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Agenda Item: 10

Compendium for Intellectual Property Rights Enforcement

Purpose: Consideration
Submitted by: United States



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

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

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

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

Engagement Practices:

1. Network with trade groups and manufacturer's representatives that can provide product information or information on companies that they suspect of counterfeiting or pirating.
2. Promote customs procedures that enable rights holders and industry groups to notify customs of trademark and copyright registrations.
3. Work with international counterparts to increase detection and interdiction of counterfeit and pirated goods by participating in joint operations and information sharing.
4. Increase cooperation with rights holders.
5. *The Administrations registering copyright and Intellectual Property Rights should provide Customs with all their information on trademark and copyright registration without restriction.*

Educational Practices:

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

Enforcement Practices:

9. Develop a mobile operational team that can carry out all enforcement efforts. This mobile operational team should be comprised of subject matter experts in various areas of responsibility that can be deployed to ports of entry to conduct and/or provide additional staffing during IPR

specific operations and exercises. The team would also provide guidance on IPR policies, legal authorities and procedures for enforcement.

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

Annex I: IPR Case Studies

Engagement Practices Examples:

Australia:

- *The Australian Border Force (ABF) detects imported goods that infringe Intellectual Property (IP) rights through an intelligence led approach to cargo assessment. Effective intelligence is the best method for the ABF to detect counterfeit and pirated goods in a high tempo environment.*
- *The Department of Home Affairs (Home Affairs) maintains an internal reference database for use by frontline ABF officers that records all notices lodged by rights holders, which includes registered trademarks, copyright and protected Olympic and other event expressions.*
- *IP Rights holders provide brand protection information to assist ABF officers in identifying genuine and counterfeit goods. Such information may include such things as PowerPoint presentations, details of suppliers and supply routes, authorised importers and security features on products.*
- *The Home Affairs Detained Goods Management System (DGMS) records the seizure of suspected IP infringing goods on a daily basis. The DGMS is the Australian system used to record and track all goods detained or seized in the Air, Sea, International Mail and Passengers environment.*
- *The ABF shares intelligence with other domestic and international agencies under memoranda of understanding and data and intelligence sharing arrangements.*

Chinese Taipei:

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

Hong Kong, China:

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

- *Hong Kong Customs collaborates closely with five major express courier operators under a Memorandum of Understanding (MOU) signed in 2015 as well as the Hong Kong Post to strengthen enforcement actions on suspicious parcels containing IPR infringing goods. Officers of Hong Kong Customs mount special operations at different centers of the express courier operators and the Hong Kong Post for identification and examination of suspicious parcels, whereas staff members of the courier operators make proactive referrals to Hong Kong Customs upon discovery of high-risk consignments.*

Japan:

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

Mexico:

- The Federal Government at different administrative levels has undertaken a joint action with the private sector to strengthen the fight against the counterfeit and pirated goods. The Administration General of Customs (AGC) has been participating with the private sector and other authorities like Procuraduría General de la República “PGR” (Responsible for investigating and prosecuting the crimes of the federal order), Instituto Mexicano de la Propiedad Intelectual “IMPI” (legal authority that administrate the industrial property system in Mexico), among others authorities, to develop permanent and sustainable strategies for the defense of Intellectual Property Rights (IPR) that deterrence the illicit trade by the exchange of information in which illegal practices of foreign trade are detected and to agree set up rules and procedures to prevent this kind of activities.
- In addition, the AGC with the PGR are working together to establish an action protocol to determine ways of assistance and collaboration among them in order to combat illicit trade and protect IPR.
- The AGC has closely worked with the IMPI to implement a program for identification and inhibition of counterfeit and pirated goods.

- The AGC has developed and is implementing a computer system, that allows its Customs Officers (CO) to create and issuing consultations on IPR, directly to trademark owners and/or its legal representatives, that allowed them to proceed legally against the merchandise if there is any alleged violation of IPR. It is expected that this software will facilitate the customs clearance and to improve the detection of counterfeit merchandise.

