



**Asia-Pacific  
Economic Cooperation**

**Compendium for Intellectual Property Rights  
(IPR) Enforcement**

11 January 2018  
Subcommittee on Customs Procedures (SCCP)

## **Asia Pacific Economic Cooperation (APEC) Subcommittee on Customs Procedures (SCCP) Compendium for Intellectual Property Rights (IPR) Enforcement**

Border enforcement continues to be a global challenge that requires international solutions aimed at enhancing and improving cross-border government cooperation and collaboration. The volume of counterfeit and pirated goods continues to increase in international commerce streams and customs agencies should continue to work together in order to most effectively combat this illicit trade.

These counterfeit goods can pose significant health and safety risks, cut into the revenue of legitimate right holders, and can impinge upon reputations and consumer perceptions of brand names.

Recognizing these potentially serious threats that APEC economies are facing, APEC developed an IPR enforcement compendium to be used as a tool to assist in the identification, interdiction, and deterrence of intellectual property violations. By working together with standardized practices, such as these guidelines, APEC economies can reduce the risks and harm that intellectual property violations pose. The resulting document may also serve as a resource for future joint operations and/or capacity building efforts in APEC.

### **Engagement Practices:**

1. Network with trade groups and manufacturer's representatives that can provide product information or information on companies that they suspect of counterfeiting or pirating.
2. Promote customs procedures that enable rights holders and industry groups to notify customs of trademark and copyright registrations.
3. Work with international counterparts to increase detection and interdiction of counterfeit and pirated goods by participating in joint operations and information sharing.
4. Increase cooperation with rights holders.

### **Educational Practices:**

5. Develop and regularly deliver an IPR all-day immersion training to customs officers at the ports of entry to educate them and refresh their knowledge on the procedures, policies, and, regulations associated with intellectual property rights enforcement in the customs environment.
6. Work to expand public awareness of the dangers associated with counterfeit goods by frequent media activities.
7. Solicit rights holders on a regular basis to host national webinars and/or port-specific in person training sessions designed to update customs personnel on rights holder products and infringement trends.

### **Enforcement Practices:**

8. Develop a mobile operational team that can carry out all enforcement efforts. This mobile operational team should be comprised of subject matter experts in various areas of responsibility that can be deployed to ports of entry to conduct and/or provide additional staffing during IPR specific operations and exercises. The team would also provide guidance on IPR policies, legal authorities and procedures for enforcement.

9. Increase focus on small shipments such as air express shipments and ocean consolidated shipments. Many smugglers have discovered the advantages of using small smaller shipments and frequently utilize the international mail, or express consignment environments.
10. Keep abreast of new and changing fads in every industry. In today's world, everything and anything can be counterfeited.
11. Consider seasonal trends (i.e. risk assessment in line with holiday related imports and significant sport events, etc.)
12. Focus on external allegations that may expose an undiscovered national surge/trend of an IPR exploited industry or product not yet on customs' radar.

## Annex I: IPR Case Studies

### Engagement Practices Examples:

#### **Chinese Taipei:**

- Customs IPR Information Database including the Right Holders' Complaints/Advice information, photos or catalogues of genuine goods, counterfeit goods or a comparison between both, Customs officers at all check points may inquire the Database at any moment.
- Customs established Real-time Information Reporting System (with pictures): The regional Customs offices report their seizure cases on the system for feedback. Intelligence gathered domestically and internationally is also dispatched on the system for inspectors' reference.

#### **Hong Kong, China (HKC):**

- In HKC, the IP right holders provide information and prompt assistance in the identification of counterfeit goods; exchange of intelligence and provision of training on counterfeit identification. Hong Kong Customs collaborates with the local IPR industry and establishes the "Intellectual Property Rights Protection Alliance (IPRPA). The IPRPA is aimed to establish a broad-based platform for fostering closer cooperation between the Hong Kong Customs and the IPR industry. It is a symbol of the stronger commitment of the government and industry to work in collaboration to pursue the goal of removing piracy and counterfeiting.

