



GOVERNMENT OF CURAÇAO



# Reducing the Harm

## 17<sup>TH</sup> International Law Enforcement Intellectual Property Crime Conference

Willemstad, Curaçao - 23-25 September 2024

#IPCrimeConference

December 2024

## INTRODUCTION

Welcoming delegates to the 17th International Law Enforcement Intellectual Property (IP) Crime Conference, the Prime Minister of Curaçao observed, "Addressing emerging crimes is not just a professional duty. It is also a mission to maintain order, to solve crimes, and establish trust and respect between communities, institutions, and the individuals we serve".

The meeting in Curaçao marked the first time that the IP Crime Conference was held in the Caribbean. Given its location, this island country has been on the front line of the fight against counterfeit goods. Curaçao is a Pan-American supply hub, and, because of its favorable tariffs and trade agreements, a gateway for goods into the European Union, the United States, and Latin America. Its free trade zone, which in the past has faced challenges with illicit trade, provides an example of how laws, policies, and regulations can be modified to make intellectual property rights (IPR) protection more effective.

While free trade zones are crucial to the global economy, legitimate trade, and investment opportunities, they also present significant challenges, especially when criminal networks exploit them to facilitate the illegal transit of goods within and between these zones. The abuse of free trade zones can have a significant, negative impact on the integrity of global supply chains, which can undermine global security.

Curaçao has continually engaged with anti-counterfeiting organizations and has sought opportunities to collaborate with the private sector to protect intellectual property rights. It has sought to improve trade processes and systems based on international norms, standards, and security training. Indeed, it recently established a national task force for intellectual property crimes. This, an INTERPOL official noted, "is a crucial step forward in [Curaçao's] efforts to combat the growing threat of intellectual property crimes, which pose a significant risk to global economies, public health, and national security".

The first such organization to result from an IP crime conference, it is an example of a sustainable outcome arising from the collaboration between the co-hosting parties and across national authorities. The task force is an example of how the relevant authorities can cooperate and collaborate to fight IP crime.

Many of the themes involved in combating intellectual property crime and its impact, particularly efforts to reduce the harm caused by such crimes, are wide-ranging, enduring, and continually changing. One Curaçaoan athlete and entrepreneur compared observing the problem to using a stereoscope, noting, "every time you look through the lenses you see something different". As such, the responses to this issue must be continually adapted.

As is traditional, the conference centred around two approaches: disseminating information on anti-counterfeiting activities, and anti-counterfeiting training for personnel. The conference disseminated information through plenary speakers and several panels made up of subject-matter experts on three themes related to responses that can be adapted to the problem of counterfeiting and illicit trade over time.

These themes were coordinating responses, aligning resources, and leveraging opportunities. Each one builds on the other. Many different organizations, both public and private, tackle counterfeiting, which means that they must all be aware of what others are doing. Different organizations also bring different levels of resources to the anti-counterfeiting effort, and these may not always be sufficient. By aligning resources, the organizations involved in the fight against counterfeiting can ensure that they make the best use of them.

Finally, if organizations in the fight against counterfeiting have coordinated their responses and aligned their resources appropriately, they may find new ways to leverage their opportunities or to ensure that one successful effort leads to another. Exploring these themes can be especially helpful for small trading nations such as Curaçao, but the lessons learned are also applicable to global IPR protection efforts.

The training sessions held in parallel with the conference focused on specific tactics that can be employed by law enforcement and others in the fight against counterfeiting. As the global landscape of IP crime continues to evolve, law enforcement agencies must prioritize training and capacity building to combat this complex and ever-changing threat. Capacity building is a critical process that enables law enforcement teams to develop and strengthen the skills and abilities needed to investigate and prosecute IP crimes and other types of organized crime.

