



5<sup>TH</sup> edition



**MASCRADA 2018**

MOVEMENT AGAINST SMUGGLED & COUNTERFEIT TRADE

Ensuring Brand Security for Sustained Businesses and Employment Generation

**KEY DELIBERATIONS**





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KEY DELIBERATIONS



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# Illicit Trade

Illicit trade viz smuggling, counterfeiting and piracy are considered as one of the world's fastest growing economic activity. They have spread adverse effects on trade, foreign investment, employment, innovation, criminality, environment, and most importantly, on health of the consumers. It escalates each day in scope and magnitude. Over the period of last ten years the magnitude of illicit trade has grown from USD 650 billion to about USD 3 trillion. This illegal business operation represents 10 per cent of the global trade and has rightly been termed as the prime criminal activity of the 21st century by the FBI.

Illicit trade and transnational organized crime are interlinked. It restricts economic growth, individual prosperity, and corporate profitability. Transnational organized crime has close links with criminal syndicates, both at national and local levels. Such links result in trafficking of people and goods; and also support international terrorism.

No country is immune to the impact of counterfeiting and smuggling and no single sector can be said to be an exception. The wide availability of such products is one of the biggest challenges faced by Indian industry, impacting 'Brand India' globally. According to a report by FICCI CASCADE estimated loss to only 7 industry sectors was Rs. 1,05,000 crores in 2013-14, with an increase of 44% between 2011-12 and 2013-14. The total revenue loss to the government on account of this illicit trade was Rs. 39,000 crores in 2013-14 from these 7 sectors alone. Some of the factors responsible for existence and continuity of the grey market are: high profitability, large market size, tax arbitrage, small investment and technology requirements needed by illicit traders, easy access to distribution channels, and ease of concealing operations coupled with inadequate enforcement.



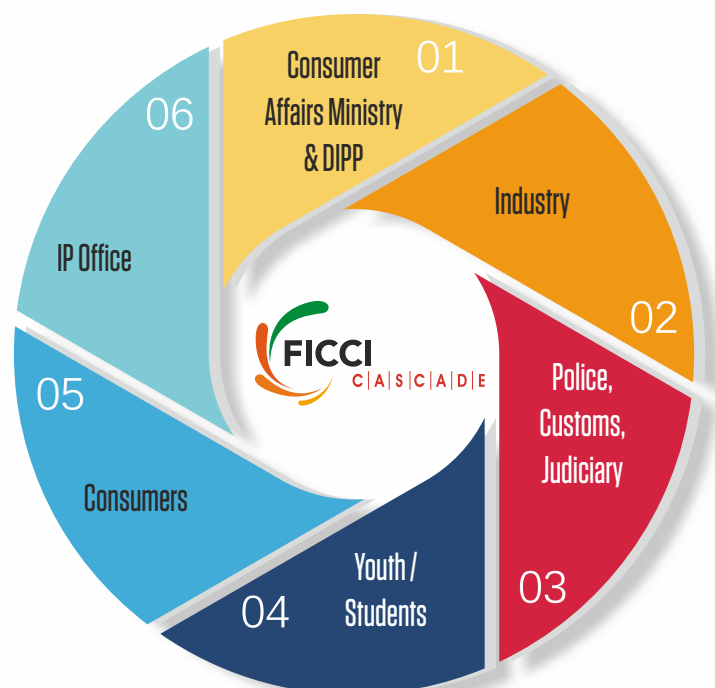
# FICCI CASCADE

*Committee Against Smuggling and Counterfeiting Activities  
Destroying the Economy*

FICCI has been focusing on curbing the problem of growing illicit trade in counterfeits, pass offs and smuggled goods, and accordingly has dedicated a forum by establishing CASCADE - Committee Against Smuggling and Counterfeiting Activities Destroying the Economy. FICCI CASCADE is working closely with the Industry and Government to create awareness on how counterfeiting and smuggling has become a serious menace to public health and safety, and why all concerned must address these important issues.

FICCI CASCADE has been successful in stirring an active debate on the menace of smuggling and counterfeiting nationally through various awareness programmes and initiatives engaging industry, policy makers, law enforcement officials, voluntary organizations and consumer at large. Since its inception, FICCI CASCADE has over the years organised various awareness programmes and initiatives across the nation to fight the hazards of counterfeiting, piracy and smuggling. It has been successful in stirring an active debate on the topic nationally and internationally. These awareness programs were well attended comprising across sectors, consumer rights activists, youth, government officials, the judiciary, police, customs and border enforcement officials, and have received wide public appreciation and media coverage.

FICCI CASCADE engages with various ministries at the National and State level. CASCADE works closely with the Ministry of Consumer Affairs in their vision to protect the rights and interests of consumers, to spread awareness about consumer rights, duties and responsibilities and to promote consumer welfare by strengthening consumer movement in the country.



An integral part of FICCI CASCADE is to conduct multi-stakeholder dialogues focused on identifying opportunities for joint action between governments, enforcement agencies, international institutions and the private sector to combat illicit trade. In furtherance of this mandate, CASCADE has organized 4 editions of its flagship international conference. The objective being to bring together and encourage deliberations between the stakeholders on the alarming magnitude of unfair trade practices such as counterfeiting, smuggling & piracy, and to spread awareness about its adverse socio-economic impact. These forums saw overwhelming response in terms of delegate participation, media coverage and witnessed a host of international and national speakers who deliberated on the theme. Post conference reports and suggestions were shared with policy makers at the highest levels.



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# GLIMPSES OF PAST INTERNATIONAL CONFERENCES





# Glimpses of Past





# International Conferences







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# AGENDA

# Agenda

01 November 2018	DAY 1
09:30 am - 10:30 am	<b>REGISTRATION</b>
10:30 am - 11:30 am	<b>INAUGURAL SESSION</b>
10:30 am - 10:40 am	Welcome Address by <b>Mr. Anil Rajput</b> , Chairman, FICCI CASCADE
10:40 am - 10:55 am	Special Address by <b>Mr. S. Ramesh</b> , Chairman, Central Board of Indirect Taxes and Customs
10:55 am - 11:15 am	Inaugural Address by <b>Mr. Suresh Chandra</b> , Secretary, Department of Legal Affairs, Ministry of Law and Justice
11:15 am - 11:25 am	Anti-Counterfeiting and Anti-Smuggling Awards Ceremony
11:25 am - 11:30 am	Concluding Remarks by <b>Mr. Najib Shah</b> , Former Chairman, Central Board of Indirect taxes and Customs
11:30 am - 11:45 am	<b>Tea Coffee Break</b>
11:45 am - 01:30 pm	<p><b>SESSION 1</b></p> <p><b>Unleashing the power of a global multilateral response to curb illicit trade</b></p> <ul style="list-style-type: none"> <li>■ Global and regional trends in the proliferation of global illicit trade - What have governments, industry and institutions been doing to address the problem?</li> <li>■ Strengthening co-operation and expanding the scope of international frameworks, including existing international treaties to counter illicit trade</li> <li>■ Employment implications vis a viz jobs lost, jobs which could have been created and hazardous working conditions</li> <li>■ Need for improving information systems and strengthening analysis and data across economies and sectors</li> </ul> <p><b>Session Chair</b></p> <p><b>Mr. Najib Shah</b>, Former Chairman, Central Board of Indirect taxes and Customs</p> <p>Speakers:</p> <ul style="list-style-type: none"> <li>■ <b>Ms. Louise Van Greunen</b>, Director, World Intellectual Property Organization, (WIPO), Geneva</li> <li>■ <b>Mr. Sergey Kapinos</b>, Regional Representative, South Asia, United Nations office of Drugs and Crime (UNODC)</li> <li>■ <b>Mr. Piotr Stryzowski</b>, Senior Economist, Organization for Economic Cooperation and Development (OECD)</li> <li>■ <b>Dr. John Joseph</b>, Member, Central Board of Indirect taxes and Customs</li> </ul> <p>Closing Remarks: <b>Ms. Kameswari Subramanian</b>, International Expert, Customs laws, Procedure and Trade Facilitation</p>
1:30 pm - 2:30 pm	<b>Lunch</b>



2:30 pm - 3:45 pm

**SESSION 2**
**Connecting the dots: Holistic and sustainable approaches to brand protection**

- Consumer engagement programmes as a part of Anti-Counterfeiting, Anti-Smuggling, Anti-Piracy & Brand Protection Strategy
- Examining the benefits of a community unified approach
- What are the costs, health and safety risks to society from counterfeit and smuggled consumer goods? What can Governments, businesses and consumers do to stop these
- Leveraging technology to fight counterfeiting smuggling and piracy. Product authentication as an element of the global brand protection strategy

**Session Chair**

**Mr. Hem Kumar Pande**, Former Secretary, Ministry of Consumer Affairs, Food and Public Distribution, Govt. of India

Speakers:

- **Mr. Peter Van Dorp**, Regional Director, Sweetyet Development Ltd., Hong Kong
- **Mr. Bharat Dube**, CEO, Strategic IP Information, Singapore
- **Prof. Suresh Misra**, Chair Professor Consumer Affairs, Centre for Consumer Studies, IIPA
- **Ms. Dhvani Rao**, Senior Legal Counsel (IP, Digital & HR), LEGAL for South Asia Region, Nestle
- **Ms. Pushpa Girimaji**, Senior Journalist (Consumer Columnist) and Consumer Activists

3:45 pm - 4:00 pm

**Tea / Coffee Break**

4:00 pm - 5:15 pm

**SESSION 3**
**Leveraging Intellectual Property Rights for Economic Growth and Business Competitiveness**

- Respect for IP, the key that promotes innovation, expands markets, generates revenue and increases consumer welfare
- The Economic Context of IP - how an effective IP enforcement infrastructure facilitates innovation and boosts economic growth
- Strategies of leading global corporates: IP as a business and marketing tool
- Significance of IPR for start ups
- Combating piracy and counterfeiting in India, IPR policy provisions, global best practices and the way forward
- The transnational nature of cybercrime: need for public private partnership and global collaboration

