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**PUBLIC GOVERNANCE DIRECTORATE
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High Level Risk Forum

Illicit Trade in a time of crisis

Chair's Note

23 April 2020

This document presents a Chair's Summary of the webinar "Illicit Trade in a time of crisis" organised by the OECD Task Force on Countering Illicit Trade on 23 April 2020.

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Key messages

The COVID-19 pandemic has had and will continue to have an impact on illicit trade in the short run and in the medium- to long term.

As for the **short-term effects**, several factors caused by the COVID-19 crisis are shaping the landscape of illicit trade. These factors include: (i) dramatic growth in demand for pharmaceuticals and personal protective equipment (PPE), (ii) heavy restrictions imposed on global transport and (iii) strong reduction of labour force supply due to lockdowns and health concerns. Criminal networks have reacted very quickly to the crisis, and adapted their strategies to take advantage of the shifting landscape. Consequently, the following trends are observed:

- The pharmaceutical industry is particularly at risk for fraud and illicit activity. People, industry, and governments demand medicines, tests and protective equipment to combat the pandemics, and these demands often cannot be met in a timely fashion. Consequently, law enforcement agencies and industry report a precipitous rise in flows of fake and substandard medicines, test kits and personal protective equipment as well as other medical products. Infiltration of substandard or counterfeit products into the legitimate supply chain poses grave threats to public health and safety as well as our global efforts to combat the spread of COVID-19.
- Due to the lockdown, the online environment has become more intensely misused, and cyber law enforcement has reported skyrocketing volumes of various e-crimes. E-commerce is becoming the main platform for illicit products, including fake and substandard medicines, test kits and other COVID-19-related goods.
- Change in customs controls priorities (e.g. focus on COVID-19-related products), and labour shortages among law enforcement officials, result in emerging potential for illicit trade in other areas.
- Illicit trade in counterfeits becomes a growing threat for many industries that suffer from broken supply chains and shortages of components, including the food industry, automotive and chemical industries.

In the **medium and longer term**, the COVID-19 pandemic will have a number of other effects on illicit trade. The economic downturn and continued disruptions in supply chains will undoubtedly create additional opportunities for criminals, and most likely will lead to a substantial change in illicit trade volumes, routes and composition in the medium term. A rise in cybercrime will keep shifting the attention to the online environment. In addition, limits on air transport and more compliance that is expected in global value chains, will re-shape the trade routes and patterns for illicit trade, which might also lead to increased misuse of Free Trade Zones. It might also lead to emerging of more secured and compliant big trade lanes and trade “super highways”.

1 Illicit trade in a time of crisis

The COVID-19 pandemic poses new challenges to economies, communities and people. However, for criminals that run illicit trade networks this pandemic opens new opportunities for profits. Broken supply chains, strong demand for medicines, protective equipment and tests or limited capacities of law enforcement officials – all these factors shape the landscape of illicit trade.

To discuss these risks, the OECD Task Force on Countering Illicit Trade organised an online webinar held on 23 April 2020. The main purposes of the webinar was to identify the key vectors of change that the COVID-19 crisis has had and will have on illicit trade, and to identify the relevant impact areas that should be explored in separate, dedicated dialogues.

The seminar gathered about 180 participants from the TF-CIT public and private stakeholders networks. It was chaired by the TF-CIT co-chairs: Ms. Christa Brzozowski (US DHS) and Mr. Christopher Martin (UK, HMRC) Speakers at the seminar represented both the public and private sector.

COVID-19 changes the illicit trade environment

The COVID-19 pandemic has been affecting illicit trade, and illicit activities, in a number of ways. Enforcement authorities recorded a decrease in some activities of organised crime groups and an increase in others, as organized crime groups have developed new ways of working in response to the pandemic. Like legitimate businesses, these groups also need open borders, good communications, etc.

The shutdown has made smuggling, human trafficking, and illicit trade in counterfeits more difficult. It is also more also difficult to carry out a number of other clandestine activities, e.g. selling narcotics in parks or on the street. The intensity of these activities has declined.

On the other hand, organised crime groups reacted quickly to the strong increase in demand for pharmaceuticals, medical equipment, personal protective equipment, tests kits, etc. Products offered by criminals are often counterfeit (trademark infringing), and not tested for compliance with health and safety norms by relevant authorities, which leads to significant dangers for public health. Criminals have been exploiting the public fear and confusion to take advantage of limited awareness of individuals in respect of understanding that the false claims that are being made and their determination to protect their health. When people are scared to get sick and not well-informed criminals can step in. They also target hospitals and elderly care facilities, which in turn poses serious health issues and can exacerbate the problem.

