Asia-Pacific
Economic Cooperation

Final Report

SEMINAR ON IMPLEMENTATION OF BORDER MEASURES FOR IPR PROTECTION

Lima, Peru
5-7 October 2009

APEC Sub-Committee on Customs Procedures

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Part I.
BACKGROUND

Project Background

Trading on counterfeit and pirated goods infringing intellectual property rights is a threat not only for affecting right-holders but also for affecting Economies' health, security and growth.

Customs administrations as an entry and exit way of all kinds of goods are strategic to avoid entry of counterfeit and pirated goods. Hence international agreements on observance of intellectual property rights enable Customs administrations to assume an important role in control. Different developed Economies have successfully implemented features related to border measures from which best practices may be collected for acquaintance of developing Economies, especially in Customs administrations' role on observing border measures.

In this context this project aimed at strengthening ability to enforce aforementioned rules in IPR protection through a Seminar on best practices and procedures applicable in this matter by developed Member Economies' Customs administrations, which are already experienced in this field. Outcomes shall also be shared with Member Economies in order to disseminate best practices.

The main project activities were:

1. Train APEC Member Economies in implementation of border measures for intellectual property rights protection.
2. Develop a report on seminar outcomes including APEC Member Economies' Customs administrations best practices in implementing border measures for IPR protection.
3. Disseminate report among APEC Member Economies.

During the Seminar, Customs administrations collected information and exchanged experiences about following issues:

1. International legislation for observance of intellectual property rights.
2. Customs administrations' role in application of border measures.
3. Collaboration among Customs administrations, government agencies and business community.
4. Risk analysis as a tool for observance of intellectual property rights.
5. Best practices in application of border measures, experiences from Chile; Japan; United States; Republic of China (China); Hong Kong, China; Russia and Chinese Taipei Customs administrations.

The development of this project has shown that this kind of events, where participants can improve their knowledge, exchange experiences and identify best practices, is an effective method implemented by the Sub Committee on Customs Procedures (SCCP) to promote understanding among APEC Member Economies' Customs administrations.

Seminar Information

Delegates representing APEC Member Economies' Customs administrations attended the Seminar on Implementation of Border Measures for IPR Protection at the Nazca Room in the Radisson Decapolis Hotel in Lima, Peru on 5-7 October 2009.

This seminar was organized by the Peruvian National Superintendency of Tax Administration (SUNAT). A total of 52 representatives from Customs administrations and public sector of the following APEC Member Economies attended the seminar: Chile; People's Republic of China (China); Hong Kong, China; Indonesia; Japan; Malaysia; Papua New Guinea; Peru; Russia; Chinese Taipei; The United States and Viet Nam.

Experts on border measures and intellectual property from Chile, Japan and the United States Customs and from other public sectors such as the U. S. Patent and Trademark Office (USPTO), the Peruvian National Institute for the Defense of Competition and Protection of Intellectual Property (INDECOPI) and the Peruvian Ministry of Foreign Trade made presentations in the seminar. Moreover delegates from the People's Republic of China (China); Hong Kong, China; Russia and Chinese Taipei shared their economies' experiences in the application of border measures for IPR protection.

In this seminar, participants were able to learn how experienced economies have developed and applied their strategies against counterfeiting and piracy, the importance of information exchange among Customs administrations, the importance of cooperation between private and related public sector as a support tool in intellectual property rights' border protection, and the importance of international cooperation in this field.

In the table below we can appreciate the number of attendees participating in the meeting classified by economies. Such information also includes speakers.

Nº	APEC MEMBER ECONOMIES	NUMBER OF PARTICIPANTS
1	Chile	1
2	People's Republic of China (China)	2
3	Hong Kong, China	1
4	Indonesia	2
5	Japan	1
6	Malaysia	2
7	Papua New Guinea	2
8	Peru	35
10	Russia	1
11	Chinese Taipei	1
12	The United States	2
13	Viet Nam	2
Total Participants		**52**

Seminar Agenda

SEMINAR ON IMPLEMENTATION OF BORDER MEASURES FOR IPR ROTECTION
5 - 7 October 2009

Monday 5 October

08.30 – 09.00	PARTICIPANTS ARRIVAL AND REGISTRATION
09.00 – 09.10	Event Opening and Welcome remarks
09.10 – 09.30	Official Photograph
09.30 – 09.50	BREAK
09.50 – 10.05	Speakers presentation and workshop purpose
10.05 – 10.50	Session I: International legislation for IPR enforcement, Importance of IPR enforcement and TRIPs Border Measures Obligations Mr. Martin Moscoso Director of Copyright Office INDECOPI - Peru
10.50 – 11.00	Questions & Answers
11.00 – 11.50	Session II: Customs' role in the enforcement of IPR: Border IPR Enforcement, Procedures and International Cooperation Mr. David Brener Chief, IPR Operations Branch Office of International Trade U.S. Customs and Border Protection
11.50 – 12.00	Questions & Answers
12.00 – 14.00	LUNCH
14.00 – 14.50	Session III: Customs-Business Co-operation Mrs. Karina Castillo Direction of Customs Enforcement - Advisor National Customs Service - Chile
14.50 – 15.00	Questions & Answers
15.00 – 15.20	BREAK
15.20 – 16.10	Session IV: Best practices in Border Measures Experience in the implementation of Border Measures in Japan Mr. Eiji Nakayama Supervisory IPR Specialist IPR National Center Japan Customs
16.10 – 16.20	Questions & Answers

Tuesday, 6 October

09.00 – 09.20	Comments and summary of presentations made the day before
09.20 – 10.00	Session V: An overview of the legal and enforcement IPR framework in APEC Mr. Julio Chan APEC Director MINCETUR - Peru
10.00 – 10.10	Questions & Answers
10.10 – 10.30	BREAK
10.30 – 11.20	Session VI: Tools for IPR enforcement Risk analysis and Targeting Use of technology Identifying counterfeit goods Mr. David Brener Chief, IPR Operations Branch Office of International Trade U.S. Customs and Border Protection
11.20 – 11.30	Questions & Answers
11.30 – 12.10	Session VII: Best practices in Border Measures: Experience in the implementation of Border Measures in Chile Mrs. Karina Castillo Direction of Customs Enforcement - Advisor National Customs Service - Chile
12.10 – 12.20	Questions & Answers
12.20 – 14.20	LUNCH
	Session VIII: Best practices in Border Measures
14.20 – 15.00	Experience in the implementation of Border Measures in The United States Mr. David Brener Chief, IPR Operations Branch Office of International Trade U.S. Customs and Border Protection
15.00 – 15.10	Questions & Answers
15.10 – 15.25	Experience in the implementation of Border Measures in People's Republic of China Mr. Jie Sha IPR Specialist General Administration of Customs, P. R. China
15.25 – 15.30	Questions & Answers

15.30 – 15.45	Experience in the implementation of Border Measures in Hong Kong, China Miss. Wai Sim Yip Divisional Commander of Copyright Investigation Customs and Excise Department - Hong Kong, China
15.45 – 15.50	Questions & Answers
15.50 – 16.10	BREAK
16.10 – 16.25	Experience in the implementation of Border Measures in Russia Mr. Oleg Ashurkov Deputy Chief of Trade Restrictions, Currency and Export Control / IPR Protection Federal Customs Service
16.25 – 16.30	Questions & Answers
16.30 – 16.55	Session IX: Results of the USPTO-organized Workshop on Border Enforcement of Intellectual Property Rights, held in Honolulu, Hawaii in July 2009 Mr. Todd Reves Attorney-Advisor, Enforcement Team U.S. Patent & Trademark Office
16.55 – 17.00	Questions & Answers

Wednesday, 7 October

09.00 – 12.00	Study visit to Port of Callao Customs
12.00 – 14.00	LUNCH
14.00 – 14.10	Comments and summary of presentations made the day before
14.10 – 14.25	Session X: Best practices in Border Measures Experience in the implementation of Border Measures in Chinese Taipei Mr. Kuoping Huang Secretary of the Directorate General of Customs Chinese Taipei
14.25 – 14.35	Questions & Answers
14.35 – 15.35	Open Discussion Session: Current situation in application of Border Measures for the protection of the IPR in the APEC Framework
15.35 – 15.45	Questions & Answers
15.45 – 16.00	Concluding Remarks
16.00 – 16.20	BREAK
16.20 – 17.00	Seminar Closure

Welcoming and Opening Remarks

By
Mr. Carlos Ramirez Rodriguez
Associated National Superintendent of Customs
National Superintendency of Tax Administration (SUNAT)
5 – 7 October 2009

LIMA – PERU

Distinguished Delegates
Distinguished Speakers
Ladies and Gentlemen

It is an honor and privilege for the Peruvian Customs Administration to welcome you to Lima, where the Seminar on Implementation of Border Measures to IPR Protection will carry out and likewise I wish you a gratifying stay in this City of Kings.

With reference to our topic, we have to remark that trading on counterfeit and pirated goods infringing intellectual property rights is a threat not only for affecting right-holders but also for affecting Economies' health, security and growth. To deal with this main problem the World Customs Organization Intellectual Property Rights (IPR) Model Legislation is being developed to help member administrations enact border measures designed to protect intellectual property rights, without interfering with legitimate trade. This model legislation is intended to provide guidance to those customs administrations that are implementing intellectual property rights legislation for the first time and to those conducting legislative reviews or reforms. In this frame, being Customs administrations strategic entities to avoid entry and exit way of all kinds of counterfeit and pirated goods are obliged to assume an important role in control.

In addition, different developed Economies have successfully implemented features related to border measures from which best practices may be collected for acquaintance of developing Economies, especially in Customs administrations' role on observing border measures.

So, this seminar aims at strengthening ability to enforce aforementioned rules in IPR protection through knowing and sharing best practices and procedures applicable in this matter without forgetting the other key objectives which are to:

- Provide information on general aspects on border enforcement of Intellectual Property Rights.

- Promote experience exchange among Customs administrations in order to identify best practices related to implementation of border measure for IPR protection.

- Collect best practices in the implementation of Border Measures in order to elaborate a report on seminar outcomes which will be disseminate among Member Economies.

Of course, the outcomes of this seminar shall be shared with Member Economies in order to disseminate best practices so that we expect to collect the experiences from USA, Chile, Japan, Peru and other APEC members on the topic previously appointed.

Before finishing, I would like to thank the speakers and all of you for your attendance to this seminar and I also encourage you to provide all your efforts to ensure a successful and active participation that contributes to achieve the proposed goals.

Finally, I would to remember, dear colleagues, that with these kinds of activities we help, as customs' workers, our governments' efforts to have a better society not only for us but for our children, I think that this is our main goal.

Thank you very much.

Speakers' List

1. Name: Martin Moscoso
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4. Name: Eiji Nakayama
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5. Name: Julio Chan
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6. Name: Todd Reves
   Position: Attorney-Advisor of the Office of Intellectual Property Policy and Enforcement
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Speakers' Biographical Sketches

1. Martin Moscoso
Director of the Copyright Office
National Institute for the Defense of Competition and Protection of Intellectual Property (INDECOPI)

Mr. Moscoso is a lawyer graduated from the Pontifical Catholic University of Peru and holds a Master's degree in Law from Queen Mary University and Westfield College, London University.

He also was a professor in the Company Law Masters Course at UPC and in Law Sociology in Pontifical Catholic University of Peru. He is a member of the Peruvian National Council of Cinematography - CONACINE, the Overseer Council of Informatics Attestors, Multisector Committee on Domain Names and the Development Committee of Information - CODESI.

He has been technical secretary of the Consumer Protection Commission, member of the Ad Hoc Commission of the Chamber of Commerce and Production of Lambayeque, consultant in the Information Projects' Area and he has been Manager of Marketing and Communications of INDECOPI (National Institute for the Defense of Competition and Intellectual Property Protection). He is currently Director of the Copyright Office of INDECOPI.

He took part of the negotiations of International agreements between Peru and the United States, China, European Free Trade Association - EFTA related to copyrights issues.

2. David Brener
Chief, IPR Operations Branch, Office of International Trade
U.S. Customs and Border Protection

Mr. Brener holds a Bachelor of Science from the Northwestern University Illinois and a Master's degree in Business Administration from DePaul University Chicago, Illinois and other in Arts in Sociology from California State University Carson California.

He has more than 23 years of customs experience with U.S. Customs and Border Protection. At the beginning he was an import specialist, then he worked as an ACE specialist and served as Computer Services Liaison, Program officer of Pacific Region, Supervisory Import Specialist, and also was a National Account Manager, and since 1998 to present he has various assignments in office of International Trade at CBP Headquarters.

3. Karina Castillo
Senior Advisor of Direction of Customs Enforcement
National Customs Service – Chile

Ms. Castillo is a Public Manager graduated from University of Chile and has a Postgraduate Diploma in Public Direction granted by the Catholic University of Valparaiso.

She has been working for 12 years at the National Customs Service of Chile. She started working at the Directorate of Human Resources and subsequently at the Directorate of Fiscal Control as senior consultant in different matters of fiscal control management. She is currently Head of the Company Audit Unit.

4. Eiji Nakayama
Supervisory IPR Specialist, IPR National Center
Japan Customs

Mr Nakayama has more than 25 years of customs experience. Before his present position he worked as Supervisory Inspector at baggage section in Tokyo International Airport, Task Force staff of ASEM Customs Director General - Commissioner Meeting held in Yokohama, Special Officer for Customs Technical Cooperation in Tokyo Customs and Chief of Technical Cooperation Section of Customs and Tariff Bureau-Ministry of Finance.

5. Julio Chan
APEC Director - Peru
Ministry of Foreign Trade of Peru

Mr. Chang received his Ph.D. and Master in Political Science from City University of New York. He has a Master in Latin American Economic Developing and in Economy from the University of Boston.

He holds a bachelor degree in Economist from the Pontifical Catholic University of Peru.

He is an APEC Director in the Ministry of Foreign trade and Tourism.

He also is professor of International Politics.

6. Todd Reves
Attorney-Advisor of the Office of Intellectual Property Policy and Enforcement
United States Patent and Trademark Office

Mr. Reves is an Attorney-Advisor in the Office of Intellectual Property Policy and Enforcement at the United States Patent and Trademark Office in Alexandria, VA, where he works on policy issues concerning intellectual property enforcement, TRIPS compliance and WTO accession. His portfolio includes the Middle East and North Africa (MENA), Russia, Ukraine, Belarus, Central Asia, and the Caribbean Community (CARICOM). He also focuses on multilateral organizations such as the World Customs Organization and Interpol.

Prior to his joining the USPTO, Mr. Reves served as an attorney with U.S. Customs and Border Protection (CBP), specializing in IPR border enforcement and commercial fraud. Mr. Reves holds a B.A. degree from the University of Texas at Arlington, and a J.D. from Texas Wesleyan University School of Law in Fort Worth, Texas.

Part II.
SEMINAR DEVELOPMENT

Seminar Development

During the three-day seminar, experts from Chile, Japan, Peru and the United States presented to attendees issues relates to IPR such as international legislation, strategies to fight against counterfeiting and piracy, risk analysis and the economies' experience in the application of border measures. Also delegates from People's Republic of China (China); Hong Kong, China; Russia and Chinese Taipei shared with participants their economies' experience in the application of border measures for IPR protection. A summary on the presentations is detailed as follows:

PERU: TRIPS Border measures Obligations

The TRIPS Border Measures Obligations are meant to provide trust to right holders and other involved stakeholders. Border measures give flexibility to determine competent authority and for economies to implement and adapt theses rules to their national legislation on this matter. This is based on Article 51 from the TRIPS Agreement, in which it is established that members shall adopt procedures to enable a right holder to lodge an application in writing with competent authorities, administrative or judicial, for the suspension by the customs authorities of the release of goods provided that, the right holder has valid reasons for suspecting that the importation of counterfeit trademark or pirated copyright goods may take place. Furthermore, Members may also provide similar procedures for the suspension by the customs authorities of the release of goods suspected to be infringing intellectual property rights destined for exportation from their territories. Enforcement is enacted because setting principles of substantial rights provides concrete tools for stakeholders to obtain an effective protection, and potentially initiate an action to protect their intellectual property rights. Customs officers need to have proper tools to provide detailed information of goods to IPR owner or right-holders. Therefore there must be an adequate evidence to satisfy competent authority that there is an infringement and a detailed description of goods in order to be recognized by authorities.

The TRIPS Agreement includes provisions for the application of goods details; the security or equivalent assurance to protect the defendant and competent authorities and also to prevent abuse; the notice of suspension, including extensions and review of decisions; the compensation, in which the applicant shall pay the importer, the consignee and the owner of goods for any injury caused by a wrongful detention; the right of inspection, which gives the right-holder an opportunity to have any goods detained by Customs to be inspected in order to support the right holders' claims; the ex-officio action, in which authorities may require right holders to provide information and both the importer and the right-holder also should be promptly notified on the suspension; the remedies, in which competent authorities may order the destruction or disposal of infringing goods and authorities shall not allow re-export of infringing goods; the de minimis imports, which exclude small quantities of goods of a non-commercial nature contained in travelers' luggage or sent in small consignments. Finally, Customs authorities must jointly co-operate with other agencies related to the protection of intellectual property rights in order to fight against counterfeit and pirated goods.

THE UNITED STATES: Intellectual Property Rights Enforcement

Customs mission is to enforce law and protect borders and economy while promoting the flow of legitimate trade and travel. Counterfeiting and piracy are a global problem in all five continents. IPR enforcement focuses on products compromising safety and

security since they could be harmful to citizens. IPR enforcement is integrated into the work of several offices throughout CBP. People with different skills and types of training work together in the development of IPR enforcement policy and initiatives, the data analysis, the coordination and cooperation with other agencies and the risk management, among others. In the IPR Border Enforcement Process many offices are involved such as the Office of International Trade (OT), the Office of Field Operations (OFO), the Office of International Affairs and Trade Relations (INATR), the Office of Information Technology (OIT), the Office of Chief Counsel and U.S. Immigration and Customs Enforcement (ICE).

U.S. CBP has a multi-layered strategic approach to IPR enforcement using different types of processing addressed to find infringing goods and, at the same time, to ensure balance between this enforcement and facilitation. This strategic approach includes seizing fake goods at border using an IPR risk model to enhance identification and interdiction of counterfeit and pirated goods at the border, expanding their borders through international cooperation and audits of infringing importers, partnering with industry sectors and other government agencies to enhance IPR enforcement efforts, and the IPR targeting and risk analysis to reduce time-consuming examinations, delays and cost to importers.

Among the international objectives of the U.S. there is enhancing networks of border officials, sharing ideas and best practices, developing and implementing joint initiatives and building IPR enforcement capacity. Regarding international partners in IPR enforcement, CBP actively participates in the IPR working groups of several international organizations including the World Customs Organization, the G8, and APEC. CBP also has significant ongoing bilateral and multilateral initiatives such as a memorandum of cooperation with the People's Republic of China to strengthen the enforcement of intellectual property rights laws through exchange of information on seizures and trends, and effective enforcement programs; U.S. – European Union IPR Action Plan; G8 IPR projects; Security and prosperity Partnership Working group; among others.

With regard to IPR audits - post clearance, it increases the effectiveness by addressing counterfeiting and piracy at the organization level and shift focus from transactions or individual shipments to business engaged in trade in fakes. U.S. also highlighted the importance to work with industry as well as other agencies such as IPR center and IPEG, among others, and collaborate with right-holders on IPR training and sharing information on trends, and where appropriate, on individual cases of suspected IPR infringement.

CHILE: Cooperation for the Protection of Intellectual Property Rights in Chile

Coordinated actions among Customs administrations, other government agencies, and private sector are important in order to adequately face some challenges related to IPR protection such as: fast identification of original products by enhancing cooperation of right holders and developing customs officers skills; compatibility between control and facilitation of trade flow by developing more and better filters intellectual property, for which the collaboration of trademark owners is required, and maintaining fluid communication with trademark legal representatives to resolve any doubts; identification of changes that occur in the forms of counterfeiting; how to respond to the growth of the demands from the headlines and trademark legal representatives through commitment and responsibility of the headlines and trademark legal representatives and collaboration with effort of Customs and developing of consumer awareness in IPR matters through an strategic communication and community awareness.

It is important to strengthen the control strategy based on alliances between public and private sector and the control strategy based on close interaction between related public entities. Regarding cooperation with private sector, Chile mentioned that it was important to hold coordination meetings between Heads of Customs and representatives of private sector, which have enhanced the capability of control and strengthened cooperation and information flow with significant support for improving management in the area of IPR. It is also important to work jointly with police by exchanging information.

JAPAN: Border Measures for IPR Protection in Japan Customs

The risk management is important as a means to identify suspicious customs operations concerned with the trafficking of counterfeit and pirated goods. Japan has identified, with statistical analysis, new trends such as the use of customs declarations containing small amounts of goods, and the use of international postal service. The major part of these operations comes from China and Korea.

In past years the pirated and counterfeit goods were related to luxury goods but now pharmaceutical and tobacco trafficking is common. One of the reasons explaining seizures' growth of these kinds of products is the collaboration with the private sector involved in IPR matters.

Risk indicators may include shipment port, importer's record, location of the latter, description of the declared goods, destination of goods, origin of goods, place of delivery and distance between them, among others. Japan has a large infrastructure for non-intrusive inspection, including modern container scanners. More serious actions should be taken to efficiently accomplish measure and strengthen partnerships with other agencies responsible for IPR enforcement.

THE UNITED STATES: Intellectual Property Rights Enforcement Identification Techniques

The U.S. Customs operates by targeting and using a multi-layered approach and risk management. The United States uses many identification techniques such as targeting shipments for examination, which may be made automatically or manually by reviewing paper entry documents and doing warehouse sweeps. In this targeting technique, risk indicators may include: past seizure history; country of origin or export; commodities; importer, consignee, manufacturer or shipper data, description of goods and value.

In the examination field, customs verify concealment techniques such as infringing goods in the rear portion of freight and commingled infringing goods with non-infringing ones; select cartons for examination which may be damaged, dirty or reused, had no markings, handwritten markings or be heavier than should be or overly large for stated commodity; and scrutinize packaging while searching for inferior quality, failure to conform to marking requirements, lack of usual guarantee, warranty or literature, among others.

Within the risk management process, there are four steps to be followed in a continuous, multi-layered process: first, collect data and information, then analyze and assess risk, prescribe action, and track and report. A computerized risk model is used for risk analysis determining level of risk using indicators as past seizures, allegations and risk model. This model takes relevant information based on data fed into the

model, then it scores each criteria to determine what is the level of risk, then adds up the number of points establishing whether there is a risk or not. It is necessary to effectively and accurately target risk shipments gathering factors on high-risk importer, country and shipment in order to concentrate efforts in targeted shipments that would result otherwise in time-consuming and costly operations.