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

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

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

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

New Zealand:

- *New Zealand is party to the international agreement and Trade Related aspects of Intellectual Property Rights. The agreement requires participating parties to adopt minimum standards for the protection and enforcement of Intellectual Property Rights.*
- *New Zealand Customs allows for trademark and copyright owners to file notices requesting the detention of imported and exported goods that appear to infringe their intellectual property.*
- *Customs may also detain other goods that it suspects are pirated or counterfeit. In these cases, we notify the copyright or trademark owner, and they will have three working days to file a border protection notice.*
- *Notices may be in force for up to five years from the date the notice is filed. Notices may be thereafter be continually renewed for further periods of up to five years at a time.*

Peru:

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

The Philippines:

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

Singapore:

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

Thailand:

- *Thai Customs suspends counterfeit and pirated goods at the border upon application on suspension from the right holders and ex-officio action. By using ex-officio action, Thai Customs invites right holders to request 'Trademark Recordation Database', so that officers are able to contact right holders in timely manner.*
- *Thai Customs welcomes intelligence information relating to suspicious counterfeit and pirated goods via any Customs channels; such as Customs call center, Customs Intelligence Center, IPR Coordination Center.*

The United States:

- In the United States, CBP officials regularly use product identification guides that are designed and provided by the rights holders to help assess the legitimacy of products that they examine. A company's product ID guide contains specific information and details about products it has recorded with CBP. These ID guides are made available for customs officers on an electronic database to use as a reference if they have questions or

need information regarding a right holder's products.

- CBP organizes and facilitates industry-specific roundtables with rights holders to hear their concerns about emerging intellectual property rights enforcement issues and obtain information that can be used for risk assessment. These roundtables are also opportunities to share information with industry stakeholders so they can become knowledgeable of the enforcement trends and programs that customs administrations are focusing on.
- One outcome that continually arises from multiple economies as a result of the APEC IPR joint enforcement operations is engagement with rights holders in advance of an industry specific operation. Engagement with the relevant industry sector prior to a particular operation will assist with the success of that operation by ensuring the customs authorities have the most up to date product information on items that will be impacted by the operation. This type of private sector engagement serves as a training on product authentication for the front line personnel, leading to increased enforcement of counterfeit goods during an operation.
- In the United States, CBP regularly engages with interested Intellectual Property (IP) stakeholders and trade association representatives as a member of an IPR working group of a statutorily mandated advisory committee, the Commercial Customs Operations Advisory Committee (COAC). The group convenes monthly to discuss CBP's efforts to stop the trafficking of illegitimate goods. The private sector working group members inform and advise CBP and offer recommendations on how CBP can more effectively address the challenges presented by the trade in counterfeit and pirated goods.
- *CBP continues to collaborate with industry to understand and respond accordingly to today and tomorrow's e-commerce challenges. For example, the COAC e-commerce working group, in consultation with CBP, finalized a multi-modal supply chain map that CBP may use to inform policy, enforcement, and educational outreach decisions. CBP is also working with online marketplaces and other e-commerce actors to understand their respective business models and explore opportunities for enhanced data sharing.*
- *Another area of engagement with the trade community for CBP is through the Donations Acceptance Program (DAP). Through this program, CBP is able to accept donations from the private sector to help implement tangible solutions to facilitation and enforcement challenges. Accepted donations of relevant IP related technologies are used to support CBP operations and to enhance IPR enforcement. Some examples of this partnership with the private sector include donations of testing devices from Proctor and Gamble, authentication products from Otter Products, and barcode scanning devices from Cisco with secure access to an online Cisco search tool. During the pilot phase of the agreement with Cisco, CBP seized 147 counterfeit Cisco products which would have been worth \$958,375 (MSRP), if they were genuine.*

Viet Nam:

- *Enhance collaboration and coordination between Customs and other relevant agencies in IPR enforcement.*

Educational Practices Examples:

Australia:

- *Home Affairs annually conducts domestic face-to-face brand protection and detection training workshops with ABF officers. The purpose of these workshops is to provide frontline ABF officers with practical hands on experience and knowledge of how to identify legitimate goods from counterfeit. This information is presented by the brand owners themselves.*
- *While the workshops are focused on training frontline ABF officers, the invitation to attend is open to all partner agencies (the Australian Federal Police, Australian Competition and Consumer Commission, IP Australia, and State and Territory Governments) with an interest in intellectual property crime, fraud, and consumer safety.*
- *Home Affairs also regularly attends and presents at Anti-Counterfeiting seminars with Industry to provide information on how members can better engage border protections.*

Chinese Taipei:

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

Hong Kong, China:

- In HKC, apart from taking stringent enforcement actions against IPR crimes, we also stress the importance of public education on promoting IPR awareness, particularly, to the youngsters. Hong Kong Customs collaborates with the IPR industry and 13 local youth uniformed groups and their 250,000 members aged between 9 and 25 in launching the "Youth Ambassador Against Internet Piracy" Scheme. The scheme enables local youngsters to have direct participation in fighting internet piracy and allows them to cultivate the sense of respecting others' IPR at a young age. *To mark the 10th anniversary of YAS, Hong Kong Customs launched the "IPR Badge Programme for Youth Ambassadors" in 2016 as a new initiative. After successfully completing all the courses of the Programme, participants will be awarded an IPR badge and then become tutors for the "IPR Badge Programme for Youth Ambassadors". They will play an important role in the promotion and education activities organised by Hong Kong Customs, relevant government departments and various youth uniformed groups in the future.*