**Key note address: Mr. Rajiv Aggarwal, IAS, Joint Secretary, DIPP, Ministry of Commerce and Industry, Govt of India**

**Session Chair**

**Mr. Narendra Sabharwal**, Chairman, FICCI-IP Committee & Former Deputy Director General, WIPO

	<p>Speakers:</p> <ul style="list-style-type: none"> <li>■ <b>Ms. Louise Van Greunen</b>, Director, World Intellectual Property Organization, (WIPO), Geneva</li> <li>■ <b>Mr. Mahesh Batra</b>, Additional DCP, Cyber Crime, Delhi Police</li> <li>■ <b>Ms. Siboney Sagar</b>, Legal Counsel, Star India</li> <li>■ <b>Mr. Vikrant Rana</b>, Managing Partner, S.S Rana &amp; Co</li> <li>■ <b>Mr. Dhruv Agarwal</b>, Co-founder and Head of Product, Shopsy</li> </ul>
<b>2 November 2018</b>	<b>Day 2</b>
09:00 am - 10:00 am	<b>Registration</b>
10:00 am - 10:30 am	<p><b>OPENING SESSION</b> - <i>Need for a clear policy mandate having concrete elements to provide the impetus needed to contain illicit trade and other forms of economic offences</i></p> <p>Opening Remarks by <b>Mr. P. C. Jha, Advisor</b>, FICCI CASCADE and Former Chairman, Central Board of Indirect Taxes and Customs</p> <p>Special Address by <b>Mr. M M Oberoi</b>, IPS, Special Commissioner of Police, Special Cell, Delhi Police</p> <p>Keynote Address by <b>Mr. D. P. Dash</b>, IRS, Director General, Department of Revenue Intelligence</p>
10:30 am - 12:00 noon	<p><b>SESSION 4</b></p> <p><b>Senior leadership discussion: Where we are and what needs to be done</b></p> <ul style="list-style-type: none"> <li>■ Planning and re-shaping anti-counterfeiting, anti-smuggling, anti- piracy and brand protection strategies to secure sustainability</li> <li>■ Proactive vs Reactive measures</li> <li>■ Consumer education and awareness programmes as a part of Anti-Counterfeiting, Anti-Smuggling, Anti-Piracy &amp; Brand Protection Strategy</li> <li>■ Areas where policies and practices need to be strengthened / amended</li> </ul> <p><b>Session Chair: Mr. Deep Chand</b>, Advisor FICCI CASCADE and Former Special Commissioner of Police, New Delhi</p> <p>Speakers:</p> <ul style="list-style-type: none"> <li>■ <b>Mr. Abraham Farraj</b>, Director, Creative Content Protection. NBC Universal, New York</li> <li>■ <b>Mr. Sandeep Kaul</b>, Divisional Chief Executive, India Tobacco Division, ITC Ltd</li> <li>■ <b>Mr. Sanjay Kaushik</b>, Managing Director, Netrika Consulting India Pvt. Ltd.</li> <li>■ <b>Mr. Vishal Dewan</b>, Country Senior Security manager, Global Security, India &amp; South Asia, Johnson &amp; Johnson Pvt. Ltd.</li> <li>■ <b>Mr. Milind Palany</b>, Senior Manager, Global Brand Protection - India &amp; South Asia, Johnson &amp; Johnson Pvt. Ltd.</li> </ul>
12:00 noon - 1:00 pm	<b>Lunch</b>
1:00 pm - 2:00 pm	<p><b>SESSION 5</b></p> <p><b>Fight Against Organized Crime in Illicit and Counterfeit Trade</b></p>

	<p><b>Panel Discussion: Perspectives from law Enforcement Agencies</b></p> <ul style="list-style-type: none"> <li>■ Developing and implementing national strategies to counter illicit trade.</li> <li>■ How We can Make Interagency Co-operation and Information Sharing a Reality</li> <li>■ Reviewing the deterrents to counterfeiting, smuggling and piracy including the effectiveness of penalties and the implementation of these penalties through criminal justice systems</li> <li>■ How to Develop Effective Training Programs to Bolster Anti-Counterfeiting/Smuggling / Piracy efforts</li> </ul> <p><b>Moderated by Times Now</b></p> <p>Panelists:</p> <ul style="list-style-type: none"> <li>■ <b>Mr. David M. Luna</b>, President and CEO, Luna Global Networks &amp; Convergence Strategies, LLC, Washington, DC</li> <li>■ <b>Mr. Udaykiran Devineni</b>, ICE Representative, Department of Homeland Security-Homeland Security Investigations , US Embassy</li> <li>■ <b>Mr. Felix AVELLAN</b>, Criminal Intelligence Officer, Illicit Goods &amp; Global Health Programme INTERPOL, Lyon</li> <li>■ <b>Mr. Neeraj Kumar</b>, Former Police Commissioner, New Delhi</li> <li>■ <b>Mr. Sanjeev Tripathi</b>, Former Chief of RAW</li> <li>■ <b>Mr. Vikram Srivastava</b>, Former DG, CRPF</li> <li>■ <b>Mr. Anil Sinha</b>, Former Director, Central Bureau of Investigation</li> </ul>
2:00 - 3:00 pm	<p><b>Role of Judiciary</b></p> <ul style="list-style-type: none"> <li>■ Effective enforcement of law and the changes required in the legal regime, to meet the challenges of future</li> </ul> <p><b>Opening Remarks by Chair</b></p> <p><b>Hon'ble Mr. Justice Manmohan Sarin</b>, Former Lokayukta, NCT of Delhi, Chief Justice, High Court of Jammu and Kashmir &amp; Judge, High Court of Delhi</p> <p>Address by <b>Hon'ble Mr. Justice Manmohan Singh</b>, Judge, Delhi High Court (Retd.) and Chairman, Intellectual Property Appellate Board (IPAB)</p> <p>Address by <b>Mr. S.K. Sharma</b>, Legal Advisor, National Investigation Agency (NIA)</p> <p>Concluding Remarks by <b>Mr. P. K. Malhotra</b>, Former Secretary, Ministry of Law and Justice, Government of India</p>
3:00 pm - 3:20 pm	<p><b>Valedictory Address</b></p> <p><b>Hon'ble Mr. Justice Arjan Kumar Sikri</b>, Judge Supreme Court of India, Former Chief Justice, Punjab and Haryana High Court</p>
3:20 pm - 3:30 pm	<p><b>Conclusion by Mr. Arun Chawla</b>, Deputy Secretary General, FICCI</p>





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# Summarized Report





## Leading global players join FICCI CASCADE in addressing the growing threat of illicit trade in India

It is a well-established fact that across the globe, illicit networks are infiltrating and corrupting legitimate business markets, reducing productivity and dis-incentivizing investments in research and development - not to mention, jeopardizing public health, emaciating communities' human capital, and eroding the security of our institutions and governments.

Illicit trade particularly smuggling and counterfeiting are considered to be one of the world's fastest growing 'industry'. Though its size is hard to determine, it is said that that 8%-15% of global GDP is impacted due to illicit trade and connected criminal activities. Recent studies also estimate that globally the economic value of illicit trade could reach \$2.3 trillion by 2022 and the wider social, investment and criminal enforcement costs could take the total to \$4.2 trillion, leaving at risk about 5.4 million "legitimate jobs". Its existence and operation is broad in scope and large in value and hence has rightly been termed as the crime of the 21st century by the FBI.

India is no exception; the market for such products is one of the biggest challenges faced by Indian industry, impacting 'Brand India' globally. FICCI's Committee Against Smuggling and Counterfeiting Activities Destroying the Economy [CASCADE] has over the years been concertedly addressing this issue through its various pan-india awareness generation activities, building capacities of law enforcement officials and undertaking ground breaking research about the extent and impact of the menace. An integral part of FICCI CASCADE is to conduct multi-stakeholder dialogues focused on identifying opportunities for joint action between stakeholders to combat illicit trade. This year CASCADE organized the 5th edition of its flagship international conference MASCRAGE 2018 (Movement Against Smuggled and Counterfeit Trade) on November 1-2, 2018 in New Delhi, with the theme of *Ensuring Brand Security For Sustained Businesses and Employment Generation*.

Various issues such as global multilateral response to curb illicit trade; holistic and sustainable approaches to brand protection; leveraging Intellectual Property Rights for economic growth and business competitiveness; the need for a policy clarity to provide impetus needed to contain illicit trade and other forms of economic offences; the fight against organized crime in illicit and counterfeit trade and perspectives from law enforcement agencies and judiciary, among others, were discussed. The conference also tried to assess the impact and provide

I am of the firm conviction that there is a great connect between economics and law. Judges have to keep in mind the economic implications, while granting injunctions in respect to counterfeiting and smuggling. To combat such crimes, judiciary must ensure speedy disposal of cases."

practical recommendations and effective strategies to mitigate this dual menace of smuggling and counterfeiting.

Mr. Suresh Chandra, Secretary, Department of Legal Affairs, Ministry of Law and Justice, Govt. of India, while inaugurating MASCRADE 2018, observed that the damaging impact of counterfeiting and smuggling was threefold. Foremost are the producers, affecting the growth of their industry and stunting the revenue potential from that sector, and thereby affecting the employment growth in the country. Secondly, consumers are the ultimate victims of counterfeiting, smuggling and piracy through excessive prices paid for substandard products that increase exposure to health and safety risks. Lastly, it results in a revenue loss to the government. Loss of revenue to the government has a direct impact on spending on welfare measures such as on health care, education and public transport. Police and other enforcement infrastructure are also hit by this resource crunch which exacerbates the problem of grey market operations.

Mr. Anil Rajput, Chairman, FICCI CASCADE in his welcome address said “the 5th edition of MASCRADE promises to provide an effective roadmap in reining in smuggling and counterfeiting. Every year we have made progress in our fight against this faceless enemy but there is still a long way to go. The subject of arresting the growth of illicit trade needs our immediate and unwavering attention as it exacerbates unemployment, bleeds the economy and causes tremendous physical, mental and societal distress”.

