

OECD FORUM 2005

FUELLING THE FUTURE: Security, Stability, Development

Combating Counterfeiting

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Distinguished participants,

I am privileged to talk to you on the fight against counterfeits that have become one of the major mission of customs. Obviously, customs mission have evolved from traditional revenue collection to embrace protection of consumers and legitimate trade from inflow and outflow of hazardous goods, including counterfeits. The WTO TRIPs (Trade-Related Intellectual Property Rights) Agreement clearly recognizes the importance of border measures to effectively protect IPR. In response, the WCO and its 165 member customs administrations have been making every effort in enhancing border control in this area.

Recent customs seizure records in major countries suggest a continuing increase in the volume of counterfeits in world market. Moreover, there has been a significant shift in the nature of IPR-infringement goods in the 1990's from luxury goods to a range of mass-produced commodities for everyday consumption. They include medicines, cosmetics, food, drink, cigarettes, electronic appliances, toys and vehicle parts. Recording media, such as CDs, DVDs and audio cassettes have also become targeted products for piracy. The modus operandi have also continued to become more complex and sophisticated by employing various routings to avoid direct paths known for forgery. Likewise, free zones are frequently exploited for the transshipment of counterfeits. In addition, Internet provides another distribution channel for counterfeits that are extremely difficult to detect at the borders.

Alarmingly, these illegal trans-national activities have become a source of income for international criminal organizations. They use exactly the same techniques and routings as they have been using for drug trafficking. Counterfeiting brings a huge profitability while its risk of being detected and

severely punished remains relatively small compared to traditional drug trafficking and other trans-border crimes. Moreover, criminal organizations frequently re-invest “dirty money” to produce and purchase counterfeits for money laundering purpose. Furthermore, the Interpol revealed that there was growing evidence that the proceeds of IPR infringement were used to fund terrorist groups.

Faced with these challenges, customs administrations are working hard to establish and improve their own national legal frameworks. In support of these efforts, the WCO developed a model legislation that incorporates best practice around the world, in collaboration with the private sector. It consists of the necessary empowerment of customs officers while facilitating cooperation with rights holders and other competent authorities. In implementing the IPR border protection, it will be essential to develop intelligence-based risk analysis to identify high-risk cargo, supported by information sharing among customs, law enforcement agencies and business. In fact, mutual administrative assistance agreements in customs concluded in recent years often include cooperation and exchange of information between customs in IPR protection. Partnership with the private sector is also crucial, as IPR is a peculiar area where business possesses the vast majority of knowledge and necessary resources. Business can be helpful as well in supporting capacity building of law enforcement agencies. Furthermore, recent focus on international trade supply chain to secure and facilitate global trade will enable customs and business to gain more insight on movement of goods from origin to destination.

What we need most in the fight against counterfeiting, however, is the improved understanding at both the policy-making level and the public level of the serious consequence of IPR crime. Without proper compliant environment, based on the understanding that it is not a victimless crime, customs and other law enforcement agencies could not fully discharge its responsibilities. Fortunately, there has been an increased awareness in OECD governments and industry that counterfeiting is a serious threat to consumer health and safety, in addition to hurting company profits. We must ensure that non-OECD developing countries also see the benefits in IPR enforcement that will foster investment and innovation, particularly relevant to small business, as well as the fiscal foundation of economic development by securing national tax and customs

revenue.

Here, we have to ask ourselves if our message get through to consumers and the developing countries. There is an encouraging sign from the private sector to mobilize resources for raising awareness in this regard. By way of example, there has been an overwhelming support from the business community for the first Global Congress on Counterfeiting that the WCO and Interpol co-organized in May 2004, gathering important players, including the WIPO, WTO, OECD, government representatives and businesses. While appreciating the partnerships that have emerged through this process, many recognized the need for more aggressive awareness campaign. One powerful evidence and tool to convince consumers and political leaders of the need to enhance IPR protection would be a study of economic and social impact of counterfeiting. It will provide. With its study on the economic impact of counterfeiting in 1998, estimating that counterfeit goods account for more than 5% of the then world trade, I believe that the OECD is a natural fit to conduct this study under the rapidly changing circumstances with a sense of urgency. Naturally, the WCO will be happy to facilitate the study.

Finally, I would like to remind all of you that the fight against counterfeiting will entail long-range battles and challenges for all of us, just like a war against drug abuse and trafficking. This is why I would like to urge all stakeholders to continue joint efforts against this crime of the century.

Thank you for your attention.