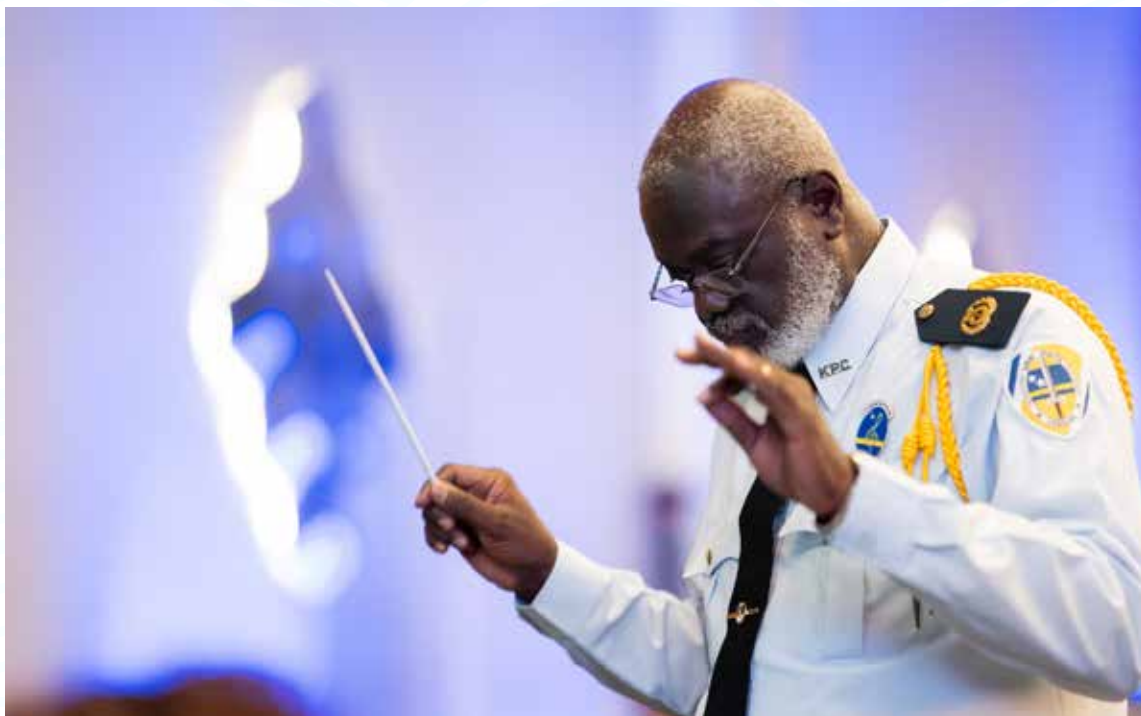
Training and capacity building enable law enforcement agencies to improve their ability to achieve their objectives, manage the challenges of addressing IP crimes, and establish good governance and accountability within their organizations. Moreover, capacity building enables law enforcement agencies to contribute to organizational growth and development, which ultimately leads to more effective and efficient IP crime enforcement.

Building the capacity of law enforcement agencies, governments, and international organizations can help ensure that sustained efforts are made to investigate and prosecute transnational organized IP crimes, ultimately protecting the health and security of individuals and the rights of creators and innovators worldwide.



## COORDINATING RESPONSES

Numerous different parties carry out many types of anti-counterfeiting efforts using a variety of tools. Those seeking to reduce the flow of illicit trade through free trade zones must contend with the different types of activity (e.g., assembly, processing, warehousing, packaging, and labelling) taking place in such zones, as well as the different national regulations that apply. In order to ship their goods, both legitimate manufacturers and those making counterfeit goods use complex logistics systems which must be monitored. Many of these monitoring activities generate data that can provide insight into counterfeit goods and reduce their prevalence and harm, but gathering and analyzing such data can require special efforts. Anti-counterfeiting cases may require adjudication, but in many jurisdictions, the judiciary lacks the expertise, tools, laws, and policies needed to address the problem.



### Deploying Standards and Certification Schemes for Free Trade Zones

After entering a free trade zone, goods, or the materials needed to make goods, can be imported into the host country or re-exported to another free trade zone to continue the manufacturing process. Developing and implementing standards or certification schemes within these zones can promote good governance, increased transparency, and anti-corruption practices, which enable the free flow of legitimate trade.

The Organisation for Economic Co-operation and Development (OECD) has provided several guidelines for improving the governance of free trade zones. An OECD trade policy analyst spoke at the conference, stating that these guidelines would include maintaining records of incoming, stored, and outgoing goods; proactively cooperating with customs and the police; looking for anomalies in seemingly legitimate trade; and having a point of contact for any issues that may arise.

While the OECD would like to establish a comprehensive code of conduct, one European trade representative pointed out that such codes remain voluntary, especially those for which enforcement is not verified. To address this issue, in some areas, the OECD task force on illicit trade has approached trade councils to develop and implement codes of conduct whereby verification is certified by a third-party.

One representative of an organization for the standardization of measurement and accreditation said that quality infrastructure can also boost such efforts. Quality infrastructure includes “the organizations[,] policies, and relevant legal and regulatory frameworks and practices needed to support and enhance the quality, safety, and environmental soundness of goods, services, and processes”. This infrastructure is made up of metrology, standardization, accreditation, conformity assessment, and market surveillance.

Such organizations, systems, and compliance can be costly and may therefore not be “something the free trade zones want”, as noted by an OECD representative. However, “it is something they really need”. The European trade representative added that “safety has a cost. It just depends on who will pay that cost. Either it’s the manufacturers via third-party certification[,] the consumers who fall prey to dangerous products, or the government for hosting free trade zones that may engage in illicit activities”.