PERU: Intellectual Property Rights

Intellectual property rights are an important tool to promote innovation and creativity, recognition to the effort in time and other resources of innovators, and an element for the promotion of foreign trade and investment. APEC Member Economies establish policies for IPR protection and enforcement taking measures and legal framework to give right holders the elements to defend their rights against piracy and counterfeiting, and stress the importance for implementing proper measure for IPR enforcement.

Furthermore APEC Leaders and Ministers recognized that improved protection and enforcement of intellectual property rights contribute to the promotion of investment, innovation and economic growth, and in 2005, the Leaders agreed on the need to build on the APEC Comprehensive Strategy on Intellectual Property Rights in particular to reduce piracy, trade in counterfeit goods and online piracy, and increase cooperation and capacity building.

Within the framework of the IPEG, Member Economies are exchanging information on domestic legislation on IPR protection; identifying major problems affecting IPR such as border measures, on-line piracy and internet trade for illegal purposes; studying measures for an effective and adequate IPR protection; developing training courses for strengthening the capacity of different stakeholders such as right holders, authorities and the public in general; and suggesting guidelines, best efforts and initiatives on IPR enforcement in coordination with Customs agencies. IPEG also took measures to comply with Ministerial mandates establishing IPR Guideline Models, which aim at reducing trade and preventing the sale in counterfeit and pirated goods, providing effective public awareness campaigns on IPR, securing the supply chain and strengthen IPR capacity building. It is important that Economies show interest in receiving cooperation and information on best practices on IPR enforcement measures and it is also important to keep holding workshops, seminars, and other dissemination practices to enhance IPR awareness. IPR enforcement in APEC is a priority interest and has political support and mandate from Leaders. Finally the challenge for Customs is to develop a network among Economies for the collaboration and rapid exchange of information, and encourage and monitoring the implementation of guidelines issued under the IPEG.

CHILE: Experience in the implementation of border measures for the protection of intellectual property in Chile

The enforcement strategy has resulted in the adoption of a control program of intellectual property for customs risk with increasing results. The Risk Management Methodology has resulted in the creation of automatic filter selection and in a control strategy based on alliances between public – private sector, through the exchange of information, technical assistance and exercise of rights before the law. And in operational terms, it reflects on the selection of operations risk called filters, selection of operations demonstrated through analysis, training and development in cooperation with brand owners and their representatives, focusing resources and efforts at control points of greatest risk, partnership with other public and private: joint operations with

police, coordinating meetings with owners and representatives, and improving information and communication.

The intellectual property protection is a concern and responsibility at economy level, so it affects both the rights holders and public bodies involved in this field. The public-public and public-private partnership is an efficient strategy for intellectual property protection and the evaluation of the actions of the agencies responsible for intellectual property protection, on the implementation of border measures, is positive. Chilean experience has shown that certain aspects need to improve on current procedures such as in the process of building a new system of registration of representatives of owners of intellectual property rights with the Customs Office, which will facilitate communication and improve information on the parties; standardize the information that is available to the right holder, incorporating, inter alia, details of the product under the measure, and providing it the most expeditiously.

Furthermore, experience has shown the need for better regulations, for this reason, Chilean authorities are studying the amendments of Law in the following sense: in suspensions upon request, to establish an administrative mechanism for the application for suspension of release and the obligation to provide security; in suspensions ex-officio, to report to the prosecutor on the related offenses and implement general standards concerning seizures; and to provide for the possibility that the infringing goods may be donated with the consent of the right holder within the framework of an alternative outlet.

RUSSIA: Russian Customs protecting IPR. Legislation, Practice

Within Russia's legal framework, the list of protected objects includes trademarks, copyright and related rights, service marks, appellations of origin, and the ones that are not protected are patents, industrial designs, among others. There is a unified procedure for ensuring the protection of intellectual property rights by Customs authorities, including the procedure for filling application to suspend release of goods, requirements in respect of the content of such application depending on the type of intellectual property and the procedure for maintaining the register of intellectual property objects.

The right holder has the right to fill an application for action to suspend release of only those goods which contain objects protected by copyright and related rights, trademarks, service marks, appellations of origin and in respect of which the right holder has valid grounds to suspect that the carriage of such goods across the customs border may entail violation of the right holder's intellectual property right. Seizures on infringing goods may be hold ex officio by Customs and upon request by applicants.

This application shall contain data on the applicant, on the intellectual property object, on suspected counterfeit goods and on estimated duration of measures to suspend release of suspected counterfeit goods. The application must be accompanied by a security or equivalent assurance, and it shall be considered within one or two months. When the application is accepted, intellectual property objects are included into the Customs Register. No fee is charge to enter into the Register and it is published in Customs magazines and on the official web site.

Currently Russia is also changing the law for the better IPR protection adopting the first reading draft law on changes of Customs Code in ex officio action by suspending the release of goods upon customs own initiative if there is information about right holder and giving 7 working days plus 10 working days if right holder lodges an application

with Customs Service. Besides the ex-officio procedure's implementation into Customs Code of the Customs Union (Russia, Belarus, Kazakhstan) law is expected after 1 January 2010. Russia has planned future changes such as expanding the range of protected IPR objects, taking measures to control e-trade and catalogue trade and postal traffic, reviewing de minimis standards, reducing security obligations for right holders.

THE UNITED STATES: Stop Infringing Goods at the Border – Best Practices

The goal of the IPR risk model as an innovative tool is to enhance identification and interdiction of counterfeit and pirated goods at the border by improving IPR risk analysis and targeting. Customs is empowered to take actions such as detain, seize, forfeit and destroy IPR infringing goods, and issue and collect administrative, civil fines and penalties. As an ex-officio authority, Customs initiates border measures without the requirement of formal complaints by holders and covers inbound, outbound, and in-transit goods. Therefore Customs is the competent authority to make infringement determinations in IPR enforcement. United States highlighted the necessity of collaborating with right holders on IPR training and information sharing and use of efficient technologies to facilitate partnerships such as screening, the e-recordation program and the e-allegations process to report suspicion on infringements on line. An e-recordation system regarding trademarks and copyrights is beneficial for all stakeholders since recorded trademarks and copyrights are entitled to greater protection from Customs than non-recorded trademarks and copyrights. It allows right holders to electronically file IPR recordation applications, has on-line payment and eliminates paper records. Besides it is web-based, image capable and is updated nightly. Within its benefits there is enforcement of all types of IPR infringement, monetary fine applied to shipments of counterfeit goods and seizure disclosure information provided to right holder contact listed in IPR recordation database.

Customs enforces trademarks, copyrights, patents (only pursuant to International Trade Commission Exclusion Orders), trade names and trade dresses. Regarding IPR targeting and risk analysis, there is a need to sharpen focus on high-risk shipments to increase interdictions, reduce unproductive examinations of low-risk shipments, use IPR enforcement resources more efficiently and reduce delays and costs to importers in order to pursue the goal to balance enforcement and facilitation.

CHINA: China Customs Border Enforcement on Intellectual Property Rights

Chinese Customs comprises the General Administration of China Customs, 2 Supervising Offices in Tianjin and Shanghai, the Guangdong Sub – Administration, 2 Customs Educational Institutions and 41 Customs Districts, which include 568 Customs Houses or Offices adding up to more than 50000 officers (including Customs anti-smuggling police), 453 Customs control ports, and nearly 4000 Customs clearance control stations. The General Administration of China Customs is in charge of an IPR Division, which handles IPR Recordation and coordinates IPR Enforcement. On the other hand, the customs districts, through the Division of Legal Affairs, is in charge of 14 IPR Sections, which handle IPR enforcement, accept applications and conduct infringement case investigation while the Customs houses conduct the physical check supervision.

There are many regulations within the IPR legal framework such as the Customs Law, Regulations on Customs Protection of Intellectual Property Rights, Regulations on Implementing Customs Administrative Penalties, and Rules for Implementing the

Regulations on Customs Protection of Intellectual Property Rights. According to article 2 of the Regulations of the People's Republic of China on Customs Protection of Intellectual Property Rights, Customs protection of intellectual property rights in these Regulations means the protection provided by the Customs for the exclusive rights to use a trademark, copyrights and their related rights, and patent rights related to import or export goods and protected under the laws and administrative regulations of the People's Republic of China.

Customs exerted control over 2.4 billion tons of import & export goods (valued at 2.56 trillion U.S. dollars), supervised 360 million entries and exits of passengers and examined 240 million import & export parcels and couriers in 2008. China Customs also operated 13,140 actions for protecting intellectual property rights and has detained 11,135 shipments of suspected infringing goods.

In case of IPR infringement, China Customs may take action ex officio or pursuant to application of right-holders by suspending the release of goods. In suspension upon request, the right holder must pay a bond, equivalent to the value of the goods, in suspension ex officio, the IP owner needs to pay a bond in accordance with the following provisions: a) Value of goods < RMB 20,000: bond is equal to full value of goods; b)Value of goods between RMB 20,000 - 200,000: bond is 50% of value, but not less than RMB 20,000 and c) Value of goods > RMB 200,000: bond equal to 50% of the value with a maximum of RMB 100,000. There is also a Recordation System, in which applicants feed all necessary data on importers' trademarks and copyrights to be registered. This registration is valid for 10 years, renewable 6 months prior to expiry.

Customs fosters cooperation with other authorities by concluding agreements concerning IPR with foreign Customs, exchanging data and information, analyzing infringing trends, and holding joint training and seminars, among others. China will collaborate with APEC, private sector and other stakeholders to face challenges posed by IPR infringements.

HONG KONG, CHINA: Implementation of Border Measures in Hong Kong

In Hong Kong, China there is important legislation on IPR Protection as the Copyright Ordinance, the Trade Descriptions Ordinance and the Import and Export Ordinance. Within the Copyright Ordinance, there are provisions prohibiting import/export of infringing copyright work, prohibiting import/export of circumvention device and on power of search and detention of vehicle, cargo and persons at control point. Within the Trade Descriptions Ordinance as well there are provisions prohibiting import/export of counterfeit goods, on power of search and detention of vehicle, cargo, passengers at control points and power of arrest at control point. In the Import and Export Ordinance, there are also provisions licensing control on import/export of Optical Disc Mastering and Replication Equipment (ODMRE) and on power of arrest at control point.

The risk management goal is to balance facilitation of passenger/cargo flow and to fight against smuggling of infringing goods. It is important to take into consideration the risk indicators such as business reputation, precedence history, import / export declaration documents, among others. In order to effectively implement an intelligence support, there needs to be a dedicated major formation for collection, collation, analysis and dissemination of intelligence; a comprehensive and advanced intelligence systems and databases, and establish a highly credible informer recruitment and reward schemes, who will provide accurate and useful information on IPR infringement.

Customs contributes to a cross boundary cooperation taking advantage of a great logistic infrastructure by having a close relationship and tight cooperation with Guangdong Customs on intelligence exchange and cooperation and conducting parallel operations with Guangdong Customs to combat smuggling of infringing goods creating an effect on infringements across boundaries.

There also needs to be a multilateral cooperation specifically providing for a legal basis to provide information, dedicating major formation for coordination and cooperation with enforcement agencies of other places and sharing of current modus operandi of infringing crimes. Areas of cooperation may include exchange of intelligence, administrative assistance and joint operations in collaboration with mainland China. Customs also is in full compliance with the TRIPS Agreement where right owners apply detention order from court to prevent infringing goods going into free circulation.

THE UNITED STATES: Workshop on Effective Practices in the Border Enforcement of Intellectual Property Rights

The Workshop on Effective Practices in the Border Enforcement of Intellectual Property Rights was held on 20-23 July 2009 in Honolulu, Hawaii and it was organized and sponsored by several organizations such as the USPTO, WIPO, USCBP, State Department, APEC, ASEAN, OCEANIA and PIF, and had over 120 participants, including right holders from around the world. Some of the Agenda Items included TRIPS Border Measures Obligations; Industry Initiatives Against Counterfeiting and Piracy; Why Governments Protect and Enforce IPR: Policy Choices, Economic Models, Public Health and Safety Concerns, and the Importance of Intergovernmental Cooperation; Utilizing Technology Against Counterfeiting and Piracy; Building Effective Relationships Between Customs Officials and the Private Sector; Risk Assessment and Ex Officio Actions; Trends in Counterfeiting, Piracy and Smuggling; IPR Border Enforcement Case Studies; Industry Perspective: Challenges and Solutions in Combating Counterfeiting and Piracy; Global and Regional Anti-Counterfeiting and Anti-Piracy Initiatives: APEC, OCO, WCO, and the WIPO Advisory Committee on Enforcement; and Organized Criminal Activity and Trade in Counterfeit Hard Goods and Pirated Works: Challenges to Transnational Prosecutions.

The results reached in this workshop were a better cooperation among government agencies, a better regional and international cooperation – share intelligence, to build awareness with public, educate policy makers and work more collaboratively with rights holders. Governments' rights holders and international organizations put so much effort in conducting these programs because they have realized the severity of the problem and how it affects populations, and also to share best practices and raise awareness and capacity. The success of this kind of programs is measured by the impact as reported by participants as feedback from participants. Furthermore key to success is a better coordination among economies in import, export, transit and transshipment issues by working more collaboratively as well as training customs officers, right holders, police and even judicial authorities. Moreover every legal regime is different from each other but all of them should be related to the TRIPS Agreement.

CHINESE TAIPEI: Customs IPR Enforcement with Risk Management

Customs shall adopt Risk Management to promote effective and efficient enforcement while ensuring facilitation of legitimate trade. Customs IPR enforcement is based primarily on the ground of complaints made by right holders, upon an advice given by the right holder, licensee, agent or association and upon a notice given by other

authorities. It was highlighted that providing clear and transparent measures and fair and equitable procedures is important. Chinese Taipei mentioned that right holders should make determinations within 3 days on whether there is an infringement and importer/exporter shall submit proving documents within 3 days. Customs could suspends release of the goods in accordance with Article 90-1 of the Copyright Act, and notifies the right holder to provide security or initiates protective civil or criminal procedures or applies to the court for securitization proceedings so as to seize the goods. Regarding Ex-Officio Action, if Customs officers have prima facie evidence that an intellectual property right is being infringed during the course of duty, they may check the database whether there is complaint / advice made by right holders; Customs may check IP Office's database for right holders' information and Customs may ask right holders to assist in identifying goods suspected of infringement. Important subjects related to IPR were mentioned such as Patent, in which customs action are based on injunction made by judicial authorities, provision of detailed information of the goods involved by right holders; Copyright, in which if a Customs authority suspects from the appearance of imported or exported goods that there is an infringement, s/he will notify the right holder to assist in identifying whether it is being infringed, suspension of release of goods will take place if the importer/exporter fails to submit authorization documents or other proving documents within 3 days after Customs notification and Goods may be released if right holders do not apply for detention or file with the court for protection of rights; Trademark, in which goods will be referred to judicial authorities for further investigation if the importer/exporter fails to submit authorization documents or other proving documents, Goods may be released if right holders do not apply for detention or file with the court for protection of rights.

Chinese Taipei mentioned that the Eagle Eye Operation was developed, which is a Risk Management specifically designed for IPR Enforcement. Customs conduct risk assessment, which is based on information from trade history, seizure cases, complaint/advice of right holders, importer, Customs broker, source country, classification and information gathered domestically and internationally. Every express consignment should be inspected by X-ray. It is a six-layered enforcement line. An IPR information Database, in which right holders submit their complaints / advices, has been set up. This system provides online search for certain information, including pictures of fakes and authentic ones.

Chinese Taipei finally highlighted the importance of international and domestic inter-agencies cooperation in information sharing.

Part II.
PRESENTATIONS

Presentations' List

SPEAKER	SUBMITTED BY	SUBJECT
Mr. Martin Moscoso	National Institute for the Defense of Competition and Protection of Intellectual Property (INDECOPI) - Peru	TRIPs Border Measures Obligations
Mr. David Brener	U.S. Customs and Border Protection	Intellectual Property Rights Enforcement
Ms. Karina Castillo	Chile Customs	Cooperation for the protection of intellectual property rights in Chile
Mr. Eiji Nakayama	Japan Customs	Border Measures for IPR Protection in Japan Customs
Mr. Julio Chan	Ministry of Foreign Trade – Peru	Intellectual Property Rights
Mr. David Brener	U.S. Customs and Border Protection	Identification Techniques
Ms. Karina Castillo	Chile Customs	Experience in the implementation of border measures for the protection of intellectual property in Chile
Mr. David Brener	U.S. Customs and Border Protection	Stop Infringing Goods at the Border – Best Practices
Mr. Jie Sha	General Administration of Customs, P. R. China	China Customs Border Enforcement on Intellectual Property Rights
Ms. Wai Sim Yip	Customs and Excise Department Hong Kong, China	Implementation of Border Measures in Hong Kong, China
Mr. Oleg Ashurkov	Federal Customs Service Russia	Russian customs protecting IPR. Legislation, Practice
Mr. Todd Reves	U.S. Patent & Trademark Office	Workshop on Effective Practices in the Border Enforcement of Intellectual Property Rights 20-23 July 2009 / Honolulu, Hawaii
Mr. Kuoping Huang	Directorate General of Customs – Chinese Taipei	Customs IPR Enforcement with Risk Management

TRIPs Border Measures Obligations

Martín Moscoso, LLM

INDECOPI suma esfuerzos al servicio del mercado

Legal framework

- WTO TRIPS

General Provisions

- International treaties set a de minimis protection. It maybe extended by parties legislation.
- National treatment clause.
- Most favoured nation clause.

TRIPS Agreement

Part III: Enforcement of intellectual property rights.

- Section 1.General provisions.
- Section 2. Civil and administrative procedures.
- Section 3. Border measures.
- Section 4. Provisional measures.
- Section 5. Criminal procedures.

TRIPS Border Measures

- Art. 51 Members shall 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 good.

Definitions

- Counterfeit trademark goods. Any goods, including packaging, bearing without autorization a trademark identical or substantially similar.
- Pirated goods. Any copy made without consent of right holder or any duly authorized by right holder, in the country of production if reproduction is infringement in the importation country.

TRIPS Border Measures

- Members shall establish similar procedures for customs authorities to suspend export of goods suspected to be infringing IP rights.
- It is possible for parties to extend these border measures to other intellectual property rights infringements.

Application

- Adequate evidence to satisfy competent authority there is Prima facie an infringement.
- Detailed description of goods in order to be recognized by authorities.
- Notification of acceptance of application to the applicant.
- And the period for which the customs authorities will take action.

Security or equivalent assurance

- The competent authorities shall have the authority to require an applicant to provide a security or equivalent assurance sufficient to protect the defendant and the competent authorities and to prevent abuse. Such security or equivalent assurance shall not unreasonably deter recourse to these procedures.

Special Case

- industrial designs, patents, layout-designs or undisclosed information
- a decision other than by a judicial or other independent authority
- Ten days period expired without the granting of provisional relief by the duly empowered authority, and
- Goods may be released
- provided a sufficient security has been posted.

Notice and Duration of Suspension

- Notification to importer and to applicant.
- Term of ten working days to initiate procedure of infringement under competent authority or to obtain a provisional measure to extend suspension.
- Extension of ten days more in appropriate cases.
- Review upon request of the defendant.
- Competent authorities may order damages for inadequate suspension.

Indemnification

- Relevant authorities shall have the authority to order the applicant to pay the importer, the consignee and the owner of the goods appropriate compensation for any injury caused because of the wrongful detention.

Right of inspection

- To give the right holder sufficient opportunity to have any goods detained by the customs authorities inspected in order to substantiate the right holder's claims.
- An equivalent opportunity for the importer to have any such goods inspected.
- Where a positive determination has been made on the merits of a case, the authority to inform the right holder of the names and addresses of the consignor, the importer and the consignee and of the quantity of the goods in question.
- No prejudice to the protection of confidential information.

Ex Officio Action

- The competent authorities may require any from the right holder any information.
- The importer and the right holder shall be promptly notified of the suspension.
- Exemption for both public authorities and officials from liability if actions are taken or intended in good faith.

Remedies

- Competent authorities shall have the authority to order the destruction or disposal of infringing goods.
- In regard to counterfeit trademark goods, the authorities shall not allow re-exportation of the infringing goods in an unaltered state or subject them to a different customs procedure, other than in exceptional circumstances.

De minimis import

- Exclusion of small quantities of goods of a non-commercial nature contained in travelers' personal luggage or sent in small consignments.

Thanks

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indecopi

Intellectual Property Rights Enforcement

David Brener
Chief, IPR Operations Branch
Office of International Trade

APEC Seminar on Border Measures for IPR Protection
Lima, Peru,
October, 2009

U.S. Customs and Border Protection

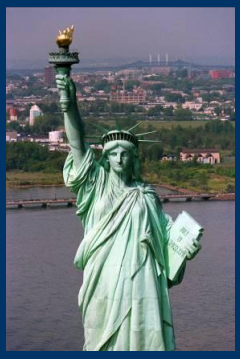
Agenda

1. Overview of CBP
2. Growing IPR Threats
3. IPR Border Enforcement Seizures
4. IPR Enforcement Authority
5. What IPR Does CBP Enforce?
6. Offices Involved in IPR Enforcement
7. IPR Enforcement Strategy
8. Contact Information

U.S. Customs and Border Protection

CBP's Mission

- To secure America's borders to protect the American people and our economy while promoting the flow of legitimate trade and travel.



U.S. Customs and Border Protection

A Challenging Task

- 327 Ports
- About 10 million sea containers
- Almost 31 million entries
- Over 11,100 kilometers of land border and 152,900 kilometers of shoreline
- 52,000 employees

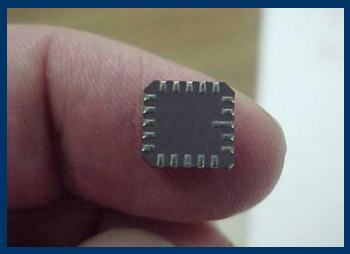
U.S. Customs and Border Protection

CBP Priority Trade Issues

- AD/CVD
- Agriculture
- **IPR**
- Import Safety
- Penalties
- Revenue
- Textiles and Wearing Apparel

U.S. Customs and Border Protection

Growing IPR Safety, Security, and Economic Threats



U.S. Customs and Border Protection

Who is Involved in the IPR Border Enforcement Process?

