

**APEC Economies' Submissions for:
Best Practices Paper on Innovative Techniques for IPR Border
Enforcement
August 22, 2007**

APEC economies have been increasing their efforts to strengthen enforcement practices to address the growing problem of counterfeit and pirated goods moving across borders. In recent years, some economies have begun adopting new and innovative techniques for analyzing risk and selecting shipments for examination, intercepting and detaining suspect shipments, and seizing shipments containing IPR infringing goods at the borders. Seizure data, for example, is being collected and researched, and this data is used as a tool for future interdictions and for assisting efforts to improve border enforcement through international cooperation. While trade in IPR infringing products continues to be on a massive and increasing scale, these innovative techniques are proving successful in helping stem the tide.

The purpose of this Best Practices paper is to provide APEC economies with information on a number of innovative techniques currently in use or under development. This information exchange can both provide lessons learned to those already using these techniques and act as a useful resource to those economies that are contemplating and developing such techniques. The experiences below are illustrative and are not intended to be comprehensive. Moreover, they are designed to meet the specific needs of the economies that are using them. Member economies are encouraged to continue to make submissions to this paper so as to expand information sharing in this area.

Innovative Techniques for Enhancing Border Enforcement Activities

Australian Intellectual Property Enforcement Consultative Group (Australia):

Close collaboration between Australian Customs and the business sector is an essential component of effective intellectual property rights (IPR) enforcement. As such, Australian Customs is a member of the Australian Intellectual Property Enforcement Consultative Group, which is a joint business/government initiative focused on IP crime. This group was established during 2001 under the leadership of the Australian Federal Police to facilitate cooperation between various Australian law enforcement agencies and bodies representing IP rights holders. A primary focus of the group is to exchange intelligence and other information about IP crime, particularly relating to copyright and trademarks. The group meets quarterly to discuss current issues and explore possible solutions or initiatives.

Counterfeit Detection Kit (Canada):

The Canada Border Services Agency (CBSA) Enforcement Programs Directorate and the CBSA Laboratory have developed training and tools to assist front line officers to identify counterfeit goods. In 2003, the Counterfeit Detection Kit was created to allow officers to conduct a series of scientific examinations on products they suspect are counterfeit (currently limited to tobacco and batteries). Some 40 kits have been distributed across the country and more than 200 officers and investigators have been trained and certified to use the kit.

Customs Examiner's Handbook and IPRRS and IPRES System (China):

Handbook

To help the customs examiners to find possible infringing shipment in their routine examination of import and export containers, the General Administration of Customs (GAC) is going to print a Customs Examiner's Handbook, which will include information of nearly 200 trademarks and copyrights which have been recorded with GAC and are frequently counterfeited or pirated according to recent port customs' seizure information. The Handbook will be a loose-leaf picture album, with essential information on rights protected to assist port officials in detecting infringing goods e.g. the logos of trademarks, photo of copyrighted works, layout of commodities and their packages, telephone numbers and address of the right owners or their agents. The Handbook is designed for easy updating of information by the right holders.

IPRRS

Since mid-June of 2007, General Administration of Customs (GAC) began to use a newly developed computer system called "IPR Recordation System." The IPRRS is designed to facilitate the recordation of trademarks, copyrights and patents for customs' protection. The system was designed in 2000 and keeps more than 10,000 records up to end of May of 2007. GAC began to modify the IPRRS in early of 2007 and the modified system provides some new functions: automatically informs IPR owners by email of the results of the application i.e. whether the application is granted or refused; and IPR owners can use this modified system to update their information such as the name of their contact person, telephone numbers or postal address, list of manufactures or traders who are licensed to use the recorded trademarks, copyrights and patents.

IPRES System

Recently, GAC created a new database called the IPR Enforcement System. The system can be accessed by all of China's 300 ports. The IPRES contains information on all seizures for IPR violations during the past 3 years nationwide. Customs can use this information to analyze the risks of infringement of any traders and create a monitoring plan. The IPRES contains nearly 4000 records and all the records are attached by the photos of genuine and infringing products. The IPRES also serves as a good training centre for the frontier customs officers on identifying the counterfeit and piracy.