### **Mitigating Transportation Safety Risks: The Case of Counterfeit Batteries**

Counterfeit goods can pose problems at points of manufacture and to consumers, as well as during transport between them. Counterfeit batteries illustrate this. “The challenge with batteries,” a representative from a standards and certification organization for electrical products noted, “is that they have so much energy, especially lithium-ion [batteries], that if you don’t design them, manufacture them, use them, and charge them safely or correctly, then they will experience catastrophic events or failures”. Such failures often include “thermal runaway”, when overheated batteries ignite. Such incidents have led to numerous aircraft crashes, including of large aircraft used for freight transport services.

A U.S. research engineer stated that the first step towards reducing the harm from such batteries is understanding “how these batteries can get into the supply chain”. In addition to manufacturing their own batteries, counterfeiters may “dumpster dive” for substandard products or use depleted lithium for batteries. The engineer suggested building “a cordon of security” around the battery supply chain. Such a cordon should include:

- **Visibility** - being aware of the supply chain and the areas of risk along it;
- **Buffers** - having duplicates, if necessary, as well as the ability to reduce or increase capacity;
- **Agility** - being resilient in the event of disruption;
- **Accountability** - punishing those who introduce poor products into the supply chain and rewarding those who provide documentation, certification, and visibility regarding their practices;
- **Verification** – ensuring that all purchases are made through authorized sources and distributors.

Beyond implementing a cordon around supply chains, further efforts are also necessary. As the U.S. research engineer noted, if consumers “put a priority on price and don’t take into account the risk they may incur in achieving that low price, there’s going to be lots of opportunity for those who want to produce substandard product and get it into the marketplace”. A Jamaican police official pointed to research showing that many consumers know “nothing about lithium batteries and their risks” and suggested that the best way to protect consumers is to educate them, as well as the public safety officials who may come into contact with such batteries. An IACO official noted the need for greater data sharing regarding incidents, noting that the only organization that currently documents aviation incidents involving lithium-ion batteries is the U.S. Federal Aviation Administration.

## **Leveraging Applied Research for Enforcement**

While data on counterfeiting and other economic crimes may be disparate, it is increasing. This is a result, a U.S. academic noted, of “myriad entities perform[ing] work to deter, detect, and disrupt illicit trade, while also accelerating the professional and intellectual development” of those seeking to combat illicit trade and related activities. In fact, the academic added, “there are so many notable organizations, stakeholders, and individuals involved in anti-counterfeiting and anti-piracy that the sheer volume presents a bit of a barrier to new entrants” seeking information and analysis regarding these crimes. Still, researchers are increasingly able to “contextualize...illicit trade and counterfeit goods in terms of forced labor, human trafficking, environmental pollution, and human health and safety” and even to “see the convergence of IP crime in light of many other concerns such as tax fraud, capital flight, corruption, extortion, child exploitation, homicide, manslaughter, and the proliferation of small arms and light weapons”.

A UK academic suggested that solving current and emerging issues in IP crime and related illicit activities will require a stronger portfolio of research. Such research should aim to “find out what is going on and when and where to intervene” and to create “greater synergy between industry, academics, practitioners, and policymakers”. Among those making efforts to increase the amount of research in the field are the UK Economic Crime Education Consortium and the new International Society of Economic Criminology, which include industry stakeholders, practitioners, law enforcement, regulators, and academics.

Companies that fall victim to counterfeiting recognize the need to leverage partnerships in the fight against it. A brand protection official for a leading pharmaceutical firm noted that there is willingness to share global investigative capacity, but that there is also a need for data to support such capacity. In addition, the official noted, “we need intelligence sharing and effective law enforcement investigations and criminal prosecutions. We need political will. We need regulatory authority. And we need effective laws that are enforced and prosecuted”.

## Engaging the Judiciary for Maximum Impact Against IP Crime

The judiciary can be critical in deterring individuals from becoming involved in IP crime and illicit trade. In many jurisdictions, however, the judiciary lacks the expertise needed to rule on such cases and may not even have effective laws or remedies. The rapid pace of technological change can also pose challenges for judges ruling on such cases.

A U.S. federal judge addressing the conference noted three different challenges judges may face when ruling on IP cases. First, judges usually attain such positions when they are at an advanced stage of their legal careers. In other words, they are generally older and may not have the same understanding of technology and its uses as younger individuals. Second, new judges may have varying baseline knowledge of IP law and the issues surrounding it. Third, technology continues to evolve, posing new challenges for judiciaries ruling on related issues.

There are several resources designed to help educate the judiciary on such issues, particularly in nations where IPR jurisprudence is in its developing stages. A representative of the World Intellectual Property Organization (WIPO) discussed the WIPO Judicial Institute, which offers resource development and capacity building for national and regional judiciaries to improve their IP expertise. Another WIPO resource is WIPO Lex, a database containing IP treaties, laws, and judgments, among other information. A U.S. Department of Justice attorney also noted the development of the Judicial Studies Institute, which provides training to Spanish-speaking judges from throughout the Western Hemisphere.