- Customs & Border Protection (CBP)
  - Office of International Trade:
    - IPR Policy & Programs
    - National Targeting and Analysis Group (NTAG) – Los Angeles
    - IPR & Restricted Merchandise Branch
    - Regulatory Audit
  - Office of Field Operations
  - Office of International Affairs
  - Office of Information & Technology
  - Office of Chief Counsel
- Immigration & Customs Enforcement (ICE)
  - National Intellectual Property Rights Coordination Center (IPR Center)

U.S. Customs and Border Protection

CBP IPR Enforcement Officials

- Attorneys
- International Trade Specialists
- CBP Officers
- Import Specialists
- Auditors
- Scientists

U.S. Customs and Border Protection

Strategic, Layered Approach to IPR Enforcement

- Stop infringing goods at the borders
- Expanding the border
- Partner with industry, other government agencies, and foreign governments

U.S. Customs and Border Protection

Stop Infringing Goods at the Border

- Innovative tools: IPR risk model
- Goal: Enhance identification and interdiction of counterfeit and pirated goods at the border by improving IPR risk analysis

U.S. Customs and Border Protection

IPR Targeting and Risk Analysis

- Sharpen focus on high-risk shipments to increase interdictions
- Reduce unproductive examinations of low-risk shipments
- Use IPR enforcement resources more efficiently
- Reduce delays and costs to importers

U.S. Customs and Border Protection

Expanding the Border

- International Cooperation
- IPR Audits

U.S. Customs and Border Protection

International Objectives

- Enhance networks of border officials
- Share information and best practices for enforcement
- Develop and implement joint initiatives
- Build IPR enforcement capacity

U.S. Customs and Border Protection

International IPR Initiatives

Ongoing bilateral and multilateral initiatives include:

- U.S. – European Union IPR Action Plan
  - Operation Infrastructure
- G8 IPR Projects
- Security and Prosperity Partnership (SPP) IPR Working Group
- World Customs Organization
- Anti-Counterfeiting Trade Agreement (ACTA)

U.S. Customs and Border Protection

IPR Audits – Post-Clearance Verification

- Increase effectiveness by addressing counterfeiting and piracy at the organizational level
- Shift focus from transactions / individual shipments to business engaged in trade in fakes
- Apply audit techniques to IPR enforcement

U.S. Customs and Border Protection

Partner with Industry

- Collaborate with right holders on IPR training & info sharing
- e-Recordation
- e-Allegations

U.S. Customs and Border Protection

Partner with Other Agencies

- Strategy for Targeting Organized Piracy (STOP!)
- National Intellectual Property Rights Coordination Center (IPR Center)
- Intellectual Property Enforcement Coordinator (IPEC)

U.S. Customs and Border Protection

Implementing the Strategy: Operation Cisco Raider

- Inter-agency and international partnerships: ICE, the Federal Bureau of Investigation, and the Royal Canadian Mounted Police
- Expand border outward: Focus on North American distribution networks of counterfeit Cisco network hardware equipment from China
- Results: CBP and ICE seizures of more than 74,000 counterfeit Cisco network components and labels with a total estimated retail value of more than $73 million
- Criminal prosecution of individuals and companies in the United States and Canada

U.S. Customs and Border Protection

Contact Us

- IPR Policy and Programs Division, Office of International Trade, email iprpolicyprograms@dhs.gov
- www.CBP.gov, search for “IPR”
- Stopfakes.gov

U.S. Customs and Border Protection

U.S. Customs and Border Protection

Our Mission

We are the guardians of our Nation's borders.
We are America's frontline.
We safeguard the American homeland at and beyond our borders.
We protect the American public against terrorists and the instruments of terror.
We steadfastly enforce the laws of the United States while fostering our nation's economic security through lawful international trade and travel.
We serve the American public with vigilance, integrity and professionalism.

GOBIERNO DE CHILE
SERVICIO NACIONAL DE
ADUANAS

Intellectual Property:
Customs - Private Sector Cooperation

Lima, October 2009

Some challenges

1. Strengthen the rapid identification process (from the simple examination) of original products from those infringing DPIs.

   How to meet this challenge?

   Increase the cooperation among rights' holders (including characteristics of the products as well as their practices, importation and transportation, for example).

   Develop responsibilities among enforcement staff.

GOBIERNO DE CHILE / SERVICIO NACIONAL DE ADUANAS

Some challenges

2. Make compatible the enforcement action and the detection of IPR offences with the smooth flow of trade.

   How to meet this challenge?

   Develop more and better filters for intellectual property, for which the collaboration of the owners of a mark is required.

   Maintain seamless communication with representative of marks in order to clarify doubts.

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Some challenges

3. In a dynamic environment, ensure the evolution of strategies as the way to forge evolves.

¿How to meet this challenge?
Allocation of resources at proper levels.

Cooperation with private sector and related agencies.

GOBIERNO DE CHILE / SERVICIO NACIONAL DE ADUANAS

Some challenges

4. Response capacity to increasing demands from holders.

How to meet this challenge?
Allocation of resources at proper levels

Holders' commitment and responsibilities in their requests.

Collaboration with Customs efforts (get part in cases, apart from the amount).

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Some challenges

5. In conjunction with other agencies, to carry out actions in order to develop consumer awareness in this area, replacing the “social values” involved.

   How to meet this challenge?

   Communicational and awareness-rising strategy for community

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The foregoing leads to a:

- **Control strategy based on public – private partnerships.**
- **Control strategy based on the close interaction among related public agencies.**

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Instances of cooperation and coordination in Chile

Private Sector

- Representatives of Marks (16 accredited legal studies)
- ACHIPI (Chilean Association of Industrial Property)
- Chile IFPI (International Federation of the Phonographic Industry)
- MPA (Motion Picture Association)
- Chilean Book
- Association of Importers of Perfumes and Cosmetics

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Co-operation with private sector

- Customs conferences on Intellectual Property with participation of private –public sector carried out in 2007.
- Different training workshops to identify goods.
- Coordination meetings between Heads of Enforcement of local Customs and lawyer's offices representative of known marks in order to coordinate actions against a possible release suspension.
- Meeting on coordination, relationship and information delivery concerning exporters, forfeiters of marks, between the Enforcement Directorate and lawyer's offices representatives of known marks, in order to identify related risks, recognized infringers, regular port of entry for goods, origin, etc.

These coordination meetings have improved the enforcement capacities and have strengthened the flow of information, being an important support to management improvement in AIE of Intellectual Property.

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As an example, year 2009

- Workshop on identification of goods, CISCO SYSTEMS LATIN AMERICA, held on 26.06.09, Santiago, with the participation of officers from Metropolitan, San Antonio , Talcahuano and Valparaiso Customs. The Director has been the manager of this activity.
- Workshop on goods identification to be held in October in conjunction with SONY COMPUTER & ENTERTAIMENT USA, for the segment " Play station and Vaio".
- Second Customs Conference on Intellectual Property, to be held in October 2009.

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Co-operation with public agencies

Coordination : Public Prosecutor, PDI (Chile's investigative police), SII (Internal Revenue Service), etc.

Joint actions: PDI.

Exchange of information: PDI, INAPI Intellectual Property National Institute), others.

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Joint actions…

Joint work with PDI, which arises from the coordination, information sharing and the sum of powers of each Institution to act in primary and secondary zones respectively.

- Detection of suspect shipment, whether in primary zone or product of a customs analysis.
- The police is notified in order to act in secondary zone.

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Recent Outcomes of Joint Actions (July – August 2009)

Place	Seizure	Commercial Value
Commercial Center of Viña del Mar city	Famous Brands Apparel	US$70.000
Commercial establishment and M & K Storeroom, in the sector of Meiggs district	104,000 units of toys that infringed the Intellectual Property Law	US $700.000
Container M & K	108,000 units of toys that infringed the Intellectual Property Law	US $1.400.000
Commercial establishment and Bonite Storeroom, in the sector of Meiggs district	10,000 units of toys that infringed the Intellectual and Industrial Property Law	US $540.000

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Border Measures for IPR Protection in Japan Customs

APEC Seminar on Implementation of
Border Measures for IPR Protection
5 - 7 October 2009, Lima, Peru

Eiji NAKAYAMA
Supervisory IPR Specialist
IPR National Center, Japan Customs

1

Outline

1. Seizure Statistics

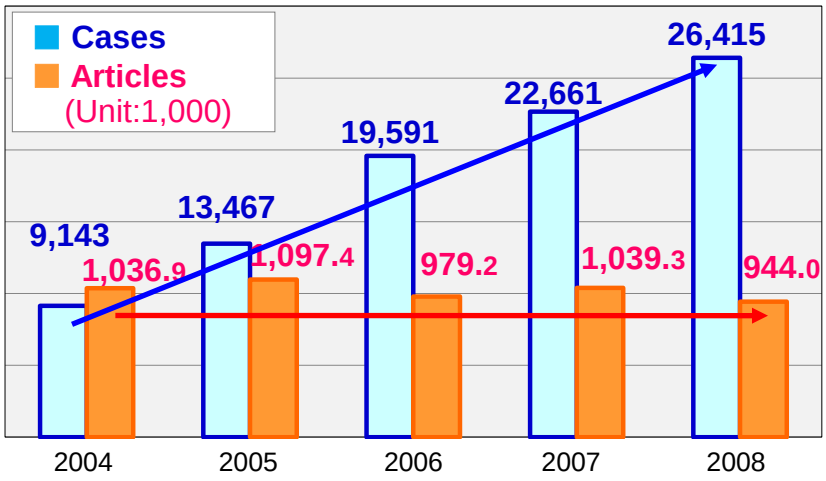
   in Japan Customs, 2008

2. Risk Management

2

1. Seizure Statistics

【 IPR Seizures (import) 2004-2008 】

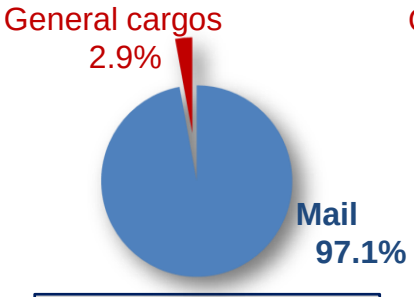


Remarkable increase of small-lot consignments

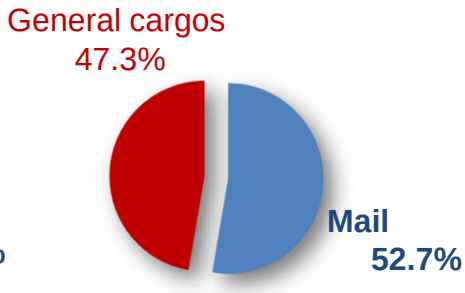
3

1. Seizure Statistics

【 Breakdown by type of transportation in 2008 】



seizure cases
total : 26,415



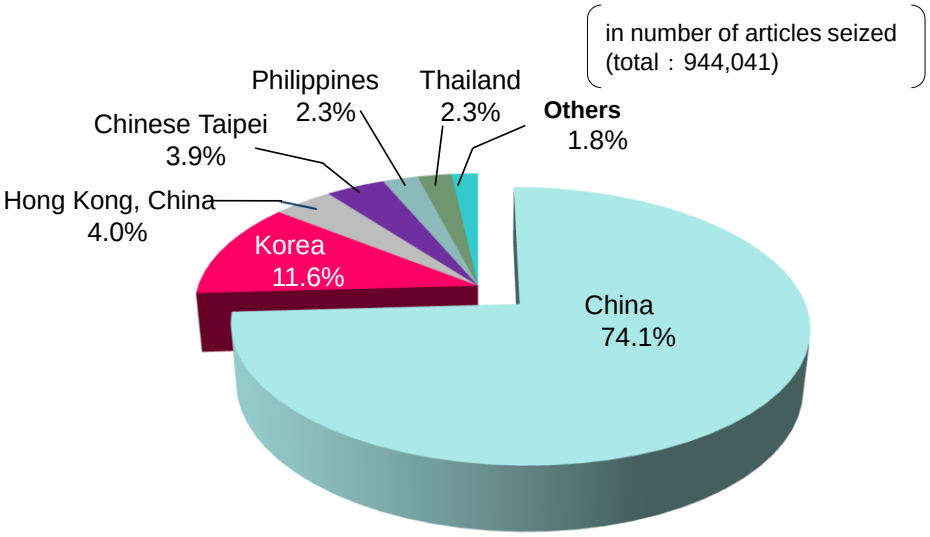
articles
total : 944,041

- Online purchase
- Sent from overseas by mail in a small-lot consignments

4

1. Seizure Statistics

【 Breakdown by Shipping Economy and Territory in 2008 】



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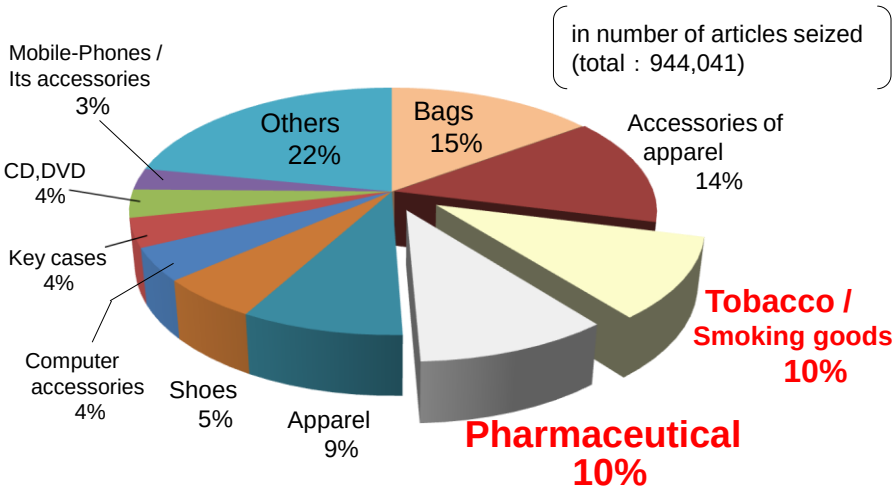
1. Seizure Statistics

【 Breakdown by type of Commodities in 2008 】

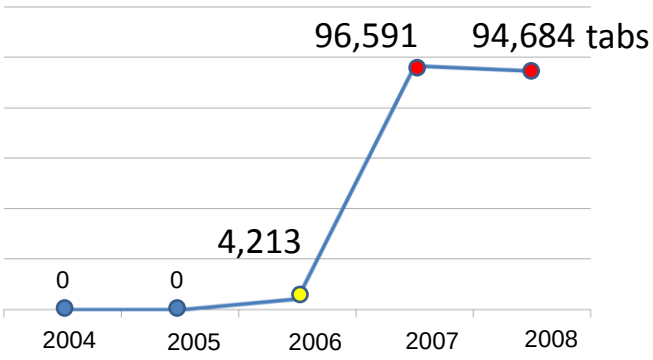


pose consumers' health & safety risk

6

1. Seizure Statistics

【Health and Safety Threat －Fake Pharmaceutical－】



7

Julio Chan
Ministry of Foreign Trade and Tourism
MINCETUR
October 6th., 2009

- Intellectual property rights
  - A tool to promote innovation and creativity
  - Recognition to the effort in time and other resources of innovators
  - An element for the promotion of foreign trade and investment

- Economies establish policies for:
  - Protection
    - IPRs registration systems (dynamic and transparent systems)
  - Enforcement
    - Measures and legal framework to give right holders the elements to defend their rights against piracy and counterfeit

- Economies stressed the importance for the implementation of effective and adequate measures for the enforcement of IPRs

- Ministerial Declarations
  - Recognize the importance to take further steps to stop the proliferation of counterfeited and pirated goods (2008)
  - Reaffirms that Ministers recognized that the protection and enforcement of Intellectual Property Rights (IPR) is essential to building a knowledge-based economy and are key factors for boosting economic development (2005)

- Leaders and Ministers recognized that improved protection and enforcement of Intellectual Property Rights contribute to the promotion of investment, innovation and economic growth

- in 2005, the Leaders agreed on the need to build on the APEC Comprehensive Strategy on Intellectual Property Rights in particular to reduce piracy, trade in counterfeit goods and online piracy, and increase cooperation and capacity building
  - **Important commitment** at political level, during the last years. All the Ministerial Declarations include a reference to IPRs enforcement

- Within the framework of the IPEG, the Economies have been working on:
  - The exchange of information about Economies´ domestic legislation on IPRs enforcement

  - The identification of the major problems affecting the enforcement of IPRs
    - Border measures
    - On line piracy/internet trade
      - Use of technology for illegal purposes
    - Information networks among competent authorities
  - To study measures for the effective and adequate protection of IPRs

- To develop training courses for strengthening the capacity of different agents of the process such as:
  - Right owners/right holders
  - Authorities/officials
    - IPRs competent authorities
    - Customs authorities
    - Prosecutors
    - Judges
  - Consumers/public in general

- To suggest guidelines and best efforts initiates on the IPRs enforcement
  - On the basis of cooperative actions, but not binding measures
  - However, IPEG encourages Economies to implement those guidelines

- Anti-counterfeiting and piracy initiative-2005
- Objectives:
  - Reducing trade in counterfeit and pirated goods
  - Reducing online piracy
  - Increasing cooperation to stop piracy and counterfeiting
  - Increasing capacity building to strengthen anti-piracy enforcement. This initiative will be one of the most important deliverables this year.

- Very important:
  - Capacity building actions on:
    - Development of legislation
      - On the basis of the TRIPS Agreement provisions on enforcement
    - Implementation of these legislations
    - Training

- IPEG took some measures to comply with Ministerial mandates establishing some IPR Guidelines Models, to:
  - Reduce trade in counterfeited and pirated goods
  - Protection against unauthorised copies
  - Prevent the sale of counterfeited and pirated goods over the internet
  - Provide effective public awareness campaigns on IPR
  - Secure supply chains against counterfeited and pirated goods
  - Strengthen IPR capacity building

- Economies have been very active during the last years organizing activities in order to reinforce the work within the IPEG:
  - Seminars
  - Workshops
  - Courses
  - Dissemination of practices from offices with mayor experience on the application of enforcement measures

- Enforcement in APEC
  - Priority interest
  - Political support and mandate from Economies´ Leaders
  - Multiple initiative from Economies to share and exchange information

  - Interest from the Economies to receive cooperation and information on best practices on IPRs enforcement measure
  - Takes into consideration the level of development and the resources of each particular Economy

- Ongoing Agenda
  - Updated according innovation and technology
    - Measures to combat satellite signal theft
- Challenge
  - To develop a network among the Economies for the collaboration and fluid exchange of information
  - To encourage and monitoring the implementation of the guidelines issued under the IPEG

Department of Homeland Security
Intellectual Property Rights Enforcement
Identification Techniques

Lima, Peru

October, 2009

U.S. Customs and Border Protection

Targeting

- Shipments selected for examination
  - Automated
  - Manual
    - Review of paper entry documents
    - Warehouse sweeps

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Warehouse Sweep

U.S. Customs and Border Protection

3

…can lead to:

U.S. Customs and Border Protection

Counterfeit Philip Morris "Marlboro" Brand Cigarettes

4

Targeting

- Risk indicators include:
  - Past seizure history
  - Country of origin or export
  - Commodity/tariff numbers
  - Name/address of importer or consignee
  - Name/address of manufacturer/shipper
  - Description of goods
  - Value

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Targeting

- Smuggling and Circumvention Techniques
  - Misdescription/ misclassification
  - Commingled goods
  - Generic goods
  - Frequent small shipments to minimize detection

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Examination

- Concealment Techniques
  - Violative goods in the rear portion of freight
  - Commingled goods violative with non-violative
- Selecting Cartons for Examination
  - Damaged, dirty or reused
  - No markings, handwritten markings
  - Heavier than should be or overly large for stated commodity

U.S. Customs and Border Protection

7

Examination

- Scrutinizing Packaging
  - Inferior quality, workmanship
  - Failure to conform to marking requirements
  - Lack of usual guarantee, warranty or literature
  - Goods imported prior to official release date in the US
  - No genuine article or version exits of that article

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Misdescription or no description

Invoiced as “Documents”

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Passenger

Passenger luggage

What could be inside

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Passenger

Stampers: master disk that can produce thousands of copies

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11

Commingled: Good hiding Bad

Commingled infringing and generic labels

Bootleg CD's packed under 2 rows of non-infringing CD's

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Assembly After Importation

Shipment one: generic bags arrive via ocean container

Shipment two: infringing goods arrive via mail

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Assembly After Importation

Shipment One: unfinished watches shipped to Joe Smith on Main Street

Shipment Two: infringing parts shipped to Jane Brown on Main Street

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Concealment

Adhesive generic label covering protected trademark

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Concealment

Generic plastic covering concealing “FENDI” trademark

U.S. Customs and Border Protection

16

Concealment

Extended ear piece covering “OAKLEY” trademark

U.S. Customs and Border Protection

17

Concealment

Generic covering concealing “DURACELL” trademark

U.S. Customs and Border Protection

18

Concealment

Generic covering that snaps off, revealing trademark

U.S. Customs and Border Protection

19

Concealment

Generic paper covering “CALVIN KLEIN” trademark

U.S. Customs and Border Protection

20

Concealment

Generic label covering “THE NORTH FACE” trademark

U.S. Customs and Border Protection

21

Concealment

Generic metal piece concealing “FENDI” trademark

U.S. Customs and Border Protection

22

Concealment

Infringing goods sewn inside generic goods

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23

Concealment

Concealment using marking label

U.S. Customs and Border Protection

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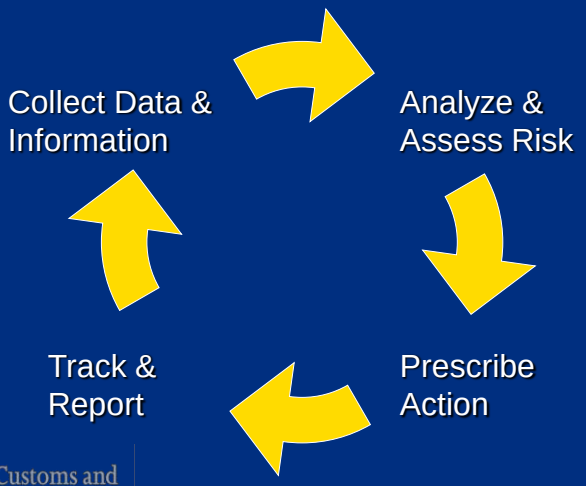
Risk Management Process



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Risk Analysis

- Level of risk determinations
  - Past Seizures
  - Allegations
  - Risk Model

U.S. Customs and Border Protection

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Risk Analysis - Indicators

COMPANIES

- Importer
- Manufacturer

SHIPMENT DETAILS

- Country of origin
- Port of entry
- Conveyance type
- Commodity
- Value
- Entry type

U.S. Customs and Border Protection

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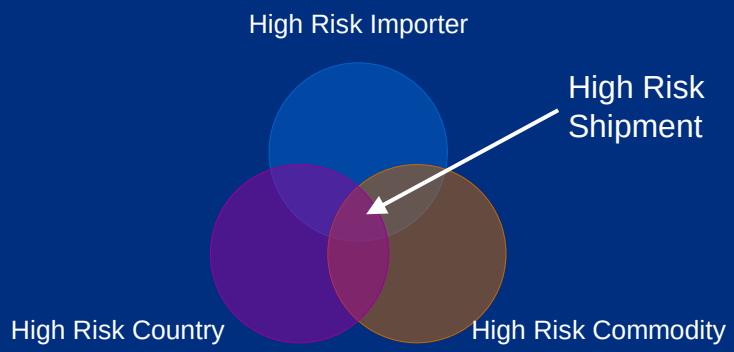
Risk Analysis - Targeting



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U.S. Customs and Border Protection

IPR Legislation

- Law 17,336 on Intellectual Property.
- Law 19,039 on Industrial Property.
- Law 19,912: adjusts the legislation to the WTO Agreements signed by Chile.
- Customs Ordinance, Customs Organic Law and instructions of application of Law 19,912.