#### **Japan:**

- Japan Customs welcomes any information on smuggling of IP infringing goods, which is to be provided via hot-line or online.
- Japan Customs suspends IP infringing goods at the border upon application for suspension from the right holder as well as ex officio. Japan Customs has been actively inviting right holders to utilize the application for suspension system on various occasions including public seminars. The application for suspension is different from notification of IPR registration to Customs and right holders are required to provide Customs with prima facie evidence of infringement upon application.
- Japan Customs has joined a number of joint IP border enforcement operations held under the framework of the APEC, ASEM and WCO.
- Japan Customs has been interacting with various stakeholders such as right holders, industry associations and patent attorneys association. Such interaction includes seminars and dialogues, and helps Japan Customs to review its policy and practices of IP border enforcement

#### **Mexico:**

- The Federal Government at different administrative levels has undertaken a joint action with the private sector to strengthen the fight against the counterfeit and pirated goods. The Administration General of Customs (AGC) has been participating with the private

sector and other authorities like Procuraduría General de la República “PGR” (Responsible for investigating and prosecuting the crimes of the federal order), Instituto Mexicano de la Propiedad Intelectual “IMPI” (legal authority that administrate the industrial property system in Mexico), among others authorities, to develop permanent and sustainable strategies for the defense of Intellectual Property Rights (IPR) that deterrence the illicit trade by the exchange of information in which illegal practices of foreign trade are detected and to agree set up rules and procedures to prevent this kind of activities.

- In addition, the AGC with the PGR are working together to establish an action protocol to determine ways of assistance and collaboration among them in order to combat illicit trade and protect IPR.
- The AGC has closely worked with the IMPI to implement a program for identification and inhibition of counterfeit and pirated goods.
- The AGC has developed and is implementing a computer system, that allows its Customs Officers (CO) to create and issuing consultations on IPR, directly to trademark owners and/or its legal representatives, that allowed them to proceed legally against the merchandise if there is any alleged violation of IPR. It is expected that this software will facilitate the customs clearance and to improve the detection of counterfeit merchandise.

AGC is leading the negotiations with PGR and IMPI to share the information of the trade mark database with these two authorities granting them access to the software, in order to facilitate their actions and at their own scope of their competence.

- Additionally, in Mexico AGC uses a trademark database to identified more easily IPR-violating merchandise in the customs all over the country. This database contains the information provided voluntarily by the trademark owners related to licensees, countries of production, and customs of entry; and in some cases also detailed information about the characteristics of the protected goods, identified false products and trade routes.

Currently, the AGC is working on the reengineering of its trademark base, in order to improve the analysis and data provided by different areas of the AGC. The new version of the database will considerer: online registration for the trademark owners, visual and detailed information on brands and products, tariff codes, the name of product distributors, national and foreign contact details, among others (The database formally began on January 2, 2012 and as June 2017, it has included 6,918 registered brands with 7,634 trademark registrations).

- AGC requests the suspension from the Register of Authorized Importers of those importers who had been accused of infringement or violation of the IPR by PGR and IMPI.

**Peru:**

- Currently, SUNAT has the voluntary registration of rights holders whose trademarks it protects through border enforcement procedure. To this end, the operational staff reviews the information contained in that registry and serves to form a judgment as to whether the merchandise that is physically verified is presumably falsified, pirated or confusingly similar.
- The Customs Administration is also a member of the Commission for Combating Customs Crimes and Piracy of the Ministry of Production, which meets periodically in order to address issues related to the protection of IPRs. INDECOPI and representatives of IPRs also participate in this commission.

**Philippines:**

- The Intellectual Property Rights Division (IPRD) under the Customs Intelligence and Investigation Services (CIIS), of the Bureau of Customs (BOC) was rated number one (1) for the year 2016 by the National Commission on Intellectual Property Rights (NCIPR) garnering P1,784,213,600 total amount of seized items for the year given.
- Through close partnership and monitoring with the brand owners, other government agencies and the general public, the BOC remains resolute in its commitment in curbing out the proliferation of counterfeit goods in the market.

**Singapore:**

- Singapore Customs works with right holders and industry groups to conduct product identification training sessions for officers on the ground to enhance their capacity to detect counterfeits goods.
- Customs engages and works closely with the Right Holders and their legal representatives on issues and procedures relating to IPR border enforcement

**United States:**

- In the United States, CBP officials regularly use product identification guides that are designed and provided by the rights holders to help assess the legitimacy of products that they examine. A company's product ID guide contains specific information and details about products it has recorded with CBP. These ID guides are made available for customs officers on an electronic database to use as a reference if they have questions or need information regarding a right holder's products.
- CBP organizes and facilitates industry-specific roundtables with rights holders to hear their concerns about emerging intellectual property rights enforcement issues and obtain information that can be used for risk assessment. These roundtables are also opportunities to share information with industry stakeholders so they can become knowledgeable of the enforcement trends and programs that customs administrations are focusing on.
- One outcome that continually arises from multiple economies as a result of the APEC

IPR joint enforcement operations is engagement with rights holders in advance of an industry specific operation. Engagement with the relevant industry sector prior to a particular operation will assist with the success of that operation by ensuring the customs authorities have the most up to date product information on items that will be impacted by the operation. This type of private sector engagement serves as a training on product authentication for the front line personnel, leading to increased enforcement of counterfeit goods during an operation.