The need for judicial education sometimes extends beyond judges. The U.S. federal judge noted that “in very complicated cases, where we have lay jurors coming in here and hearing these cases, the court might task the parties with bringing their experts together and creating a tutorial for the jury so that these very complicated terms and issues are there for the jury to access”.

One of the ways the judiciary can deter counterfeiting is by sentencing guilty parties. Sentencing guidelines may limit the penalties judges can impose on those guilty of these crimes. At the same time, the federal judge said, “In pronouncing a sentence, I speak to the defendant standing before me, but I also try to speak in terms that the press is going to pick up and write about and hence get the deterrent message out there”.

## ALIGNING RESOURCES

Given the many different entities involved in the fight against counterfeiting, challenges may arise in aligning resources to ensure efforts to combat these crimes are efficient. Several speakers throughout the conference noted the need for public-private partnerships. According to the director of the counterfeit crimes unit for an online marketplace, “The private sector must continue to partner with customs and law enforcement agencies, not only to stop and seize shipments, but also to help freeze other assets and counterfeit inventory that retailers may not know about while in transit”. The official, a former U.S. prosecutor in counterfeiting cases, added, “I’m uniquely aware of the real-world impact of resource limitations and the need to prioritize” resources across competing demands. As a result, the official added, “public-private sector collaboration should focus on closing resource gaps that would otherwise inhibit the investigation and prosecution of counterfeiters and their networks”. A representative of another online marketplace also highlighted the difficulties they face in addressing the issue of counterfeit goods “without help from the third-party channels which are directing buyers to our platforms”.

There is a clear need to align resources in efforts to identify and untangle complex criminal trade routes, overcome end-to-end challenges in e-commerce, and implement innovative customs solutions, particularly in free trade zones. Counterfeiters will exploit any opportunity to flood the market with their products. This includes the use of e-commerce platforms, which surged during the COVID-19 pandemic and its aftermath. The scale and volume of global trade creates yet more opportunities for criminals to conceal and move counterfeit and illicit goods worldwide and requires a more innovative, coordinated, and unified transnational customs and enforcement strategy.





## Identifying and Untangling Complex Criminal Trade Routes

The Caribbean provides an example of some of the issues involved in identifying, untangling, and enforcing against complex criminal trade routes. As a representative of the Caribbean Community (CARICOM) noted, the region is a prime transit hub for both licit and illicit trade. Its “hundreds of islands, spread over a vast expanse of ocean, create an ideal environment for smuggling”. Yet “many Caribbean nations have limited financial and technical resources to combat well organized criminal enterprises”.

One of the mechanisms established to combat this problem, the CARICOM official noted, is the Implementation Agency for Crime and Security, which includes a Regional Intelligence Fusion Centre and a Joint Regional Communications Centre. The official highlighted the fact that these bodies “collaborate on a regular basis with law enforcement agencies at the regional and international level. The shared information and intelligence assist in building capacity across the region”. Working together, they help implement technology that can be used to combat crime, including people traversing the region with illicit goods.

Speakers also noted the need to combat corruption in some ports. The director of a coalition against illicit economies highlighted a need to place pressure on China, not only as the source of many counterfeit products, but also as the owner of many ports that are used by criminals around the world. Noting “there is no reason that we are seeing increases in this trade in many countries”, the official said that the fight against corruption needs to be “the centre of gravity” for anti-counterfeiting efforts. A representative of another organization that works to combat illicit trade suggested “dynamic” mapping of illicit supply chains.

The growth of online marketplaces, particularly following the COVID-19 pandemic, has made trade routes even more complex. One INTERPOL official told the conference, “we learned that the world is woefully unprepared for consumers to be purchasing online at the level that they were during the pandemic, let alone after the pandemic”. A representative of an organization that combats illicit trade highlighted the need to monitor social media and chat groups as well as online marketplaces and to develop new tools for identifying shipments of illicit goods, particularly through postal networks.

## Overcoming End-to-End Challenges in e-Commerce

The COVID-19 pandemic and its aftermath led to a surge in the use of e-commerce platforms. This, in turn, led to a staggering increase in the sale and flow of merchandise through online sellers. These increases brought new challenges for enforcement officials, postal agencies, shipping companies, and consumers, who have a collective responsibility to ensure that the goods sent and received are legitimate and safe. They also increased opportunities for criminals seeking to manufacture counterfeit and illicit goods and quickly deliver them to customers.

A representative of an online marketplace identified four areas where such entities can take action to combat counterfeiting:

- **Being proactive** - “looking to eliminate the risks that exist to consumers before counterfeiters are able to list products in a store to be sold”;
- **Being responsive** - “putting in place the appropriate responses to make sure that [counterfeit product] listings come down quickly” should they appear;
- Holding bad actors accountable;
- Educating people on the dangers of counterfeiting and how to protect against it.