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Powers of the National Customs Service: Border measures

- Art. 6 - 13 (and18): Proceeding upon a petition of one of the parties.
- Art. 14: Right of inspection and information.
- Art. 15: Prohibits the re-exporting or any other customs destination for infringing goods.
- Art. 16: Customs' powers to act E*x-Officio*.
- Art. 17: Excludes goods of non-commercial nature and those under the concept of luggage.

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Powers of the National Customs Service: Border Measures

- The Regional Director or Customs Administrator issues a Resolution showing the reasons and disposes the detention of the goods.
- The right holder is notified of the alleged infringement, so as he/she can request the suspension by Customs of customs clearance for the infringing goods.
- A formal complaint, according to the law, is filed.
- A bailee of the goods is appointed and may not be able to sell, dispose or transfer the goods on whatever grounds, or consume or use them, while the release has not been determined.
- All Customs offices of the country and the Customs Enforcement Directorate are formally and immediately notified.

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Powers of National Customs Service: Border measures

- Border measures, … *"… where a simple physical examination of goods becomes evidence that such goods are a counterfeited trademark or that they are infringing copyrights."*
- Interruption of customs clearance for goods infringing on:
  - Copyrights
  - Trademarks
  - Other IPRs.
- Applicable on customs clearance

INTERRUPTION OF CUSTOMS CLEARANCE.
***Ex – OFFICIO* PROCEDURE BY CUSTOMS ADMINISTRATION** GO

INTERRUPTION OF CUSTOMS CLEARANCE.
PROCEDURE UPON A PETITION BY ONE OF THE PARTIES GO

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Relationship with holders

- **INFORMATION**
- **TECHNICAL ASSISTANCE**
- **PRACTICE OF THEIR RIGHTS BEFORE COURTS OF JUSTICE**

The owners of copyrights and trademarks give details of their representatives to the Customs Service in order to be notified of any decision taken in relation to their intellectual or industrial right.

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Co-ordination with other agencies

Co-ordination with:

- Regulatory or law enforcement agencies (DPI, SII, Police)
- Private agencies related to the protection of trademark rights (IFPI, SCD, ADV etc)
- Right holders
- International and regional agencies (…examples)

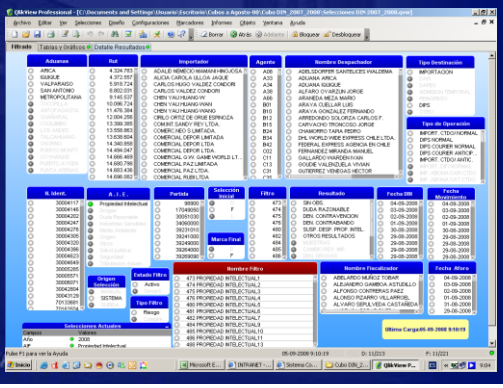
Enforcement Strategy

Enforcement Strategy

- **Inclusion of intellectual property as Area of strategic importance, which is an urgent matter.**
- **It has been resulted in the approval of the "enforcement program on intellectual property" within risk customs offices, with increasing results specially within Iquique and Valparaíso Customs (see results 2006-2008).**

Enforcement Strategy

- Through Risk Management Methodology:
  - Development of targeting variables
  - Identification of infringing cases
- It has been resulted in the development of automatic targeting (11 in operation, to date).



Enforcement Strategy

- Control strategy based on public-private partnerships through data exchange, technical assistance and exercise of rights to justice.

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Enforcement Strategy

- The approach of our complaints has been improved: application of other criminal types (offences against the legal authority, human security and health, consumer protection and smuggling).
- Complaints on smuggling have been filed to the Public Prosecutor's Office.

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In operational terms…

- Identification of risk operations through automatic filters (mainly of subjective nature).
- Identification of operations through manifest analysis.
- Training and development in cooperation with trademark holders and their representatives.
- Centring of attention on resources and efforts in higher-risk control points.
- Alliances with other public-private agencies: Joint operations with the police, co-ordination meetings with holders and representatives, etc.
- Information and communication improvement.

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Number of clearance suspensions 2006-2009 (*ex officio*)

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Actual value of detained goods 2006 - August 2009

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Main affected brands (2009) per type and value of goods (above US$ 1 million)

Brand	Total (US$)	Products
CHANEL	12,755.200	Handbags and Sun glasses
PRINCESS (DISNEY)	2,959.560	Toys, Rucksacks and Clothes
LOUIS VUITTON	2,870.275	Handbags, Suitcases, Shoes and Watches
BARBIE (MATTEL)	2,358.302	Toys, Rucksacks and Clothes
EMPORIO ARMANI	1,679.200	Clothes
POLAROID	1,643.550	Sun-glasses
DISNEY	1,535.987	Toys, Rucksacks, Clothes and Watches
MIU MIU (PRADA)	1,528.800	Handbags and Sun-glasses
BEN 10	1,469.196	Toys, Rucksacks and Clothes
FERRARI	1,300.860	Watches
PRESTOBARBA MAX II (GILLETTE)	1,143.450	Razors
ARMANI	1,097.400	Clothes, Handbags, watches
HELLO KITTY	1,092.918	Toys, Rucksacks and Clothes
DOLCE & GABBANA	1,074.750	Handbags and Sun-glasses
CASIO	1,050.000	Watches

The good is valued at retail price of original goods according to WCO guidelines

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Outcomes

- The protection on intellectual property constitutes an issue of concern and responsibility at country level, affecting both right owners and public agencies involved in this area.
- In relation to Border Measures, Chile has satisfactorily fulfilled its international commitments and it will continue on this way.
- The public-public and public-private partnership is an efficient intellectual property protection strategy.
- The evaluation of the performance of the bodies in charge of intellectual property protection, in respect of application of border measures, is positive.

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Outcomes

- The complaint approach has been improved in the sense of applying the crime type of smuggling. In addition to collecting evidence for applying other crime types (such as offences against the legal authority, human security and health, and consumer protection).
- The experience has demonstrated that its is necessary to improve certain aspects in the current procedures:
  - A new registration system of representatives of holders of the IPRs before Customs is under development, which will speed up communications and improve the information to the Parties.
  - Standardize the information made available to the holder's right by Customs, including, among others aspects, details of the product being measured, and give it through the most expeditious way.

GOBIERNO DE CHILE / SERVICIO NACIONAL DE ADUANAS

Outcomes

- Likewise, the experience has demonstrated that there is a need to improve the regulation, for which the authorities from the Finance Ministry have been asked to study the amendments of Law 19.912, in the following sense:
  - In suspensions upon a petition of one of the parties: to establish an administrative mechanism to lodge an application for the suspension of the release and the obligation to furnish security.
  - In suspensions ex officio: to report to the Public Prosecutor's Offices on the related offences (and implement general standards concerning seizures).
  - The possibility of donating the infringing goods with the consent of the right's holder under an alternative way out provided for in the Criminal Procedure Code is considered.

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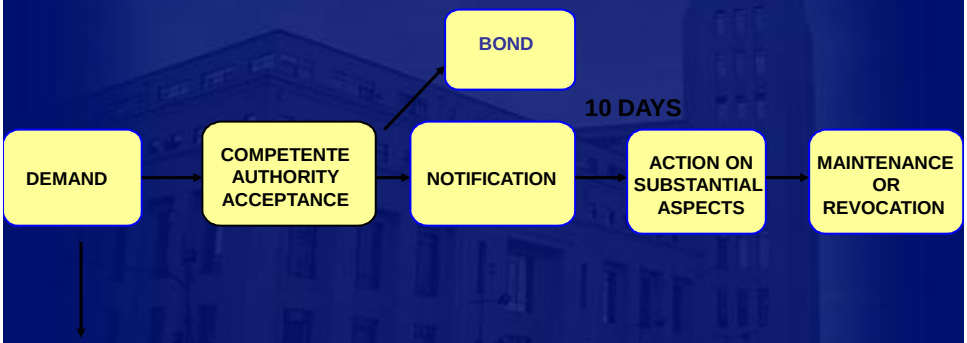
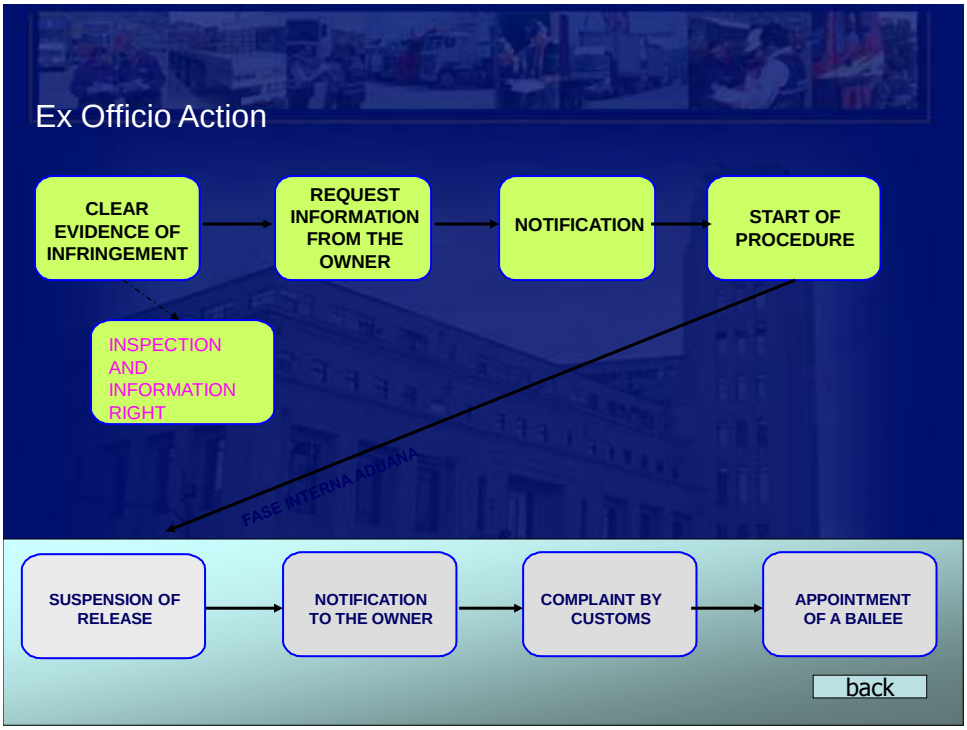
Protection Pursuant to Application



REQUIREMENTS:
- **OWNERSHIP**
- **PROOFS**
- **DESCRIPTION OF GOODS**

back

GOBIERNO DE CHILE / SERVICIO NACIONAL DE ADUANAS



Stop Infringing Goods at the Border – BEST PRACTICES

- Innovative tools: IPR risk model
- Goal: Enhance identification and interdiction of counterfeit and pirated goods at the border by improving IPR risk analysis

U.S. Customs and Border Protection

Role of CBP in IPR Enforcement

- ***Ex-officio Authority*** - Initiate border measures without the requirement of formal complaint / petition from rights holder
- Detain, seize and forfeit IPR infringing goods
- Issue and collect administrative, civil fines and penalties
- ***Refer cases to U.S. Immigration and Customs Enforcement and assist criminal investigations***

U.S. Customs and Border Protection

CBP's IPR Enforcement Authority

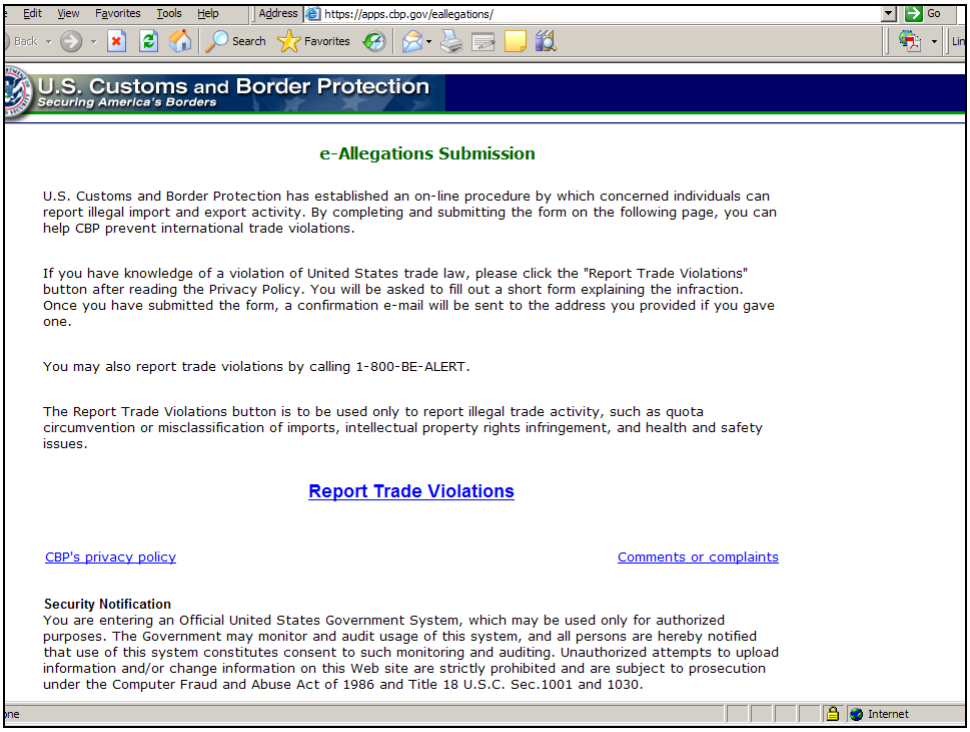
- CBP has the civil administrative authority to detain, seize, forfeit and destroy IPR infringing goods
- CBP's authority over IPR infringing goods covers inbound, outbound, and in-transit goods
- CBP is the "Competent Authority" to make infringement determinations
- Ex-officio Authority - Initiate border measures without the requirement of formal complaint / petition from rights holder

U.S. Customs and Border Protection

Partnering with Industry

- Collaborate with right holders on essential IPR training & info sharing
- Technology to facilitate partnerships

U.S. Customs and Border Protection



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Back Search Favorites

U.S. Customs and Border Protection
Securing America's Borders

e-Allegations Submission

U.S. Customs and Border Protection has established an on-line procedure by which concerned individuals can report illegal import and export activity. By completing and submitting the form on the following page, you can help CBP prevent international trade violations.

If you have knowledge of a violation of United States trade law, please click the "Report Trade Violations" button after reading the Privacy Policy. You will be asked to fill out a short form explaining the infraction. Once you have submitted the form, a confirmation e-mail will be sent to the address you provided if you gave one.

You may also report trade violations by calling 1-800-BE-ALERT.

The Report Trade Violations button is to be used only to report illegal trade activity, such as quota circumvention or misclassification of imports, intellectual property rights infringement, and health and safety issues.

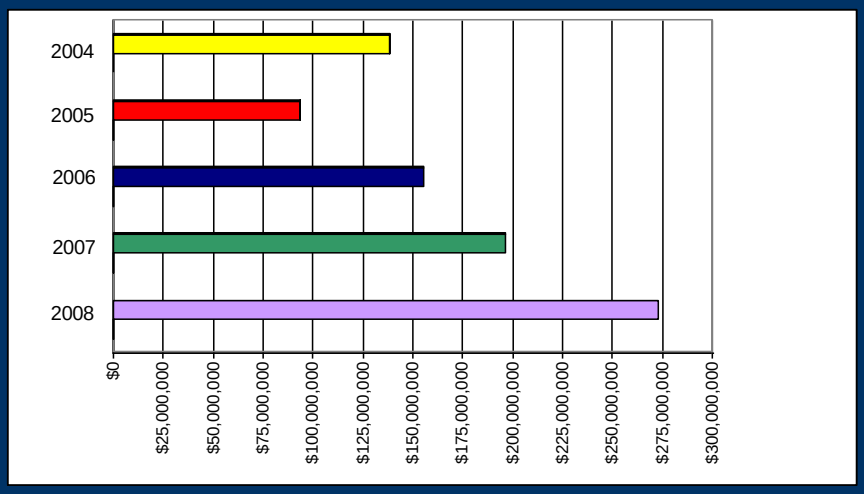
Report Trade Violations

CBP's privacy policy Comments or complaints

Security Notification
You are entering an Official United States Government System, which may be used only for authorized purposes. The Government may monitor and audit usage of this system, and all persons are hereby notified that use of this system constitutes consent to such monitoring and auditing. Unauthorized attempts to upload information and/or change information on this Web site are strictly prohibited and are subject to prosecution under the Computer Fraud and Abuse Act of 1986 and Title 18 U.S.C. Sec.1001 and 1030.

Internet

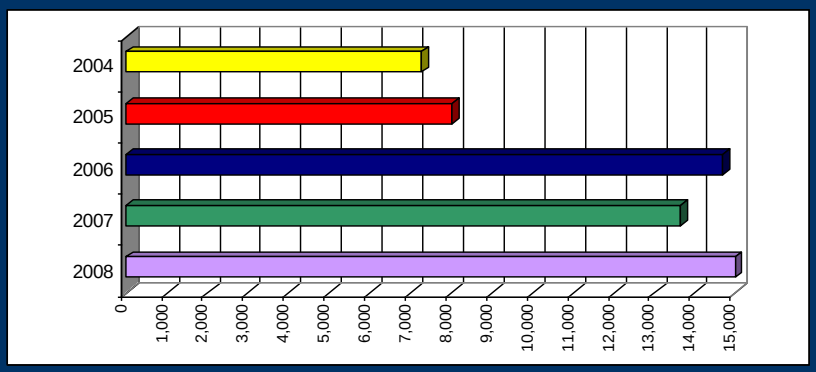
IPR Seizures FY 2004-2008



U.S. Customs and Border Protection

Domestic Value of Seizures

IPR Seizures FY 2004-2008



U.S. Customs and Border Protection

Number of Seizures

Top Trading Partners

Percentage Change by Value – FY 2008 vs. FY 2007

Trading Partners FY 2008	FY 2008 Domestic Value	Percent of Total Value	FY 2007 Domestic Value	Difference FY08 vs. FY 07	% Increase or Decrease
China	$ 221,661,579	81%	$ 158,082,597	$ 63,578,982	40%
India	$ 16,258,368	6%	$ 855,231	$ 15,403,137	1801%
Hong Kong, China	$ 13,433,606	5%	$ 12,729,121	$ 704,485	5%
Chinese Taipei	$ 2,631,980	1%	$ 3,454,048	$ (822,068)	-23%
Korea	$ 1,028,348	<1%	$ 902,904	$ 125,444	13%
Dominican Republic	$ 942,128	<1%	$ 23,261	$ 918,867	3950%
Pakistan	$ 780,109	<1%	$ 2,530,545	$ (1,750,436)	-69%
Vietnam	$ 747,567	<1%	$ 483,821	$ 263,746	54%
United Arab Emirates	$ 658,626	<1%	$ 372,932	$ 285,694	76%
Indonesia	$ 649,066	<1%	$ 96,753	$ 552,313	570%
All Others	$ 13,937,502	5%	$ 17,223,164	$ (3,285,662)	-19%
Total Domestic Value of All IPR Seizures	**$ 272,728,879**		**$ 196,754,377**	**$ 75,974,502**	**38%**
Total Number of Seizures	**14,992**		**13,657**	**1,335**	**9%**

U.S. Customs and Border Protection

Disclaimer
The information contained on this page does not constitute the official trade statistics of the United States. The statistics, and the projections based upon those statistics, are not intended to be used for economic analysis, and are provided for the purpose of establishing CBP priorities and workload.

U.S. Immigration and Customs Enforcement

Top Commodities Seized

Percentage Change by Value – FY 2008 vs. FY 2007

FY 2008 Commodity	FY 2008 Domestic Value	% of Total Value	FY 2007 Domestic Value	Difference FY 08 vs. FY 07	% Increase or Decrease
Footwear	$ 102,316,577	38%	$ 77,781,415	$ 24,535,162	31%
Handbags/Wallets/Backpacks	$ 29,609,053	11%	$ 14,214,304	$ 15,394,749	108%
Pharmaceuticals	$ 28,106,578	10%	$ 11,137,578	$ 16,969,000	152%
Wearing Apparel	$ 25,119,580	9%	$ 27,005,914	$ (1,886,334)	-7%
Consumer Electronics/Electrical Articles	$ 22,997,685	8%	$ 16,041,694	$ 6,955,991	43%
Sunglasses/Parts	$ 7,919,385	3%	$ 3,951,758	$ 3,967,627	100%
Computers/Technology Components	$ 7,589,534	3%	$ 9,336,893	$ (1,747,359)	-18%
Perfumes/Colognes	$ 6,716,735	2%	$ 1,201,193	$ 5,515,542	459%
Cigarettes	$ 6,444,649	2%	$ 583,349	$ 5,861,300	1004%
Media	$ 5,967,332	2%	$ 7,884,152	$ (1,916,820)	-24%
All Other Commodities	$ 29,941,771	11%	$ 27,616,127	$ 2,325,644	8%
Total Domestic Value of All IPR Seizures	**$ 272,728,879**		**$ 196,754,377**	$ 75,974,502	38%
Total Number of Seizures	**14,992**		**13,657**	1,335	9%

U.S. Customs and Border Protection

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U.S. Immigration and Customs Enforcement

Top Safety and Security Commodities

Percentage Change by Value – FY 2008 vs. FY 2007

FY 2008 Commodity	FY 2008 Domestic Value	% of Total Value	FY 2007 Domestic Value	Difference FY 08 vs. FY 07	% Increase or Decrease
Pharmaceuticals	$ 28,106,578	45%	$ 11,137,578	$ 16,969,000	152%
Sunglasses	$ 7,919,375	13%	$ 3,951,758	$ 3,967,617	100%
Perfumes/Colognes	$ 6,716,735	11%	$ 1,201,193	$ 5,515,542	459%
Cigarettes	$ 6,444,649	10%	$ 583,349	$ 5,861,300	1005%
Electrical Articles	$ 5,020,361	8%	$ 4,087,060	$ 933,301	23%
Critical Technology Components	$ 4,742,175	8%	$ 4,491,316	$ 250,859	6%
Batteries	$ 1,806,821	3%	$ 913,428	$ 893,393	98%
Transportation/Parts	$ 621,242	1%	$ 845,094	$ (223,852)	-26%
All Others	$ 1,157,536	2%	$ 681,848	$ 475,688	70%
Total Domestic Value	$ 62,535,472		$ 27,892,624	$ 34,642,848	124%
Total Number of Seizures	1,950		1,295	655	51%

Electrical Articles includes power cords, lights, DVD players, etc. Revised 01/13/2009

Critical Technology Components- previously named Computer Network Hardware/Integrated Circuits in FY 2007, includes networking equipment and semiconductor devices

Transportation/Parts- previously named Automotive in FY 2007

All Others- includes detergent, bath tissue, and labels and packaging that would be applied to safety and security commodities

U.S. Customs and Border Protection

U.S. Immigration and Customs Enforcement

IPR Border Enforcement Seizures

- Fiscal Year (FY) 2008: $272.7 million in domestic value, a 38.6 percent increase
- China accounted for 81 percent of the total seizures. Footwear was the top commodity seized
- $62.5 million in IPR safety and security seizures (124 percent increase)

U.S. Customs and Border Protection

Seizure Disclosure Information

Prior to Seizure

- Date of importation
- Port of entry
- Merchandise description
- Quantity of merchandise
- Country of origin

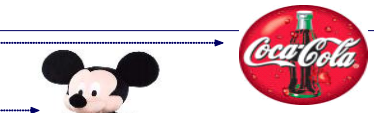
After Seizure
(counterfeit or piratical only)

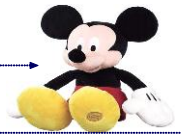
- Date of importation
- Port of entry
- Merchandise description
- Quantity of merchandise
- Country of origin
- Importer name/address
- Manufacturer name/address
- Shipper name/address

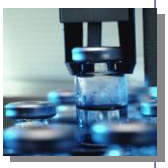
U.S. Customs and Border Protection

What IPR Does CBP Enforce?