- In the United States, CBP regularly engages with interested Intellectual Property (IP) stakeholders and trade association representatives as a member of an IPR working group of a statutorily mandated advisory committee, the Commercial Customs Operations Advisory Committee (COAC). The group convenes monthly to discuss CBP's efforts to stop the trafficking of illegitimate goods. The private sector working group members inform and advise CBP and offer recommendations on how CBP can more effectively address the challenges presented by the trade in counterfeit and pirated goods.

### **Educational Practices Examples:**

#### **Chinese Taipei:**

- Customs enhances frontline officers' knowledge of IPR border measures by hosting seminars and workshops on IPR regulations regularly.
- Customs enhances the expertise and enforcement technique for frontline officers by cooperating with foreign Customs and right holders to conduct IPR related training programs regularly.

#### **Hong Kong, China (HKC):**

- In HKC, apart from taking stringent enforcement actions against IPR crimes, we also stress the importance of public education on promoting IPR awareness, particularly, to the youngsters. Hong Kong Customs collaborates with the IPR industry and 13 local youth uniformed groups and their 250,000 members aged between 9 and 25 in launching the "Youth Ambassador Against Internet Piracy" Scheme. The scheme enables local youngsters to have direct participation in fighting internet piracy and allows them to cultivate the sense of respecting others' IPR at a young age. Hong Kong Customs also works closely with the Intellectual Property Department and the Education Bureau to deliver IPR enforcement talks to local students in order to remind them of the criminal liabilities of committing IPR infringing acts.

#### **Japan:**

- Japan Customs generally trains its officers at Customs Training Institute (CTI) as well as on-the job. In addition to general training courses for new recruits and experienced officials, which include classes on IP border enforcement, CTI offers special technical courses, both theoretical and practical, for IP experts.
- Japan Customs holds press briefings twice a year and shows results of seizures of IP infringing goods. In order to raise public awareness, Japan Customs not only puts up posters and holds anti-counterfeiting campaigns in a public place but also uses Social

Networking Services (SNS) such as Twitter, Facebook and YouTube. For example, when releasing annual seizure statistics, Japan Customs uploads videos on YouTube, which shows press briefings and destruction of counterfeit goods, highlighting the characteristics of that year's counterfeiting activities.

- Japan Customs regularly invites right holders to hold training sessions for front line officers. During such sessions, right holders provides Customs officers with tips for finding goods infringing their IPs and demonstrate differences between genuine products and fake ones by actually showing them.

**Mexico:**

- The AGC jointly with trademark owners and/or legal representatives of IPR in Mexico; the American Chamber of Commerce of Mexico, and the Mexican Association for the Protection of Intellectual Property offer an annual training program for CO with the purpose of strengthening the CO's detection capabilities of allegedly counterfeit merchandise.
- The US Government (through the CBP, the Department of the United States of America and the Embassy of the United States of America in Mexico), the European Union and the World Customs Organization (WCO) have conducted international intellectual property training for CO. The AGC has at least 4 people certified by the WCO as Technical Operative Advisers in the field of IPR, who support for training in aspects of international regulations.

**Peru:**

- The Customs Administration receives training on the part of the IPR holders as received on July 19 of this year where a workshop was held in the auditorium of the Air and Postal Customs Office in order to show how the original products of the counterfeit marks ADIDAS and REEBOK, the workshop was in charge of the Barlaw Law Firm (represented in Peru by, among other marks, ADIDAS and REEBOK). Also, the Commission for Combating Customs Crimes and Piracy of the Ministry of the Production (of which SUNAT is a part) has carried out in the Customs Office of Puno the workshop "Piracy of Paid Television by means of FTA Decoders" held on August 3, 2016 and the last one held in the city of Piura on June 21 of this year with the Seminar - Workshop "Electricity is not a game: risks caused by the commercialization of electrical materials of sub standard quality" involving a SUNAT speaker on the subject: Customs mechanisms and procedures for control and alert intervention related to electrical, sub standard and potentially falsified products
- These trainings also extend to the staff of the Prosecutor's Office and Judicial Branch, such as the "Specialized Workshop on Customs, Tax, Intellectual Property and Environmental Crimes", held on September 20, 22, 27, 29 and 4, 6 and October 11, 2016 in the Hearing Room of the Permanent Criminal Chamber of the Supreme Court of Justice.



