACT (ADOPTED ON JANUARY 8, 2019)

5. The Unfair Competition Prevention and Trade Secret Protection Act initially defined the term “trade secret” as information that was “not known publicly”, that had been the subject of “reasonable efforts to maintain its secrecy” and possessed “independent economic value”. However, the narrowness of this definition made it difficult to recognize what constituted a “reasonable effort”. As a result, 41 per cent (a relatively high number) of all trade secret infringement lawsuits resulted in acquittal based on the finding of insufficiency of “reasonable effort to maintain [...] secrecy”. Most often, small and medium-sized enterprises (SMEs) involved in trade secret litigation could not afford the appropriate infrastructure, personnel and policies to meet these conditions.

6. In addition, the scope of trade secret protection was limited due to the fact that criminal sanctions only applied to some of the activities classified as infringing trade secrets by Article 2(3) of the Unfair Competition Prevention and Trade Secret Protection Act. Thus, it was necessary to expand the types of infringement and bolster the applicable criminal penalties as outlined below.

---

<sup>2</sup> Article 14-2(6) of the Unfair Competition Prevention and Trade Secret Protection Act 1961, as amended on January 8, 2019.

## A. BROADENING THE DEFINITION OF TRADE SECRETS

7. The relevant law was amended to reduce the limitations imposed by the definition and conditions necessary for something to qualify as a trade secret. Following the amendment, business information that has been “managed as a secret” may be recognized as a trade secret, such as a production and sales method or technical and managerial information, instead of requiring, as before, the making of “reasonable efforts to maintain [the] secrecy” of information.

## B. EXTENDING THE SCOPE OF CRIMINAL LIABILITY FOR TRADE SECRET INFRINGEMENTS

8. Moreover, criminal liability was extended to cover additional types of trade secret infringing activities<sup>3</sup>. As a result, the following actions are subject to criminal penalties:

Original Law	Amendment
1. An act of using or disclosing trade secrets to obtain improper benefits or to damage the owner of the trade secrets.	1. An act of using or disclosing trade secrets to obtain improper benefits or to damage the owner of the trade secrets; 2. An act of unauthorized leaking of trade secrets to obtain improper benefits or to damage the owner of the trade secrets; 3. An act of continuing to possess trade secrets even though there were request for removal or return to obtain improper benefits or to damage the owner of the trade secrets; and 4. An act of acquiring trade secrets by theft, deception, coercion, or other improper means, or subsequently using the trade secrets improperly acquired.

9. Furthermore, the severity of the criminal penalty has significantly increased. Previously, the unauthorized domestic disclosure of trade secrets was “punishable by imprisonment up to 5 years or fines not exceeding 50 million KRW” and an overseas leak could have led to “imprisonment up to 10 years or fines not exceeding 100 million KRW”. After the amendment of Article 18(2) of the Unfair Competition Prevention and Trade Secret Protection Act, any person found disclosing trade secrets domestically or overseas could receive possible sentencing of “imprisonment up to 10 years or fines not exceeding 500 million KRW” or “imprisonment up to 15 years or fines not exceeding 1.5 billion KRW” respectively.

Category	Imprisonment		Fine	
	Domestic	Overseas	Domestic	Overseas
<b>Original law</b>	5 years	10 years	KRW 50 million	KRW 100 million
<b>Amendment</b>	10 years	15 years	KRW 500 million	KRW 1.5 billion

<sup>3</sup> Article 18(1) and (2) of the Unfair Competition Prevention and Trade Secret Protection Act 1961, as amended on January 8, 2019.

### III. EXPANSION OF THE COMPETENCES OF THE SPECIAL JUDICIAL POLICE AT THE KOREAN INTELLECTUAL PROPERTY OFFICE

#### A. BACKGROUND ON THE SPECIAL JUDICIAL POLICE AT THE KOREAN INTELLECTUAL PROPERTY OFFICE

10. The Special Judicial Police (SJP) was established to vest administrative officials with investigative authority in criminal investigations and enforcement actions that require IP expertise such as violations of the Trademark Act.

