

# Introduction

## WCO action against counterfeiting

Author

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Counterfeiting has ignorantly been called a 'victimless' crime, but this fallacy can no longer be allowed to continue unchallenged. Having just taken up my position as the new secretary general of the World Customs Organization (WCO), I have already nailed my colours to the mast when questioned on counterfeiting and piracy. I intend to ensure that the protection of IP rights remains one of the top priorities for the organization and its 174 member customs administrations.

Too much is at stake if we permit this illicit trade to continue its alarming growth. We are no longer just dealing with fake handbags or cheap counterfeit watches; we are now facing a deluge of counterfeit medicines, foodstuffs, motor vehicle spares and even counterfeit aircraft parts. These products cause serious damage, impoverish economies and impede development. They now severely compromise the health and safety of millions of people across the globe, sometimes with deadly consequences. Even Tim Phillips, the well-known business journalist, broadcaster and international news correspondent, refers to the "deadly trade in counterfeit goods" in his book *Knockoff*, which provides a deep insight into the knockoff economy that he so aptly calls "a criminal empire of huge proportions". This empire is not only making huge profits, but also flooding world markets with huge quantities of fake goods.

### Figures that speak for themselves

The European Commission notes that, between 1998 and 2004, the number of counterfeit items seized by Customs in the European Union increased by 1,000%. In its

2007 study the Organization for Economic Cooperation and Development estimated the value of trade in counterfeits to be in the region of \$200 billion. Being clandestine, it is often difficult to provide exact estimates about this illicit trade. Nevertheless, the figures are high and we cannot but step back and recognize that this blight on legitimate international commerce poses a serious risk for the global trading system.

The economic damage and its social consequences are cause for great concern, especially when the United States, the world's largest developed economy, records a loss of 750,000 jobs as a result of counterfeiting and piracy according to US Customs and Border Protection estimates reported to the US Chamber of Commerce. Indeed, the chamber advises that, according to the Federal Bureau of Investigations, counterfeiting and piracy cost the United States between \$200 billion and \$250 billion in lost sales each year. This is exacerbated by the current financial crisis sweeping the planet. The effect such job and revenue losses would have on developing countries whose economies are more vulnerable is devastating, especially as they grapple with revenue security issues as world trade slows due to the state of global finances.

This is the background against which customs administrations have to operate, given their role as a country's primary line of defence in:

- controlling the import and export of goods;
- protecting society;
- collecting revenue;
- enforcing trade rules;
- contributing to a fair and equitable marketplace; and
- ensuring the security of the international

trade supply chain, while facilitating the movement of legitimate cargo.

### At the forefront of enforcement

The mandate of Customs has expanded considerably in recent years, but the tasks faced are made more difficult by increased smuggling and counterfeiting. Evidence suggests that much of this illegal trade is being run by transnational organized crime groups whose activities have the potential to undermine national economies and governmental structures through losses in jobs and tax revenues, while encouraging corruption and causing massive public health and safety problems.

Nonetheless, the fight against goods that infringe IP rights has been on the agenda of the WCO for a long time. In fact, the awareness of the need for action resulted in the preparation of guidelines in this field, including the first model IP rights legislation developed as early as 1988 by the WCO. Customs has been at the forefront of the fight against this illegal trade for years, responsible for making 90% of all seizures in Europe and more than 70% worldwide. This fight was given political impetus following the 2005 summit declaration by G8 leaders in which they urged collective and concerted international action to combat counterfeiting and piracy.

But just as the WCO and its members have accelerated their efforts to crack down on counterfeiting, this illegal trade has become more complicated and sophisticated. The perpetrators constantly evolve their *modus operandi* and the methods used to conceal the true origin of goods so as to avoid detection by Customs, in addition to exploiting differences in border controls from port to port. Tracking the trends and patterns of what is often called 'the crime of the 21st century' is a demanding

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job and coping with this challenge is even more testing for the customs community. In a bid to ramp up its efforts, the WCO has strengthened its partnership with other international organizations, including INTERPOL, the World Health Organization, the World Intellectual Property Organization and the World Trade Organization. It has also stepped up its collaboration with the business community, especially rights holders, as they have the product information necessary to help Customs to tackle IP rights infringements more effectively.