**Philippines:**

- Continuous trainings and seminars are being conducted within and outside the Bureau and undergone by its personnel. Last May 2017, the Seminar on Intellectual Property Rights was conducted attended by CIIS personnel as front liners who should be knowledgeable in distinguishing counterfeit and infringing goods. Resource speakers for the said event were United Laboratories Inc. (UNILAB), Food and Drug Administration (FDA), Havaianas and Panasonic Philippines, Procter & Gamble Philippines, and Adidas Philippines.

**Singapore:**

- Singapore Customs conducts up to 4 product identification training sessions for the field officers as part of its capacity building to strengthen officers' competency in the area of detecting counterfeit goods during their course of work. The product training provides a platform for the officers to interact and discuss IPR infringing goods with the brand owners.
- Customs shares good practices and highlights significant cases with local agencies and overseas counterpart through international programmes.

**United States:**

- In the case of the United States, CBP employs more than 40,000 individuals tasked with enforcing the laws of the United States. In an ever-changing legal environment, and to effectively enforce these laws, significant consideration must be given to the workforce to ensure that it is knowledgeable about current policies and procedures. Therefore, CBP conducts recurrent field training for CBP personnel to facilitate the detection, seizure, and destruction of IPR-violating merchandise, as well as the legal entry of legitimate goods. To make the training effective, various customs experts collaborated to design an IPR training course that has been effectively deployed to many locations in the field. A representative of each office involved in the development of the field training participates by presenting material on how the office works with IPR-related issues. This training is conducted in one day, over the course of eight hours. The IPR training course also assists trainers by giving them direct contact with the field officers. Discussions with the officers allows trainers to gain knowledge about trends and other port specific issues or challenges from these front line personnel.
- On June 5, 2017, the United States launched the Truth Behind Counterfeits public awareness campaign. This campaign was developed to educate the traveling public about the legal, economic, and public health and safety impacts of IPR infringing merchandise. The campaign is currently located at six airports located throughout the United States. It will continue for eight weeks through the busy summer travel period in order to reach a maximum number of travelers. The campaign includes online ads on websites used by travelers while they are planning and booking their travel abroad.
- The United States works to get the message out to the public about the dangers of counterfeits by publishing press releases of significant seizures and operational efforts. These media alerts serve to educate the public about trends, dangers, and noteworthy

events that consumers should be aware of before purchasing items.

- CBP has a well-established webinar program that was developed for right holders to educate front line personnel about what to look for when making determinations about illegitimate goods. To promote the use of these webinars by rights holders, personnel at CBP contact rights holders who are recorded with CBP to see if they are interested in conducting one of these training sessions for the field personnel.

### **Enforcement Practices Examples:**

#### **Chinese Taipei:**

- Customs Risk Management Center and Information & Intelligence Center been established to collect information; analyze and assess the risk; target, monitor, and review suspicious shipments.
- Customs adopted the risk management system with regard to IPR cases. Based on the risk indicators such as mode of transport, way of concealment, country of origin, and description of goods, we established the strategic and organizational context in which risk management takes place. Then, we analyze and rank the risks to identify management priorities and suspect targeting. The frontline officers at the checkpoints will do the inspection according to the assessment, and report the result back to the risk management system.

#### **Japan:**

- In terms of the number of cases, goods sent by post account for more than 90% of suspension of IP infringing goods. Japan Customs has assigned IP specialists to all offices which deals with international postal items.
- Japan Customs has established IPR National Center for uniform implementation of IP border enforcement, which has special section for information collection and risk analysis.
- For investigation of IP crimes, Japan Customs has established a special unit within Tokyo Customs, which sometimes works closely with police for joint investigations and with the prosecutor's office for judicial procedures.

#### **Philippines:**

- There are two (2) modes of intervention adopted and employed by the country's Bureau of Customs in dealing with infringing/counterfeit goods. First is through the exercise of Border Control Measures which enable IPR Holders to lodge an application with competent authorities for the Suspension of Release by Customs authorities of goods which infringe on IPR. The basic work flow of which is as follows; (1) IPR Recordation (filing a continuing complaint), filing a specific complaint, and ex officio actions, (2) Issuance of Alert/ Hold Order, (3) Physical Examination, (4) Seizure, (5) Hearing, (6) Decree (Forfeiture of not), and (7) Disposition of the forfeited goods.
- Infringing and counterfeit items are concealed by importers through "layering packages:

(a particular object placed inside a box within a box/sack) placed in the middle or at the far end of the containers. They also use “co-mingling modus” where they mix violative goods with legitimate goods. IPRD counters such modus by conducting a 100% spot-checking of shipments under Alert Order.