11. KIPO first introduced the SJP in relation to trademarks in 2010 to take action against the manufacturing, distribution and sale of counterfeit goods. To date, there have been 2,800 arrests and 5.1 million confiscated counterfeit goods. By the end of 2018, there were 24 SJP officials in total, dedicated to working against counterfeit goods from three offices located across the nation, including the headquarters in Daejeon.

Category \ Year	2011	2012	2013	2014	2015	2016	2017	2018
<b>No. of arrests</b>	139	302	376	430	378	351	362	361
<b>No. of confiscated goods</b>	28,589	131,599	822,370	1,114,192	1,197,662	584,094	691,630	542,505
<b>Value of genuine goods (in KRW billion)</b>	8.5	24.6	56.7	88.0	97.6	74.4	41.6	36.4

12. The high level of technical knowledge and specialization required by police officials can limit investigations of IP crimes, such as the infringement of patents, designs or trademarks. Often, investigations result, *inter alia*, in delays for criminal trials and civil lawsuits.

13. With its expertise in technology and IP law, KIPO was given authority to investigate suspected unfair competition actions and infringements of trademarks. This authority did not extend to patents, designs and trade secrets. Although KIPO continued to dispatch expert consultants to prosecutors and courts to support the processing of cases involving those IP rights, it was difficult to secure expertise in all technical fields.

14. As a result, the scope of the SJP needed to be broadened to allow for enforcement against all IP crimes.

#### B. AMENDMENT OF THE ACT ON THE PERSONS PERFORMING THE DUTIES OF JUDICIAL POLICE OFFICERS AND THE SCOPE OF THEIR DUTIES (ADOPTED ON DECEMBER 18, 2018)

15. Through an amendment, the scope of the investigations of the SJP at KIPO, which was limited to trademark infringement crimes, was extended to include infringements of patents, designs and trade secrets<sup>4</sup>. As a result, KIPO's technology and IP experts will be able to quickly and accurately take action against acts of unfair competition and IP infringements by becoming involved in the investigations early on.

<sup>4</sup> Article 6(35-2) of the Act on the Persons Performing the Duties of Judicial Police Officers and the Scope of their Duties, amended on December 18, 2018.



Category	Scope of enforcement	Legal basis
<b>Before amendment</b>	Unfair competition activities such as using a well-known person's name, trade name, trademark etc.	The Unfair Competition Prevention and Trade Secret Protection Act
	Infringements of trademarks and/or exclusive rights	Trademark Act
<b>After Amendment</b>	- Unauthorized acquisition, use or disclosure of trade secrets - Unfair competition activities that copy the form of another product	The Unfair Competition Prevention and Trade Secret Protection Act
	Infringements of patents and/or exclusive rights	Patent Act
	Infringements of designs and/or exclusive rights	Design Protection Act

#### IV. FUTURE PLANS

16. KIPO will continue to improve laws and policies to strengthen the protection of IP rights.

17. First, KIPO will make efforts to extend the scope of the punitive damages system beyond patents and trade secrets to also cover trademark and design infringements. As it currently stands, when a large enterprise intentionally infringes the IP of SMEs or individuals, the amount of compensation cannot exceed the profit that the right holders could have made bearing in mind their production capacities. Thus, SMEs or individual entrepreneurs do not receive sufficient compensation. In order to strengthen the protection of IP rights owned by SMEs and individual inventors, KIPO will consider introducing an approach that considers a compensatory amount that corresponds to the profits derived from the infringement, irrespective of the production capacity of the right holders.

18. As regards the protection of trade secrets, KIPO plans to expand support programs such as those providing education on the trade secret system, establishing protection management systems and offering consultations regarding trade secret protection for SMEs.

19. Finally, in the field of enforcement, KIPO will make efforts to establish a cooperation system that complements the technical and IP expertise of KIPO with the investigative expertise of the police and prosecutors. Additionally, KIPO plans to establish a civilian monitoring team and enhance cooperation with online business platforms to address the increasing online distribution of counterfeit goods.