Examples provided by border enforcement authorities from the US and the EU highlight the surge in fraudulent medical products including personal protection equipment, medical devices and test kits. For example in the United States, there were instances of counterfeit Chloroquine, following the media announcements of its potential efficacy in treating COVID-19 symptoms. In the European Union, an investigation related to COVID-19 revealed that there are intense flows of illicit trade of medical supplies (illicit facemasks and test kits) as well as medical devices with counterfeit EU certificates of conformity as well.

Illicit trade goes online

The COVID-19 crisis turns the attention to the online environment. Law enforcement officials have reported a huge shift to cybercrime (fraud, phishing, etc.) while criminals take advantage of people working at home with less secure infrastructure. According to law enforcement authorities, in the EU e-commerce is a predominant medium to send fraudulent COVID-19 related products. Under the confinement, consumers also turn to online markets to fulfil their needs. This has sparked a marked uptick in cyber-related offenses.

For example, since March 2020, at least 100 000 new domain names containing COVID-19 related words (e.g., Covid, corona or virus) were registered to sell related medical items. The Dark Net is also playing a role in the rapid spread of falsified medicines, as COVID-19 is part of the Dark Net's keywords.

In the US, the challenge is to ensure a safe and lawful e-commerce for businesses, consumers and intellectual rights holders. Following the e-commerce boom, the huge number of small packages, with a declared value of under USD 800, poses data constraints since only minimal data are required when sending them. In this context, relevant data are essential to identify bad actors and oblige them to free up the trade line through the debarment and suspension process (which makes the bad actors list publicly known). In this framework, the Anti-Counterfeiting Consortium to Identify Online Nefarious Actors (ACTION) Plan was created.

Online platforms tend to be aware of these risks. For example, during the pandemic, Amazon detected price gouging and ill-described (including counterfeit) goods. Amazon reacted quickly and has worked closely with legal and communication teams, and collaborated with EU law enforcement to share information related to fraudulent goods related to COVID-19 pandemics.

As world trade is poised to plummet, COVID-19 poses new illicit trade threats

The evolutions in supply chains shaped by the COVID-19 crisis will result in new, additional challenges for countering illicit trade in the real world, outside the online context. As for world trade, the forecasts are very pessimistic. According to the WTO, trade is set to plummet by between 13% and 32% in 2020 due to the COVID-19 pandemic. If this happens, numerous opportunities for criminals and illicit trade will emerge. For the time being (May 2020), it is too early to determine if the early signs will become a trend, or whether they are short-term shocks.

Maritime industry needs to adapt

For the time being, maritime trade was stable during March-April 2020. However, this industry needs to adapt to the current situation and specific restrictions, such as medical support for the crew, use of waybill and telex release, need to be implemented. In addition, with airlines ground to a halt transportation poses additional challenges for the maritime industry, complicating existing trade routes.

Lockdown reshapes trade routes

The lockdowns in many countries in the world, and the closures of borders, impede the flow of goods in several countries, especially those where air traffic is suspended. This situation also raises the issue of land transportation costs (e.g. from port to inland). This becomes problematic, given the urgency and importance of timely delivery of many products in the context of the COVID-19 crisis, including medications and PPEs.

Pharmaceutical industry is at risk

The ongoing surge in demand for anti-COVID-19 articles poses huge risks to the pharmaceutical industry. Fraudulent products, such as unproven treatments, test kits and medical supplies (masks, ventilators, etc.) have flooded the market. On Facebook, fake vaccines have been sold. And in Istanbul, some 5,000 fraudulent test kits were seized by the authorities.

Additional threats to the pharmaceutical industry might result from additional restrictions or new circumstances due to COVID-19, which are likely to affect the legitimate supply chain. Examples include decisions by Luxembourg and French authorities to derogate temporarily serialisation requirements for important drugs.

Moreover, while the lockdown limits the spread of the infection, it may also exacerbate economic and social tensions. The African region's dependence on medical supplies raises the fear of comorbidity implications such as malaria and AIDS.

Other industries being hit too, suffering from broken supply chains

Demand in certain industries has sometimes gone unmet due to trade restrictions, which leads to new threats of illicit goods entering these markets. One example is the automotive industry, where supply has been heavily reduced by the crisis. As a result, online criminal activity heavily increased in this industry, doubling in intensity since the beginning of 2020. In addition, law enforcement officers operate under the crisis with reduced resources, and new priorities, which leads to new opportunities for criminals.

COVID-19 re-shapes supply chains in the medium term.

In the medium and long terms, the COVID-19 pandemic will certainly affect supply and value chains in two general ways. First, goods will be closer to the final market (notably via warehousing) to address local/regional issues. This is reflected in the changing move from “just in time” operations to “just in case”. Second, compliance is expected to become stricter in global value chains. More secure and compliant big trade lanes and trade “super highways” are emerging from the current situation.

Enforcement authorities in OECD countries react.