Highlighting the several initiatives undertaken by the Government of India to fight the menace of smuggling and counterfeiting, Mr. S. Ramesh, Chairman, Central Board of Indirect Taxes and Customs (CBIC) highlighted that the phenomenal growth in global trade and technology had positively affected many markets across the world while, on the other hand, it had also offered opportunities for organized criminals to engage in illicit trade and counterfeiting. He further added that Indian Customs had been a pioneering partner in facilitation of licit trade, while curbing smuggled and counterfeit goods. CBIC is committed in fulfilling its role in combating smuggling and counterfeiting in cross-border trade. He reaffirmed that CBIC would relentlessly continue the battle against illicit trade which posed a grave threat to the national security.

Hon'ble Mr. Justice Arjan Kumar Sikri, Judge, Supreme Court of India in his valedictory address stated that the laws should be deterrent enough to dissuade perpetrators from engaging in illicit trading activities. “I am of the firm conviction that there is a great connect between economics and law. Judges have to keep in mind the economic implications, while granting injunctions in respect to counterfeiting and smuggling. To combat such crimes, judiciary must ensure speedy disposal of cases.”

The conference was well attended by over 350 delegates and saw a host of distinguished international speakers from World Intellectual Property Organization (WIPO), INTERPOL, United Nations Office for Drugs and Crime (UNODC), Organization for Economic Cooperation and Development (OECD), US Homeland Security, NBC Universal and many others. Notable senior government officials from India including Mr. Rajiv Aggarwal, Joint Secretary, Department of Industrial Policy & Promotion, Ministry of Commerce and Industry; Mr. D. P Dash, Director General, Directorate of Revenue Intelligence; Mr. M M Oberoi, Joint Commissioner of Police,

Delhi Police, Hon'ble Mr. Justice Manmohan Singh, Judge, Delhi High Court (Retd.) and Chairman, Intellectual Property Appellate Board (IPAB), Mr. S.K. Sharma, Legal Advisor, National Investigation Agency (NIA) etc. and several leading industry players addressed and took part in the deliberations at the forum.

To encourage and acknowledge the work of our law enforcement agencies, FICCI CASCADE also felicitated the best performing officers for the period 2017-18 for their outstanding achievement in prevention of counterfeiting & smuggling and enforcement of anti-smuggling & anti-counterfeiting laws from enforcement agencies. The list of the awardees was as follows:

- a. Dr. Amandeep Singh, Additional Commissioner of Customs, Indira Gandhi International Airport
- b. Mr. Kiran Kumar, Joint Commissioner of Customs, ICD Tughlakabad
- c. Mrs. Pritee Chaudhary, Joint Commissioner of Customs, SIIB, JNCH
- d. Mr. Vivekanand, Appraiser, IPR Cell, JNCH
- e. Mr. G. Rathinavel, Superintendent, Customs (Preventive), Vizag
- f. Mr. Sumit Kumar, Senior Intelligence Officer, Directorate of Revenue Intelligence, Delhi Zonal Unit
- g. Mr. Ranjan Sen, Senior Intelligence Officer, Directorate of Revenue Intelligence, Kolkata Zonal Unit
- h. Mr. Bhoopender Kumar, Sub-Inspector, Economic Offences Wing, Delhi Police
- i. Mr. Shankar Banerjee, Inspector, Economic Offences Wing, Delhi Police

As a precursor to MASGRADE 2018, CASCADE organized an interschool elocution and painting competition on the theme "Fight Counterfeiting and Smuggling", in which students from schools across Delhi NCR had enthusiastically participated. CASCADE also conducted a #BeACascadeQuiz on its digital media platform where netizens took part in a quiz related to smuggling and counterfeiting. The student-winners in these events were also felicitated during the programme.





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# DAY 1 INAUGURAL





Mr. Anil Rajput

Chairman  
FICCI CASCADE

- Illicit trade threatens the safety of people, pounds the morale of legitimate businesses, increases unemployment, leaves a gaping hole in the exchequer and damages the overall health of nations across the world.

Smuggling and counterfeiting which are termed as illicit trade, is today, the biggest challenge facing our country. It is also the world's largest growing industry, owing to its rather complex nature, its size is hard to determine, however estimates range from \$ 650 billion to over \$ 3 trillion according to many studies and this evil business represents 10 per cent of the global trade and has rightly been termed as the crime of the 21st century by the FBI.

In the Indian context a report by FICCI CASCADE estimated the loss to 7 industry sectors at Rs. 1,05,000 crores, increasing 44% between 2011-12 and 2013-14. The total loss to the government on account of this illicit trade was Rs. 39,000 crore in 2014 from these sectors. The maximum revenue loss to the exchequer on account of illicit trade is attributed to tobacco products at Rs. 9000 crores, followed by mobile phones at Rs. 6700 crore and alcoholic beverages at Rs. 6300 crores.

In India, from the smallest items to the largest engineering goods, the shadow of illicit trade looms large. India is a country where the small and medium enterprises play a dominating role in generating employment and since independence a large number of this industry was kept under cottage and small-scale category and provided a huge amount of protection. This vision was driven by the father of our nation, Mahatma Gandhi, when he said that India lives in its villages and he wanted to rebuild India from the grassroots, visualising villages that were self-reliant in generating employment to manufacturing and selling their produce.

With the opening up of the Indian economy in 1991, branded goods made their way into India, there was a clear element of glamour attached to them and naturally this led to a spike in aspirations, especially for the middle-class population. While many products have been introduced through the legal channel, a significantly large number are today serviced through the smuggled and counterfeit route. Participants in this illicit trade, not only deprive the government of its rightful revenue but also create an army of anti-social elements who are a threat to each and every society in the world.

Clearly, behind every terrorist organisation, stands a well-oiled financial system and this is firmly established through illicit trade in a plethora of items. Organisations like Hezbollah, Taliban, Hamas, Al-Qaeda, ISIS, Palestinian Islamic Jihad, Lashkar-e-Taiba are all into illicit trade ranging from tobacco to arms and from drugs to alcohol and the list goes on. In 2017, 6 out of the 8 deadliest attacks in the world that claimed the lives of nearly 1500 people were planned, financed and executed by the Taliban, ISIS and Al-Qaeda and according to the Global Terrorism Database of the University of Maryland, 2016, these organisations are responsible for 70% of the

world's terror victims. Therefore, their finances which are attributed to illicit trade are clearly their jugular vein that needs to be cut.

Such elements put tremendous pressure on the security system, pressures that are financial, physical and mental. While we have been dealing with this issue through the prism of finances, the impact of illicit trade from the angle of unemployment needs to be highlighted. Smuggled goods result in export of jobs and have a detrimental impact on the employment opportunities of the local habitant and this issue needs to be stressed upon and highlighted. Unemployment is today one of the biggest challenge before us, according to the International Labour Organization (ILO), unemployment in India is likely to reach nearly 19 million by the end of 2019. We are already having examples in states like Punjab where unemployment and drug use and the potential of unemployment in creating anti-social elements is unfortunately making headlines. There was a time not too long ago, when during festive season, toys, crackers and religious idols were all made in the backyards across India, today such products are smuggled into India from neighbouring countries. All those who were previously engaged in these activities are finding themselves without jobs and are being added to an already unmanageable list of unemployed. Frustration and disgruntlement could make many of these people go astray and enter the dangerous world of anti-social activities. Therefore, there is a need to strategize and eradicate this menace from the face of the planet.



**T**rade facilitation and enforcement are two sides of the same coin. While there is a need to maximise facilitation to legitimate trade, at the same time, strong enforcement measures are needed to detect and deter illicit and counterfeit trade. Trade facilitation has array of reforms by the customs, which have helped improve India's ranking (released by the World Bank) from 146 last year to rank 80 this year, in the indicator relating to trading across borders. This quantum jump in ranking in ease of doing business has been possible to several initiatives, such as direct port delivery, authorized economic operators, e-sanchit for dematerializing customs documents and e-sealing of containers.

Over the past few years, intangibles have become a major economic asset to corporates all over the world. Countries that have invested more in intangible assets have anecdotally been found to have higher GDP per capita. The growing importance of IP assets underscores the common saying: "What is worth copying is worth protecting".

On the other hand, in today's knowledge-based economy, the phenomenal growth in global trade and technology has positively affected many markets across the world. However, on the

other hand, the globalization of trade and communication has offered unparalleled opportunities for organised criminals to engage in illicit trade and counterfeiting. As per the Global Brand Counterfeiting Report 2018, the amount of total counterfeiting globally has reached an astounding figure of 1.2 Trillion USD in 2017 and is bound to reach 1.82 Trillion USD by the year 2020 which includes counterfeiting of products from luxury goods to basic necessities, from defence equipment to watches and handbags.

Business organizations invest a lot of money, time and resources on protecting their brand and trademarks, but even after all the measures, the illicit market is booming rapidly. This is where the role of law enforcement agencies is important. The three D's of global anti-piracy measures are:

- DETECTING high-risk activity,
- DETERRING non-compliance, and
- DISRUPTING fraudulent behaviour



# Mr. S. Ramesh

Chairman  
 Central Board of Indirect Taxes and Customs

Indian Customs has been a pioneering partner in facilitation of illicit trade, while curbing smuggled and counterfeit goods. For more than 50 years, since the year 1964, Indian Customs has prohibited import of goods infringing trademarks and designs. In the recent years, Customs has been actively combating IPR infringements at the borders under the TRIPS agreement. There is a very robust Online Risk Management System for targeted interdiction of consignments, based on the IPRs registered by right holders with the customs. Subsequent to interdiction, stringent action wherever necessary is taken for IPR violations in a time-bound manner.

The online IPR Recordation Application of Indian Customs, was appreciated as an International Benchmark by WCO in 2010. As many as 646 IPRs have been registered with the customs on the online portal relating to garments, electronic items, footwear and food products. Capacity building of customs officers in the frontline is given importance by CBIC. Regular mock-drills for interdiction of suspect counterfeit goods are conducted to hone their skills and update their knowledge of sophisticated modus operandi adopted by the smugglers. At the same time, policy level and procedural updation are also made to be in sync with the dynamically changing IPR scenario.

Piracy, smuggling and counterfeiting pose a serious threat to a sustainable IP-based business model. Substandard counterfeit products such as toys, pharma products or spare parts can pose serious health hazards and safety threats to the consumers at large. At the macro-economic level, IP protection and enforcement is a key driver of innovation, which contributes to long-term economic growth. An adequately protected IP can be a key value generator for firms, helping them thrive in very competitive market.