[End of contribution]

## THE COMPREHENSIVE NATIONAL ACTION PLAN TO COMBAT THE SALE OF COUNTERFEIT GOODS AND ENFORCE INDUSTRIAL PROPERTY RIGHTS IN SPAIN

*Contribution prepared by Ms. Marta Millán González, Head, Section for International Cooperation and Court Liaison, Ms. Águeda Fole Sanz, Head, WIPO and EUIPO Service, Ms. Regina Valenzuela Alcalá-Santaella, Senior Technical Advisor, and Ms. Sara Boy Carmona, Senior Technical Advisor, Department for Legal Coordination and International Relations, Spanish Patent and Trademark Office (OEPM), Madrid, Spain\**

### ABSTRACT

Counterfeit goods are harmful to national economies and businesses in highly important sectors such as clothing and footwear; medicines; cosmetic products; wine and spirits; smartphones; bags and luggage; tyres; toys and games; jewellery and watches; pesticides; batteries; sporting goods; and the music industry. They also have a social impact and are detrimental to the health and safety of consumers. A comprehensive national action plan is therefore necessary and should involve all stakeholders from the public and private sectors who are able to contribute to ending the problem of trademark counterfeiting.

### I. BACKGROUND INFORMATION ON THE FIGHT AGAINST INDUSTRIAL PROPERTY RIGHTS INFRINGEMENTS

1. Since the European Commission took a proactive role in combating the phenomenon of infringements of industrial property rights and copyright and related rights in 1998, with the adoption of the Commission Green Paper on Combating Counterfeiting and Piracy in the Single Market, much action has been taken in this regard, both at the European and national levels. In Spain, concrete measures to combat intellectual property infringements were initiated in 1997 with the creation, on the initiative of the then Minister for Culture, of two Working Groups to address infringements in the areas of industrial property and copyright respectively. These Working Groups were formalized when the Interministerial Commission to Act Against the Activities that Infringe Intellectual and Industrial Property Rights<sup>1</sup> was established through Royal Decree No. 114/2000 of January 28, 2000<sup>2</sup>.

2. In 2005, those actions were bolstered by the creation of two Intersectoral Commissions, one dedicated exclusively to industrial property and the other one dedicated exclusively to copyright and related rights, with an emphasis on collaboration and cooperation. The Intersectoral Commission to Act Against the Activities that Infringe Intellectual Property Rights, was also responsible for monitoring the Comprehensive Government Plan for the Reduction and Elimination of Activities Infringing Intellectual Property Rights, adopted by the Council of

---

\* The views expressed in this document are those of the authors and not necessarily those of the Secretariat or of the Member States of WIPO.

<sup>1</sup> Kindly note that the term “intellectual property” denotes in Spain copyright and related rights, distinguishing them from “industrial property”.

<sup>2</sup> Royal Decree No. 114/2000 (now repealed) can be consulted at [http://www.oepm.es/export/sites/oepm/comun/documentos\\_relacionados/PDF/rd1142000.pdf](http://www.oepm.es/export/sites/oepm/comun/documentos_relacionados/PDF/rd1142000.pdf).

Ministers on 8 April 2005, in which measures were proposed with regard to legislation, law enforcement, international cooperation and awareness raising<sup>3</sup>.

3. Today, with the support of the Spanish Patent and Trademark Office (OEPM), Spain seeks to provide continuity to and strengthen the work done thus far by the Intersectoral Commission to Act Against the Activities that Infringe Industrial Property Rights, with a view to protecting those rights as well as encouraging and promoting collaboration among both national and international authorities and public and private bodies.

4. With this aim, measures are being established to implement the *Report on the Background, Scale and Proposals for a Comprehensive Action Plan to Combat the Illegal Sale of Counterfeit Products and Its Socio-economic Implications*, which was approved by the Council of Ministers on December 14, 2018<sup>4</sup>. This approval reflects the strong political commitment to fighting counterfeiting and to working on the drafting of the Comprehensive Action Plan itself.

5. The rationale of the Comprehensive Action Plan is to offer an all-encompassing approach towards combating industrial property rights infringements. This approach must take into account the multifaceted nature of the problem, and the way in which synergies can be created between the actors involved. The Plan aims to offer a coordinated response to industrial property rights infringements at the European, national and international levels, so as to enable national economic growth, avoid losses of public and private revenue and obviate the many and varied risks inherent in all illicit activities. All relevant Departments will have the chance to participate in the project before the Plan will be approved. After approval, the agreed actions will be undertaken through different procedures, in line with to the Spanish legal framework.