A representative of a supply chain research association noted that marketplaces and shippers have a large amount of data on purchases and shipments. This could help those monitoring marketplaces and shippers to identify potentially illicit packages. The online marketplace representative stated that this should involve identifying a small number of data elements that are most predictive and changing them as the counterfeiters change their modus operandi. According to this representative, "having the data is great,...but being able to narrow it down takes talking to partners to figure out what they're seeing".

The online marketplace representative suggested that improvements in technology offer two opportunities for e-commerce. The first is "increase[ing] the efficiency and the speed at which we can track these products". The second "is thinking every new technology that comes out is going to be used by the bad actors to do something bad. Well, if we know it's coming, can we pre-identify where some of those gaps exist and close them up ahead of time?"

Ideally, the online marketplace representative concluded, "a broader mix of key stakeholders [would] come together" to share success stories. These experiences should be shared across all regions and among more online retailers.

## **Implementing Innovative Customs Solutions in Free Trade Zones**

A more innovative, coordinated, and unified transnational customs and enforcement strategy could disrupt criminal trade activities. Such a strategy could be particularly effective against those manipulating regional free trade zones and threatening the integrity of supply chains worldwide. Among the biggest challenges in identifying solutions for free trade zones, according to an official from U.S. Customs and Border Protection (CBP), are the varying definitions for such zones and the difficulty in getting users to recognize border and sovereignty issues within them. The myriad ways in which such zones are defined, the official stated, makes "defining what we're dealing with here" difficult. Many free trade zones, the official added, "have developed into just a complete free for all [where] laws aren't even applicable...[It is] a threat to national sovereignty...to not recognize what goes on within a free trade zone as the responsibility and concern" of the host government. "It is also creating a situation where our trading partners are not being responsible players".

The U.S. CBP representative also highlighted a related problem: the lack of infrastructure in some free trade zones, including, for example, a lack of data management for information on activities taking place in the zone. Similarly, a Colombian security official spoke of efforts to develop a consistent form and programme for free trade zones, particularly regarding the exchange of information. A lack of means to handle the data, the Colombian official added, can cause confusion regarding activities within the zone.

The U.S. CBP official warned that free trade zones may compete among themselves in "a race to the bottom, where countries regionally feel like they're in competition for the business...the only solution to getting out of that state of affairs is for there to be regional agreement on what should be acceptable and not acceptable" in free trade zones. A representative of the UN Office on Drugs and Crime agreed that "solutions cannot just be at the national level", especially given the large number of nations that operate free trade zones. On a more general note, the Colombian official stated that free trade zones need both "more credibility attained in certification" and support from corporate partners to become trustworthy endeavors.

## LEVERAGING OPPORTUNITIES

Aligning resources can help public and private partners better leverage opportunities to combat counterfeiting. Indeed, the overwhelming amount of information that is available to public and private sector organizations poses challenges in converting data into usable intelligence and practical applications. Such steps are necessary precursors to implementing solutions aimed at reducing the harm caused by counterfeiting.



### Implementing Solutions for Cross-Sector Information and Intelligence Sharing

Transnational organized crime, including that which lies behind counterfeit and illicit trade, operates without regard for borders, privacy, or legal restrictions. Tackling this problem requires that law enforcement agencies and private organizations overcome the challenges involved in sharing data, information, and intelligence.

The trade in illicit alcohol is one recent example of the challenges posed by an evolving problem and the solutions employed to tackle the issue. One brewery representative highlighted the fact that in some nations, illicit alcohol makes up nearly 70 percent of the total market for alcoholic beverages. The potential supply of illicit alcohol soared during the COVID-19 pandemic as “industrial ethanol that was meant for hand sanitizer [was] diverted into the production of illicit goods”.

Such alcohol can contain traces of methanol, and its use led to scores of fatalities in several countries. According to the representative, one approach to reducing the harm caused by the illicit alcohol market is to trace illicit alcohol as far as possible up the supply chain and denature it there. “We don’t need a very sophisticated” solution, the representative noted. “We need common sense”.

An INTERPOL analyst stated that for more complex problems, efforts to implement solutions must consider the issue from several different perspectives. For example, financial records related to illicit trade will take a different form than mobile telephone records or even text documents. Reviewing and preparing such data for analysis can be time consuming, and varying client objectives or evolving crimes can add further complications. However, INTERPOL does have a communication system in place that allows Members to share information and evidence at any time. Criminal intelligence officers also seek to collaborate with law enforcement agencies.

When enforcement agencies carry out successful operations, they can then build on them. A U.S. Food and Drug Administration (FDA) official described a successful programme to stop counterfeit medical products being shipped through the mail in the United Kingdom that was adapted to India and Pakistan. The programme was later extended to Uganda and Kenya and included training as well as cross-sectoral meetings, which led to the development of memoranda of understanding outlining further actions. "It was strength building upon strength," the official said. (See also the sidebar on the Award of Merit, given this year in recognition of international collaboration by the Korean Intellectual Property Office.)