### Two years of concrete action

The WCO kicked off 2007 by dedicating the year to combating counterfeiting and piracy. The scheme was launched on January 26, the day the international customs community celebrates International Customs Day. Customs administrations were encouraged to take decisive action at borders, while the WCO stepped up its capacity-building efforts to ensure members were better placed to deal with the counterfeiting and piracy trade through more effective enforcement programmes.

In 2008 the WCO continued in the same vein by hosting the Fourth Global Congress on Combating Counterfeiting and Piracy in Dubai from February 3 to 5, which saw more than 1,200 delegates gather to identify solutions to this escalating global problem and put an end to the damaging effects it is having on consumer health and safety, government resources and revenues, innovation and foreign investment. The conference was organized with the support of Dubai Customs under the patronage of His Highness Sheikh Mohammed bin Rashid Al Maktoum, vice president and prime minister of the United Arab Emirates and ruler of Dubai.

The congress is a unique international public-private partnership convened annually between the WCO, INTERPOL and the World Intellectual Property Organization in cooperation with the world’s business community represented by the International Chamber of Commerce through its Business Action to Stop Counterfeiting and Piracy initiative, the International Trademark Association and the International Security Management Association. Flowing from this event, the congress partners issued what is known as the ‘Dubai Declaration’, identifying 25 concrete recommendations for action covering:

- cooperation and coordination;
- legislation and enforcement;
- public and political awareness;
- capacity building;
- health and safety;
- free trade zones and transshipment countries; and
- internet sales.

Later in the year, the WCO joined forces with the European Commission, under the framework of its EU Customs 2013 Programme, to host an international conference on combating trade in fake goods. This conference, which was hosted by Greece’s customs administration with the support of the Greek Ministry of Economy and Finance, took place from May 21 to 23 2008 with the following aims:

- Provision of a secure and safe environment for all citizens;
- Enhancement of customs border controls;
- Identification of future challenges, opportunities and threats;
- Raising of public awareness about the dangers of fake goods;
- Mobilization of international players to further synergize their activities; and

- Intensification of cooperation between the European Union and the WCO.

The 300 delegates who attended the meeting recognized that as the health and safety of consumers are under grave threat, protecting consumers should be a priority for Customs. Among the different solutions proposed for concrete action, the conference highlighted the following:

- The need for real acceptance at the highest political level of the dangers posed by counterfeiting;
- The need for improved and adaptable legislative and operational measures;
- The need for customs authorities to have practical tools that would enable them to distinguish between genuine and fake goods;
- The need to concentrate resources on operational necessities;
- The need to intensify efforts at the operational level;
- The critical need to improve exchange of information between the public and private sectors;
- The need to improve intelligence flows between customs authorities; and
- The need to find practical solutions to problems related to fake goods being traded via the Internet.

On a more practical level, the WCO launched Operation Vice-Grips on June 2 2008 to give further effect to its determination to take strong action against counterfeiting and piracy. With the cooperation of Egypt, Ghana, Morocco, Nigeria, Tunisia and Senegal, this voluntary operation rallied the forces of six customs administrations in North and West Africa to conduct simultaneous inspections of imported consignments that could potentially contain counterfeit and pirated

goods. This multi-country operation involving principal ports in Africa known to be used by counterfeiters and pirates as destinations for their illicit goods, whether intended for the African market or in transit to other parts of the world, proved to be a great success. Its primary objective is to build the capacity of customs authorities to fight the trade in counterfeit and pirated goods more effectively and from a position of strength. In addition, the operation hopes to:

- quantify and qualify the scope of this illicit trade throughout Africa;
- detect new fraud routes and new places of concealment;
- unearth new fraud techniques; and
- provide training under real-life conditions to customs officials.

Forty-seven maritime containers were inspected by customs officials after they had received specific training in risk analysis and targeting by WCO IP rights specialists. Several tonnes of goods, representing globally trusted brand names and consisting of 1.4 million items, were intercepted. The breadth of goods recovered and the sheer volume lead to one conclusion only: that the international community will have to step up drastically its efforts to fight counterfeiting and piracy if we are to stop this flourishing illicit trade from:

- continuing to threaten the health and safety of people;
- stunting economic growth in vulnerable countries; and
- crushing artistic creativity and innovation.