Customs Intelligent Database System and Intranet Bulletin Board System (Japan):

Japan Customs has been utilizing the Customs Intelligent Database System (CIS) since 1991 to analyze various types of information related to Customs operations including the import/export of goods infringing IPR. When a front-line official suspects that cargo includes counterfeit or pirated goods, the official can access the CIS to ascertain the risk level of the cargo using the accumulated information of CIS.

In addition to this existing system, the Japan Customs has recently introduced a new Intranet bulletin board system that specializes in IPR enforcement. While the CIS is based on both past records and advance information, the new Intranet bulletin board system places an emphasis on raising the precaution and awareness levels of front-line officials by providing all Customs official who examine import/export declarations and cargo with up-to-date and useful information, including the following:

- List of applications for suspension;
- Explanation of each application for suspension with a brief description of distinguishing features between genuine goods and infringing goods;
- Reports of recent methods or deceptive practices; and
- Explanations of enforcement procedures on IPR.

Since IPR border enforcement is very complex and requires officials to gather all necessary information on a timely basis, this bulletin board system is effective in supporting front-line officials' efforts to implement effective and appropriate IPR enforcement.

Spider Web System (Korea):

In February 2006, Korea Customs Service introduced *Spider Web System*, which is specifically designed to screen out IPR-violative imports/exports by analyzing data of ex-infringers including traders, forwarders and warehouses.

Overview

The Spider-Web System is a counterfeit selectivity system designed to identify crime factors and screen out high-risk import declarations from the previously detected cases, and, based on the correlation analysis of those crime factors, select import declarations to be subject to a special investigation.

Data Mining

It is a process to establish about 40 hypotheses of smuggling based on the crime factors including suppliers and payment methods found in the existing seizure records and information obtained in the

work process. From these hypotheses, a data mining model is built by adopting significant factors as variables using the SEMMA technique (Sample, Explore, Modify, Model, Assess)

Visual Link

Visual Link is to analyze the correlation of importers and suppliers of high-risk import declarations selected by a data-mining model and to single out those to be subject to a special investigation.

Analysis of Smuggling Pedigree

Based on the data of smuggling seizures, a smuggling pedigree of the detected importers and overseas suppliers is drawn up. The pedigree is used for future investigation into importers, suppliers, sellers, distributors, etc.

Outcome

Utilizing Spider-Web System, Korea Customs seized 41.3billion KRW (44 million USD) worth of counterfeits in 18 cases in 2006.

Usage of ASYCUDA -- Automated System for Customs Data (The Philippines):

In the Philippines, the Bureau of Customs has been utilizing the ASYCUDA system. The ASYCUDA software is the core component of a comprehensive, Integrated Customs Information Systems to help countries facilitate trade by strengthening the Customs administrations' capacity to carry out operations by using modern and reliable systems.

The core functionalities of the system are designed to:

- facilitate and improve the calculation, collection and accounting of Customs duties and other charges related to Customs Operations; and
- speed up the clearance of goods and prevent smuggling.

The system provides a full risk-assessment and selectivity capability. Such functions as the integration of images or the use of barcodes are utilized, as well as the on line access to external databases. As such, all consumption and warehousing entries are categorized into low, medium and high-risk shipments. Low or non-risk shipments are released on minimized manual document handling and medium risks undergo documentary examination. The high risks shipments are subjected to a thorough documentary and physical examination.

The system generally insures the complete coverage of the clearance process and includes the built-in capability to support national specific requirements and/or frequent regulation changes. Changes & updates of the system can be made without programming. Furthermore, it provides increased customs control capabilities (e.g. risk- assessment, on-line access to external databases, images control...) and bridging of the gap between goods and supporting documents and facilitate goods identification, inspection and tracking. Lastly, the system provides the capability to inter-operate on-line with external/governmental systems and databases.

In the near future, the Bureau of Customs, in cooperation with the Government of Japan, will embark on a project to develop a database to contain a wide range of relevant information on seizure cases. Such a database would operate as a central integrating data facility and would provide a common data transmission system that would allow different entities to share information.