There is a need to continuously work with the right holders of IP and other stakeholders to disrupt and disband tainted supply chains and compromised markets which are posing a serious threat to the national security and safety.

• Illicit Trade in terms of counterfeit, smuggling and piracy is a menace across the world and the victims are both, the producers and consumers. There is hardly any industry from toys to aircraft parts which is not affected by illicit trade, even essential items such as food and medicines have also been engulfed.

The damaging impact of counterfeiting and smuggling is threefold. Foremost it affects genuine producers, because the counterfeit goods devalue their intangible assets and in this process all stakeholders (promoters, shareholders, employees, customers or suppliers) stand to lose. Secondly, it affects the health and safety of the consumers through excessive prices paid for substandard products that increases exposure to these risks. Lastly, it results in revenue loss to the government. The loss of revenue has a direct impact on public spending such as defence, health, education, public transport and empowerment of weaker sections of the society. Police and other enforcement infrastructure are also hit by this resource crunch which exacerbates the problem of grey market operations.

Besides given the key role of technology, invention and innovation in India's current economic development, the value of Indian made intellectual property is increasing. Here also counterfeit and smuggled products are posing a threat to our growth strategy. In order to tackle the problem, we need



# Mr. Suresh Chandra

Secretary  
 Department of Legal Affairs, Ministry of Law and Justice

to make joint efforts. The efforts of law enforcement agencies must be complimented by general public and industry members. They need to inform officers whenever they suspect any counterfeit. Remaining vigilant is in our own interest, and this will enable the law enforcing agencies to target the issue rightly and more effectively. As per the study conducted by Indian Statistical Institute, Kolkata, the value of FICN in circulation has been estimated to be around Rs. 400 crores during the span of four years from 2011-12 to 2014-15. The demonetization step undertaken by the government in November 2016 was one big step to tackle this problem of counterfeit currency. While it dealt a big blow to the then existing stock of fake currency there is a need to remain vigilant to check counterfeits. The anti-social elements gain by introducing spurious products in the market which is detrimental to the nation.

Solutions through technology can eliminate human defects. Block chain technology can be used to find counterfeit and smuggled goods in the supply chain. This will help in detecting the genuineness of the product without third party verification, which makes the entire supply chain transaction highly secure and reliable.

The need of the hour is to take tangible actions. We need to strengthen our laws wherever necessary and increase enforcement and awareness against illicit trade practices. What we need is an integrated strategy with participation from policy makers, enforcement agencies, judiciary, industry and general public with technology being an essential tenet of such strategy.



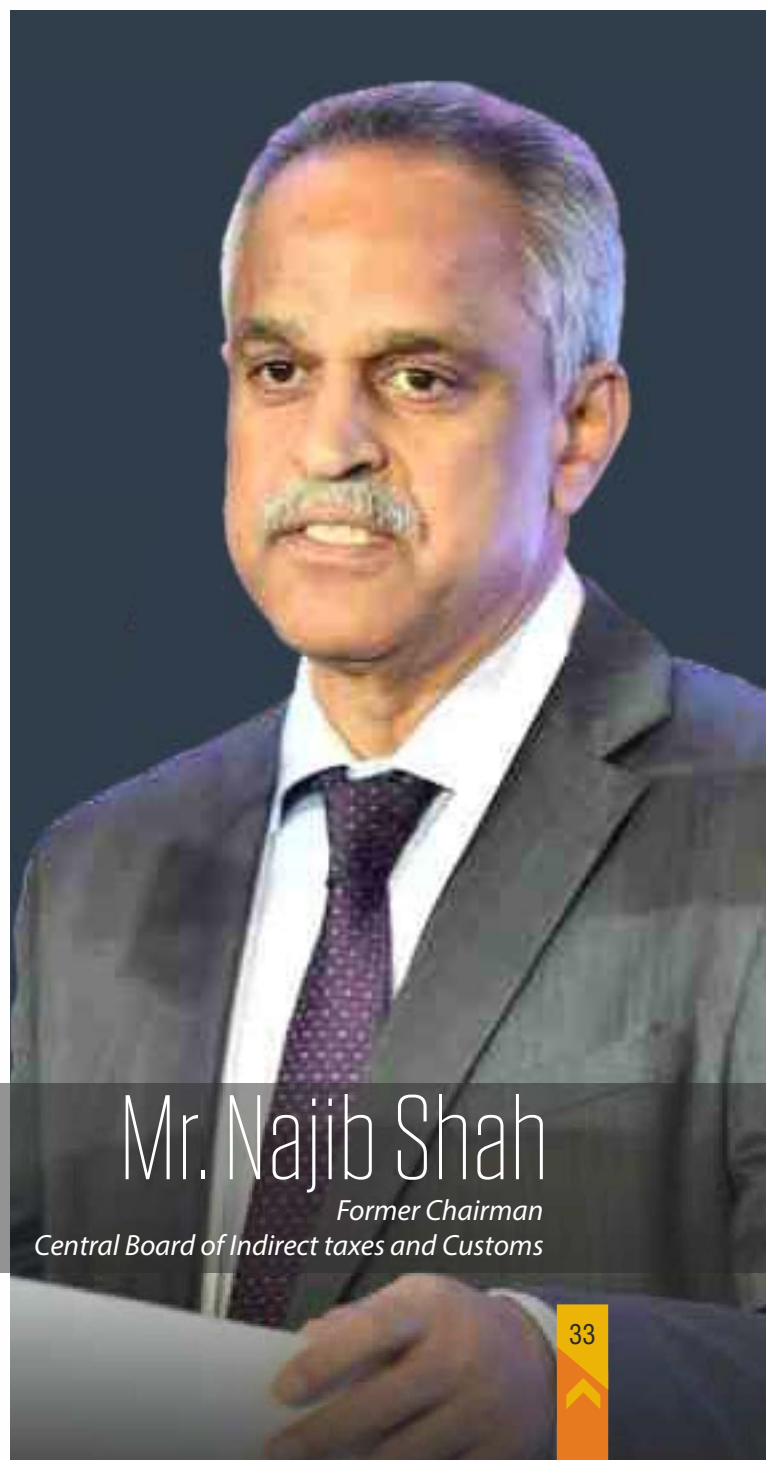
There is a universal agreement that illicit trade is bad, bad for the country leading to loss of taxes, impacting jobs, creating anti-social elements and money which can be used for nefarious purposes and thus damaging the economy at large. Despite the awareness and the universal agreement the problem continues and is apparently increasing year to year.

The tragedy is that there has been very little cooperation amongst governmental agencies within the country and across the borders. It is also tragic that people operating in the shadows of illicit trade; seem to be cooperating with each other within the country and across borders, much more than what governmental agencies are doing. Hence, this is a serious gap which needs to be addressed and bridged by meetings where all stakeholders get together on a same platform, understand and talk to each other, discuss their strengths and weaknesses to address this problem.

Figures have been quoted as to the extent of the problem and this is an area where given the nature of the activity, is speculation at best, and informed speculation perhaps. The matter remains that the issue of illicit trade is enormous and needs to be looked and fixed at the earliest.

Intellectual Property is an area where many countries tend to get neglected. It has not seen the same attention such as smuggling of arms or drugs or other commodities. CBIC has put in place a very robust EDI system where the parties likely to get impacted by fakes coming into the country can register themselves. The response however is poor. If a property needs to be protected, it needs to be registered also with the authorities who have the competence and power to stop such illicit movement in the country. So it is an urge to the industry, especially FICCI that the industry at large is made aware of the fact that there is such a portal available where one can register their rights and ensure that they get adequate protection.

There is also a mention about the impact of illicit trade on jobs. This line of research needs to be proceeded very cautiously with

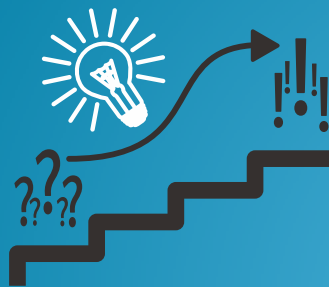


Mr. Najib Shah





*Former Chairman  
Central Board of Indirect taxes and Customs*

robust data and statistics. In India we have had studies on this issue. There is also a white paper on Black Money, which attempts to give quantum of such illicit money floating in the country and the impact on jobs. Focus on these studies is vital before coming to any firm conclusions.

At the end of the day there is a need to create awareness amongst consumers that illicit trade and buying goods that are counterfeit is bad for them and for the country at large because ultimately if there is no market, there cannot be any illicit trade and the aim should be to ensure that we arrive to such a scenario though difficult it may sound or be.



# KEY TAKE AWAYS

- 
 There is a need to make joint efforts to curb the problem of illicit trade. General public and industry must compliment the efforts made by law enforcement agencies and inform whenever they suspect an illicit product. Remaining vigilant is important to support and assist the law enforcement officials to effectively target this issue.
  
- 
 Industry must be aware that there is a portal with the customs (EDI system of CBIC), where they need to register to ensure adequate protection of their property.
  
- 
 Information technology is a boon and can help in eliminating human defects. Constant technological innovation can help us fight the menace of counterfeiting and smuggling.
  
- 
 Detecting high risk activity, deterring noncompliance and disrupting fraudulent behaviour are important global measures to combat illicit trade.