- **TRADEMARK**
- **COPYRIGHT**
- **PATENT**
  - **Only pursuant to International Trade Commission Exclusion Orders**
- **TRADE NAME** — **RED BULL GMBH**
- **TRADE DRESS**







U.S. Customs and Border Protection

IPR Targeting and Risk Analysis

- Sharpen focus on high-risk shipments to increase interdictions
- Reduce unproductive examinations of low-risk shipments
- Use IPR enforcement resources more efficiently
- Reduce delays and costs to importers

U.S. Customs and Border Protection

CBP IPR Recordation

- Subsequent to registration with the U.S. Patent & Trademark Office or U.S. Copyright Office, registered trademarks and copyrights may be recorded with CBP
- Application for recordation is made through e-Recordation on CBP.gov
- Requirements for recordation are set out in regulations
- Recordation is effective for term of registration or remaining period
- Recorded trademarks and copyrights are entitled to greater protection from CBP than non-recorded trademarks and copyrights.

U.S. Customs and Border Protection

Recordation Benefits

Recorded

- Enforcement of all types of IPR infringement
- Monetary fine applied to shipments of counterfeit goods
- Seizure disclosure information provided to right holder contact listed in IPR recordation database

Not Recorded

- No protection for shipments containing confusingly similar trademark or possibly piratical copyright
- No fines

U.S. Customs and Border Protection

e-Recordation

- Allows right holders to electronically file IPR recordation applications
- Web-based
- Eliminates paper records
- On-line payment
- Image capable
- Updated nightly

U.S. Customs and Border Protection

Intellectual Property Rights Search (IPRS)

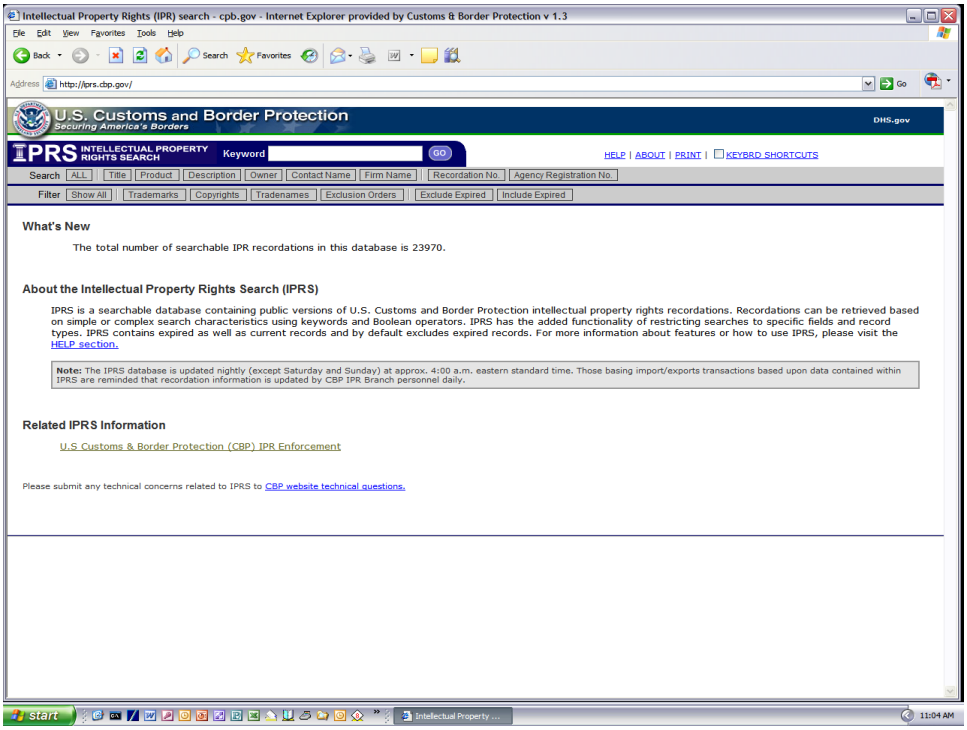
- Searchable database containing public versions of CBP IPR recordations
- Web-based
- Updated nightly
- Located at http://iprs.cbp.gov

U.S. Customs and Border Protection

IPRR INTELLECTUAL PROPERTY RIGHTS e-RECORDATION

https://apps.cbp.gov/e-recordations

U.S. Customs and Border Protection



China Customs Border Enforcement on Intellectual Property Rights

SHA Jie,
IPR Division,
Department of Policy and Legal Affairs,
General Administration of China Customs (GACC)

Lima, Peru
October, 2009

China Customs

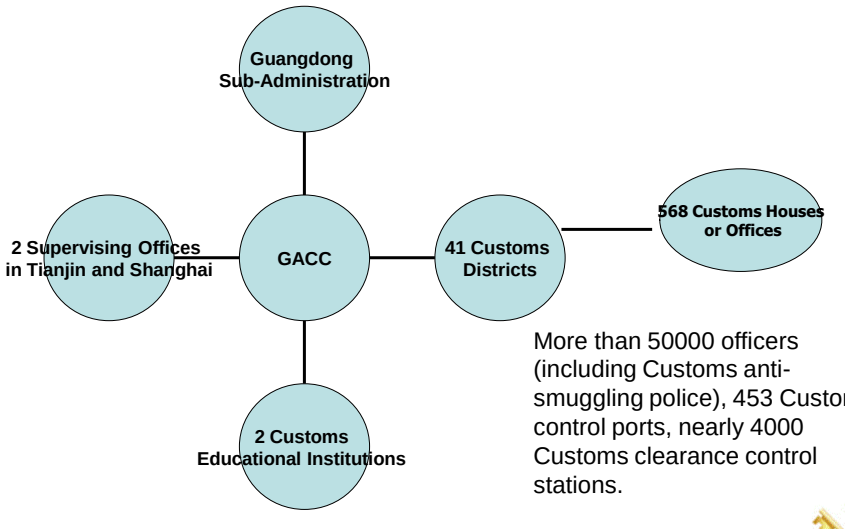
General Information about China Customs
Legal Framework of IPR
Procedures for Suspension of Release
IPR Seizure Statistics of 2008
Special Operations to Protect IPR
Cooperation with other Customs authorities

China Customs 

1. General Information about China Customs

China Customs 

1. General Information about China Customs



More than 50000 officers (including Customs anti-smuggling police), 453 Customs control ports, nearly 4000 Customs clearance control stations.

China Customs

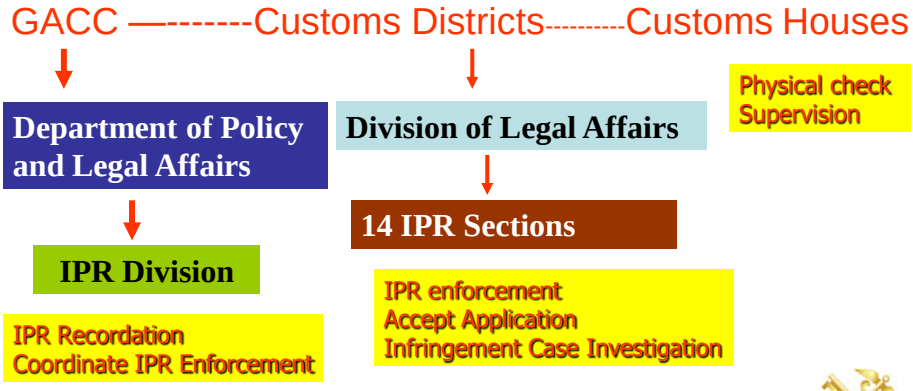
1. General Information about China Customs

Location of General Administration of China Customs and the 46 Customs organizations or regions of the same level

China Customs

1. General Information about China Customs

Function Setting on IPR Protection of China Customs

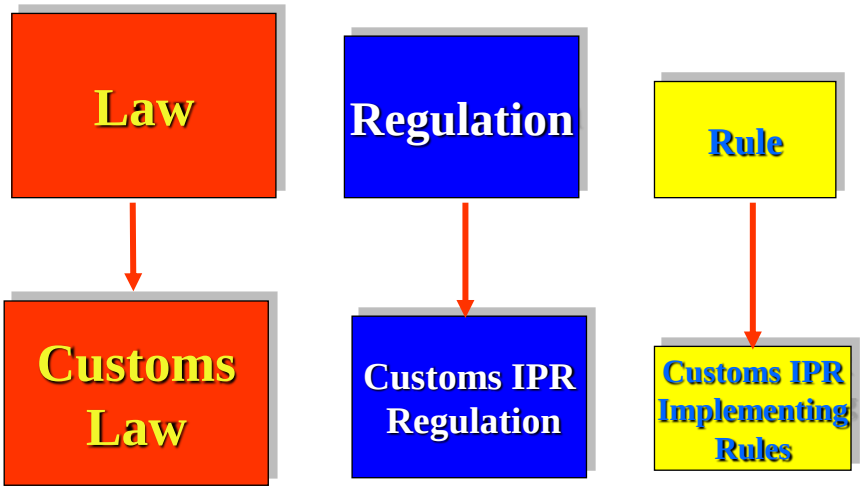


China Customs

2. Legal Framework of IPR

China Customs

2. Legal Framework of IPR



China Customs

2. Legal Framework of IPR

- Customs Law
- Regulations of the People's Republic of China on Customs Protection of Intellectual Property Rights
- Regulations of People's Republic of China on Implementing Customs Administrative Penalties
- Rules of the Customs of the People's Republic of China for Implementing the Regulations of the People's Republic of China on Customs Protection of Intellectual Property Rights

China Customs

2. Legal Framework of IPR

Customs Law

Article 91 Whoever imports or exports goods which constitute infringement on the intellectual property rights under protection by laws and administrative regulations of the People's Republic of China which violating the provisions of this Law, the infringing goods shall be confiscated by Customs and a fine shall be imposed thereof; where the case constitutes a crime the person or persons concerned shall be investigated for criminal liability according to law.

China Customs 

2. Legal Framework of IPR

Regulations of People's Republic of China on Implementing Customs Administrative Penalties

Article 25 Where anyone imports or exports goods, which constitutes an infringement on the intellectual property rights protected by laws and administrative regulations of the People's Republic of China, the infringing goods shall be confiscated and in addition a fine of not more than 30% of the value of the goods shall be imposed; where a crime is constituted, criminal liability shall be investigated according to law.

China Customs 

2. Legal Framework of IPR

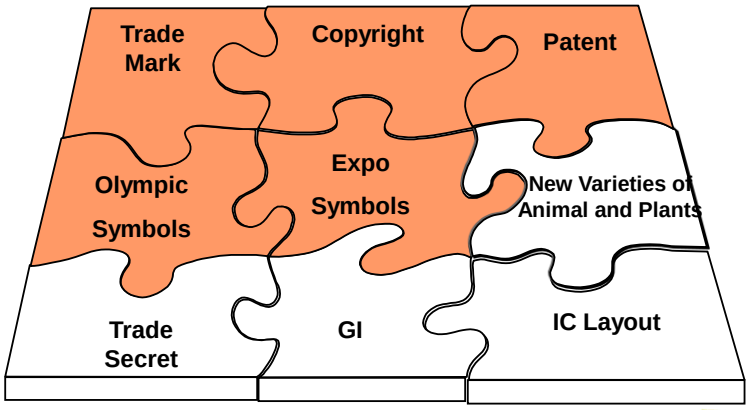
Regulations of the People's Republic of China on Customs Protection of Intellectual Property Rights

Article 2 Customs protection of intellectual property rights in these Regulations means the protection provided by the Customs for the exclusive rights to use a trademark, copyrights and their related rights, and patent rights (hereinafter referred to as intellectual property rights) related to import or export goods and protected under the laws and administrative regulations of the People's Republic of China.

China Customs

2. Legal Framework of IPR

Customs Protect



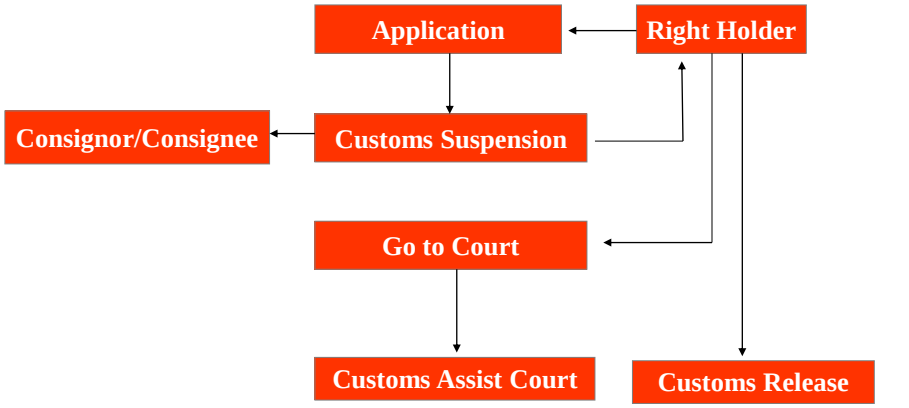
China Customs

3. Procedures for Suspension of Release

China Customs

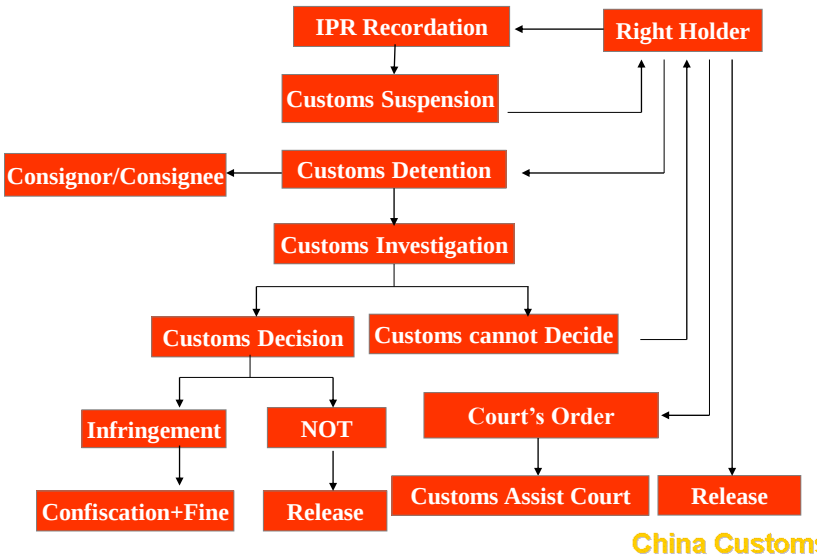
3. Procedures for Suspension of Release

Protection Pursuant to Application



China Customs

3. Procedures for Suspension of Release



IPR Recordation System

China Customs

IPR Recordation System

备案申请查询结果

申请人名称/姓名	备案权利类别	权利名称	权利注册授权号	备案号	查看详细信息
杨军	商标专用权	unker	3833272	T2008-12871	
耐克国际有限公司	商标专用权	NIKE	146658	T2000-01728	
耐克国际有限公司	商标专用权	NIKE	147619	T2003-04448	
耐克国际有限公司	商标专用权	NIKE及钩形图	879423	T2007-11019	
耐克国际有限公司	商标专用权	NIKE及钩形图	855786	T2007-11021	
耐克国际有限公司	商标专用权	NIKE及钩形图	869277	T2007-11020	
耐克国际有限公司	商标专用权	NIKE	1105002	T2008-13212	
耐克国际有限公司	商标专用权	NIKE	1152153	T2008-13735	

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备案申请详细内容

申请人名称/姓名: 耐克国际有限公司
权利名称: NIKE及钩形图
权利授权号: 855786
备案权利类别: 商标专用权
备案内容类型: 国内注册
商品分类: 25
核定使用商品: 服装、鞋、帽、长袜、短袜、围巾、手套
备案生效日期: 2009-8-5
备案终止日期: 2016-7-13
备案号: T2007-11021

China Customs

IPR Recordation System

添加申请人注册信息

申请人名称/姓名: *
申请人英文名称:
注册国（地区）/国籍: 中国 *
注册地/住所地（省/区/直辖市）: *
注册地址/住址: *
法定代表人姓名:
联系人是否为代理人
联系人姓名: *
联系人注册地/住所地（省/区/直辖市）: *
联系人单位及部门: *
通讯地址: *
邮政编码: *
联系人电话: 区号 * 电话号码 * 分机号
联系人传真: 区号 * 电话号码 * 分机号
联系人电子邮箱: *
联系人手机号:
备注:

标有*号的是必输项，请务必输入

提 交 关 闭

Applicant Information

Applicant Name
Applicant English Name
Country (Region) of Registration
Province, City
Address
Name of the Contact Person
Address of the Contact Person
Postal Code of the Contact Person
Telephone of the Contact Person
E-mail of the Contact Person
Mobile Phone of the Contact Person
Fax number of the Contact Person
Other Information

China Customs

IPR Recordation System

IPR Recordation System

4. IPR Seizure Statistics of 2008

China Customs

Background

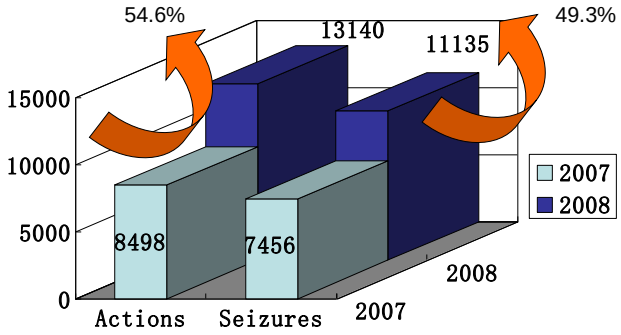
Import & Export Statistics of China Customs

- Exerted control over 2.4 billion tons of import & export goods (valued at 2.56 trillion U.S. dollars)
- Supervised 360 million entries and exits of passengers
- Examined 240 million import & export parcels and couriers

China Customs

4. IPR Seizure Statistics of 2008

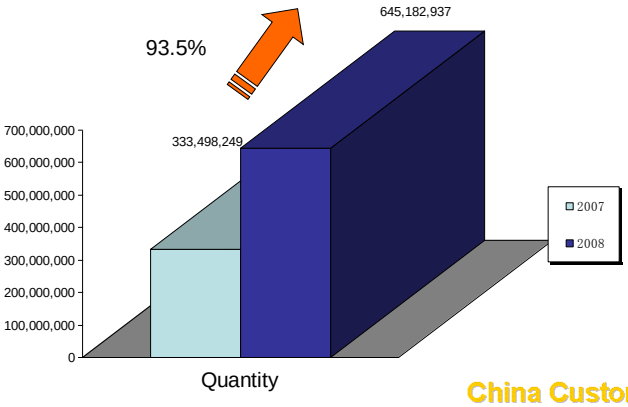
China Customs operated 13,140 actions for protecting intellectual property rights and has detained 11,135 shipments of suspected infringing goods.



China Customs

4. IPR Seizure Statistics of 2008

China Customs has detained 645,182,937 suspected infringing goods



China Customs

4. IPR Seizure Statistics of 2008

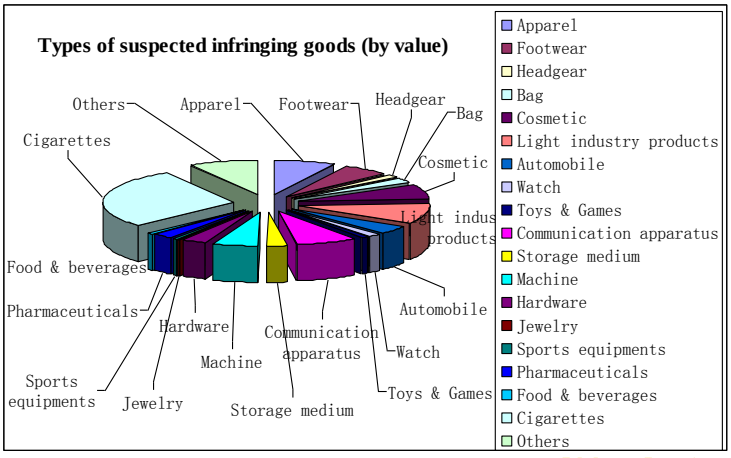
China Customs has detained 644,949,820 suspected infringing articles in exportation .

	Quantity of Articles	%
Import	233,117	0.04%
Export	644,949,820	99.96%

China Customs

4. IPR Seizure Statistics of 2008

The main categories of infringing commodities detained by China Customs were mainly consumer products.



China Customs

4. IPR Seizure Statistics of 2008

Considering the number of detentions, postal channel was in majority, accounting for 67% of the total detention.

Trans.	Parcel	Courier	Vessel	Air	Vehicle	Rail	Others
Detentions	7,432	1,447	1,140	345	185	125	461
%	67%	13%	10%	3%	2%	1%	4%

* The unit of detentions number: shipment
* Others refers to passengers, the bonded area and customs warehouses etc.

China Customs 

4. IPR Seizure Statistics of 2008

Considering the quantity or value of the infringing goods, those detained by Customs via vessel became the most commonly detained goods, accounting for 98% of the total quantity and 82% of the total value.

