

# **Tackling illicit trade in medical products: Better international cooperation for better health**

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Policy Note:

[Tackling illicit trade in medical products: Better international cooperation for better health \(wto.org\)](#)

Working paper:

[illicit trade working paper.pdf \(wto.org\)](#)

# Foreword by Dr Ngozi Okonjo-Iweala



**“Behind every challenge lies an opportunity. Even as the pandemic continues to take lives and expose weaknesses in markets and governance structures, it also provides a fresh chance to tackle persistent policy challenges like illicit trade. When governments improve trade practices and cooperation, they benefit from a “double dividend” by strengthening their ability to fight illicit trade while expanding legitimate trading opportunities and building resilience against future shocks to the multilateral trading system.”**








# Genesis



# Launch event took place on 27 July



- WTO | Better Trade for Better Health: Strengthening cooperation to tackle illicit trade in medical products (live recording)
- Thanks to OECD, WHO, WIPO, UNCTAD, UNIDO for high-level participation, and to UNODC for comments and cooperation.

Moderator		
	<u>Ms. Anabel González</u> Deputy Director-General, WTO	
Speakers		
		
<u>Dr. Ngozi Okonjo-Iweala</u> Director-General, WTO	<u>Dr. Gerd Müller</u> Director-General, UNIDO	<u>Dr. Kunio Mikuriya</u> Secretary-General, WCO
		
<u>Ms. Rebeca Grynspan</u> SG, UNCTAD (video message)	<u>Dr. Mariângela Batista Galvão Simão</u> Assistant Director-General, Access to Medicines and Health Products, WHO	<u>Mr. Edward Kwakwa</u> Assistant Director-General, WIPO

# WTO rulebook plays an important role in the fight against illicit trade. Three focus areas:



## TFA

WTO Trade Facilitation Agreement (or TFA) supports customs reforms, many of which are crucial to improving the capability to detect and limit illicit trading activities:

More transparent, predictable and streamlined customs procedures reduce incentives and opportunities for illicit traders;

Provisions related to managing risks before and after import, such as pre-arrival processing and advanced rulings, post-clearance audits, and the development of risk management systems;

Opportunities for customs cooperation.

## TBT

WTO Technical Barriers to Trade Agreement addresses conformity assessment procedures (or CAPs):

CAPs are key in the fight against illicit trade because they provide governments with the means to verify that medical products will comply with quality, health and safety standards and regulations.

The Agreement disciplines preparation, adoption and application of CAPs, thereby contributing to well designed and well enforced CAPs that support the fight against illicit trade without creating unnecessary obstacles to trade.

Link to IPRs e.g. through certification marks.

## TRIPS

WTO's TRIPS Agreement sets out minimum standards for IP protection and enforcement and contains requirements to put in place border measures to fight trademark counterfeiting and copyright piracy, as well as criminal sanctions if on commercial scale.

Promotes cross-border customs cooperation and fosters exchanges of information that can help in targeting trade in IP-infringing products to overcome challenges.

Overall, it helps Members fight illicit trade by ensuring that they make balanced and effective domestic enforcement procedures available and providing opportunities to expand and deepen international cooperation.

# Takeaways:

## Importance of using WTO rules in mutually supportive ways.

- Improvements in border controls go hand in hand with regulating product quality, health and safety and the balanced enforcement of IP rights.
- Robust risk management systems promote compliance with the TFA and also improve the ability of customs to target suspect imports due to concerns arising under the TBT and IP regimes, for instance, when products do not meet quality, health or safety standards and/or infringe IP rights.

## Need to enhance cooperation at the domestic, regional or international levels

- National Trade Facilitation Committees (or NTFCs) have tremendous potential to improve domestic border and regulatory controls with regard to medical and other goods because they allow for the sharing of information within and among NTFCs.
- Strengthening collaboration particularly important in dealing with emerging challenges, particularly those arising in the context of digital trade.

# Needs identified

## Need to improve the quality of data on illicit trade.

- Identifying good data is a significant challenge given that illicit trade occurs mostly in the shadows, but it is vital to informing policy makers about the nature and scope of the problem, and the urgency to address it.

## Expanding technical assistance

- Intergovernmental organizations such as ours are also well placed to assist developing country Members in their fight against illicit trade.
- We need to look for opportunities to assist our developing Members, but we must also look for opportunities to cooperate with our IGO colleagues.

## Enhancing coordination with the private sector

- We also need to find ways not just to coordinate amongst IGOs and our Members, but also to intensify engagement with representatives of the private sector, consumer associations, workers and civil society at large.



# Synergies with Recommendation M



**cooperation and coordination** between market surveillance, customs and other authorities concerned

Use cooperation and coordination opportunities provided in WTO agreements, e.g. National Trade Facilitation Committees, TRIPS contact point notifications, TBT Enquiry Points/TBT Committee STCs/thematic sessions.

Use information contained in WTO databases, e.g. e-TRIPS platform information on IP enforcement checklists/contact points, TBT-SPS ePing early regulatory alert platform.

**possibility to right holders to inform** relevant state authorities on counterfeit goods

Link right holders communications to implementation of TRIPS Articles 42, 47, 52, 57.

Link right holders communications to customs procedures, e.g. WCO right holders corner.

enable authorities to **identify suspected counterfeit goods**, and check if the goods might infringe intellectual property rights,

Make use of opportunities for technical assistance, e.g. WTO, WIPO, WCO, INTERPOL, etc.

Use IPR databases, and IPR related information (e.g. WIPO trademark database portal).

**involve other relevant authorities and intellectual property right holders**

Ensure good collaboration with :

- law enforcement agencies,
- IP offices, and
- private sector, including private sector organizations (TRACIT, React).

## Conclusions:

- Moving towards greater coordination within/among members and building developing member capacities to fight illicit trade
- Harnessing e-commerce opportunities and tools to support licit trade & fight against illicit trade
- Ensuring supply chain integrity in times of crisis
- Use opportunities for technical assistance, coordination at the international & regional levels.