During 2008 the WCO continued to provide and facilitate national and regional training and capacity-building support to countries around the world. These seminars are specifically designed for customs officers in ports and airports, as most shipments containing counterfeit goods arrive at these entry points. An essential element of this training is the practical application of risk-assessment techniques on the spot. Other aspects such as the identification of counterfeit products and legal issues are also included in the curriculum. These IP rights training and capacity-building events are usually followed by practical operations at points of entry, and are aimed at intercepting bulk consignments of counterfeit products before they are distributed and dispersed into smaller street-level quantities.

The operational capacity of Customs is significantly enhanced through the use of the WCO's secure communication structure – known as CENCOMM – which enables

Customs and others participating in operations to share information and intelligence in a secure environment within the WCO Central Enforcement Network. In addition, a fully equipped facility located within the premises of the WCO Secretariat called the Operation Coordination Unit is available as a central point for the overall steering and coordination of individual operations. This broad range of tailor-made applications and the flexibility of CENCOMM convinced the G8 heads of government during their 2007 summit in Germany to select the system for a pilot project among G8 members, which focuses on the exchange of information on seizures of infringing goods among G8 countries.

#### **Taking capacity building to new heights**

While a lot has already been done by the WCO in the past, under my leadership I intend to further invigorate the organization's anti-counterfeiting and piracy efforts in 2009:

- through enhanced partnerships;
- by ensuring that greater use is made of the latest technology;
- by promoting innovative approaches to IP rights enforcement;
- by encouraging even greater national and regional participation, by creating further tools to enhance customs operations, which will assist in the implementation of obligations under the Agreement on Trade-Related Aspects of Intellectual Property Rights;
- by placing more relevant information at the disposal of WCO members;
- by actively promoting greater exchange of information and best practice;
- by ensuring that the WCO becomes a forum for discussing IP rights issues in a transparent and open manner; and
- by increasing capacity-building activities.

I have already taken the first steps by securing dedicated funding for IP rights capacity building and other technical assistance activities. In this context, I will ensure that capacity building for Customs in the area of counterfeiting and piracy enforcement is customized to meet defined national and regional goals and priorities, as this will contribute more definitively towards customs administrations becoming key players in today's knowledge-based economy. A dynamic, innovative and responsive IP right capacity-building programme that is consistent with the public policy objectives of WCO members will be the driver behind my sincere determination to ensure the

successful enhancement of IP protection by Customs.

Further operational activities jointly prepared by the WCO Secretariat and affected customs administrations are also planned, including those targeting major international sporting events such as the 2010 FIFA World Cup in South Africa; experience has taught us that these sporting events are a major 'business opportunity' for counterfeiters across the globe. In addition, using its committee structures, the WCO will begin discussions on the challenges posed by internet sales of counterfeit products.

At the international level, the WCO will participate with its partners in the Fifth Global Congress on Combating Counterfeiting and Piracy, which will take place in Mexico during June 2009. This congress will build on the successes of the first four and will focus on developing tangible solutions to the current challenges in fighting counterfeiting and piracy globally. It will include special sessions devoted to the increasing problems in Mexico, and Central and South America.

The WCO's plans for 2009 are already in motion, but it is only through collective and concerted international cooperation between the public and private sectors that we will succeed in our fight against counterfeiting and piracy. [WTR](#)



WORLD CUSTOMS ORGANIZATION

## Biographies

# World Customs Organization

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Before taking up his new position as secretary general of the World Customs Organization (WCO) on January 1 2009 following his appointment by the WCO Council in June 2008, Kunio Mikuriya spent seven years as the organization's deputy secretary general. In this position he led efforts to coordinate the work of the WCO with other international organizations and the private sector. Prior to joining the WCO, he worked for Japan's Ministry of Finance for 25 years. During his career with the ministry, Mr Mikuriya occupied a variety of senior posts, which has given him broad experience in customs, trade development, budget and financial policies. Among other things, he spent time as a counsellor at the Japanese Mission to the World Trade Organization in Geneva. Mr Mikuriya's experience has enabled him to acquire an excellent knowledge of trade-related issues. He has a BA degree in law from Tokyo University.