Private sector organizations have also recognized the need for a multipronged approach to product counterfeiting, particularly given the rapid growth of e-commerce. A brand protection director for a consumer goods firm discussed a three-pronged approach: frustrating the counterfeiters' supply chain, working with third parties, and developing research facilities to better identify counterfeit products. Engagement with third parties could include working with online marketplaces or other online monitors and pushing for anti-counterfeiting legislation. The director added that consumer education would also be necessary, particularly with associations in areas where counterfeit markets were likely to develop.

The need for such efforts continues to grow as counterfeit markets increase. The U.S. FDA official noted the need "to widen the aperture as it relates to illicit trade", in order to include both more goods and more markets. Such efforts, the brewery representative said, must include work to "break the problem into pieces and interpret" them both individually and collectively. Communication, the INTERPOL representative added, can also assist with understanding the problems and developing means to address them.

## **Converting Incident Safety Data into Practical Applications**

While public and private organizations can find common means of combatting counterfeiting, they may encounter challenges in terms of data. There is no global collection and classification framework or database to gather counterfeit product incidents that result in property damage, injury, death, and other safety issues. Gathering and analyzing data and evidence on such incidents could help to identify current and emerging trends in illicit trade and provide information on where best to direct anti-counterfeiting efforts. Working with cross-sector organizations to capture, analyze, interpret, and share data through a common framework could help provide actionable intelligence for investigations, enforcement, and safety recommendations. Marketplace surveys and counterfeit product testing data can support research into specialized tools, applications, and solutions.

During a workshop on converting incident safety data into practical applications, conference participants also noted several other possibilities. Technological advancements provide greater access to data, although simply having access to more data may not provide useful or relevant information due to excessive "noise".

Participants agreed that collecting data on counterfeit product seizures is essential for investigative and enforcement work. Such data enables analyses of new risks, criminal trends, regional patterns, trending product categories, criminal networks, hot spots, and transportation routes to be carried out. Such analysis can support intelligence-led investigative, enforcement, and safety activities without the need to use private or confidential information.

Participants suggested identifying solutions for providing data and information to those who can use it to strengthen law enforcement and lead integrated responses. Such efforts should focus on empirical facts that support data-driven applications and evidence-based approaches.

While the link between transnational organized crime and product counterfeiting is well established, participants noted that detecting, analyzing, and understanding criminal trade routes is challenging. Uncovering trends, patterns, supply chains, and shipping routes for criminal organizations will require novel solutions leveraging data, intelligence, and technology.

### **Overcoming Detection Challenges of Small Parcels and Shipments**

Many of the current challenges in combating counterfeiting, including adapting to rapidly evolving circumstances, emerging marketplaces, and myriad supply chains, can be seen in the growing volume of small parcels. Criminals are taking advantage of small parcels and shipments to get their products onto the marketplace and, ultimately, to end users. The billions of parcels shipped annually can overwhelm law enforcement officials, who need innovative approaches to monitoring such shipments.

A U.S. CBP field operations representative observed that the challenge lies in de minimis shipments. De minimis shipments are those with a value below a specified threshold, currently \$800 in the United States, and which can enter from abroad duty-free. The United States received 139 million such packages in 2015, 685 million in 2022, and more than one billion annually since then. This increase, the official said, has not been matched by a commensurate increase in staffing. In addition to monitoring the sheer volume of such shipments, border officials face the challenge of determining whether shippers have properly valued packages, or whether criminals have undervalued them to avoid illicit products being detected. According to the official, all of this has required efforts to “work smarter, not harder”, including “focusing on what we can do with more data, with different authorities”. The official added, “We cannot seize every violation that we find. And so we look closely at alternatives to seizure to reduce our administrative burden and the costs associated with seizing counterfeit goods”, often pursuing strategies such as abandonment and destruction. The challenges of monitoring increasing volumes of shipments can be even greater for small nations whose resources are already stretched.

A Curaçaoan intellectual property lawyer said that Caribbean island nations each have “their own laws and their own judicial system. They have their own government and they have political challenges. They have logistical challenges and they have project challenges. And [they] have budget challenges”. Some challenges have been overcome.

## Implementing Solutions to Reduce Harm

Counterfeit products continue to pose significant risks to human health and society. The most serious incidents result in death, injury, and property damage. Safety risks can also increase when these products do not meet standards or are improperly packaged, transported, handled, or stored as they make their way through air, sea, rail, and road cargo networks. Distributing legitimate goods to the end user through a secure and safe supply chain is crucial in helping to reduce the harm associated with these illicit products.

As with other forms of crime, counterfeiting is not likely to disappear. However, like other forms of crime, the harm from counterfeiting can be reduced. Minimizing the consequences of counterfeiting, as with any crime, means reducing the opportunities for it to occur, limiting vulnerability if it does occur, and reducing any harm it may cause. Addressing any one of these areas can ultimately help reduce harm.