6. Cross-cutting cooperation is imperative, given the multidisciplinary and transnational nature of industrial property rights infringements. The misuse of new technologies further facilitates the infringement of those rights, rendering the problem even more complex.

## II. MISSION AND GUIDING PRINCIPLES

7. The Comprehensive Action Plan aims to take a collaborative and exhaustive approach to combatting industrial property rights infringements so as to address the phenomenon in a multifaceted and multidisciplinary way and create synergies between the actors involved. This holistic approach will make it possible to tackle the challenges that old and new forms of industrial property rights infringements present for the public, private and tertiary sectors in a changing and unpredictable environment and in the era of the information society.

8. To that end, industrial property and its protection must be viewed from an inter-sectoral perspective. The various actors involved should act cooperatively, implement effective and efficient solutions, adapt to new realities and, in line with the rule of law, guarantee the enforcement of industrial property rights in the current legal and institutional framework.

---

<sup>3</sup> The 2005 Comprehensive Government Plan can be consulted at: <https://www.boe.es/eli/es/o/2005/04/21/cul1079>. It was described in detail in *Silvia Gema Navares González* (2006), *Measures Adopted by the Spanish Government Relating to the Enforcement of Intellectual Property Rights* (document WIPO/ACE/3/11), available at: [https://www.wipo.int/meetings/en/doc\\_details.jsp?doc\\_id=60892](https://www.wipo.int/meetings/en/doc_details.jsp?doc_id=60892).

<sup>4</sup> See <https://www.lamoncloa.gob.es/consejodeministros/referencias/Paginas/2018/refc20181214.aspx>.

### III. ACTORS INVOLVED

9. In order to take comprehensive action, the OEPM has sought to engage with various actors from the public sector, including not only the central government but also autonomous communities, local authorities and other public bodies whose activities may be linked in one way or another to the fight against industrial property rights infringements.

10. The participation of the private and tertiary sectors is also important, given the important contribution that consumer and business associations can make towards raising awareness of the harm caused by industrial property infringements, collecting data and disseminating information.

11. Furthermore, commitment and cooperation from the international community will also be encouraged, given that in a global world with increasingly blurred commercial borders, cooperation between international actors is essential for effectively and meaningfully combating counterfeiting.

### IV. AREAS AND LINES OF ACTION

12. There are different areas covering the main initiatives aimed at comprehensively combating the sale of counterfeit goods and enforcing industrial property rights. These areas are:

- Regulation: to amend the legislative framework, if needed, with a view to adequately protecting industrial property rights in an ever-changing environment and aligning it with national and European legal needs.
- Coordination: to align judicial decisions with the legal framework for industrial property rights enforcement in all branches of the judiciary involved with this matter (civil, criminal, administrative and social)
- Prosecution of infringements: to render measures at the borders and in the domestic market more efficient so that when counterfeit goods are seized, the judicial procedure and the sentencing of the crime can be carried out as quickly and efficiently as possible.
- Analysis: to harmonize, improve and automate the system for collecting statistics so that they can be more easily used to monitor industrial property rights infringements.
- Training and awareness raising: to effectively and meaningfully raise awareness of industrial property rights and to convincingly demonstrate the positive impact of their proper use and, in contrast, the harmful effects of industrial property infringements.

**V. SPECIFIC MEASURES TO BE UNDERTAKEN IN THE AREAS IDENTIFIED (TO BE COMPLETED ACCORDING TO THE IMPLEMENTATION STATUS OF THE VARIOUS MEASURES)**