Enforcement authorities in the OECD countries are reacting to these changes in illicit trade triggered by the Covid-19 pandemic. In the United States, to combat the increasing threat posed by COVID-19, the Department for Homeland Security (DHS) has launched Operation Stolen Promise, based on global trade, cybercrime and financial fraud investigations.

In the European Union, several DGs of the European Commission are involved in operations related to COVID-19, including:

- DG TAXUD has created a crisis alert on COVID-19 in its customs risk management system. It is used to gather information from Member States on emerging issues and problems for customs that could require the Commission's support, to disseminate information from the Commission and the other national customs authorities of all EU Member States on matters related to COVID-19.
- To limit unauthorised exports of personal protection equipment, DG Trade adopted new regulations on pre-export authorisation for PPEs.¹

¹ Reg 2020/402 and 2020/42 and revised once more afterwards.

- DG GROW adopted a Recommendation² on conformity assessment and market surveillance procedures, aimed at economic operators and market surveillance authorities. Its purpose is to ensure the supply of Personal Protective Equipment and Medical Devices, and to provide an adequate level of protection of the users' health and safety. In addition, DG Grow also issued guidance, including: Conformity assessment procedures for protective equipment, conformity assessment procedures for 3D printing and 3D printed products to be used in a medical context for COVID-19 and Guidance on the applicable legislation for leave-on hand cleaners and hand disinfectants (gel, solution, etc.).
- DG OLAF works to prevent illicit goods from entering the EU, and to dismantle illicit manufacturing facilities (mainly located in China, South-East Asia, and Turkey). To do so, intelligence is shared in real time (as illicit activities transpire very quickly) between EU Member States, third countries and rights holders. On a daily basis, OLAF provides intelligence to EU customs so they can update their risk analysis profile and target suspicious consignments.

In addition, to deal with the growing cyber threat DG Olaf has created a dedicated cyber task force to tackle this specific trend. DG OLAF is also monitoring the situation, particularly potential shortages of key drugs such as chloroquine and azithromycin.

- Talks have been held between the European Commission and Member States on a common approach towards customs controls. This includes fast clearance of urgent goods (medical protection, medical equipment, medicine, essential and perishable food products and livestock), while addressing properly the risk of substandard or counterfeit medical products.

² Recommendation (EU) 2020/403 of 13 March 2020

2 Key messages for industry and policymakers to consider

Participants at the meeting presented several messages for industry and policymakers to consider.

Overall, structured co-ordination is urgently needed to counter illicit trade. Several areas were identified to step up enforcement of illicit trade:

- Strengthening of information sharing across borders is crucial to have a comprehensive picture of the new threat.
- Digital vigilance as well as the involvement of financial services and e-commerce platforms to inform the public about them.
- Detailed policy guidelines are needed to assist public authorities with more precise trade-related regulations. In this framework, modern technological solutions (e.g., block chain, artificial intelligence, etc.) should be used to counter illicit trade.
- Continued monitoring of the risk is needed and the TF-CIT is essential as it developed a global standard for unbiased and robust evidence on illicit trade and identified the main related challenges, victims, key back actors, and key governance gaps.
- In-depth dialogue is needed to continue, in particular in such areas as misuse of small parcels, the role of e-commerce, and containerized maritime transport.
- In pharmaceuticals, a sector particularly impacted by Coronavirus crisis, proper rules must be set up to deal with illicit medicines online, and to proceed to online takedowns efficiently and with sufficient legal deterrence.
- Given the complexities, and rapid evolution of illicit trade, private-public co-operation is essential to develop timely and effective responses. In this context, the Business at OECD initiative -- Anti Illicit Trade Experts Group is very relevant.

In addition, private stakeholders presented a set of ways to tackle new challenges related to the COVID-19 crisis in the online environment. They recall the problem posed by GDPR that limits the transparency of WHOIS database and the high increase of e-commerce and small parcels shipments that make the international trade more difficult to identify. One of the recommendations is to focus on the domain name registration system and facilitated access to the WHOIS database that has been drastically reduced in recent years given stakeholder interpretation of the EU's GDPR data privacy laws. Ensuring the accuracy and openness of information within the WHOIS database is a critical component to identifying the sources of fraudulent medical products or misinformation online. The second recommendation is to control access to domain names by policy and to make legislative change to ensure registries and registrars are comprehensively accountable. "Know Your Customer" policies can have a positive impact on ensuring safety and legitimacy of information found on these sites. A "good practice" example of this has been achieved by the top-level country domain registry in Denmark, which has resulted significantly reduced number of suspicious and illicit websites within this country. When sites are found to be peddling counterfeit drugs or false information, domain name registrars should, immediately upon notice from law enforcement or trusted third parties, lock and suspend those domain names.