Trans.	Parcel	Courier	Vessel	Air	Vehicle	Rail	Others
Quantity	2,735,949	1,395,178	633,748,093	633,748,093	6,607,723	141,728	121,888
%	0.4%	0.2%	98%	0.1%	1%	0.1%	0.1%

Trans.	Parcel	Courier	Vessel	Air	Vehicle	Rail	Others
Value	21,229,724	4,858,738	243,215,557	13,515,215	6,912,840	2,687,656	2,382,427
%	7%	2%	82%	5%	2%	1%	1%

* The unit of value: RMB Yuan
* Others refers to passengers, the bonded area and customs warehouses etc.

China Customs 

5. Special Operations to Protect IPR

China Customs

5. Special Operations to Protect IPR

China Customs protect the Olympic Symbols

10,000 infringing bicycles with "OLYMPIC" Symbols were detained by Ningbo Customs

China Customs

5. Special Operations to Protect IPR

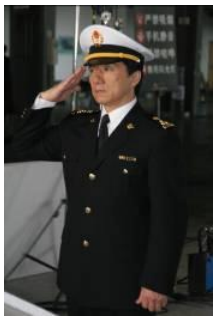
China Customs protect the Olympic Symbols

129 infringing souvenirs with "OLYMPIC" Symbols were detained by Qingdao Customs from the luggage of a foreign passenger

China Customs

5. Special Operations to Protect IPR

China Customs invited Hong Kong famous artist Jackie Chen to be the image speaker of China Customs and made propaganda films and posters.



China Customs

5. Special Operations to Protect IPR

China Customs received a letter of thanks from IOC.

"*As the 2008 Beijing Olympic Games are reaching their conclusion, I would like to take this opportunity to express my sincere thanks and deep gratitude to all of you, as well as the local Customs, for your full support and cooperation in the lead up to, and during, the 2008 Beijing Olympic Games. The IOC looks forward to continuing this support and cooperation with you in the future*."

China Customs

Legal Affairs Department

Beijing, 24 August 2008

Games of the XXIX Olympiad, Beijing 2008

Dear Sirs/Madams,

As the 2008 Beijing Olympic Games are reaching their conclusion, I would like to take this opportunity to express my sincere thanks and deep gratitude to all of you, as well as the local Customs, for your full support and cooperation in the lead up to, and during, the 2008 Beijing Olympic Games.

The IOC looks forward to continuing this support and cooperation with you in the future.

Yours sincerely,

Howard M. STUPP
Director

China Customs

5. Special Operations to Protect IPR

China Customs operates special IPR operation on postal and courier articles

China Customs

5. Special Operations to Protect IPR

China Customs operates special IPR operation on postal and courier articles

In June, 6833 shipments of suspected infringement articles have been seized, with the quantity of 731,366.

In July, 3620 shipments of suspected infringement articles have been seized, with the quantity of 415,464.

China Customs

6. Cooperation with other Customs authorities

China Customs

6. Cooperation with other Customs authorities

Concluded agreements concerning IPR with foreign Customs

- Memorandum of Cooperation with United States.

- Joint Action Plan among China, Japan and Korea.

- China-EU IPR Enforcement Action Plan

China Customs

6. Cooperation with other Customs authorities

- Exchange of data and information

- Analyze infringing trend

- Hold joint training and seminar

China Customs

Thank you!

China Customs

Implementation of Border Measures in Hong Kong

Customs and Excise Department
Hong Kong China
October 2009

Overview

1. Legislation
2. Enforcement
   - Risk management
   - Intelligence Support
   - Cross Boundary cooperation
   - Multilateral cooperation
   - Technology support
3. Enforcement Statistics
4. Civil Remedy

Legislation of IPR Protection

- Copyright Ordinance (Cap. 528)
- Trade Descriptions Ordinance (Cap. 362)
- Import and Export Ordinance (Cap.60)

Copyright Ordinance

- s.118 prohibiting import / export of infringing copyright work
- s.273C prohibiting import / export of circumvention device
- s.122 power of search and detention of vehicle, cargo, persons at control point (power of arrest under Customs law)

Trade Descriptions Ordinance

- s.12 prohibiting import/export of counterfeit goods
- s.15 power of search and detention of vehicle, cargo, passengers at control points
- s.16B power of arrest at control point

Import and Export Ordinance

- s.6C, 6D licensing control on import/export of ODMRE (Optical Disc Mastering and Replication Equipment)
- s.23 power of arrest at control point

Risk Management

- Balance between facilitation of passenger / cargo flow and combat of smuggling of infringing goods
- Hit more with less
- Example of risk indicators
  - business reputation, precedence history, import/export declaration documents, business volume

Intelligence Support

- Dedicated major formation, Intelligence Bureau, for collection, collation, analysis and dissemination of intelligence
- Advanced intelligence systems and databases (CEIS, ACCS, LBS, EMAN)
- Informer Recruitment and Reward Schemes

Cross Boundary Cooperation

- Close relationship with Guangdong Customs on intelligence exchange and cooperation
- Parallel operations with Guangdong Customs to combat smuggling of infringing goods

Multilateral Cooperation

- Legal basis to provide information
- Dedicated major formation for coordination and cooperation with enforcement agencies of other places
- Sharing of current modus operandi of infringing crimes
- Exchange of intelligence
- Administrative assistance

Technology Support

- Large scale X-ray scanning systems

Enforcement Statistics

	2007	2008	2008 (Jan–Aug)	2009 (Jan–Aug)
Counterfeit cases				
No. of Cases	235	163	106	148
No. of Arrest	121	95	73	30
Seizure value (HK$ 1,000)	61,398	57,221	34,781	40,219
Copyright cases				
No. of Cases	58	48	29	19
No. of Arrest	31	31	17	5
Seizure value (HK$ 1,000)	12,537	7,023	2,872	2,5395

Land Boundary Counterfeit Case

Land Boundary Copyright Case

Export Air Parcel Case

Civil Remedy

- TRIPS agreement
- Right owners apply detention order from court to prevent infringing goods going into free circulation

Thank you

FEDERAL CUSTOMS SERVICE OF THE RUSSIAN FEDERATION

Russian customs protecting IPR. Legislation, Practice

Oleg Ashurkov, IPR Protection Division

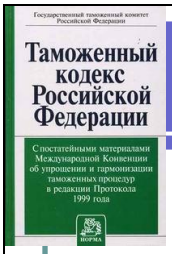
Lima, Peru. October 05-07, 2009

Border Protection Legislation

Customs Code of Russia.

Chapter 38. *The Measures Taken by Customs Bodies in respect of Specific Goods* (Articles 393 – 400)

Article 403. The Functions of Customs Bodies
The customs bodies shall perform the following basic functions:
5) ensure, within the limits of their competence, the protection of intellectual property rights;
6) … stop the illegal traffic across the customs border of … objects of intellectual property,



Border Protection Legislation

Customs Regulations.

Order of the State Customs Committee No. 1199 of 27 October 2003 «*Regulation on Protection of Intellectual Property Rights* by Customs Authorities».

Order of the Federal Customs Service No. 714 of 8 June 2007 «*Regulation on Procedures for Processing Applications for Action to Suspend Release of Goods and for Maintaining Customs Register of IP Objects* by Federal Customs Service».

Code on misdemeanours of the Russian Federation

Article 7.12. **Violation of Copyright and Similar Rights**, of Invention and Patent Rights

1. Import, sale, hiring out or any other unlawful use of copies of works or phonograms … where the copies of works or phonograms are counterfeited under the laws of the Russian Federation on copyright and similar rights, …as well as any other violation of copyright and similar rights … - shall entail the imposition of an administrative fine … accompanied by confiscation of counterfeited copies of works and phonograms, as well as of the materials and equipment used for reproduction thereof and of other instruments of committing the administrative offence…

Code on misdemeanours of the Russian Federation

Article 14.10. **Unlawful Use of a Trade Mark**

Unlawful use of another's trade mark, service mark, name of a commodity's place of origin or markings for the same commodities -
shall entail the imposition of an administrative fine … accompanied by confiscation of the articles ..

IPR objects to be protected

- List of protected objects:
  - Trademarks ®,
  - Copyright and related rights ©,
  - Service marks,
  - Appellations of origin
- List of objects which <u>are not protected:</u>
  - Patents,
  - Industrial designs
  - etc.

IPR protection procedure

Where the rightholder …has valid grounds to believe that the carriage of goods across the customs border … may entail violation of the rightholder's rights he (the rightholder) shall have the right to file an application for action to suspend release of such goods to the headquarters of The Federal Customs Service (hereinafter referred to as the "Application").

IPR protection procedure

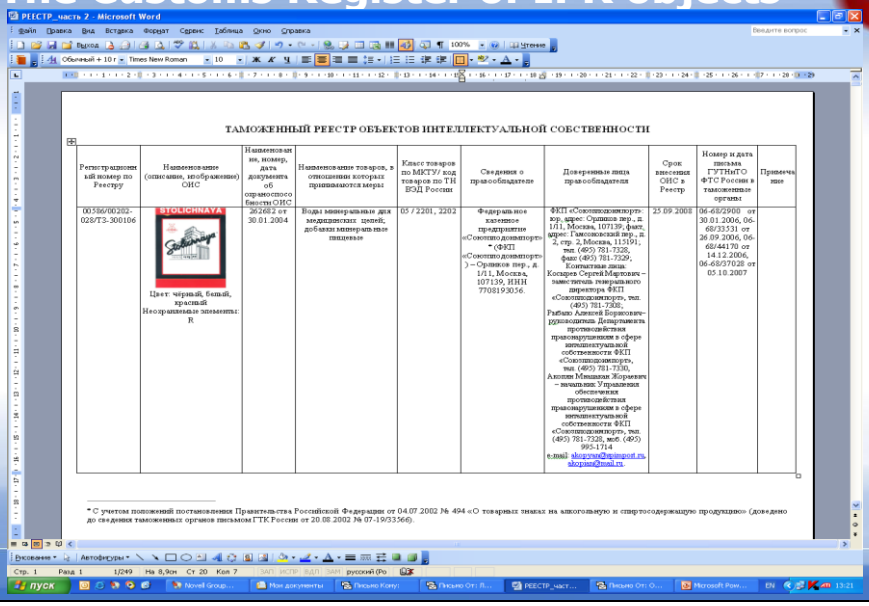
The Application shall contain data:
- on the applicant;
- on the intellectual property object;
- **on suspected counterfeit goods;**
- on estimated duration of measures to suspend release of suspected counterfeit goods.

The application must be accompanied by the security or equivalent assurance (RuR 500,000.00 ≈ US$ 15,500.00). In practice: insurance policy or a bank letter of guarantee.

The Customs Register of IPR objects

- The Application shall be considered within one – two month.
- When accepted the objects are included into the customs Register.
- **NO FEE** to enter into the Register.
- The Register is publishing in Customs magazines *("Customs News" and "Customs")* & on official web-site www.customs.ru

The Customs Register of IPR objects



ТАМОЖЕННЫЙ РЕЕСТР ОБЪЕКТОВ ИНТЕЛЛЕКТУАЛЬНОЙ СОБСТВЕННОСТИ

Регистрационный номер по Реестру	Наименование (описание, изображение) ОИС	Наименование, номер, дата документа об официальности ОИС	Наименование товаров, в отношении которых принимаются меры	Класс товаров по МКТУ/ код товаров по ТН ВЭД России	Сведения о правообладателе	Доверенные лица правообладателя	Срок внесения ОИС в Реестр	Номер и дата письма ГУТНиТО ФТС России в таможенные органы	Примечание
00386/00202-028/ТЗ-300106	STOLICHNAYA Цвет: чёрный, белый, красный Неохраняемые элементы: R	20262 от 30.01.2004	Воды минеральные для медицинских целей; добавки минеральные пищевые	05 / 2201, 2202	Федеральное казенное предприятие «Союзпищепромимпорт» * (ФКП «Союзпищепромимпорт») – Орликов пер., д. 1/11, Москва, 107139, ИНН 7708193056.	ФКП «Союзпищепромимпорт», адрес: Орликов пер., д. 1/11, Москва, 107139; факт. адрес: Гамсоновский пер., д. 2, стр. 2, Москва, 115191; тел. (495) 781-7328, факс (495) 781-7329, Контактные лица Косарев Сергей Маркович – заместитель генерального директора ФКП «Союзпищепромимпорт», тел. (495) 781-7308; Рыбаль Алексей Борисович – руководитель Департамента противодействия правонарушениям в сфере интеллектуальной собственности ФКП «Союзпищепромимпорт», тел. (495) 781-7330, Акопян Михаил Жоржевич – начальник Управления обеспечения противодействия правонарушениям в сфере интеллектуальной собственности ФКП «Союзпищепромимпорт», тел. (495) 781-7328, моб. (495) 995-1714 e-mail: shoyuan@spimport.ru, shoyuan@mail.ru.	25.09.2008	06-68/2900 от 30.01.2006, 06-68/33531 от 26.09.2006, 06-68/44170 от 14.12.2006, 06-68/37028 от 05.10.2007	

* С учетом положений постановления Правительства Российской Федерации от 04.07.2002 № 494 «О товарных знаках на алкогольную и спиртосодержащую продукцию» (доведено до сведения таможенных органов письмом ГТК России от 20.08.2002 № 07-1/933366).

The Customs Register of IPR objects

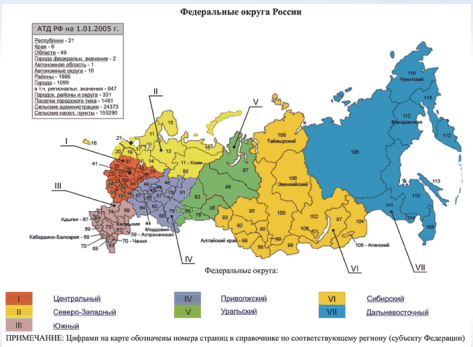
Annually publication of the Customs Register

2009 – twice a year (March & September)

Only IPR Objects in force

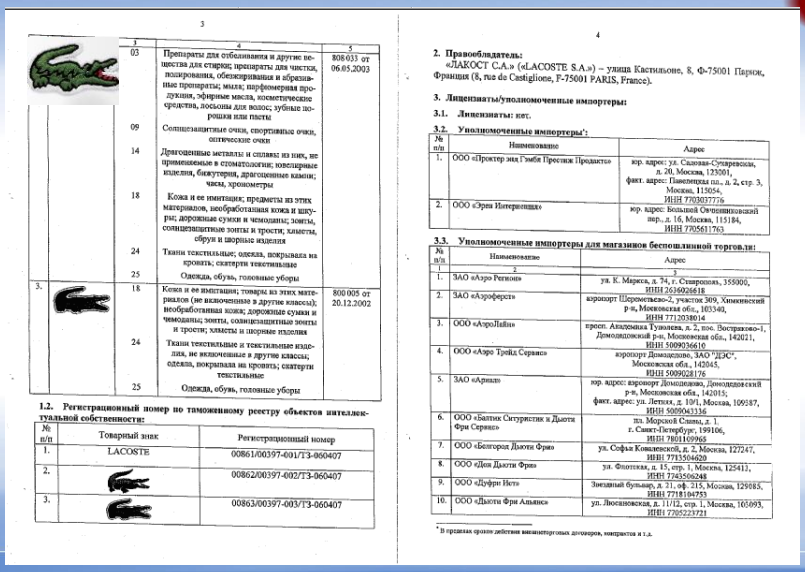
About 1500 Trademarks and 1 Appellation of Origin (October 05, 2009)

The Customs Register of IPR objects



The Register is forwarded to all 7 Regional Customs Departments & 600 local customs points across Russia.

Customs Register- Risk Indicators



3

	3	4	5
		03	Препараты для отбеливания и другие вещества для стирки; препараты для чистки, полирования, обезжиривания и абразивные препараты; мыла; парфюмерная продукция, эфирные масла, косметические средства, лосьоны для волос; зубные порошки или пасты	808 033 от 06.05.2003
		09	Солнцезащитные очки, спортивные очки, оптические очки	
		14	Драгоценные металлы и сплавы из них, не применяемые в стоматологии; ювелирные изделия, бижутерия, драгоценные камни; часы, хронометры	
		18	Кожа и ее имитации; предметы из этих материалов, необработанная кожа и шкуры; дорожные сумки и чемоданы; зонты, солнцезащитные зонты и трости; кнуты и упряжные изделия	
		24	Ткани текстильные; одежда, покрывала на кровать; скатерти текстильные	
		25	Одежда, обувь, головные уборы	
3.		18	Кожа и ее имитации; товары из этих материалов (не включенные в другие классы); необработанная кожа; дорожные сумки и чемоданы; зонты, солнцезащитные зонты и трости; кнуты и упряжные изделия	800 005 от 20.12.2002
		24	Ткани текстильные и текстильные изделия, не включенные в другие классы; одежда, покрывала на кровать; скатерти текстильные	
		25	Одежда, обувь, головные уборы	

1.2. Регистрационный номер по таможенному реестру объектов интеллектуальной собственности:

№ п/п	Товарный знак	Регистрационный номер
1.	LACOSTE	00861/00397-001/ТЗ-060407
2.		00862/00397-002/ТЗ-060407
3.		00863/00397-003/ТЗ-060407

4

2. Правообладатель:
«ЛАКОСТ С.А.» («LACOSTE S.A.») – улица Кастильоне, 8, Ф-75001 Париж, Франция (8, rue de Castiglione, F-75001 PARIS, France).

3. Лицензиаты/уполномоченные импортеры:

3.1. Лицензиаты: нет.

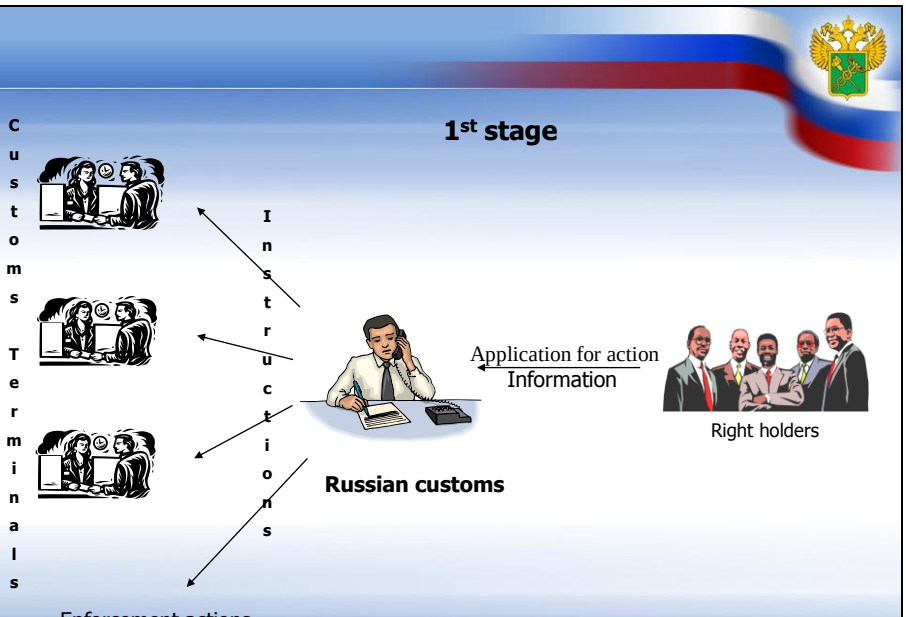
3.2. Уполномоченные импортеры*:

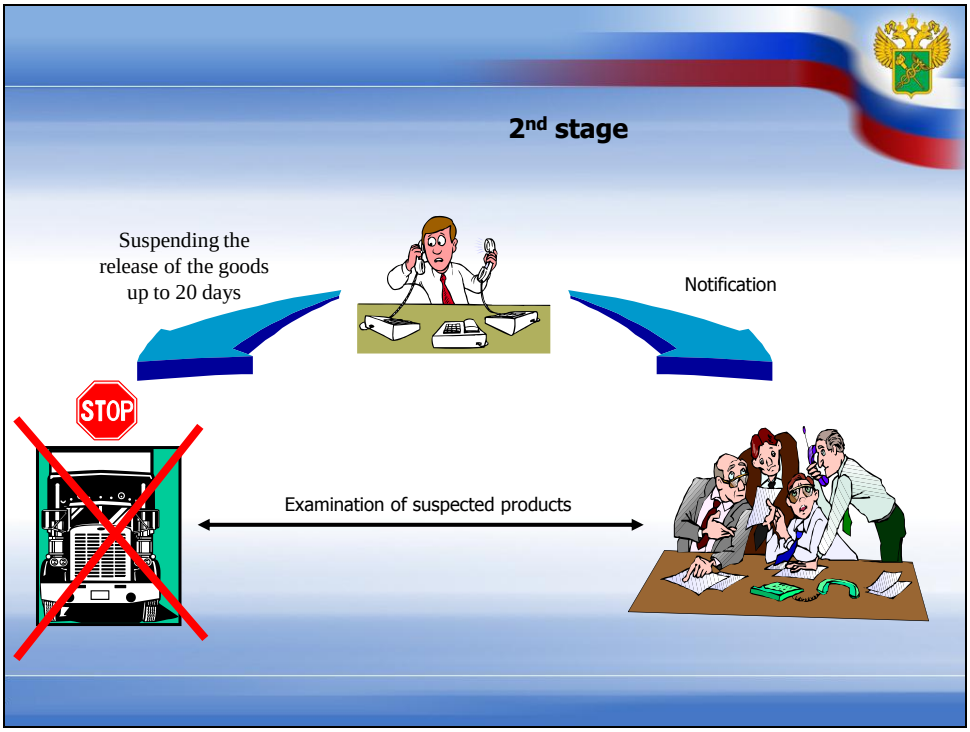
№ п/п	Наименование	Адрес
1.	ООО «Проктер энд Гэмбл Престиж Продактс»	юр. адрес: ул. Садовая-Сухаревская, д. 20, Москва, 123001, факт. адрес: Павелецкая пл., д. 2, стр. 3, Москва, 113054, ИНН 7703037776
2.	ООО «Эрна Интернешнл»	юр. адрес: Большой Овчинниковский пер., д. 16, Москва, 115184, ИНН 7705611763

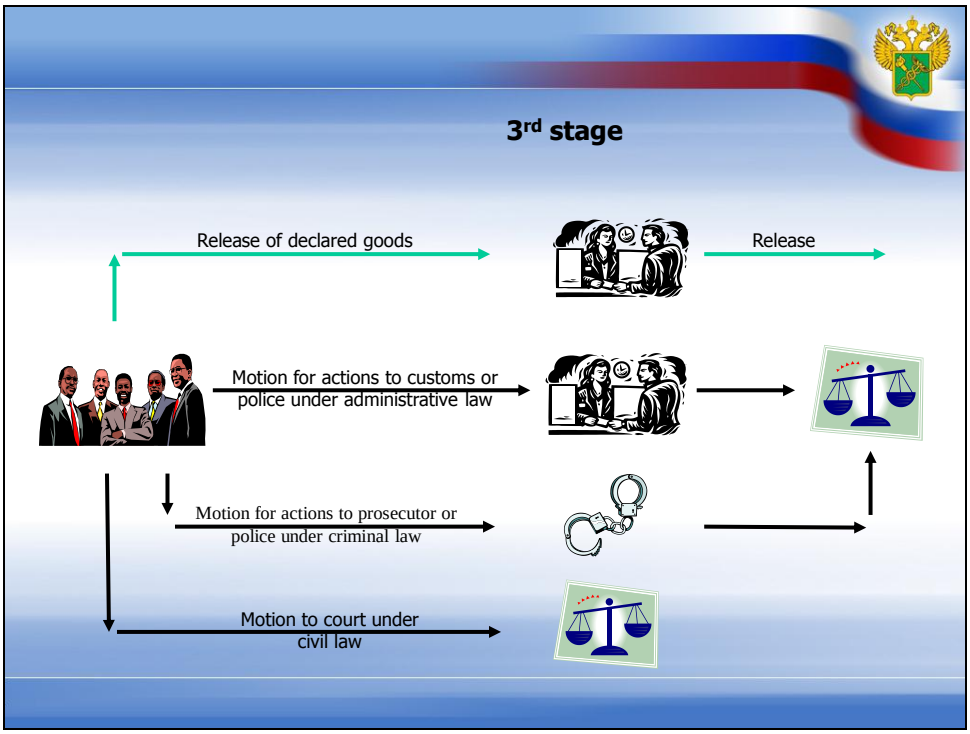
3.3. Уполномоченные импортеры для магазинов беспошлинной торговли:

№ п/п	Наименование	Адрес
1	2	3
1.	ЗАО «Аэро Регион»	ул. К. Маркса, д. 74, г. Ставрополь, 355000, ИНН 2636026618
2.	ЗАО «Аэроферст»	аэропорт Шереметьево-2, участок 309, Химкинский р-н, Московская обл., 103340, ИНН 7712038014
3.	ООО «АэроЛайн»	просп. Академика Туполева, д. 2, пос. Востряково-1, Домодедовский р-н, Московская обл., 142021, ИНН 5009036610
4.	ООО «Аэро Трейд Сервис»	аэропорт Домодедово, ЗАО "ДЭС", Московская обл., 142045, ИНН 5009028176
5.	ЗАО «Ариал»	юр. адрес: аэропорт Домодедово, Домодедовский р-н, Московская обл., 142015; факт. адрес: ул. Летная, д. 10/1, Москва, 109387, ИНН 5009043336
6.	ООО «Балтик Сигэрэтс энд Дьюти Фри Сервис»	пл. Морской Славы, д. 1, г. Санкт-Петербург, 199106, ИНН 7801109965
7.	ООО «Белгород Дьюти Фри»	ул. Софьи Ковалевской, д. 2, Москва, 127247, ИНН 7733504620
8.	ООО «Дом Дьюти Фри»	ул. Флотская, д. 15, стр. 1, Москва, 125412, ИНН 7743506248
9.	ООО «Дьюфри Истс»	Звездный бульвар, д. 21, оф. 215, Москва, 129085, ИНН 7718104753
10.	ООО «Дьюти Фри Альянс»	ул. Люсиновская, д. 11/12, стр. 1, Москва, 105093, ИНН 7705223721

* В пределах срока действия внешнеторговых договоров, контрактов и т.д.