LINES OF ACTION	MEASURES	STATUS
1. To adapt the Spanish legal framework to the market needs.	1.1. Preparation of reports. 1.2. Discussion sessions. 1.3. Other measures	1.1. In process 1.2. One successful discussion session already held. 1.3. In process.
2. To boost international collaboration.	2.1. Support Agreements. 2.2. Monitoring and consideration of IP normative progress. 2.3. Other measures in process.	In process
3. To support customs action against counterfeiting	3.1. Boost the collaboration with the Customs Authorities. 3.2. Other measures.	In process.
4. To improve existing tools	Various measures in preparation, many of which in close collaboration with the enforcement authorities and the Ministry of Culture and Sport.	In drafting.
5. To boost collaboration at national, European and international level to fight against IPR infringement	Support the experts in Enforcement Authorities and the projects at national and international level.	In process.
6. To strengthen the information exchange with the courts.	6.1. Measures to be included and undertaken in period 2020-2023 under consideration. 6.2. Updating of the Judicial Database.	6.1. In drafting. 6.2. In process.
7. Improving statistical information.	Measures to improve statistics and analysis data are under consideration. Some measures have already been drafted.	
8. To boost synergies in the area training and awareness.	8.1. Awareness campaign. 8.2. New campaigns addressed to different targets. 8.3. Studies.	In process. Tourism leaflets have been designed.

[End of contribution]

## ENFORCING INTELLECTUAL PROPERTY RIGHTS IN FOREIGN TRADE ZONES

*Contribution prepared by Ms. Caridad Berdud, Attorney-Advisor Enforcement, Office of Policy and International Affairs, United States Patent and Trademark Office (USPTO), Alexandria, Virginia, United States of America\**

### ABSTRACT

Foreign Trade Zones (FTZs), also known as Free Trade Zones, are beneficial economic zones that are typically designated areas outside of the customs jurisdiction of the host economy. Private entities are able to assemble, re-export, re-fuel or conduct other legitimate economic activity, avoiding costly tariffs, duties and other administrative fees. However, illegal activities also take place within FTZs, including money laundering, trade in counterfeit products and copyright piracy. Not only are intellectual property right holders' interests adversely affected, but health and safety are also endangered – both for those in the FTZs as well as consumers at large. Lessons learnt and experiences gained in relation to legal frameworks, customs and border enforcement and new technologies may combat these activities and safeguard the utility of FTZs.

### I. BACKGROUND AND HISTORY

1. Foreign Trade Zones (FTZs), also known as Free Trade Zones, are geographic areas of a country or economy where any goods introduced are generally regarded, insofar as import duties are concerned, as being outside the customs territory<sup>1</sup>.
2. FTZs have existed in different forms for hundreds of years. Free ports were designated areas that provided commercial vessels equal access and terms; cargo that was to be re-exported was exempt from custom duties<sup>2</sup>.
3. The Shannon Free Zone in Ireland is generally credited as the first modern-day FTZ. It was an important refueling station before improvements in aviation technology allowed for longer trips in the 1940s. Thereafter, the Government of Ireland responded to declining demand by developing a program to promote the area for industrial and tourism development by providing tax and other benefits in 1959. Today, the Shannon Free Zone is an important home to industry and trade and is one of the largest recipients of foreign investment in Ireland, with 600 acres, 200 buildings, 7,000 jobs and EUR 3 billion generated in trade every year<sup>3</sup>.

---

\* The views expressed in this document are those of the author and not necessarily those of the Secretariat or of the Member States of WIPO.

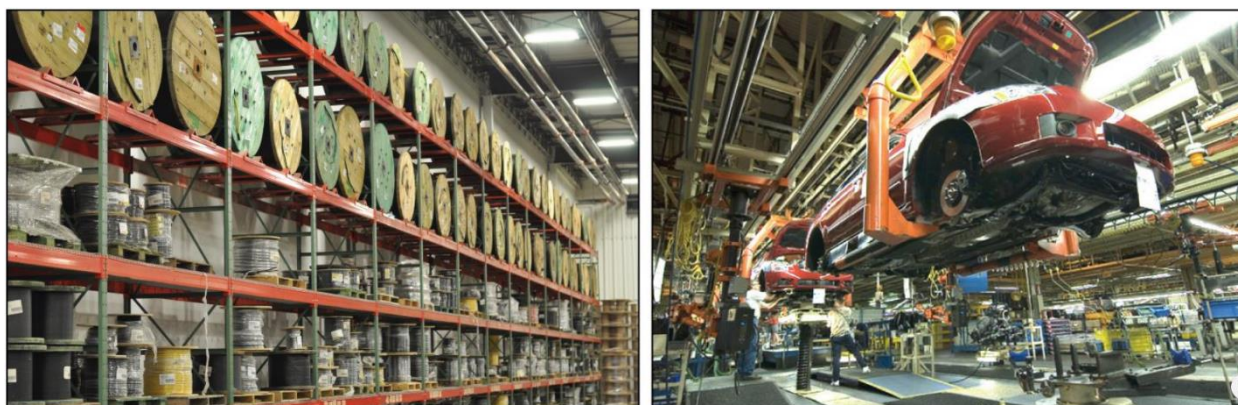
<sup>1</sup> Adapted from the definition of "free trade zone" contained in Chapter 2, Specific Annex D of the International Convention on the Simplification and Harmonization of Customs Procedures (as amended), more widely known as the Revised Kyoto Convention.

