



IPR Enforcement

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Property

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The UN Economic Commission for Europe (ECE)





UNECE Committee on Economic Cooperation and Integration (CECI)

- Innovation and Competitiveness
- Public-Private Partnerships
- Entrepreneurship and Enterprise development
- Financing Innovation and
- **Intellectual Property Rights**



Adverse Effects of Counterfeit and Piracy on Rights Holders

- brand value dilution
- unfair competition
- cost of fighting counterfeit and piracy
- potential liability for unsafe fake goods
- lower sales
- => **lower profitability and shareholder value**



Adverse Effects of Counterfeit and Piracy on Consumers

- health and safety risks
- loss of utility (when unknowingly buying fakes)



Adverse Effects of Counterfeit and Piracy on Government

- lost tax revenue
- cost of fighting counterfeit and piracy
- possibly corruption and undermining of state institutions



Adverse Effects of Counterfeit and Piracy on Economy and Society

- weaker incentives to innovate
- ... and to maintain product quality
- shadow economy
 - strengthening of organised crime
 - lower environmental and labour standards
- negative effects on FDI, trade, technology transfer
- hence lower long-term growth and living standards



Problem has been increasing !

- Seizures at EU borders up more than 10 fold in 10 years
- Counterfeit and pirated goods infiltrating legitimate supply chains
- Counterfeit and piracy from luxury to mass market goods



Regional Picture

- Generally a lack of systematic data
- Rapid increase in cases (thru 2008) ...
- ... in part due to stronger efforts
- Effect of economic crisis still unclear



Regional Picture

- Re-packaging/ re-labelling => importance of internal market surveillance/ policing
- Some important transit countries
- Main origin China, but also some w/in region and domestic producers
- Proximity effect?



Regional Picture

- Types of goods varies by country and import/transit/domestic production
- Typical items: clothes, sports shoes, mobile phone equipment, car parts, watches, perfumes, batteries, cigarettes, alcohol, herbicides



Magnitude of the Damage?

We don't know !

- Counterfeit and piracy up to US \$ 200 billion annually in international trade (2005) (OECD)
 - does not include digital goods and services or domestically produced and consumed fakes
- “value of counterfeit and pirated goods estimated at over €500 billion annually” (ICC)
- 10% of medicines sold are estimated to be counterfeit (WHO)



Magnitude of the Damage?

- No economy-wide estimates of job losses or lost economic growth available
- Sectoral estimates vary extremely widely
- ... due to data problems



Magnitude of the Damage ?

BUT:

- Damage not just from *actual* (hence measurable) infringements!
- Counterfeit and piracy **threat** affects **everyone!**
=> Costs of
 - Counterfeit and piracy prevention
 - Weakened investment incentives
 - Reduced technology transfer



UNECE's Work

- TOS-IP established in 2006
- provide a forum for the exchange of experiences
- collect/ disseminate good practices and policy recommendations
- engage in capacity building and policy advice at national and sub-regional level



... through

- our network of experts representing
 - government ministries and agencies
 - the business community
 - international organisations
 - professional associations
 - academic institutions
- and our inter-governmental process



Good Practices on Enforcement

- Reduce time and cost to rights holders of taking action
 - Effective provisional measures
 - Ex officio powers for enforcement agencies to act
- Effective criminal sanctions for wilful infringement on commercial scale => Provide **adequate deterrence** (repeat offenders!)



Good Practices on Enforcement

- Strengthen legal basis for fighting counterfeit and piracy in trans-shipment/transit
- Strengthen regulatory oversight over wholesalers and retailers => **protect legitimate supply chain**



Good Practices on Enforcement

- Training of enforcement officials and judges
- Cooperation and coordination between various IPR enforcement agencies
 - Designated lead agency or
 - Inter-agency coordination group
- Cooperation and coordination between IPR enforcement agencies and internal safety and health enforcement agencies => **tackle counterfeit and piracy on internal market**



Good Practices on Enforcement

- Cooperation between enforcement agencies and rights holders
- Consumer awareness campaigns
- International cooperation



3 Selected UNECE Programs

- Promoting Innovation
- Using Market Surveillance for IPR Enforcement
- Transport Sector Cooperation



Importance of International Support for Innovation

- Effective enforcement requires resources
- IPR enforcement competes w/ other priorities
- Support for innovation as a key driver of economic development
- => helps relax resource constraint
- => gives countries a stake in IPR protection



Importance of International Support for Innovation

- UNECE Committee on Economic Cooperation and Integration (CECI) offers assistance in:
 - Improving national innovation systems,
 - Commercializing own IP
 - Promoting innovative enterprise
 - Promoting innovation financing



Market Surveillance & IPR Enforcement

- UNECE WP on Regulatory Cooperation & Standardization **Recommendation “M”**
- Involve market surveillance agencies in fight against counterfeits
- Provide for coordination & cooperation w/ IPR enforcement agencies
- Give IPR owners opportunity to exchange information w/ market surveillance agencies



Market Surveillance & IPR Enforcement

- Improve capacity of MSAs to identify counterfeits
- Give authority to inspect for IPR compliance and to inform IPR enforcement agencies &/or rights holders
- Give IPR owners opportunity to exchange information w/ market surveillance agencies



UNECE Transport Sector Work

- Int'l trade in counterfeits relies on carriers
- Today carriers have no legal responsibility
- “Origin laundering” often makes it impossible to get to original producers
- Costs of storing & destroying counterfeits often fall on rights holders



UNECE Transport Sector Work

- UNECE Inland Transport Committee has conventions which might in future be used/ serve as precedent for bringing carriers into the fight against counterfeiting
- **CMR convention**: regulates liability between carrier and sender in case of incomplete/ inaccurate documentation



UNECE Transport Sector Work

- **TIR convention**: provides an industry-financed international insurance chain to cover liabilities for customs duties/taxes
- **WP on Customs Questions Affecting Transport**: Sept meeting considered abuse of TIR by smugglers



Thank You!

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