2nd stage
Suspending the release of the goods up to 20 days
Notification
STOP
Examination of suspected products


3rd stage
Release of declared goods
Release
Motion for actions to customs or police under administrative law
Motion for actions to prosecutor or police under criminal law
Motion to court under civil law

Counterfeit cases statistics

2005		2006		2007		2008	
TM infring.	© infring.	TM infring.	© infring.	TM infring.	© infring.	TM infring.	© infring.
268	82	1416	212	1383	117	1050	24
350		1628		1500		1074	

Changes in the law

For the better IPR protection: Ex Officio

1-t step:

- **October 10, 2008 State Duma adopted in the 1-t reading draft law on changes of Customs Code: Ex Officio Action**
  - Suspend the release of goods upon customs own initiative if there is information about right holder (representation) in Russia
  - 7 working days + 10 working days if right holder lodge an application with Federal Customs Service

Changes in the law

For the better IPR protection

2-d step:

- "Ex-officio" procedure's implementation into Customs Code of the Customs Union (Russia, Belarus, Kazakhstan) law - expecting after January 1, 2010.
- 3 national Customs Registers of IPR Objects
- + 1 United Customs Register of Customs Union

Future changes (2010-2020)

- To expand the range of protected IPR objects.
- Measures to control e-trade and catalogue trade, postal traffic.
- Review of de minimis standards.
- Reduction of security obligation for right holders.
- Common CIS Customs Register of IPR Objects

Thank you for your attention and for your help in protecting Russian borders against counterfeits!

Sincerely yours,

Oleg M. Ashurkov
Deputy Head of the IPR protection branch
Federal Customs Service of Russia
Tel + 7 495 449 7747
Fax +7 495 449 7715
E-mail: gutnr_ashurkov@mail.customs.ru

Workshop on Effective Practices in the Border Enforcement of Intellectual Property Rights

20-23 July 2009
Honolulu, Hawaii

Organized and Sponsored by:

- USPTO
- WIPO
- USCBP
- State Dept.
- APEC
- ASEAN
- OCEANIA
- PIF

Participants:

APEC Secretariat (2)
ASEAN Secretariat (2)
Brunei Darussalam (2)
Cambodia (5)
Canada (1)
Chile (5)
China (5)
Chinese Taipei (2)
Cook Islands (2)
Fiji (2)
Guam (2)
Indonesia (5)
Japan (1)
Kiribati (2)
Korea (1)
Lao P.D.R. (5)
Malaysia (3)
Marshall Islands (2)
Mexico (4)
Nauru (2)
Niue (2)
Norfolk Island (2)
Northern Mariana Islands (2)
Oceania Customs Organization (2)
Pacific Islands Forum Secretariat (2)
Palau (2)
Papua New Guinea (2)
Peru (5)
Philippines (6)
Russia (1)
Samoa (2)
Solomon Islands (2)
Thailand (5)
Tuvalu (2)
USA (10)
Vanuatu (2)
Viet Nam (5)

Rights Holders:

- Underwriters Laboratories
- IACC
- LTU Technologies
- Sony
- Toyota
- New Era Caps
- True Religion Brand Jeans
- Pfizer
- Oakley
- Entertainment Software Association
- Tokidoki
- Apple
- Rolex
- Hilfiger

Agenda Items:

- TRIPS Border Measures Obligations;
- Industry Initiatives Against Counterfeiting and Piracy;
- Why Governments Protect and Enforce IPR: Policy Choices, Economic Models, Public Health and Safety Concerns, and the Importance of Intergovernmental Cooperation;
- Utilizing Technology Against Counterfeiting and Piracy;
- Screening and Discussion of "Illicit: The Dark Trade";
- Building Effective Relationships Between Customs Officials and the Private Sector;
- Risk Assessment and Ex Officio Actions;
- Trends in Counterfeiting, Piracy and Smuggling;
- IPR Border Enforcement Case Studies;
- Presentations by the MPAA Worldwide Anti-Piracy Operations Team;
- Industry Perspective: Challenges and Solutions in Combating Counterfeiting and Piracy – Part 1 and 2;
- Global and Regional Anti-Counterfeiting and Anti-Piracy Initiatives: APEC, OCO, WCO, and the WIPO Advisory Committee on Enforcement;
- Organized Criminal Activity and Trade in Counterfeit Hard Goods and Pirated Works: Challenges to Transnational Prosecutions; and
- Roundtable Discussions: Best Practices for IPR Border Enforcement and Capacity-Building.

Results:

- Better cooperation among government agencies
- Better regional and international cooperation – share intelligence
- Build awareness with public
- Educate policy makers
- Work more collaboratively with rights holders – leverage resources

Why do governments, rights holders and international organizations put so much effort in conducting programs like these?

•Realization that no one country or company can come close to making a meaningful impact on its own

•Share best practices

•Raise awareness and capacity

Are there too many reports and studies?

How do we measure success?

- Number of participants?
- Countries represented?
- Quality of the lunches?
- Beach access?

- We measure by the impact as reported by the participants.

We need input from you as to what is most useful

- More case studies?
- Fewer presentations?
- More input/participation by rights holders?

Keys to success

Better coordination among countries is key to success

- Import
- Export
- Transit
- Transshipment

Training is key to success

- Customs officers
- Rights holders
- Police
- Prosecutors
- Judges

Legal regimes?

Having the right people working the IPR cases is key to success

- My early introduction to customs enforcement…
- Big seizures, big problems; no seizures, no problems!

Customs IPR Enforcement with Risk Management

(Daniel) Kuoping Huang
Directorate General of Customs
Chinese Taipei
Oct. 6, 2009

1

Forewords

- IPR has been one of Customs' main mission.
- TRIPs as standards for Customs IPR enforcement
- Customs shall adopt Risk Management to promote effective and efficient enforcement while ensuring facilitation of legitimate trade.

2

Legal Framework

- **Customs Act (Article 15)**
  - Articles infringing on patent right, trademark right and copyright are prohibited from importation.
- **Customs Anti-smuggling Act (Article 39bis)**
  - Anyone who imports or exports goods that infringe on patent right, trademark right and copyright is subject to a fine equivalent to one to three times the value of the cargoes in question, and the goods shall be confiscated.
- **Patent Act (Article 85 & 86)**
  - **Right holders may apply to the judicial authority to claim damages or for provisional seizure of the infringing goods.**
- **Trademark Act**
  - Article 65 – right holders may apply to Customs for detention of import / export goods that infringe their rights.
  - Article 82 – Sell, display, import and export of counterfeit goods is subject to less than 1 year imprisonment, and NT$50,000 fine.
- **Copyright Act**
  - Article 90bis - right holders may apply to Customs for detention of import / export goods that infringe their rights.
- **Foreign Trade Act**
  - Article 17 – An importer / exporter shall not Infringe any intellectual property rights protected by laws of this country or other countries.

3

Operational Directions

Operational Directions for Customs Authority in Implementing Measures for Protecting the Rights and Interests of Patent, Trademark and Copyright

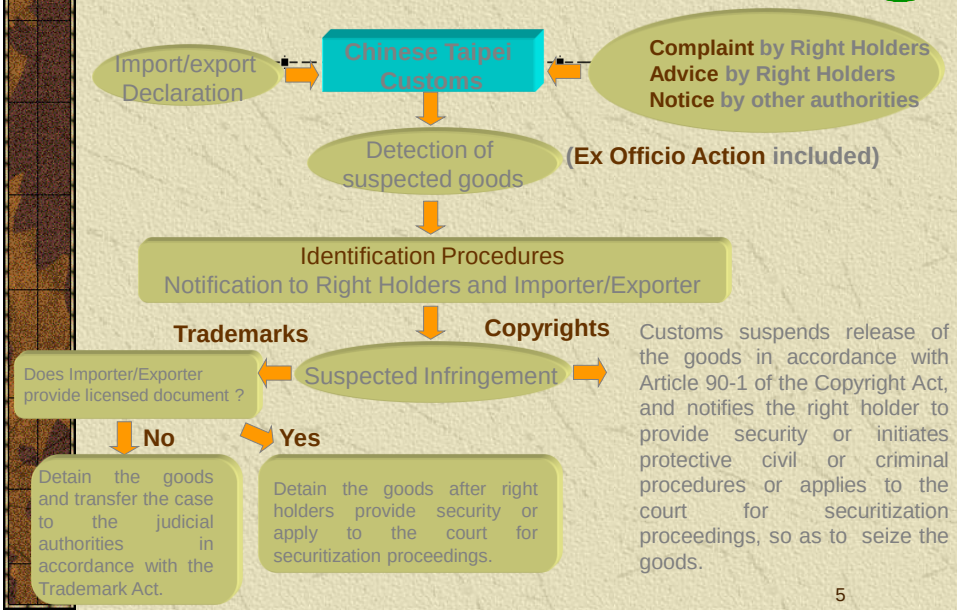
- **Customs IPR Enforcement is based:**
  - Primarily on the ground of complaints made by right holders
  - Upon advice given by the right holder, licensee, agent or association.
  - Upon notice given by other authorities.
- **Providing clear and transparent measures.**
  - Right holders should appear at the venue to assist in identifying in the following time periods, after Customs' notification:

    Export air cargo: within 4 hours after Customs notification

    Import air cargo and Sea cargoes: within one working day
- **Providing fair and equitable procedures.**
  - Right holders should make determinations within 3 days on whether there is an infringement.
  - Importer/exporter shall submit proving documents within 3 days.
  - The above time periods could be extended one time.

4

IPR Enforcement



5

Ex Officio Actions

- **Ex Officio Actions**
  - If Customs officers have prima facie evidence that an intellectual property right is being infringed during the course of duty, they may check the database whether there is complaint / advice made by right holders.
  - Customs may check IP Office's database for right holders' information.
  - Customs may ask right holders to assist in identifying goods suspected of infringement.
- **24 Hours Rule -** the IP Office should provide the information of right holders after Customs' request.

6

Patent

Customs' action based on:

1. Injunction made by judicial authorities
2. Right holders provide detailed information (date of import/export, means of transportation, voyage/flight No. or Declaration No.) of the goods involved.

7

Copyright

- If the Customs authority suspects from the appearance of imported exported goods that there is an infringement of copyright, the right holder will be notified to assist in identifying whether its right is being infringed, and **at the same time**, the importer / exporter will be notified to submit proving documents.
- Suspension of release of goods (Article 90bis of the Copyright Act) if the importer/exporter fails to submit authorization documents or other proving documents within 3 days after Customs notification.
- Goods may be released if right holders do not apply for detention or file with the court for protection of rights.
- Compact discs and game software dominate the lion share of pirated goods (95%).
- No Parallel Importation is Allowed.

8

Trademark

- If the Customs authority suspects from the appearance of imported exported goods that there is an infringement of trademark, the right holder will be notified to assist in identifying whether its right is being infringed, and **at the same time**, the importer / exporter will be notified to submit proving documents.
- The goods will be referred to judicial authorities for further investigation if the importer/exporter fails to submit authorization documents or other proving documents.
- Goods may be released if right holders do not apply for detention or file with the court for protection of rights.
- Parallel Importation Allowed.
- Counterfeits are subject to criminal penalties.

9

Procedures after Seizure

- A fine in an amount equivalent to the Customs value of the counterfeit goods.
- Customs refers every Trademark infringement case to the judicial authorities.

10

Procedures after Seizure

- A fine in an amount equivalent to the Customs value of the counterfeit goods.
- Customs refers every Trademark infringement case to the judicial authorities.

10

Eagle Eye Operation

- A Risk Management specifically designed for IPR Enforcement.
- Conduct risk assessment (based on information from trade history, seizure cases, complaint/advice of right holders, importer, Customs broker, source country, classification, information / intelligence gathered domestically and internationally).
- X-ray Inspection (every express consignment should be inspected by X-ray; strengthening X-ray inspection for other goods).
- Six-layered Enforcement Line:

  Vessel Inspection, Alongside Ship Random Check, Warehouse inspection, Cargo Examination, Prior-release Inspection and Post-release Audit.
- Set up an IPR Information Database – including right holders' advices / complaints information.
- Establish a Real-time Information Reporting System (with pictures).

12

IPR Database

- Chinese Taipei adopts a unique system.
- We accept complaints / advice from right holders, gather information and set up a database which is incorporated with “Customs Anti-smuggling Information System.”
- No fee charged for filing complaints and advice.
- This system provides online search for certain information, including pictures of counterfeits and authentic ones.

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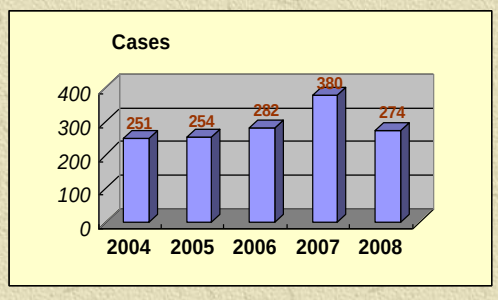
Seizure Statistics

(In terms of Case)

Year/Case Number	2004	2005	2006	2007	2008	2009(1-6)
Trademark(Export)	1	3	2	3	4	0
Copyright(Export)	0	1	0	0	0	0
Trademark(Import)	208	174	241	300	226	126
Copyright(Import)	42	76	39	77	44	17
Total	251	254	282	380	274	143



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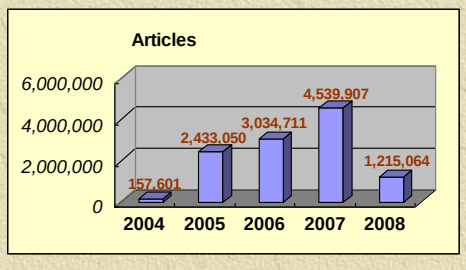
Seizure Statistics

(In terms of Quantity)

Year/Quantity Seize	2004	2005	2006	2007	2008	2009 (1-6)
Trademark (Export)	3,430	700	24	7,707	57,626	0
Copyright(Export)	0	484	0	0	0	0
Trademark(Import)	63,264	2,393,323	2,973,653	4,446,506	1,104,557	838,229
Copyright(Import)	90,907	38,543	61,034	85,694	52,881	10,987
Total	157601	2433050	3034711	4539907	1215064	849216



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Seizure Statistics

IPR	Year / Item	2005	2006	2007	2008	2009 (Up to June)
Trademark	Car Parts	-	-	450	62,757	1,632
	Leather products	7,306	6,039	5,770	6,062	1,331
	Watches	1,388	2,221	5,191	2,311	76
	Glasses	-	-	-	-	748
	Cosmetics	8,699	8,820	-	-	-
	Shoes	1,159	946	3,778	1,821	14,303
	Clothes	2,213	13,068	18,473	14,465	11,736
	Cigarettes (pack)	2,256,350 -93%	2,729,000 -90%	4,050,700 -89%	941,000 -81%	796,690 -94%
	Medicines	40,489	26,020	325,101	8,049	-
	Game Accessories	3,823	4,300	75	1,480	-
Copyright	Optical Disk	33,290	54,734	85,694	52,082	10,987
-	Others	77,149	189539	36,968	67,411	11,713
-	Total	2,431,866	3,034,687	4,532,200	1,157,438	849,216

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Conclusions

- **Chinese Taipei has honorably been removed from U.S. 301 Watch List in January 2009.**
- **95% of Customs IPR seizures are Trademark Infringement cases.**
- **Further fine-tune risk management techniques to enhance enforcement performance.**
- **Remain committed to strengthening:**
  - Strategic Partnership between Customs and right holders – holding seminars.(7 workshops/910 persons – 2008, 7 / 1125 – up to June this year)
  - International and domestic inter-agencies cooperation in information sharing.
  - Customs capability through training programs (counterfeits Identification training)

18

Thank You
for your attention

Chinese Taipei Customs

For more information

www.customs.gov.tw

Email:: iis@webmail.customs.gov.tw

19

Part IV.
PARTICIPANTS

Participants' List

S/N	Economy	Title	Delegate	Position	Organization
1	Chile	Mrs.	Karina Castillo Iturriaga	Direction of Customs Enforcement - Advisor	National Customs Service – Chile
2	China	Ms.	Dan Li	Section Chief Division of Policy & Legal Affairs Guangzhou Customs District	China Customs
3	China	Mr.	Jie Sha	IPR Specialist Department of Policy & Legal Affairs, IPR Division General Administration of Customs	China Customs
4	Hong Kong, China	Miss	Wai Sim Yip	Divisional Commander Copyright Investigation Division	Customs and Excise Department
5	Indonesia	Mr.	Firman Bunyamin	Head of Regional Section (APEC Desk)	Directorate General of Customs and Excise of Indonesia
6	Indonesia	Mr.	Deni Sunrjatoro	Head of Intelligence Data Base Section	Directorate General of Customs and Excise of Indonesia
7	Japan	Mr.	Eiji Nakayama	Supervisory IPR Specialist IPR National Center	Japan Customs
8	Malaysia	Mr.	Mohd Pudzi Man	Deputy Director of Customs Enforcement Division	Royal Malaysian Customs
9	Malaysia	Mr.	MD. Hassim Pardi	Assistant Director General of Customs – Enforcement Division	Royal Malaysian Customs
10	Papua New Guinea	Mr.	Karo Kila	Director – Border Enforcement Customs Enforcement	IRC – PNG Customs
11	Papua New Guinea	Mr.	Steven Korea	Director Southern Region	IRC – PNG Customs
12	Peru	Mrs.	Estela Bejar Alegre	Head of Smuggling Prevention and Control Border Intendance	SUNAT
13	Peru	Mr.	Rodolfo Barazorda Vega	Peruvian Customs Professional	SUNAT
14	Peru	Mr.	Carlos Ramirez Rodriguez	Head of Customs Administration – Peru	SUNAT
15	Peru	Miss	Betty Castillo Roman	Customs Officer of Investigations Division	SUNAT
16	Peru	Mr.	Giovanni Guisado Zuloaga	Operations Manager	SUNAT
17	Peru	Mr.	Ángel Paredes Cajahuanca	Head of Investigations Division	SUNAT
18	Peru	Mr.	Luis Ayllon Pinto	Customs Officer of Investigations Division	SUNAT
19	Peru	Mrs.	Maria Laura Porturas Rodriguez	Customs Officer of Investigations Division	SUNAT
20	Peru	Mr.	Ivan Arias Caldas	Head of Anti smuggling Division	SUNAT
21	Peru	Mr.	Ivan Flores Caceres	Head of Office of Contentious Matters	SUNAT
22	Peru	Mr.	Fernando Martinez Valdivieso	Customs Officer of the Office of Contentious Matters	SUNAT
23	Peru	Mr.	Alejandro Aguilar Puntriano	Customs officer of Programming Division	SUNAT
24	Peru	Mr.	Walquer Gomez Yañez	Professional from the Division of Controversy	SUNAT
25	Peru	Mr.	Miguel Yengle Ypanaque	Customs officer of the Risk Management Division	SUNAT
26	Peru	Ms.	Maria Barrientos Quintana	Customs Professional	SUNAT
27	Peru	Mr.	Juan Motta Casanova	Customs Officer	SUNAT
28	Peru	Mr.	Mariano Contreras Noa	Customs Specialist	SUNAT
29	Peru	Mr.	Ivan Herrera Portal	Customs Specialist	SUNAT

S/N	Economy	Title	Delegate	Position	Organization
30	Peru	Mrs.	Isis Saavedra	Customs Officer	SUNAT
31	Peru	Mr.	Julio Vela	Customs Officer	SUNAT
32	Peru	Mr.	Dante Robatti Guardamino	Customs Officer	SUNAT
33	Peru	Ms.	Carla Jacobo Guerrero	Customs Professional	SUNAT
34	Peru	Mr.	Jose Machado Lazo	Head of Officers' Office of Ilo	SUNAT
35	Peru	Mr.	Martin Moscoso	Director of Copyright Office	INDECOPI
36	Peru	Mr.	Rodrigo Diaz Jaramillo	Distinguishing Signs Direction	INDECOPI
37	Peru	Mr.	Jorge Miranda Assen	Distinguishing Signs Direction	INDECOPI
38	Peru	Mr.	Ruben Trajtman Kizner	Author Rights Direction	INDECOPI
39	Peru	Mr.	Abilio Quispe Medina	Technical Secretariat	INDECOPI
40	Peru	Mr.	Guillermo Diaz Noblecilla	Author Rights Direction	INDECOPI
41	Peru	Mr.	Julio Chan	APEC Director - Peru	Ministry of Foreign Trade
42	Peru	Mr.	Luis Medina	Assistant of Intellectual Property Ministry of Foreign Trade	Ministry of Foreign Trade
43	Peru	Ms.	Lucila Cabrera Loayza	Criminal Prosecutor	Public Ministry
44	Peru	Mr.	Pablo Seminario	Criminal Prosecutor in Intellectual Property and Customs	Public Ministry
45	Peru	Mr.	Luis Carlos Arce Cordova		Judicial Power
46	Peru	Mr.	Carlos Escobar Antezano	Superior Judge Lima Court	Judicial Power
47	Russia	Mr.	Oleg Ashurkov	Deputy Chief Trade Restrictions, Currency and Export Control / IPR Protection	Federal Customs Service
48	Chinese Taipei	Mr.	Kuoping Huang	Secretary Department of Investigation	Directorate General of Customs
49	The United States	Mr.	David Brener	Chief, IPR Operations Branch Office of International Trade	U.S. Customs and Border Protection
50	The United States	Mr.	Todd Reves	Attorney-Advisor, Enforcement Team / Office of Intellectual Property Policy and Enforcement	U.S. Patent & Trademark Office
51	Viet Nam	Mr.	Thuy Nguyen Van	Chief of Division Anti-Smuggling and Investigation Department	General Department of Viet Nam Customs
52	Viet Nam	Mrs.	Nga Nguyen Viet	Customs Expert International Cooperation Department	General Department of Viet Nam Customs

Part V.
SEMINAR OUTCOMES

Seminar Outcomes

The Seminar on Implementation of Border Measures for IPR Protection was held at the Nazca Room in the Radisson Decapolis Hotel in Lima, Peru on 5-7 October 2009. This seminar focused on the Customs' role to ensure a proper and effective protection of intellectual property rights at the border.