Japan:

- Japan Customs generally trains its officers at Customs Training Institute (CTI) as well as on-the job. In addition to general training courses for new recruits and experienced officials, which include classes on IP border enforcement, CTI offers special technical courses, both theoretical and practical, for IP experts.
- Japan Customs holds press briefings twice a year and shows results of seizures of IP infringing goods. In order to raise public awareness, Japan Customs not only puts up posters and holds anti-counterfeiting campaigns in a public place but also uses Social Networking Services (SNS) such as Twitter, Facebook and YouTube. For example, when releasing annual seizure statistics, Japan Customs uploads videos on YouTube, which shows press briefings and destruction of counterfeit goods, highlighting the characteristics of that year's counterfeiting activities.
- Japan Customs regularly invites right holders to hold training sessions for front line officers. During such sessions, right holders provides Customs officers with tips for finding goods infringing their IPs and demonstrate differences between genuine products and fake ones by actually showing them.

Mexico:

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

New Zealand:

- *New Zealand Customs' (Customs) website provides all the information that importers and exporters need to know about trademarks and copyright. Importers and exporters are invited to lodge notices and provided with template guides for IPR notices and security instruments.*
- *Customs publishes and regularly updates a list of trademark and copyright notices. Customs invites traders and the public to directly information about IPR notices.*
- *Customs officers during their induction are taught about IPR goods. Officers also conduct on the job training, follow internal guidelines and complete an assessment on IPR goods.*

Peru:

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

The Philippines:

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

Singapore:

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

Thailand:

- *Customs in cooperation with brand owners and right holders conducting IPR identification training regularly in order to enhance the expertise and enforcement technique for front-line officer.*

The United States:

- In the case of the United States, CBP employs more than 60,000 individuals tasked with enforcing the laws of the United States. In an ever-changing legal environment, and to effectively enforce these laws, significant consideration must be given to the workforce to ensure that it is knowledgeable about current policies and procedures. Therefore, CBP conducts recurrent field training for CBP personnel to facilitate the detection, seizure, and destruction of IPR-violating merchandise, as well as the legal entry of legitimate goods. To make the training effective, various customs experts collaborated to design an IPR training course that has been effectively deployed to many locations in the field. A representative of each office involved in the development of the field training participates by presenting material on how the office works with IPR-related issues. This training is conducted in one day, over the course of eight hours. The IPR training course also assists trainers by giving them direct contact with the field officers. Discussions with the officers allows trainers to gain knowledge about trends and other port specific issues or challenges from these front line personnel.
- On June 5 2017, the United States launched the “Truth Behind Counterfeits” public awareness campaign. This campaign was developed to educate the traveling public about the legal, economic, and public health and safety impacts of IPR infringing merchandise. *CBP ran its fifth iteration at various airports located throughout the United States and on travel websites during the busy summer travel period. The previous phases of the campaign were also run during high travel periods in the U.S. to reach the maximum number of travelers. To date, not including the current iteration, the campaign and its messages were viewed over 400 million times.*
- *To amplify the “Fake Goods, Real Dangers” messages of the “Truth Behind Counterfeits” campaign, the United States started a program of educational “road shows”. During these events, relevant government personnel set up a table of counterfeit samples and information for the public at various airports throughout the United States. This allows for a personalized conversation with the traveling public about all of the many known and unknown impacts that can come from the purchase of counterfeit goods.*
- The United States works to get the message out to the public about the dangers of counterfeits by publishing press releases of significant seizures and operational efforts. These media alerts serve to educate the public about trends, dangers, and noteworthy events that consumers should be aware of before purchasing items.
- CBP has a well-established webinar program developed for right holders to educate front line personnel about what to look for when making determinations about illegitimate goods. To promote the use of these webinars by rights holders, personnel at CBP contact rights holders who are recorded with CBP to see if they are interested in conducting one of these training sessions for the field personnel.