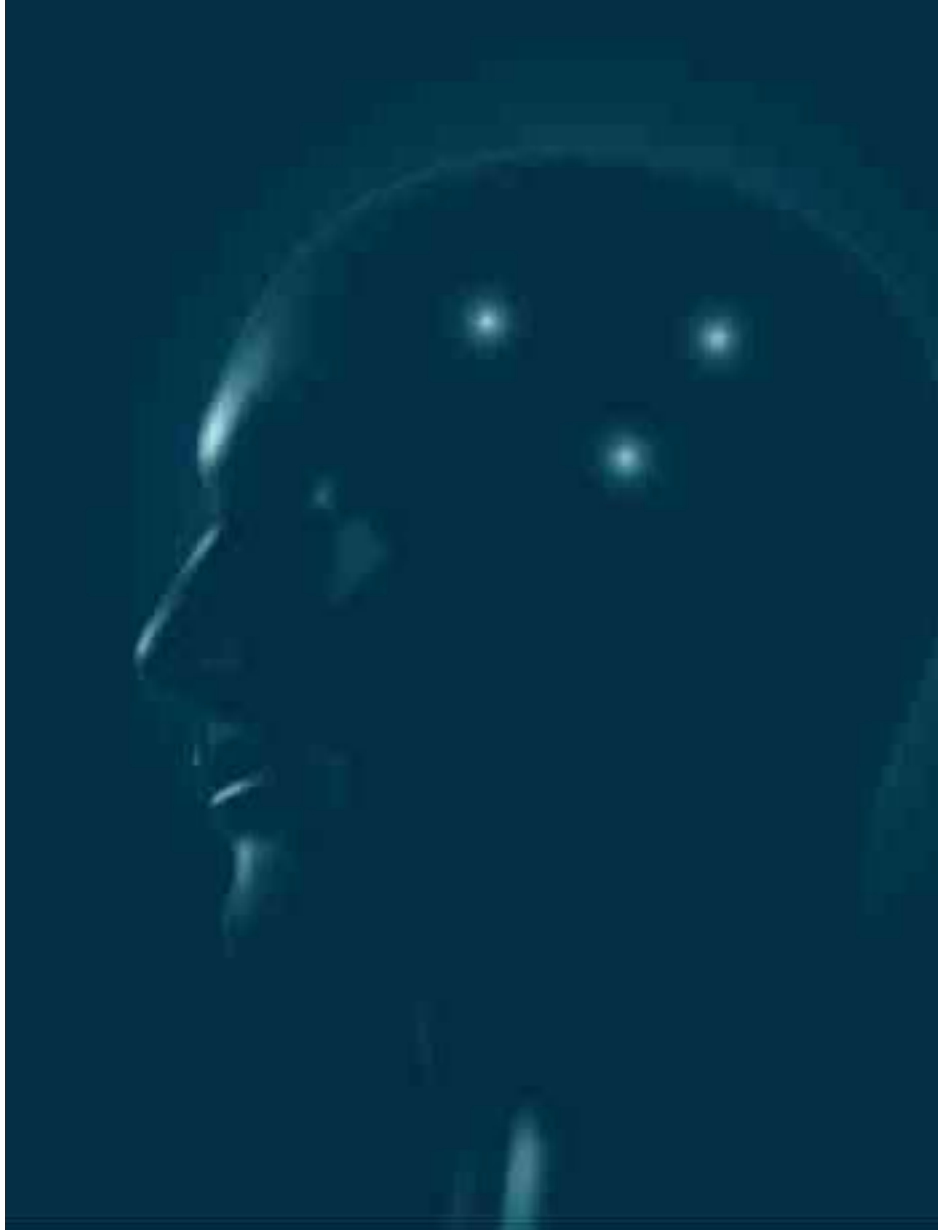


5<sup>th</sup> edition  
 **MASCRADA 2018**  
MOVEMENT AGAINST SMUGGLED & COUNTERFEIT TRADE  
Ensuring Brand Security for Sustained Businesses and Employment Generation

# SESSION 1

Unleashing the power of a  
global multilateral response  
to curb illicit trade

Illicit Trade is a matter of great concern. There is a universal agreement that illicit trade is bad and the problem is humongous and serious. The only way to tackle it is by having a coordinated global response and awareness amongst the public at large. The need of the hour is to balance facilitation and enforcement and government's initiatives to increase cooperation through multiple customs mutual agreements".



**Mr. Najib Shah**

*Former Chairman  
Central Board of Indirect taxes and Customs*



## Ms. Louise Van Greunen

*Director  
World Intellectual Property Organization (WIPO), Geneva*

The overarching principle of the work relating to the enforcement of intellectual property rights are contained in the Development Agenda Recommendation 45 of WIPO: as “approach IP enforcement in the context of broader societal interests and especially development-oriented concerns” as well as it is cited in the Article 7 of the TRIPS agreement. WIPO establishes a balance in the intellectual property enforcement regime. It balances the public interests and private rights to have an effective approach to the enforcement of IP rights. It is important to take non-punitive measures to create respect for intellectual property and prevent infringements. One cannot create respect for intellectual property through a punitive system because if we do not have certainty of detection, prosecution, conviction and a deterrent penalty, our legal system can never have the required respect for Intellectual Property Rights. We need to instill appreciation for the value of Intellectual property as a tool for development.

In international legal framework on IP enforcement like Article 9 of the Paris Convention for the Protection of Industrial Property and Articles 13, 16 of the Berne Convention for the Protection of Literary and Artistic Works we do not have enforcement provisions therefore it was timely for member states and members of the World Trade Organization to adopt the TRIPS agreement. There are multilateral agreement consensuses to adopt part III of the TRIPS Agreement and here we talk about the sanctions and the remedies (administrative, civil and criminal) for effective action against any act of infringement of intellectual property rights.

Globally the cross-border enforcement of intellectual property is important for the intersection between intellectual property and the private international law because more disputes we have of international nature, the more important is this intersection to encompass the disputes of international nature.

Important issues in relation to cross border enforcement of intellectual property rights which are discussed in WIPO advisory committee are: When does private international law meet intellectual property law? How is this intersection regulated? Which court is competent to decide a dispute? Which law does the court apply? How can judgments be recognized and enforced in another state?

WIPO also quantifies the damages in intellectual property disputes. In order to have international cooperation WIPO organizes meetings with other IGOs working in this area and with non-governmental organizations, as it is extremely important to cooperate and be more efficient because one agency alone will not make the difference. Our power lies in unity. There is a need to build awareness activities and strategic campaigns against illicit trade. Also, there should be a mechanism to resolve IP disputes in a balanced, holistic and effective manner.



## What is the problem?

Transnational organised crime (TOC) has become a real challenge to the security of the vast majority of countries. The main reasons are emergence of new forms of transnational organised crime including cybercrime and terrorism. The global character of this phenomenon is the intertwining nature of illicit operations, merge of different narrow specialized structure into multi-functional criminal syndicates and the availability of gigantic profits allowing to corrupt or access to the latest scientific achievements. Hence, transnational organised crime is a global phenomenon and should be accessed in a global coordinate system, in line with its nitty-gritties.

Globalization is a mainstream of contemporary development with all its positive but negative aspects. Participation in the international division of labour based on comparative advantages is the only way to develop fast and keep abreast with the development in the 21st century. It means openness, economic integration, establishment of very long international production chain with narrow specialization. It also means emphasis on innovative technologies, intensive technologies and technological update & change.

All this could be inconceivable without diluting national border related barriers. At the same time, it creates security challenges because transnational organised crime is



Mr. Sergey Kapinos

*Regional Representative- South Asia  
 United Nations office of Drugs and Crime (UNODC)*

about business, profit, ignoring legal restrictions which are mandatory for law enforcement and abided by legal businesses. Transnational organised crime unfortunately, is thriving and it is estimated that some 70% of illicit profits are believed to be laundered through the financial system, yet less than only 1% of those laundered proceeds are intercepted/confiscated. It is

Today, world order is increasingly chaotic, power relations are less clear, universal values are being eroded, democratic principles are undersized, the rule of law is being undermined, impunity is on the rise, push the boundaries at home and in the international arena, we face a set of paradoxes, the world is more connected yet societies are becoming more fragmented, challenges are growing outwards while many people are turning inwards, multilateralism is under fire precisely when we needed most, the threat of terror looms fed by root causes of radicalization and violent extremism and terrorism is even more interlinked with international organised crime and trafficking of people, drugs and arms. Scientific progress has helped to connect businesses, communities, families and friends across the world. But there are also serious risks and dangers. Technologies is being misused by terrorist and for sexual exploitation and abuse, organised criminal network works on the dark world, profiting from encryption and anonymous cryptocurrency, payments to trafficking people and illegal goods. Technology, outraging institutions, and cooperation between countries and stakeholders will be crucial including member states, private sector, research centres, civil society and academia. In this context we need to understand the multilateral responses".

believed that more than 28% of the income of largest armed group is derived from production of trafficking in drugs. The transnational organised crime industry is worth billions and in the nearest future it will be in trillions so as for drug trafficking it works out at US \$344 billion, in counterfeiting the figure is US \$288 billion, in human trafficking it is US \$157 billion and cybercrime which is the most rapidly developing crime in the world will cost the world US \$6 trillion by 2021. Beyond the numbers, illicit trade and organised crimes are significant barrier to economic growth, individual prosperity and corporate profitability. It blocks legitimate markets, sabotages global supply chain, depletes natural resources and endangers market security.

Despite of the gravity of the threat organised crime is insufficiently understood, there is a lack of information on transnational criminal markets and trends. Unless we have an accurate picture of the nature of the problem we cannot act as effectively as we should, more assessment is needed and without the global prospective we cannot have an evidence based policy. One of the main

reasons is lack of international cooperation amongst actors of national criminal justice system. Not a single country in the world, however powerful it may be, is able to cope up with transnational organised crime challenges. As a result of lack of international cooperation, the elusive feeling of advancement and effectiveness is evolving in those countries which are lagging behind global trends and lack vital exchange of experience and achievement. Specializing on what can be done best in concrete national conditions and build on the achievement of others. It is quite evident that it can save a lot of investment, effort and time. Countries must include understanding of its national uniqueness, domestic policy factors, flaws in the governance system with accountability & security considerations and misunderstanding of the real interest of the nation with demonstrated over sensibility towards very simple and harmless issues. If illicit trade and organised crimes are left unchecked we will lose the financial and moral incentive for countries, companies and individuals to join the formal economy.

### **Global threat and their impact on local effects:**

1. There are links between transnational organised crime and local, national and criminal centres. They are used and involved in transnational operations but the impact once again is felt by ordinary people and at local level.
2. Unintentional enablers of illicit trade include internet and social media, postal and courier services, corruption, legislative weaknesses and free trade zones.

We are all at risk from illicit trade and organised crime from a fishy email to counterfeited medicines, identity threat to companies, government citizens are confronted with possibilities of illicit trade and criminals affecting their operations and wellbeing.