The lessons of the 2024 conference can help in all of these areas. Setting standards and implementing innovative customs solutions, especially in free trade zones, can help to reduce the opportunities for counterfeiting to occur. Leveraging existing research and identifying trade routes can help to reduce logistics systems' and end users' vulnerability to counterfeit products. Implementing solutions for cross-sector information sharing can also help to reduce vulnerability and limit the damage caused by counterfeit products. Mitigating transportation safety risks, addressing the end-to-end challenges of e-commerce, and converting incident safety data into applications can all help to limit the likelihood of counterfeiting taking place, other individuals' vulnerability to counterfeiting, and the damage caused. Engaging the judiciary can help with efforts to achieve redress for victims and reduce the opportunities for counterfeiting to reoccur by incapacitating the counterfeiters.

Counterfeiting, like other forms of crime, will continue to evolve, and future efforts to combat it will likely focus on different aspects. To address these changes, the IP Crime Conference will continue to offer a forum where participants from different regions can share their unique perspectives and learn from those facing similar issues elsewhere. It will continue to offer a venue for sharing implementation experiences, new trends in the field, and new ways to address these trends. In short, while this conference and other efforts may not eliminate the scourge of counterfeiting, it will continue to grow and adapt to reduce the harm it causes.

## REDUCING HARM, NOW AND IN THE FUTURE

### Current Means

- National task forces assembling all stakeholders for a comprehensive, unified approach
- Securing supply chains, particularly by increasing their visibility
- Understanding that the judiciary may need explanations of complex issues or, in some nations, basic training
- Regional collaboration to address common issues
- Fostering public and private partnerships
- Looking for opportunities to start small and build on success
- Educating consumers
- For online marketplaces, eliminating risks, responding to harm, holding bad actors accountable

### Future Issues

- Developing common standards for free trade zones
- Increasing intelligence sharing among anti-counterfeiting organizations
- Developing common databases to improve research and understanding
- Developing research partnerships
- Identifying ways to “work smarter” given the increasing volume of trade and limited resources



## FREE TRADE ZONES AND THE FLOW OF LEGITIMATE AND COUNTERFEIT TRADE

Free trade zones have existed for more than 2,000 years, but their numbers have grown exponentially in the past half-century. Today there are about 5,000 free trade zones worldwide. In one of the conference workshops, a U.S. CBP attorney stated that while free trade zones can have “a huge economic upside”, they are also vulnerable to illicit trade, particularly given the limited visibility in many of these zones.

There are many different types of free trade zones, the U.S. CBP attorney explained, but they generally fit into one of four categories:

- **Foreign trade zones.** Such zones “have deferred customs, meaning that merchandise that is admitted to a foreign trade zone is duty free”, and prohibit retail trade. Regulated manufacturing may take place in such zones. Merchandise made in such zones may be imported into the host country or re-exported. Manufacturers may also store merchandise in such zones to help manage import quotas.
- **Export processing zones.** Such zones “are very common for agricultural products” and are export specific. Such zones may add value “to a certain commodity before leaving the country, but the goods must leave the country”. Labelling and packaging operations are common in such zones. Such zones may offer tax and labour benefits.
- **Industrial zones.** These zones “are dedicated to a specific type of economic activity”, such as petroleum refinement. Such zones are located within a larger free trade zone and may offer customs and tax benefits.
- **Special economic zones.** This is an umbrella term that may cover “a multi-sectoral approach... to foster economic growth”. Such zones may offer “easier access to licenses...relaxed labor regulations[, and] less visibility by law enforcement”. They may have “extra territoriality” where “local and federal law does not apply”. As such, they “pose a huge vulnerability” to counterfeit trade, “especially for countries that have precluded customs agents from entering”.





## THE CURAÇAO NATIONAL TASK FORCE ON INTELLECTUAL PROPERTY CRIMES

One of the tangible outcomes of the 17th annual IP Crime Conference was the launch of a Curaçao National Task Force on Intellectual Property Crimes. Mr. Jorge Fainstein Day Gastrell, Director of Capacity Building and Training for INTERPOL, told the conference that the task force “marks the first time that a country launched a task force as a sustainable way to continue the local [conference] organizing committee’s work to combat intellectual property crimes”.

Combating IP crimes, Mr. Fainstein Day Gastrell noted, requires “a coordinated approach that brings together all relevant stakeholders, including government agencies, private institutions, and international partners”. The new task force “is designed to provide a framework for cooperation, coordination, and information exchange to prevent, combat, and prosecute intellectual property crimes”.