Eagle Eye Operation (Chinese Taipei):

Chinese Taipei Customs has adopted risk management system with regard to IPR cases. Based on the risk indicators such as mode of transport, way of concealment, country of origin, and description of goods, we establish the strategic and organizational context in which risk management will take place. Then, we analyze and rank the risks to identify management priorities and targeting. The frontline officers at the checkpoints will do the inspection according to the assessment, and report the result back to risk management system.

We have adopted the following measures:

1. Layered enforcement to screen the suspected shipment such as alongside ship inspection, warehouses inspection, examination of goods, inspection before release and post-clearance audit. Make use of related computerized tool to find out suspected shipments.
2. Cooperate with right holders to establish IPR Information Database including the Right Holders' Complaints/Advice Database. Customs officers at all check points shall inquire at any moment.
3. Analyse mode of transport, port, consigner, consignee, broker and shipper. Information sources: seizure cases report, Right Holders' Complaints/Advice Database, information provided by agencies, domestic and international information or intelligence.
4. Established Real-time Information Reporting System (with picture): The local Customs offices report their seizure cases on the system for feedback. Intelligence gathered domestically and internationally are also dispatched on the system for inspector reference.
5. Adopting auto analysis tool:
 - (1) Customs Intelligence & Information Reporting System-The inspection point will get the instruction immediately, and pay attention to it. Furthermore, the system is capable of sorting out and managing various information from reporting data.
 - (2) History Record of Declaration Database is designed as a database, covering 5 years' declaration data.
 - (3) Registered Business Database includes all registered business data.
 - (4) Registered Permanent Residence Database includes all registered permanent residence record.
 - (5) Customs Information System is designed as a database consisting of information and records on business firms, brokers, shipping companies, forwarders, tallymen and drivers of container trailers, etc.
6. Adopting Automated Targeting System: Manifest Targeting System, Cargo Targeting System, Express Consignment Targeting System, Post-Clearance Audit System and Containers Tracking System.
7. Established strategic alliance with private sector: We give some Customs clearance convenience to strategic alliance partnership with private sector. This has been set up to fight illicit activities.
8. Established Risk Management Center and Information & Intelligence Center to collect information, analyze and access risk, target suspicious shipment, monitor and review.

Risk Modeling (United States):

Given the enormous and growing number of shipments processed at U.S. ports of entry on a daily basis, the United States has adopted new risk analysis methods that are intended to:

- sharpen focus on high-risk shipments to increase interdictions;
- reduce unproductive examinations of low-risk shipments; and
- use IPR border enforcement resources more efficiently.

As one part of this risk analysis approach, the United States has developed an IPR Risk Model, which expands the agency's current portfolio of IPR targeting methods. The Risk Model represents an innovative, technology-based targeting tool that calculates risk "scores" as a means of indicating relative IPR infringement risk for imports into the U.S. market.

The United States' IPR Risk Model is a computer-based program that applies statistical analysis techniques to create a data-driven model of IPR risk. The model is built on the basis of risk factors that are characteristic of IPR infringing imports. These factors are drawn primarily from information provided to the United States when an importer presents goods for entry into the United States. The factors, which include data such as country of origin, port of entry, tariff number, and past import history related to these, are statistically weighted based on known risk. For example, each country, port and tariff classification is assigned its own statistically determined weight. The model then applies a mathematical formula to combine these factors and generate risk scores for imports. Customs officers subsequently rely on this output to assist in the identification of inbound shipments which may merit particular attention, or which may represent a low risk and can consequently be processed for entry without physical inspection.

The output of the Risk Model is used to enhance current, more traditional tools used by the United States to identify and interdict counterfeit and pirated goods at U.S. borders. These include:

- visual review of packaging;
- manual review of entry and manifest information;
- computerized targeting based on a small number of equally weighted elements such as importer, country, and/or tariff number; and
- leads provided by industry and other U.S. agencies.

The United States' IPR Risk Model was implemented nationally in February 2007.

The United States can share the methodology used to create the IPR Risk Model with other APEC members, but the model itself was tailored for the U.S. system; therefore, it is not transferable. Economies can use the same methodology to conduct an analysis of risk factors applicable to their systems to create a model tailored to meet their needs.