<sup>2</sup> Organization for Economic Co-operation and Development (OECD) and European Union Intellectual Property Office (EUIPO) (2018), *Trade in Counterfeit Goods and Free Trade Zones – Evidence from Recent Trends*, p. 15, available at: <http://dx.doi.org/10.1787/9789264289550-en>.

<sup>3</sup> Shannon Chamber, *Shannon Free Zone*, available at: <https://www.shannonchamber.ie/about/about-shannon/shannon-for-business/shannon-free-zone/>.

4. Today, there are 3,500 FTZs worldwide in 130 economies that collectively employ 55 million workers, generating USD 500 billion in direct trade-related value added<sup>4</sup>. In the United States of America alone, every state has at least one FTZ and there are 191 active FTZs in all 50 states and Puerto Rico with more than 3,200 companies employing 450,000 workers<sup>5</sup>.

5. Examples of activities in FTZs include production, manufacturing, warehousing and distribution operations. In the United States for instance, automobiles may be assembled in an FTZ. The company producing the automobile may admit foreign components to use for the assembly of the product and may choose to pay the duty rate on either the foreign components or the final product, choosing a favorable structure to minimize costs, thereby reducing or eliminating duty payments<sup>6</sup>. FTZs may also house other businesses including shopping centers, technology centers and logistics centers.



Credit: National Association of Foreign-Trade Zones (reproduced in document GAO-17-649 (cited below in footnote 5).

6. In addition to reduced duty payments, other benefits for using FTZs include attracting foreign investment, creating jobs and enhancing export performance. Studies have been conducted on both the benefits and the costs of these zones. For instance, FTZs have been criticized for reducing revenues normally accruing to the host economy and for attracting and promoting illegal and criminal activities<sup>7</sup>.

## II. LEGAL FRAMEWORKS RELATED TO IP ENFORCEMENT IN FOREIGN-TRADE ZONES

7. International agreements and conventions play a part in strong enforcement of intellectual property (IP) rights in FTZs, but they suffer limitations in that the minimum requirements or non-mandatory nature of some provisions of the agreements result in overall weak enforcement<sup>8</sup>.

<sup>4</sup> *Trade in Counterfeit Goods and Free Trade Zones, op. cit.*, p. 16.

<sup>5</sup> National Association of Foreign-Trade Zones (2019), *U.S. Foreign-Trade Zones: Promoting Trade, Job Creation & Economic Development*, available at: <https://www.naftz.org/wp-content/uploads/2019/03/FTZ-Facts-2019.pdf>.

<sup>6</sup> United States Government Accountability Office (2017), *Foreign Trade Zones: CBP Should Strengthen Its Ability to Assess and Respond to Compliance Risks Across the Program* (document GAO-17-649), pp. 9-10, available at: <https://www.gao.gov/products/GAO-17-649>.

<sup>7</sup> *Trade in Counterfeit Goods and Free Trade Zones, op. cit.*, p. 21.

<sup>8</sup> International Chamber of Commerce / Business Action to Stop Counterfeiting and Piracy (2013), *Controlling the Zone: Balancing Facilitation and Control to Combat Illicit Trade in the World's Free Trade Zones*, p. 3, available at: <https://cdn.iccwbo.org/content/uploads/sites/3/2016/11/Combating-illicit-trade-in-FTZs-1.pdf>.