Viet Nam:

- *Increase the responsibility of Customs and relevant agencies in IPR enforcement to protect the community.*

Enforcement Practices Examples:

Australia:

- *ABF officers detect infringing goods through a risk based intelligence led approach to cargo assessment.*
- *In some situations, ABF officers may not have sufficient information to determine whether the goods infringe a notified trademark, copyright, and protected indicia/images. In these cases the rights holders may be contacted for further information.*
- *IP rights holders or their representatives who have information regarding the potential importation of infringing IP goods at the border are encouraged to provide this information to Home Affairs through the Border Watch Online Report.*
- *ABF statistics on Intellectual Property seizures indicate that counterfeiting is a growing industry, particularly in the e-commerce and postal environment. However, seizure figures can fluctuate from year to year and be influenced by multiple factors.*
- *The Notice of Objection Scheme allows the IP rights holder/owner of protected indicia/images and trademarks or copyright, to notify Home Affairs of their rights and to object to the importation of goods that infringe those rights and the legal authority to seize the goods on their behalf. Notices of Objection lodged to Home Affairs must contain sufficient information for a Border officer or official, to identify infringing goods.*
- *Where a Notice of Objection is in force, the ABF has authority to intercept and detain any goods suspected of infringing those rights, giving the IP rights holder/owner an opportunity to commence civil action in the courts against an importer.*
- *Australia generally considers IP rights as private rights to be enforced through civil proceedings; however, State and Federal authorities may initiate prosecution for serious offences particularly where involvement of organized crime groups is suspected.*
- *Australian laws and border measures for IP enforcement are consistent with our international obligations as a signatory to the World Trade Organization's Trade Related Aspects of Intellectual Property Rights Agreement.*

Chinese Taipei:

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

system.

Hong Kong, China:

- *Hong Kong Customs responds proactively to crack down on cybercrime by establishing respectively (a) the Anti-Internet-Piracy Teams (“AIP”) to tackle internet piracy, (b) the Computer Analysis and Response Team (“CART”) to collect and preserve evidence stored in digital devices at crime scenes, (c) the Computer Forensic Laboratory (“CFL”) to provide frontline officers with computer forensic support on the preservation, collection, analysis and presentation of digital evidence, and (d) the Electronic Crime Investigation Center (“ECIC”) to conduct research on the latest cyber technologies, develop investigation models and deliver professional training to local or overseas counterparts.*
- *In December 2017, Hong Kong Customs launched the Big Data Analytics System to perform cross-platform cyber patrol and analyse the massive volume of internet information for identifying IPR crime trends and active infringers. In 2018, the system detected 38 counterfeiting cases, accounting for 20% of the on-line counterfeiting cases. This contributed to the seizures of 3,400 counterfeit items, which constituted 61% of the total seizures of the online counterfeiting cases.*

Japan:

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

New Zealand:

- *New Zealand Customs (Customs) has enforcement measures against counterfeit trade mark goods and pirated copyright goods. Customs administers the border protection measures which are set in New Zealand’s legislation (the Trade Marks Act 2002 and the Copyright Act 1994).*
- *Where a border protection notice has been filed, Customs will detain the goods and give 10 working days to initiate Court proceedings against the importer or exporter. This period may be extended up to a total of 20 working days if there is good reason to do so. In cases where an importer or exporter acknowledges that their goods infringe intellectual property rights, the importer or exporter may consent to the goods being surrendered to the Crown.*
- *Where there is no border protection notice filed, Customs can also detain other goods*

suspected of infringing intellectual property rights. Customs has the legislative power to detain goods that it has reasonable cause to suspect that are pirated or counterfeit even if a notice is not filed. When intercepting suspected counterfeit or pirated goods at the border New Zealand Customs further investigates and determine whether these goods infringe intellectual property rights. Customs notifies the copyright or trademark owner, and they will have three working days to file a border protection notice. If a notice is filed, the owner may then initiate court proceedings.

Peru:

- *SUNAT has a Division of Customs Risk Management that has included as a risk, in its import control selection system, goods with non-compliance of the Intellectual Property Rights. It also has a Customs Intelligence Division that conducts research and explores information recorded on imports and evaluates incidents and complaints presented to Customs that are related to the counterfeiting and piracy of trademarked goods in the volunteer records tools.*
- *The operational Customs Offices maintain communication with INDECOPI (the National Institute for the Defense of Free Competition and the Protection of Intellectual Property) to warn of suspicious imports of goods that make use of trademarks. INDECOPI may immobilize and verify the imported goods immediately after the release of the goods declared to verify the existence of trademarks*

The Philippines:

- There are two (2) modes of intervention adopted and employed by the economy's Bureau of Customs in dealing with infringing/counterfeit goods. First is through the exercise of Border Control Measures which enable IPR Holders to lodge an application with competent authorities for the Suspension of Release by Customs authorities of goods which infringe on IPR. The basic work flow of which is as follows; (1) IPR Recordation (filing a continuing complaint), filing a specific complaint, and ex officio actions, (2) Issuance of Alert/ Hold Order, (3) Physical Examination, (4) Seizure, (5) Hearing, (6) Decree (Forfeiture of not), and (7) Disposition of the forfeited goods.
- Infringing and counterfeit items are concealed by importers through "layering packages: (a particular object placed inside a box within a box/sack) placed in the middle or at the far end of the containers. They also use "co-mingling modus" where they mix violative goods with legitimate goods. IPRD counters such modus by conduction a 100% spot-checking of shipments under Alert Order.
- Last January 2017, an Alert Order was issues against Autumn Way Enterprises where counterfeit cell phones such as Samsung S7 Edge, iPhone 7 and cell phone batteries were confiscated. This was achieved through partnership with the brand owners who closely monitor and share vital intelligence reports with BOC agents and personnel.
- The second mode of intervention done by the Bureau is through the implementation of the Letter of Authority (LOA) issued by the Commissioner against owners of warehouses, storage houses and others who keep or store IPR goods therein. Through the

LOA, agents of the Bureau can ask evidence of proper payment of import duties and taxes and upon apparent and discovered violation of the IP Code of the Philippines, said agents can act upon it.

- Last March 2017, the IPRD together with CIIS agents raided two warehouse building in Pasay City, which yielded big bulk of counterfeit goods bearing the marks of Nike, Tribal, Adidas, Under Armour, Vans, Gap, Lacoste, Tommy Hilfiger, Bench, Mossimo, Jag, Von Dutch, Lee, Superdry, Calvin Klein, among others.
- Last June 2017, another operation proved to be successful in terms of seizure and apprehension of IPR-related goods. It was conducted in Guiguinto, Balacan where a complex which houses unauthorized production and storage of counterfeit health and beauty products such as soaps, shampoos, liquid detergents, among others and cigarettes were seized. Some of the warehouses therein contain machines used for full manufacturing of the given items.

Singapore:

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

Thailand:

- *Thai Customs takes part in domestic sub-committee on IPR Enforcement led by Deputy Prime Minister. In this enforcement unit, 16 agencies are combined to step up efforts in combatting IPR infringement.*
- *Recently, Customs has detected the increasing number of small counterfeit parcels due to the growth of e-commerce trend.*

The United States:

- *CBP routinely conducts IPR Trade Special Operations to strengthen IPR enforcement at the border. The operations focus on products that pose the highest risks to public health and safety, domestic security, and economic consequence. The operations may be local or may be organized economy wide, and may include cooperation from international partners. Partner government agencies often assist to add additional expertise. Rights holders are often invited to assist to provide expedited review of suspected counterfeit items. The most significant seizures are promptly provided to criminal investigators. Operations are varied by locations, dates, and product targeting to maximize the disruptive effects against the counterfeiters.*
- *CBP targets and seizes an increasing number of counterfeit products that pose a significant security risk to the consumer. Products such as electrical articles, automotive airbags, contact lenses, shampoo, computer network components, and semiconductors can pose health and safety risks or endanger critical infrastructure, in addition to causing economic losses to U.S. industry.*
- *Components of CBP's Integrated Trade Targeting Network (ITTN) conducted 26 IPR Trade Special Operations, and 103 local IPR Trade Special Operations in FY 2018. These Trade Special Operations targeted high-risk shipments at seaports, airports, international mail facilities and express carrier hubs across the United States, and resulted in 4,891 seizures of IPR-infringing goods, which, if genuine, would have an estimated MSRP of \$94 million. This represents a 104 percent increase in MSPR from IPR-Trade Special Operations from the previous fiscal year 2017.*
- *Every year CBP participates in a significant operation in preparation for the American football championship game to target jerseys, shoes, rings, and other items related to the event that consumers are interested in purchasing. Since the last "Super Bowl", seizures of merchandise related to the event and other professional sport leagues total nearly \$24.2 million in MSRP value and 284,958 items. This is a 35 percent increase from last year's activities (based on MSRP).*
- *CBP established e-Allegations, an online tool to enable the trade community and the public to provide information to CBP on violations of trade laws, including violations of IPR laws. The public can report any suspected counterfeits by going to e-Allegations on the CBP.gov website.*
- *In the Trade Facilitation and Trade Enforcement Act (TFTEA) of 2015, Secs. 302, 304, the law requires U.S. Customs and Border Protection (CBP) to provide to owners of recorded copyright registrations (or recorded applications for copyright registrations) information that appears on the merchandise and its packaging and labels, including unredacted images or samples – subject to bonding – of the merchandise and its packaging and labels. CBP will only disclose this information if CBP determines that the owners' exam or testing of the merchandise will assist CBP in determining if the merchandise is a copy or phonorecord of a recorded work imported without the owner's authority. CBP has drafted a notice of proposed rulemaking, which is currently in inter-*

agency review to enforce this law.