A total of 52 representatives from Customs administrations and public sector from Chile; People's Republic of China (China); Hong Kong, China; Indonesia; Japan; Malaysia; Papua New Guinea; Peru; Russia; Chinese Taipei; the United States and Viet Nam attended the seminar.

As a result of the Seminar, APEC member economies have received information on main aspects of the IPR border enforcement such as international legislation, strategies for the fight against counterfeiting and piracy, risk assessment, international cooperation and APEC economies' experience in the application of border measures, which has strengthened participants' abilities, thus contributing to ensure a proper and effective IPR protection in the region.

The main seminar conclusions were the following:

- Intellectual property rights are an important tool to promote innovation and creativity, recognition to the effort in time and other resources of innovators, and an element for the promotion of foreign trade and investment. APEC Member Economies establish policies for IPR protection and enforcement taking measures and legal framework to fight against piracy and counterfeiting, and stress the importance for implementing proper measures for IPR enforcement.

- The trade in counterfeit and pirated goods is a global problem in entire world because it threatens the health and safety of consumers, national security in some cases, the innovation economy and the competitiveness of enterprises. In this context, Customs administrations' mission is to enforce law and protect borders and economy while promoting the flow of legitimate trade and travel.

- Counterfeiting and piracy are an increasing problem in every Economy. Nevertheless, there is an improvement and progress in the fight against counterfeiting and piracy due to international cooperation. Coordinated actions among Customs administrations and regional or international organizations having IPR responsibilities are important in order to adequately face some challenges related to IPR.

- Public-private cooperation, at domestic and international levels, is the best way to fight against the illicit trade in goods that infringe intellectual property rights. Alliances between public and private sector and close interaction between national governmental agencies having IPR responsibilities contribute to strengthen IPR protection and enforcement through implementation of an integral control strategy, exchange of information and development of capacity building programs.

- There are similarities and differences in addressing IPR problems in all APEC Member Economies. However, there are three main steps to be followed:
  (i) Develop capacity-building and training for Customs officials and systems for verifying the authenticity of goods.
  (ii) Disseminate the importance of IPR.
  (iii) Strengthen the cooperation with other agencies and Economies.

- Finally, exchange and discussion of views, experiences, practices and initiatives on IPR among APEC member economies is very beneficial for enhancing IPR border enforcement activities.

This seminar also allowed a direct participation from APEC Member Economies' Customs administrations from Chile; People's Republic of China (China); Hong Kong, China; Japan; Russia; Chinese Taipei and The United States with a short presentation on their Economies' working ways. This was an opportunity to enhance information exchange and discussions to clarify common interest matters among Economies as well as to identify best practices for IPR border enforcement.

The recommended best practices were the following:

Legislation and Procedures

- Having a strong IPR legal framework that ensure that intellectual property rights can be enforced effectively and sanctions for infringement are strong enough to discourage infringers.

- Empowering Customs administrations to enforce IPR laws when goods are under their control.

- Providing fair, equitable and simplified IPR enforcement procedures.

Risk analysis and exchange information

- Implementing a risk management system to detect and control goods infringing intellectual property rights.

- Enhancing identification and interdiction of counterfeit and pirated goods at the border by improving IPR risk analysis

- Producing statistical reports containing technical analysis on contemporary trends.

- Establishing information exchange networks among APEC Customs administrations in order to fight counterfeiting and piracy.

Cooperation

- Strengthening cooperation among government agencies responsible of IPR for an effective fight against the traffic of counterfeit and pirated goods.

- Strengthening Customs – Business partnership in information exchange and training as an important tool for IPR border application.

At the end of the seminar, speakers and participants completed the APEC Project Questionnaire, whose results has been compiled and included in Part VI of this Report.

Part VI.
QUESTIONNAIRE SURVEY RESULTS

Questionnaire Survey Results

Project Code: CTI 17/2009T

Project Title: Seminar on Implementation of Border Measures for IPR Protection

Seminar: Implementation of Border Measures for IPR Protection

Place: October 5-7, 2009, Lima, Peru

Part A. For Speakers

Question (c): Do you think the project achieved its objectives? What were the project's results / achievements?

- Yes, presentations on IPR perspectives were put forth by several economies.
- Yes, since I learned practices from several economies and a general knowledge on activity (seizure statistics).
- Yes. We could share the objectives and make a relationship.
- Yes.

Question (d): Were the attendees the most appropriate target group?

- As far as I could tell, yes.
- Yes, according to the own economies' design of organization is personnel.
- Yes.

Question (e): What is your assessment of the overall effectiveness of the project?

- I believe they are very worthwhile.
- Good assessment.
- Almost is good.
- Very good.

Question (f): Was there any room for improving the project? If so, how?

- There may be included more details to learn how it operates and to generate Bilateral meetings among Economies to better learn the contents of the seminar.
- No.
- Use of Case Studies, Right Holder Participation.

Question (e): Any other suggestions:

- All participants should make a presentation.
- No.

Part B. For Participants

Question (a): How have you or your economy benefited from the project?

- We know more about other economies' practices, so can join hands better to protect IPR in the coming days.
- Learn more information about risk analysis techniques in other economies.
- Through this seminar, I learnt about and shared the experience and best practices of different member economies in the implementation of border measures for IPR protection. It is a valuable experience for me.
- We obtained various input from other participant experiences in implementing IPR enforcement which can be adopted in our Administration.

- Now, my country is still drafting a government regulatory, so whit this project we hope that IPR protection in my country can be improved more detailed and better more.
- Established new contacts. Sharing of experiences and best practices on IPR enforcement.
- Learned other countries' experiences.
- My economy (Papua New Guinea) has benefited through learning from other agencies' experiences and other border measures implemented.
- Very much from discussion / presentations made by developed and industrial countries.
- Sharing experiences and best practices
- Share other economies' experience and best practices. Raise awareness of IPR infringement.
- As much as other in training view. This is first time Viet Nam Customs attends this kind of seminar.
- It helps me increase my information and knowledge based on other economies experiences.
- Technical cooperation. Join fight against infringers. Improvement of tools and knowledge.
- The benefit is knowledge on compared legislation and technical – legal experiences on customs seizures and impact on their economies.
- It is important officials training, exchange of experiences and international cooperation projects to fight against piracy and counterfeiting.
- I have learned how different customs agency from the different economies regulates IPR at border control.
- It has been really benefited and useful for our institution (Public Ministry).
- It's beneficial since every participant needs to be a transmitter of a new awareness protecting IPR.
- Yes, whit a more frequent exchange for operators in different levels.
- I think that sharing experiences and best practices with other economies enriches the treatment and proposals in our economies.
- Acquiring new knowledge on the problem of IPR in other economies.
- Get knowledge in best practices.
- Get knowledge on measures adopted by other economies to fight IPR infringement.
- I obtained more knowledge related to the subject.
- With experiences and knowledge of speakers and panelist.
- Collecting the best practices.
- We will apply best practices in legal framework and procedures.
- In my opinion it was very important for us because our economy (Peru) is implementing border measures to protect IPR.
- To improve the legal framework.
- Know more about for IPR measures for IPR protection training, to improve the legal framework.
- With knowledge in control process IPR.
- It was a very useful seminar from which I could obtain a lot of knowledge regarding IPR.
- Sharing experience and techniques of risk management. Exchange best practices in border measures for IPR protection.

Question (b): What new skills, knowledge or value have you gained?

- Risk analysis of US and Japan, especially the selection of indicators.
- Learn more risk indicators.
- Multinational co-operation is essential to the effective suppression of smuggling of IPR infringing, which in turn helps protect not only IP right owners but also the economic development of member economies.
- Risk management. Ex officio right to seize infringing goods without having order from court (USA).

- With this project I have any new knowledge and values such as: how to manage a risk in IPR protection, how to develop a regulatory in IPR protection, how to protect IPR better more.
- Expanding the border i.e. security and prosperity partnership. Prioritize trade issues. Intelligence process.
- IPR violations are global problems. International co-operation is very important to combat the menace.
- The TRIPS border measures are only basis and other measures can be included. Public – Private partnership is an important tool in IPR enforcement. Risk management is also another important tool.
- The change in smuggling trend from drugs / arms to goods of high demand at global level; example cigarettes, CDs, etc.
- E-recordation systems of US CBP, Knowledge of Latin America countries experience.
- Training of customs officers is an important factor to successful IPR enforcement. A well-functioned Risk Management should be established.
- Risk Management / Targeting.
- Better parameters for risk analysis in border measures issues.
- Risk analysis tools for IPR infringements detection. Information exchange.
- Knowledge from American, Chinese, Russian and Japanese Customs Administration on border measures.
- Exchange of information from different customs. Search of samples inside containers.
- I have learned on what has worked and what has not in different parts of the world, regarding IPR at border control.
- The specialized treatments for infringements on border measures from developed economies.
- Knowledge on other economies' experiences.
- Information from economies with free trade agreements.
- I have enriched and increased my knowledge in IPR protection.
- I was able to understand that IPR is an international problem that requires cooperation from all economies.
- Knowledge on legislation and operational customs field.
- Different ways to protect IPR.
- I really increased my knowledge on IPR protection.
- Legislation, risk assessment in different customs administrations.
- Knowledge on the field of legislation and customs operating.
- Legal framework and procedures to operations.
- A lot of experience, especially of other economies that already implemented border measures in order to protect IPR. The sharing of their experiences will be very useful.
- Experience, abilities and new cases.
- More experience, know cases about IPR, regulation systems and procedures. Change opinions. Skills in detections.
- Best practices of others countries.
- We gained knowledge about adopted measures by different economies in fighting infringements.
- Knowledge about new legislations.

Question (c): What, if any, changes do you plan to pursue in your home economy as a result of the project?

- I'll try to new-learned risk access skills in my work to full fill our responsibility while facing hard task.
- Use the risk technique in future work.
- The experience gained in this seminar will be shared with colleagues of my serving Bureau.
- Diffuse the result of Seminar to our staffs, especially those who work on the ground.
- To give more focus on IPR issues that bring high impact in society i.e. health and security. Public awareness.

- Customs authority must play role to block the fluid of IPR violations goods from entering the market.
- E-recordation. Post recordation and other IPR procedures on website. More awareness to right holders and importers. Company audits are a good strategy.
- Will plan workshop for manager / staff under Southern Region and present report to Executive management for consideration (training, etc.).
- Activities of co-operation with Latin American countries. Use special programs in risk assessment.
- Try to have a more effective enforcement on exports of IPR infringing goods.
- Risk management indicator. Technique apply for identify IPR violations product.
- Better coordination among entities for border protection adoption.
- Right now there is a project to implement current regulation in Peru border measures.
- Empowered legally Peruvian Customs to intervene different customs regimens and stop re-exportation of infringing goods.
- More training for customs officials in IPR. Exchange of information between INDECOPI and Customs.
- These experiences could be use to better our customs control operations.
- Peruvian Customs should be more competitively in primary zone on goods infringing IPR.
- Consumer's protection by acquiring products that don't pose any alarm.
- For interdiction to be similar for everybody.
- A risk management model, the need to propose risk profiling in concurrent control and verification actions randomly hold in terminals.
- Empowered customs officials to intervene, seize, investigate and punish infringers.
- Relationship improvement and criteria uniformity regarding treatment of goods infringing IPR among Customs, INDECOPI and Public Ministry.
- Share more information with other economies.
- A personal and institutional commitment to cooperation.
- It's necessary to increase the exchange of information between government agencies and private companies.
- At short time it is more easy changes in operating areas. Longer time changes in law area.
- To implement risk information based on all experiences received.
- Maybe Peruvian law might be changed and reduce the amount of guarantee that the right holder must accompanied to this application.
- Exchange information.
- Exchange information with other economy about IPR to improve new tendencies.
- Modify laws and control practices.
- To change our systems of IPR infringements, it would be advisable to develop a recordation of IPR right holders.
- Customs administrations shall have more legal faculties in order to protect IPR.

Question (d): What needs to be done next? How should the project be built upon?

- More seminars based on case study.
- Hold more seminars on IPR infringement case study.
- To share the experience gained in this seminar with colleagues of my serving Bureau.
- We need more case studies so that will be more absorbed.
- I think in the future regarding to the IPR protection; the project should be continuing with workshop often and training for the customs officer deeper.
- To input knowledge and skills on IPR border measures. By having a syllabus on IPR subject for the basic training of all customs officers.
- Conduct awareness programs to able public support to boycott imitation and pirated products.
- Assess and implement new strategies. Develop new marketing strategies. Use training courses to import recommended strategies i.e. Regional training centers.

- We have implemented IPR however, our challenges is grow as a developing economy with fewer right holders.
- Edition of the book on best APEC practices.
- The project should be built upon every economy's effort in IPR enforcement and experience sharing.
- Greater technology and communication skills.
- Peruvian Customs' awareness should be increased on prevention and repression on infringers of IPR and fearlessly apply legislation into force on the matter.
- International cooperation for: training and implementing of computer systems and database.
- It should be continued and updated because there are always new techniques to enhance border control regarding IPR.
- Analyze our current reality in a logistic and regulatory basis in order to not be against the current laws.
- To collect more information.
- Providing more information through seminars.
- Involve all entities participating in IPR work under one single strategy in order to avoid vacuums in control process.
- INDECOPI and Customs administration need to be merged and capacity building for a specialized group on trademarks and patents.
- Ongoing training which conduct to an effective work in customs.
- Create a database for IPR holders.
- Changes in legislations and technical, logistic implementation.
- I have done several contacts with different participants in this seminar.
- Establish standard procedures first and mainly in exchanged information between countries.
- We need implement the new risk in information systems.
- This kind of seminars or work groups allows the participants to get involved in the IPR border measures; this is an important step in order to build more collaboration between different economies.
- To improve new tendencies.
- Some expositions from right holders show their brands or their products.
- Exchange database of cases detected of IPR between countries.
- Train all personal involved in IPR.
- Analysis of Peruvian legislation. Authorities' commitments to protect IPR. Major commitment of the private sector.

Question (e): Is there any plan to link the project's outcomes to subsequence collective actions by fora or individual actions by economies?

- I'll suggest on: risk analysis study, close cooperation with right holders.
- No plan at present.
- The link of the experience gained in this seminar and the enforcement works will be considered.
- Sharing of experience and best practices with other Asian countries.
- Campaign by inter agency task force asking public to give information to the authorities if they know smuggling and trading activities of IPR violations.
- Employ similar strategies as other economies as most legislation is based on the WCO model legislation. Standardizing of procedures and processes should also be emphasized to encourage international cooperation.
- We are encouraging right holder to register with us to act upon at the border.
- International cooperation should be strengthened in order to have a good enforcement.
- Cross data effectively between INDECOPI and Customs to expedite and guarantee border interventions.
- It is advisable that there is a single window for collectives societies authorized in Peru.
- Pursue of cooperation and exchange of information.

- To train staff.
- Identify trademarks and its right holders in order to implementation of border measures for IPR protection.
- Identify main counterfeit trademarks and look if there are common goods in a group of countries.
- Experience exchange (of successful cases) in IPR control.

Question (f): Please use the same scale to rate the project or an overall basis.

- [5] (Good): 24 (69%)
- [4]: 10 (28%)
- [3]: 1 (3%)
- [2]: 0
- [1] (Poor): 0

Question (g): What is your assessment of the overall effectiveness of the project?

- Excellent.
- Very effective.
- Very effective one.
- The project is effective but we need more real cases on the study.
- Good.
- Excellent.
- Excellent.
- The forum should recommend what is fair best practice applicable. The seminar should be a little longer.
- Very informative and useful.
- Good.
- Good.
- Good.
- Well organized.
- Highly positive since it allows a closer approach to IPR protection and effective treatment for each economy.
- Good.
- Very important since with an effective coordination the global control shall be increased and the global trade would be more efficient.
- Very effective because it allows for the different economies not only to learn from other experiences but also to be in contact with customs officials of other countries.
- Increase the capacity training.
- It was very important.
- It was very important and necessary.
- It was very effective since we learned best practices from other economies.
- It was very good and this should be held periodically to evaluate progress and results.
- Beneficial for APEC economies and Peru who is affected with infringing goods of high risk in a greater volume.
- It contributes to the development of the economy.
- To know the best practices of border measures to apply in our countries.
- Bring protection and security to safe trade.
- I think that interchange best experience empowerment all economies.
- Its effectiveness was very good because we gained a lot of experiences of other economies which now we know has the same problems.
- Effectiveness.
- It was very good because was directed to the public objective. It was one experience very interesting; it was effective because I gained experience.
- It is the biggest impact.
- Very good.
- It is good because we gained a lot of experiences.

Question (h): Was the project content: (Check One)

- Just right: 30 (86%)
- Too detailed: 3 (8%)
- Not detailed enough: 1 (3%)
- N/A 1 (3%)

Question (i): Please provide any additional comments. How to improve the project, if any?

- More different countries presentation, paper report is also appreciated when time is limited.
- More detailed seminar.
- This seminar is a successful and fruitful one.
- We need more speakers from advanced economies to share with their economies in combating counterfeit.
- To have a session with business partner / private sector / IPO.
- Beside seminar on border measures for IPR protection please organize other seminar which involves other government agencies (legal authority, consumer affairs, police, ministry, trade officials, etc.) and IP owners.
- More planning should go into such seminars to avoid confusion. Time should be given to other economies to make presentations.
- Although challenges in our respective economies differ based on our economical and social development as members of customs family are faced with same threats / problems across the globe.
- To plan participation of right holders more often.
- International technical cooperation. Use of information and communication technologies (ICT) applied to the subject matter (border measures).
- Address this kind of seminars to customs officers in charge of border actions.
- Include right holders in the effort of government.
- It is important to have a general knowledge of the legislation and institutions.
- There should be work in legal rules from economies with similar problem.
- It is important that consumers be sure that their governments or agencies have the commitment of finding and prosecuting counterfeits and that the fight against counterfeit and piracy will not only benefit large corporations.
- Interesting experience, great organization.
- Maybe for other opportunity invite the private sector to show your point of view.
- Hold another seminar and exchange more experiences from other economies and rise awareness in people about how dangerous is to commit infringement.

Part VII.
SEMINAR BENEFITS

Seminar Benefits

With globalization, counterfeiting and piracy have become a major concern not only because it affects the interest of right holders but because it is a serious and growing threat against health, security and economic interests worldwide.

Customs administration as authority in charge of control and administration of the cross-border movement of goods in international trade has a strategic role in the prevention and interruption of goods illicit trade infringing intellectual property rights. Hence the establishment and optimization of an effective IPR border protection system will play an important role in the fight against counterfeiting and piracy.

In this context, the seminar benefits have been meaningful for participant economies since they were able to use other APEC economies' successful experiences to identify best practices and put them in practice in their economies, thus avoiding duplicity of efforts and costs by learning from knowledge and experience from other Customs administrations that have already satisfactorily implemented such measures.

The seminar also contributed to strengthen participants' capacities by learning from knowledge and experience from other members in the application of border measures for IPR protection, which will contribute to ensure a proper and effective IPR protection in the region. Nevertheless, this is not enough. It is necessary to supplement their capacities with participation in training programs for identifying infringing goods, thus an effective Customs-Business partnership is essential.

Finally the development of this project showed that this kind of events, where participants can improve their knowledge, exchange experiences and identify best practices, is an effective method implemented by the SCCP to promote understanding among APEC Member Economies' Customs Administrations.

Part VIII.
CONCLUSIONS

Conclusions

1. The Project reached the proposed objectives such as:

   - The APEC Member Economies' representatives attending the seminar were able to collect information on the application of border measures for IPR application such as legal aspects, clearance suspension procedures, right holders registry, risk analysis, and policies and strategies for an effective fight against counterfeiting and piracy.

   - The APEC Member Economies' participants were also able to learn IPR border control processes applied by other APEC economies, compare them with processes already implemented in their economies, and identify applied best practices.

2. This seminar has been a great opportunity for experience and information exchange among APEC Member Economies' Customs administrations, which will contribute to ensure a proper and effective IPR protection in the region.

3. APEC Member Economies' Customs administrations delegates attending the seminar can begin research tasks with a view to propose improvements in their economies considering experiences presented from other member economies and opinions exchanged during the event. At long term, the project impact may be measured by its contribution for the effective compliance and application of border measures for IPR protection by all APEC Member Economies' Customs administrations.

4. This seminar proved that APEC-funded projects represent a great opportunity for experience exchange among Member Economies.