## A. REVISED KYOTO CONVENTION

8. The World Customs Organization (WCO)'s International Convention on the Simplification and Harmonization of Customs Procedures (as amended), more widely known as the Revised Kyoto Convention (RKC)<sup>9</sup>, covers FTZs for control of goods in Annex D. Signed in 1973, it harmonized many customs procedures. The Revised Convention was adopted in 1999 and addressed customs procedures, optimum use of information technology, risk management, partnerships and a system of appeals. As of September 2018, there were 116 contracting parties. Parties are not bound by the Specific Annexes and may choose to accept only certain Annexes. Regarding FTZs and IP protection, paragraph 6 of Chapter 2 of Annex D states:

### “Recommended Practice

Admission to a free zone of goods brought from abroad should not be refused solely on the grounds that the goods are liable to prohibitions or restrictions other than those imposed on grounds of:

- public morality or order, public security, public hygiene or health, or for veterinary or phytosanitary considerations; or
- the protection of patents, trade marks and copyrights,

irrespective of country of origin, country from which arrived or country of destination.

Goods which constitute a hazard, which are likely to affect other goods or which require special installations should be admitted only to free zones specially designed to receive them”.

## B. AGREEMENT ON TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS

9. The World Trade Organization (WTO)'s Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) has provisions related to enforcement at the borders, but does not specifically address FTZs. Mechanisms include affording right holders a process to request the suspension by customs authorities of the release into free circulation of counterfeit trademark or pirated goods, withholding the goods or even eventual destruction of the illegal goods. TRIPS Article 51 states:

### “Suspension of Release by Customs Authorities

Members shall, in conformity with the provisions set out below, adopt procedures to enable a right holder, who has valid grounds for suspecting that the importation of counterfeit trademark or pirated copyright goods may take place, to lodge an application in writing with competent authorities, administrative or judicial, for the suspension by the customs authorities of the release into free circulation of such goods. Members may enable such an application to be made in respect of goods which involve other infringements of intellectual property rights, provided that the requirements of this Section are met. Members may also provide for corresponding procedures concerning the suspension by the customs authorities of the release of infringing goods destined for exportation from their territories”.

---

<sup>9</sup> For more information and the text of the RKC, see [http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf\\_revised\\_kyoto\\_conv.aspx](http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf_revised_kyoto_conv.aspx).



### III. ILLEGAL ACTIVITIES IN FOREIGN-TRADE ZONES

10. Activities in FTZs include assembly, manufacturing, processing, warehousing, repacking, relabeling, storage and further shipment, all of which may lend themselves to counterfeiters to create their illegal goods. With the advantages of an FTZ, counterfeiters would be able to transship their illegal goods as if they were legitimate<sup>10</sup>. The country of origin and country of destination of counterfeit goods may be disguised through transit via multiple ports and FTZs<sup>11</sup>.



Credit: U.S. Immigrations and Customs Enforcement. An example of apparel smuggling using a Los Angeles-area FTZ<sup>12</sup>.

11. Some shopping areas for visitors may even present a place for consumers to unwittingly consume counterfeit goods<sup>13</sup>.

12. Counterfeit goods, particularly counterfeit pharmaceutical goods, pose a health and safety concern for which inspectors have found that the counterfeiters relabeled and repackaged the items to be sold<sup>14</sup>.

13. Other organized crimes taking place within FTZs, in addition to counterfeiting and piracy, including money laundering, have been prosecuted in the United States<sup>15</sup>.

14. Studies have shown that there is a relationship between counterfeiting activities and the number of and total size of FTZs, suggesting that FTZs have become a useful tool for counterfeiters. Nonetheless, proper enforcement and legal provisions may mitigate illegal activities in FTZs, regardless of their size and numbers<sup>16</sup>.

<sup>10</sup> *Controlling the Zone, op. cit.*, p. 6.

<sup>11</sup> *Controlling the Zone, op. cit.*, p. 8.