Most importantly, international cooperation is still weak, understanding of mutual assistance and extradition remains poor. Even national coordination mechanism remains weak and countries shy away from implementing international commitment. The world is facing unprecedented technological challenges, the speed of information exchange has increased dramatically, but governance system in many countries are the same as decades ago. The speed of decision making has not increased in line as the speed of dissemination and governance, its effectiveness and criminal justice system is no exception.

It is important that countries must strengthen legal framework to prevent and combat organised crime and facilitate international cooperation. UNODC can play a crucial role in this. New and emerging forms of organised crime are cause of concern. The crimes are becoming increasingly transnational and diversifies.

### **Responses by UNODC**

1. Since crimes has gone global, national responses are inadequate. They only displace problem from one country to another, regional and international responses are enabled by the United Nations Convention Against Transnational Organised Crime adopted in 2000.
2. Countries have to look beyond border to protect their sovereignty.
3. Trans border intelligence sharing and law enforcement cooperation are essential.
4. Better intelligence method need to be developed through training of more specialized enforcement units which should be equipped with state of the art technology.
5. Integrated action at the international level is crucial in identifying, investigating and prosecuting the people and groups behind these crimes.
6. Coordination at the international level may enhance coordination at the national level.

Since transnational organised crime is driven by market forces, counter measures must disrupt those markets. Hence, role of financial mechanism in counterfeiting illicit transactional organised crimes is crucial. Therefore, it is essential to strengthen security, governance and the rule of law. Combating global phenomenon such as this requires partnership at all levels and not only government but businesses, civil societies, academia, media and international organization should be involved.

- Education and awareness is very important amongst ordinary citizens, they should learn more about organised crime and how it effects their lives.

- Countries should encourage interaction between participants and engage criminal justice practitioner in delivering education against organized crime.
- Prioritize the issue to the government.
- There is a need for state parties to talk about transnational organised crime convention to raise awareness about the utility.
- Government and financial institution should implement article 52 of the anti-corruption convention that require government to know their customers, determine the beneficial owners of fund and prevent banking secrecy from protecting receipts from crime.
- Total greater vigilance is needed to keep illicit goods and victims of trafficking out of supply chain.
- Prevent the diversion of illicit products into the black market.
- Strengthen anti- corruption measures.

### **Effective Remedies**

- Proactive participation in international criminal justice cooperation.
- Global and regional networking and developing modern criminal justice systems through holistic security system reforms to create conditions for fair competition.
- Addressing roots of crime.
- Developing good governance, effective laws, policies and implementation tools, close cooperation of government, e-society and private sector.
- Partnership between multiple stakeholders based on institutional reforms, capacity building of law enforcement offices, international cooperation and most crucial we need a new model of shared responsibility to promote human rights in supply chain.





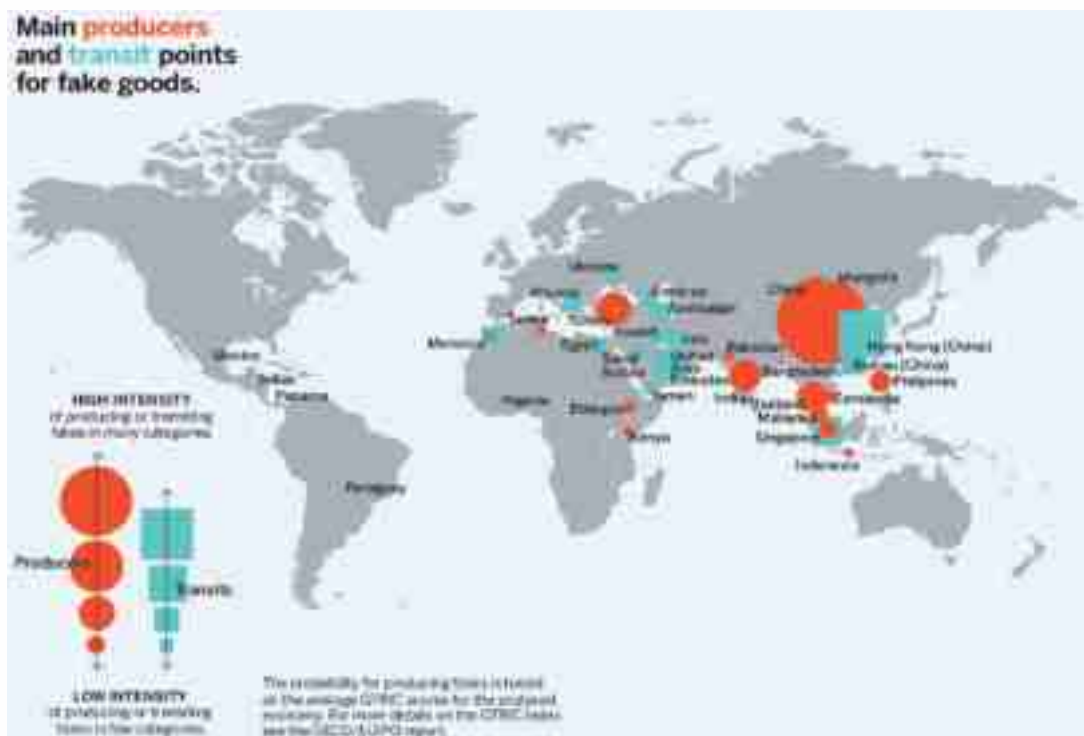
Mr. Piotr Stryzowski

Senior Economist  
 Organization for Economic Cooperation and Development (OECD)

According to the economic statistics, there has been a shift from value created by hands, people and machine to the value created by intellect. People are willing to pay for the products created by brain, technology, intellect and these outputs should be protected by Intellectual Property Rights. Software is a pure output of an intellect. Government invest a lot of money in the start-up programmes, educational programmes and innovation policies. But counterfeiters steal the intellectual output and pollute the production chain processes.

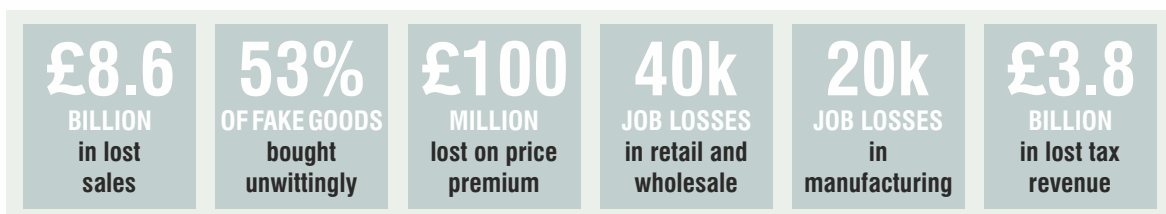
OECD over the past 6 to 7 years is trying to present a robust data driven picture of illicit trade, by compiling statistical data from the enforcement agencies in order to employ the policy makers with a quantitative picture.

### Scale of the problem



OECD estimated that in 2013 counterfeit trade was worth US \$ 461 Billion which is equivalent to the GDP of some countries. Counterfeiting spans across all industries. 15 to 20 years ago it was mostly luxury product where the value-added share by the brands were highest but today everything and anything is counterfeited. It ranges from luxury goods (watches, perfumes, handbags) to fake businesses and business products, from pesticides, machines, spare parts and to common consumer products like toys, pharmaceuticals, cosmetics, baby formulas, etc. The role is complex as there are many traders and transit points and it is difficult to identify them. All economies are involved, either as transit points of trade, or as producing economies. The modus operandi of illicit traders is to misuse the trade enhancing facilities. Trades facilitation and enforcement are two sides of the same coin and there is a need to match a right balance between trade facilitation and effective enforcement.

IPR owners, genuine traders, consumers and government faces problem of counterfeiting and smuggling. OECD has tried to assess the effects on countries like UK and Italy. In UK 8.6 billion pounds were loss of sales, 53% of fake goods in UK were bought by people who think they are buying genuine goods that results in 100 million pounds annually. 40,000 jobs are lost in UK in retail and wholesale and 20,000 in manufacturing. Government lost 3.8 billion pounds in tax revenue.



The total volume of forgone sales in the Italian wholesalers and retailers due to fake products smuggled in Italy is EUR 6.9 billion; an equivalent to 2.7% of total sales in the Italian wholesale and retail sector. Forgone sales of Italian companies due to infringement of their IP rights in global trade amounted to EUR 25.1 billion, or 3.1% of total sales by these companies. Altogether, at least 87 000 jobs were lost in Italy due to counterfeiting. That represents 2% of full time equivalent employees in Italy. Trade in counterfeit and pirated goods resulted in a reduction in Italian public revenues equal to almost EUR 10 billion, the equivalent of 1% of the taxes collected on value-added, personal and corporate incomes, and social security contributions, or 0.6% of Italian GDP

Therefore, the success depends on:

1. Exploring ways to step up public reporting on counterfeiting and piracy-related IP infringement.
2. Promoting accession and effective implementation of international IP agreements.
3. Expanding education and public awareness campaigns

**W**hile trading across borders, economic frontiers of the country are being controlled by the Customs. There is a need to create balance between trade facilitation and control the crime taking place and this space is being used by transnational syndicates to see the movement of their goods. In order to protect both the local and foreign industries, responsibility is on the custom formation or the official working in intelligence department to control the transnational crimes. To look into the issues of counterfeiting and smuggling, there is a director of revenue intelligence, at the apex level, then there are people to look at the general preventive activity on the customs side and an investigation branch which looks into the valuation and other aspects. To solve the problem regarding transnational crimes there is a need to have international cooperation. India has already signed customs mutual assistance agreement. Indian Customs have signed 31 agreements encompassing 60 to 61 countries in the world where we can transmit our data to another country and can get cooperation from the other country. Operations with many countries are entered to look into matters of IPR violations, counterfeit goods and cultural heritage like Operation Pangea, Operation Athena, Operation Demeter, Operation Hurricane and Operation Shisha. Under Operation Shisha, 200 metric tons of red sanders was seized at the initial stage itself.



**Dr. John Joseph**

Member  
 Central Board of Indirect taxes and Customs

In case of money laundering, we have FAU to assess the data of the person indulged in money laundering activity. Rs. 300 million worth of cigarettes were seized last year with the help of excellent cooperation with other custom departments like HMRC, British customs, Malaysian customs etc.