Mr. Fainstein Day Gastrell added that the task force “will advise the government on priorities and strategies for preventing, combating, and prosecuting intellectual property crimes. It will carry out risk analyses, promote public-private cooperation, and coordinate national activities to combat intellectual property crimes. The task force will also serve as a central point of contact for international issues and cooperation on intellectual property crimes”.

Mr. Gilmar Pisas, Prime Minister of Curaçao, noted the importance to the island nation of aligning “with ongoing international efforts aimed at preventing and eliminating criminal activities that pose a threat to national, regional, and international security”. The “intersectoral, interministerial, and interdepartmental” task force is part of this effort. Its members include representatives from key government agencies, including police, customs, the INTERPOL National Central Bureau, the public health inspectorate, the economic development inspectorate, and the Curinde free trade zone. It will also work with the Curaçao Business Association and other private stakeholders to ensure a comprehensive approach to intellectual property rights protection.



## **TRAINING ON THE DETECTION AND PREVENTION OF ILLICIT TRADE IN FREE TRADE ZONES**

The IP Crime Conference features parallel training sessions, as well as an International IP Crime Investigators College (IIPCIC) workshop held prior to the opening of the conference. This workshop explores topics and tactics that cut across all themes of the conference. This year's workshop focused on detecting and preventing illicit trade in free trade zones.

The 2024 IIPCIC Workshop aligned with the conference agenda by focusing on coordinating responses, aligning resources, and leveraging opportunities in the management of free trade zones. In a unique collaboration with subject matter experts from the U.S. Patent and Trademark Office, U.S. Customs and Border Protection, the U.S. Department of Justice, and the U.S. International Computer Hacking & Intellectual Property (ICHIP) programme, the IIPCIC delivered a comprehensive Table-Top Exercise looking at the nexus of cooperation between law enforcement, the public and private sectors, and free trade zones in the fight against illicit trade. Workshop participants examined case studies to identify the facilitators of illicit trade, exploring common challenges and responses and identifying solutions through best practices.

While free trade zones vary greatly in type, activity, and oversight, it may be possible to adopt certain common approaches to managing them and reducing their vulnerability to counterfeit goods. Participants worked through a variety of scenarios with differing regulations in order to discuss various possible approaches to unlawful entities within a free trade zone. Potential processes include identifying potentially counterfeit products, collaborating with victimized firms to confirm counterfeit operations, working with the relevant authorities to seize products where necessary, assessing whether other associated crimes such as money laundering have occurred, and working with zone oversight boards to ensure criminals do not reestablish their operations. Providing for such steps should also inform free trade zone governance and agreements with operators.

Overall, workshop participants gained a better understanding of the measures that law enforcement, other public sector agencies, the private sector, and free trade zones themselves can take to detect illicit trade, mitigate its consequences, and prevent it from reoccurring.

## THE IIPCIC COMMENDATION OF MERIT AWARD

Every year at its annual conference, the International IP Crime Investigators' College recognizes outstanding contributions to the fight against intellectual property crime. Mr. Jorge Fainstein Day Gastrell, Director of Capacity Building and Training for INTERPOL, explained that the annual awards were designed "to recognize the outstanding achievements of individuals and teams who have demonstrated exceptional leadership, innovation, and dedication to combating intellectual property crimes".

The IIPCIC Commendation of Merit "recognizes a law enforcement officer, team, or unit that has demonstrated outstanding leadership in designing or implementing a unique and innovative approach to an intellectual property crime investigation".

The 2024 IIPCIC Commendation of Merit was awarded to Mr. Park Jooyun, Director of Trademark Police Division, Korean Intellectual Property Office (KIPO).

Presenting the award, Mr. Fainstein Day Gastrell said, "The Trademark Police at KIPO is continuously and actively carrying out reinforced investigations for counterfeit goods and trademark infringement cases that have a greater impact on people's welfare, such as large-scale illegal manufacturing and distribution of counterfeits concerning to health and safety". He added that the "dedication, perseverance, and collaboration with international partners" of Park and his team, has "led to the seizure of millions of dollars' worth of counterfeit goods and the arrest of key suspects".

Accepting the award on behalf of Mr. Park, Ms. Vin Lim, Administrative Officer responsible for external affairs in the Trademark Police Division of KIPO, highlighted the agency's cooperation "with numerous domestic and international agencies, including but not limited to local governments, the prosecution, the police, customs authorities, and the U.S. embassy in South Korea". The agency had also "enhanced the response system against the distribution of counterfeit goods in the market by operating a council centred around numerous trademark holders and online service providers". The KIPO also sought to raise "public awareness about the importance of intellectual property protection through various campaigns".





The IIPCIC programme of study for law enforcement consists of 5 online curriculums, industry-specific courses, short courses, pre-recorded webinars and podcasts. An IIPCIC certificate endorsed by INTERPOL is available to download after successful completion of each curriculum and industry-specific course. All police officers, customs officers, prosecutors, and regulatory body representatives can take the IIPCIC training without charge.



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