<sup>12</sup> U.S. Immigration and Customs Enforcement (July 25, 2011), *Nine Indicted in Multi-million Dollar Apparel Smuggling Scheme* (press release), available at: <https://www.ice.gov/news/releases/9-indicted-multi-million-dollar-apparel-smuggling-scheme>.

<sup>13</sup> *Controlling the Zone, op. cit.*, p. 7.

<sup>14</sup> *Ibid.*, p. 27.

<sup>15</sup> See generally, e.g., Financial Action Task Force (March 2010), *Money Laundering Vulnerabilities of Free Trade Zones*, available at: [https://www.fatf-gafi.org/media/fatf/documents/reports/ML\\_vulnerabilities\\_of\\_Free\\_Trade\\_Zones.pdf](https://www.fatf-gafi.org/media/fatf/documents/reports/ML_vulnerabilities_of_Free_Trade_Zones.pdf). See also United States v. Lai, et al., 2:11-cr-00690-DDO, (U.S. District Court for the Central District of California, June 30, 2011) (criminal indictment with counts for money laundering in an FTZ).

<sup>16</sup> See *Trade in Counterfeit Goods and Free Trade Zones, op. cit.*, p. 53.

### III. ENFORCEMENT BEST PRACTICES AND TECHNOLOGICAL APPROACHES

15. In the United States, the FTZ program is a multi-step process that requires an operator to file with the Customs and Border Protection Agency (CBP) an Application for Activation and Procedures and Operations Manual, describing internal compliance processes and goods moving through the zone or subzone. This is a more risk-based audit system that does not require a permanent on-site supervision system<sup>17</sup>. However, supervision in the form of CBP audits, and access by CBP officials to zones at any time complement the risk-based approach<sup>18</sup>.

16. Improving awareness and understanding that FTZs are *not* extraterritorial to the nation and thus subject to the host economy's laws will reduce illegal activities in FTZs<sup>19</sup>.

17. The national customs authority should enjoy legal authority to control the admission of merchandise into the zone, the handling and disposition of merchandise in the zone and the removal of merchandise from the zone.

18. Giving customs agents *ex-officio* authority to detain goods suspected of infringing IP rights in FTZs would be in compliance with the provisions of the TRIPS Agreement, allow for expedient preservation of evidence for further prosecution and prevent the goods from harming IP right holders and the consumer-public.

19. Improving and fostering a cooperative relationship between customs authorities and private industry in a transparent manner would also improve the rule of law to allow for the regulation of FTZs.

20. Border enforcement of laws in FTZs would deter criminal activities more handily.

21. Shipment tracking technologies today and, in particular, radio-frequency identification (RFID) technologies coupled with securing shipping manifests using blockchain technologies in a distributed ledger system, have the potential to prevent manufacturing, shipping origin and general supply chain fraud to take place<sup>20</sup>.

### V. CONCLUSION

22. FTZs may be beneficial economic engines for economies, but they must be regulated to protect not only IP right holders but also the consumers and public from harmful products. Criminal activities are gaining a stepping stone in their illegal activities by using FTZs. All countries and economies must honor their obligations to the rule of law by enforcing their own domestic laws and international obligations regarding IP enforcement in FTZs.

[End of contribution]

---

<sup>17</sup> *Ibid.*, p. 47.

<sup>18</sup> See generally, U.S. Customs and Border Protection, Department of Homeland Security (2011), *Foreign-Trade Zones Manual*, chapter 3, available at: <https://www.cbp.gov/sites/default/files/documents/FTZmanual2011.pdf>.

<sup>19</sup> *Controlling the Zone*, *op. cit.*, p. 2.

<sup>20</sup> See, e.g., Forbes (August 9, 2018), *IBM-Maersk Blockchain Platform Adds 92 Clients as Part of Global Launch*, available at: <https://www.forbes.com/sites/michaeldelcastillo/2018/08/09/ibm-maersk-blockchain-platform-adds-92-clients-as-part-of-global-launch-1>, and Cointelegraph (August 25, 2018), *US Customs and Border Protection to Test Blockchain Shipment Tracking System*, available at: <https://cointelegraph.com/news/us-customs-and-border-protection-to-test-blockchain-shipment-tracking-system>.