Taking the policy side into consideration both tariff approach and non-tariff barriers are being erected to see that goods are safe and Indian industry is protected. In case of certain industrial products, one need to go through BIS standards so that only the right goods come into the country. Public Private Partnership is important here because industry knows about the counterfeit violations and IPR violations. The problem with IPR violations is that all stakeholders are affected due to this transnational crime. The industries are affected as their space for marketing comes down because illicit goods are flooding the market, also their brand name is at stake. Government loses huge revenue and secondly, it generates black money and the in parallel economy goes bigger. Consumers are not getting quality goods having a public health hazard and they don't get the value for their money.

There are legal remedies available both nationally as well as internationally. Lack of cooperation hampers the effectiveness of international agreements and policies. Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement introduced the intellectual property law into the international trading system and remains the most comprehensive international agreement on intellectual property thereby reducing infringements of intellectual property rights and counterfeiting of goods.

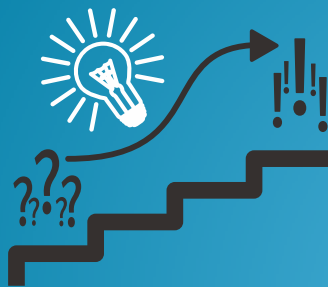
The linkage between intellectual property and Private International Law are compelling but the issue emerges here is that the national interests always prevail over international interests. It is very important that the government, media and social environment should work together to deal with the issue of smuggling and counterfeiting. The gap between the governance and the technological developments is being utilized by the unscrupulous players to violate both national and international agreements. In case of Intellectual Property Rights violations and counterfeiting and smuggling of goods there must be agreements between the private sector and government, as the industries are much more aware about the violation of their rights and products. Actions at the field level, policy changes and public awareness is required to curb the growing hazards of smuggling and counterfeiting.












Ms. Kameswari Subramanian

*International Expert  
Customs laws, Procedure and Trade Facilitation*





# KEY TAKE AWAYS

-  Countries must have an understanding of its national uniqueness, domestic policy and governance. Based on this understanding, we need to derive best solutions, keeping in view the achievement of other countries. This will save investment, effort, time and enable the required thrust to sensitive issues of national importance.
-  Promoting accession and effective implementation of international IP agreements.
-  Gap between governance and technology is being utilised by unscrupulous players to violate international agreements, we should be cognizant of this condition and take corrective actions.
-  The transit free trade zones, express and postal parcel are key areas which are exploited by illegal traders to infringe IPR and smuggled goods. The trade facilitation agreement is very sound and should be applied correctly to overcome this exploitation.
-  Exploration of non-punitive measures to prevent infringements.
-  Certainty of detection, prosecution, conviction and a deterrent penalty is needed. We should instil appreciation as a tool for development.
-  Cross border enforcement of IP- it is globally more important to encompass disputes of international nature.
-  We need to quantify damages arising out of illicit trade and find a mechanism to resolve such disputes in a balanced, holistic and effective manner.
-  There is a need to have more robust assessment of illicit trade taking into consideration the global perspective, in order to implement an evidence based policy in our country.

- 🔑 Better intelligence methods need to be developed through training of more specialised enforcement units which should be equipped with state of the art technology.
- 🔑 Integrated actions at the international level is crucial in identifying, investigating and prosecuting people and groups behind such crimes.
- 🔑 Coordination at the international level may enhance coordination at the national level.
- 🔑 Role of financial mechanism is also crucial. It is essential to strengthen security, governance and the rule of law. Combating such global phenomenon requires partnership at all levels and not only government but businesses, civil societies, academia, media and international organisations should be involved.
- 🔑 Education and awareness is important. Countries should encourage interaction between participants and engage criminal justice practitioners in delivering education against illicit trade.
- 🔑 Strengthening anti-corruption measures, profile suspicious containers and air traffic, crack down on cybercrime exercise with due diligence and develop fair competition.
- 🔑 Proactive participation in international criminal justice cooperation.
- 🔑 Developing good governance, effective laws, policies and implementation tools, close cooperation of government with society and private sector.
- 🔑 Government must take initiatives to increase international cooperation through multiple customs mutual agreements.



5<sup>th</sup> edition



# MASGRADE 2018

MOVEMENT AGAINST SMUGGLER & COUNTERFEIT TRADE

Ensuring Brand Security for Sustained Businesses and Employment Generation





5<sup>th</sup> edition  
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# SESSION 2

Connecting the dots: Holistic  
and sustainable approaches  
to brand protection

There are six consumer rights as per the Consumer Protection Act, 1986 in India. India was one of the first country to have its own Consumer Protection Act. This Act give us 6 rights as consumers:

- Safety: Safety aspect is required when the brand is in the market.
- Information: Adequate information needs to be given regarding counterfeiting.
- Choices: We need to check whether there are adequate choices available while buying genuine product.
- Power to hear: Consumer has the right to be heard and the brand owners must respond to their consumers queries.
- Right to Education: Consumers need to be educated on how to identify the genuine products from the fake ones and they should avoid buying fake products. We need to check the steps taken to educate customers.
- Redressal: Government of India has set up a forum on three different levels, the National Commission, State Commission and District Forum for consumer redressal.

Industry must police their products and pursue counterfeiters & illegal trade operators, also, periodically monitor the sale of goods both by retailers and online sellers. Mere protecting of IPRs is not sufficient. There is a need for policies for better surveillance, control and protection of public health risks. Industry should verify that the products sold are genuine and should have a proactive approach to safeguard their products and not have reactive measures to the incurred damages. Industry should also educate consumers to take adequate steps to prevent the re-use of products by illegal manufacturers. Collaboration is required between brand owners and ecommerce platform players to fight the growing sale of illicit products on the virtual market place.



Mr. Hem Kumar Pande

*Former Secretary  
Ministry of Consumer Affairs, Food and Public Distribution, Govt. of India*

Smuggling, counterfeiting and parallel exports in India has increased over a period of time. We need to spread awareness about illicit trade by educating the consumers and informing them about the possible risk of health and safety while buying any counterfeit or smuggled product. Any involvement in this activity by consumer is nefarious, therefore, they should be taught that counterfeiting, smuggling and piracy are indeed criminal activities and one should not be a part of it. The consumers should be given adequate checks and controls to appropriately take actions against such crimes.

For the benefit of the community, a unified approach and cooperation is vital. All stakeholders involved like consumers, government, manufacturers and distributors should work together because they have similar interest and each one of us is a consumer who has the right to trust and rely on what is sold or imported.

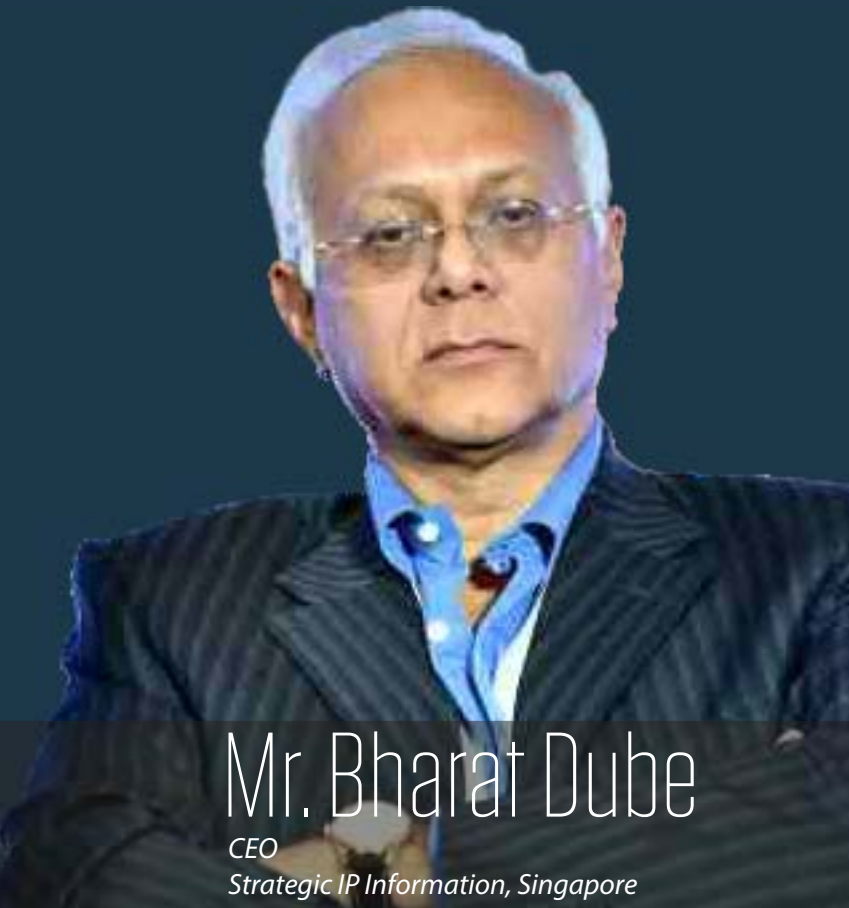
10-15% of global trade is estimated to be illicit and the cost involved is beyond imagination. We should all work together in the supply chain. Also, the registration process should be made easy, accessible and efficient so that all manufacturers, importers and distributors can easily register.

Leveraging technology to fight counterfeiting, smuggling and piracy is important. Product authentication as an element of the global protection strategy should be implemented. The industry is innovating on a daily basis. They use holograms and other means to safeguard their products however what is made, can be re made. Therefore, continuous enforcing, scanning and checking is essential along with creating awareness, but over and above that, closed cooperation within the chain is required in curbing the menace of smuggling and counterfeiting.