- Last January 2017, an Alert Order was issued against Autumn Way Enterprises where counterfeit cell phones such as Samsung S7 Edge, iPhone 7 and cell phone batteries were confiscated. This was achieved through partnership with the brand owners who closely monitor and share vital intelligence reports with BOC agents and personnel.
- The second mode of intervention done by the Bureau is through the implementation of the Letter of Authority (LOA) issued by the Commissioner against owners of warehouses, storage houses and others who keep or store IPR goods therein. Through the LOA, agents of the Bureau can ask evidence of proper payment of import duties and taxes and upon apparent and discovered violation of the IP Code of the Philippines, said agents can act upon it.
- Last March 2017, the IPRD together with CIIS agents raided two warehouse buildings in Pasay City, which yielded big bulk of counterfeit goods bearing the marks of Nike, Tribal, Adidas, Under Armour, Vans, Gap, Lacoste, Tommy Hilfiger, Bench, Mossimo, Jag, Von Dutch, Lee, Superdry, Calvin Klein, among others.
- Last June 2017, another operation proved to be successful in terms of seizure and apprehension of IPR-related goods. It was conducted in Guiguinto, Balacan where a complex which houses unauthorized production and storage of counterfeit health and beauty products such as soaps, shampoos, liquid detergents, among others and cigarettes were seized. Some of the warehouses therein contain machines used for full manufacturing of the given items.

### **Singapore:**

- Under the **Lodgement of Notice** system, Right Holders can provide Singapore Customs with information to identify specific containers suspected of containing IP infringing goods. Customs is empowered to seize and detain the identified containers. The IP owner will be invited to inspect the detained containers and verify if there is any IP infringement goods. Where goods have been confirmed to be infringing IP, the IP owner can commence civil action against the importer or consignee of the goods.
- Customs can also take **ex-officio IPR enforcement** action on shipments suspected of carrying IP infringing goods. Such ex-officio action can be taken based upon information obtained from various sources, including IP owners, Customs authorities of other countries and members of the public.
- Customs has a risk management unit and a separate intelligence unit that work together to target illicit goods coming into Singapore. Other than risk management techniques, Customs also work closely with industry so that timely tip-off could be shared and acted upon.

- Customs continues to participate in regional and international joint-operations led by APEC, ASEM and WCO to fight against counterfeiting and piracy.

**United States:**

- In 2014, CBP created the concept of a Mobile Intellectual Property Enforcement Team (MIPET). These MIPET teams consist of subject matter experts from various offices in the agency, and are sent to work directly with the staff at ports of entry during an IPR enforcement operation. This is done with the goal of providing support to permanent port personnel where the operation is taking place. To date, CBP has conducted 24 MIPET operations. This has led to 4,700 seizures of IPR-infringing goods worth a total estimated value of \$119,714,790, had the goods been genuine. Given the success of this concept, CBP plans to continue to deploy these teams to assist in interdicting IPR-infringing items, including items that potentially can pose threats to national security.
- Due to the fact that counterfeit goods are increasingly being shipped via express consignment, CBP conducts special operations specifically designed to target illicit goods in the express environment. One recent example is an operation in express consignment that took place in March 2017. The operation occurred over the course of three days and resulted in 139 seizures with an estimate value of over \$1.6 million dollars, had the goods been genuine. The operation resulted in the seizure of a number of different goods, many of which posed health and safety concerns such as auto parts.
- In December 2015 hover boards were at hot item for holiday gifts. Many of them contained counterfeit parts that were causing fires and creating other safety hazards for the consumer. As a result of this industry fad, CBP focused on targeting hover boards coming into the country to ensure that items containing illegitimate batteries or other components that could cause safety concerns were not allowed to enter.
- Every year CBP participates in a significant operation in preparation for the Super Bowl to target jerseys, shoes, rings, and other items related to the event that consumers are interested in purchasing. The 2017 Super Bowl focused operation was conducted a few weeks prior to this major American sports event at two U.S. ports (three days at each port) and resulted in 330 seizures with an estimated value of \$3,241,364, had the goods been genuine.
- CBP established e-Allegations, an online tool to enable the trade community and the public to provide information to CBP on violations of trade laws, including violations of IPR laws. The public can report any suspected counterfeits by going to eAllegations on the CBP.gov website.