Mr. Peter Van Dorp

*Regional Director  
Sweetyet Development Ltd., Hong Kong*



Mr. Bharat Dube

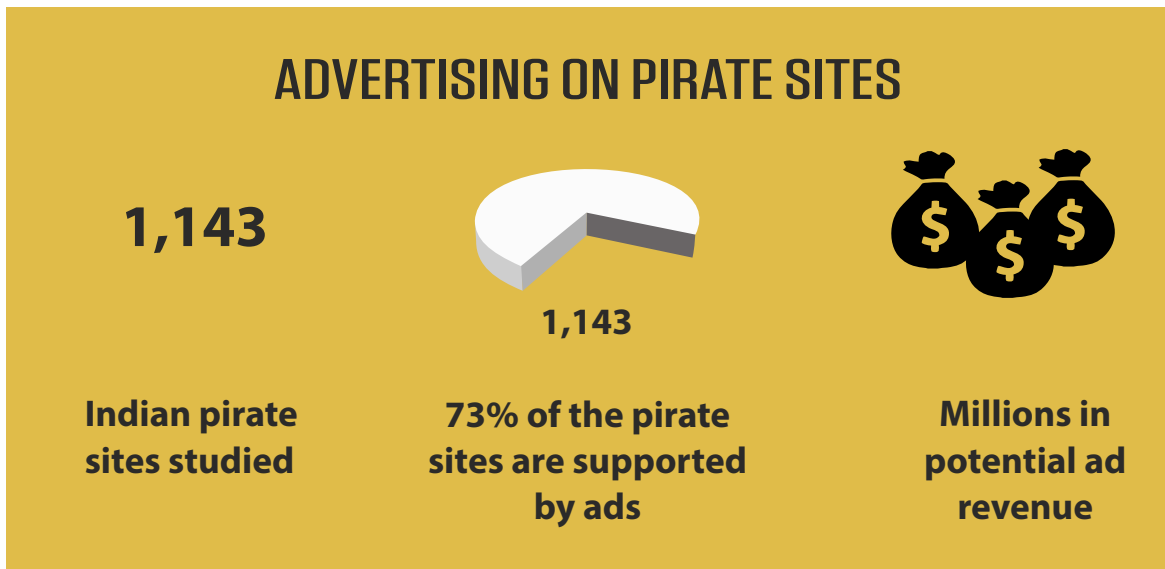
CEO  
Strategic IP Information, Singapore

With the rise of the internet, counterfeit and pirated products have flooded the world's market. The problem is beyond our control; therefore, it needs effective law enforcement and increased awareness about this issue. People are streaming live sport using IPTV boxes which is illegal in the European Union and UK. Live Tv Piracy is a multi-trillion industry which has risen with the use of illicit streaming devices. These illicit streaming devices like Kodi facilitates unauthorized access to copyrighted media content.





Rise of the internet is leading to more counterfeits. Out of the estimated 1500 pirated websites that are accessible from India, 70% of it carries advertisements that are inadvertently placed by industry. It becomes imperative for industry to check and place their ads in a responsible manner and create a healthy online advertising eco-system.



Advertising revenues of these pirated sites are used to fund terrorist activities. There is a need for an awareness study of fake products and come up with a framework for consumer protection.

There are closed groups and hidden links in social media. Counterfeits stay a step ahead by involving individuals/companies dealing in illicit trading actively to join these groups. Cyber security enforcement should track down such sites. Internet enables one to hide behind a veil of anonymity. We often find major counterfeiting operations or fake content present across multiple platforms either in social media, blogs or apps. One needs to indulge in visual mapping in order to get into the core group of actors involved in such operations.



*a* large number of consumers still live in rural areas. An aspiration for a better quality of life is on the rise.

Technology has made rural consumers much more fashion conscious. They have low purchasing power, easy access to low cost products and lack of education and awareness.

A study was undertaken by the Center for Consumer Studies on the awareness of fake products in 9 states of India namely, Assam, Haryana, Gujarat, Himachal Pradesh, Karnataka, Madhya Pradesh, Uttar Pradesh, Orissa and Telengana with a sample size of 5400 spread across 360 villages, 36 blocks and 18 districts.



**Prof. Suresh Misra**

*Chair Professor Consumer Affairs  
Centre for Consumer Studies, IIPA*

It was seen that village level shops carried highest level of fake products and consumers rarely checked the products they bought. The brand awareness was poor as 60% of them bought such illegal products knowingly and 40% bought unknowingly, out of which around 50% of the consumers buy because of low price differentials, 14% buy because of design or look, 20% buy because of availability and for 15% people brand doesn't matter. It was also seen that 80% of the people who bought the goods unknowingly were unaware of the mechanism of complain.

Hence, there is a severe need for adequate information from the consumer's perspective to differentiate between real or fake. There is a necessity for awareness programmes at local levels (villages/districts). Appropriate use of community radio, literature in regional languages and audio-visual media for mass campaign are also required. Awareness generation about the National Consumer Helpline for fake, spurious or duplicate products is also critical.

E-Commerce is another area where this problem is grave. Maximum complaints have been received with regards to goods sold on various e-commerce platforms with regards to consumer durables, electronic products, auto parts, medicines and cosmetics. Since fake and spurious products are risky to public health and compromise consumer safety therefore adoption of certain strategies to control the menace of fake products is the key. This need enforcing stricter laws, companies to take actions against shopkeepers, effective raids, inspection, better infrastructure or manpower for enforcement, and increased awareness. Industry should take a leadership role and there should have an effective partnership with the government agencies to curb the problem of smuggling and counterfeiting.

Infant formula is a sensitive product and it goes without saying that it needs all kinds of checks and balances to ensure that only genuine is available in the market. With regards to Nestlé's infant formula, there is no issue of counterfeits in India; however, they may be instances of smuggled items with regards to this product category. As an organization Nestle follows very stringent practices with regards to infant formula in order to combat any kind of illicit trade practices. It is only sold on the prescription of a health care provider and all doctors, hospitals and chemists follow this. Moreover, chemists are mandated to provide a bill on the purchase of infant formula. In the absence of the bill, consumers can ask for an additional product from the chemist or else they are free to reach out to the organization's 24\*7 hotline which deals with all complains with regards to infant formula. At the same time if there is any issue regarding the feed of the formula, a special number is provided on the packs to handle queries. Even miss calls are addressed through a mechanism of calling back. There has been an instance where health care practitioners along with the sales representative have visited a particular region to talk about and resolve any issue which may have occurred with regards to infant formula.

It is however felt that enforcement is weak in the area of addressing counterfeiting and smuggling. There is a need of strict enforcement of laws. It is seen that criminals who are undertaking these illicit activities can be easily bailed out. Along with stringent enforcement, awareness generation is also the key. As an organization Nestle, is creating awareness generation among children through programmes in schools and colleges on

counterfeiting and smuggling. During their recruitment drive in colleges the organization's representative talk about their products, about the quality and the sensitivity which is attached with it and the measures they take to see there are no such issues with it. Special emphasis is also given on how to identify counterfeits along with the technical measures that are used such as packaging, cling wrap on sensitive products, bar code scanning, holograms etc.



## Ms. Dhvani Rao

*Senior Legal Counsel (IP, Digital & HR)  
 Legal for South Asia Region, Nestle*

*a*lmost every product in the country has counterfeits available and unfortunately consumers are not aware and fail to distinguish between genuine and spurious. One of the major areas of concern is bottled water. It is extremely difficult for consumers to know if the bottled water is original or fake. Consumers are the victims of such illegal or spurious products as in the case of fake bottle water, on its consumption, it may lead to hepatitis, typhoid, or gastro-enteritis issues. In June 2017, during a crackdown on illegal bore wells, the enforcement agencies discovered two illegal bottling plants which were misusing well-known brand names.

In case of pharmaceuticals, the illegal drug manufacturing units use fake antacids and multi vitamins made in the name of well-known brands. Illegal manufacturers manually fill capsules with leftover salts from pharma units which ultimately fail to cure the ailment, have adverse reactions, and lead to drug induced ill health, complications and/or even death.

In the Electric or Electronic goods sector, in December 2017, the Bureau of Indian Standards raided a number of units using unauthorized ISI mark in Delhi, Himachal Pradesh and Haryana. Among the goods seized were electric switches and sockets. The possible consequences of such

goods on consumers are electric shock, electrocution, fire, consequential property damage and death.

From the manufacturers point of view there is a financial loss and the brand value is at stake. The government loses huge amount of money in terms of revenue and the consumers are the real victims as their health and safety is at stake.

Yet, consumer engagement with anti-counterfeit activities is nonexistent. Consumer awareness about fake is negligible. There is hardly any consumer education on the subject. They have not been encouraged to report fakes. There is negligible amount of



**Ms. Pushpa Girimaji**

*Senior Journalist (Consumer Columnist) and Consumer Activists*

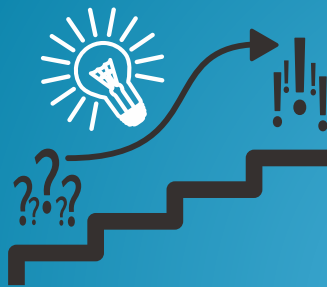


industry engagement with consumers on this problem. Hence, there is a need to shift the focus from brand protection to consumer protection.

Therefore, consumer engagement with anti-counterfeiting activities in the country needs to be spruced up. This can be done through the following:










1. Educate consumers on how counterfeits adversely affect their interests and health.
2. Create awareness on how to avoid fake goods and how to identify them.
3. Teach consumers to take steps to prevent re-use of containers by illegal manufacturers.
4. Encourage consumers to report on fakes to the brands and also to the police.
5. Enlist the help of consumers to identify retailers who sell fake goods, encourage consumers to name and shame retailers who sell counterfeits and even boycott them.
6. Create a consumer helpline on which they can check whether a product is genuine or fake and also report on counterfeits.
7. Integrate all products with the 'Smart Consumer' Mobile app created by the Union Ministry of Consumer Affairs and GS1 and provide facilities for checking the authenticity of the product through a smart phone at the time of purchase and use technology to help consumers identify fakes.

Counterfeits cannot exist if consumers do not patronize them.



# KEY TAKE AWAYS

- 🔑 Industry must ensure and share the following with regards to their products:
  - Safety aspects of the products
  - Information about the product
  - Power to hear (redressal system)
  - Education about the product (how to avoid fakes/illicit)
- 🔑 There is a need for industry to police their products, pursue counterfeiters & illegal trade operators and periodically monitor the sale of goods both by retailers and online sellers. Mere protecting of IPRs is not sufficient.
- 🔑 Industry must have a proactive approach to safeguard their products and not have reactive measures to the incurred damages.
- 🔑 Continuous awareness generation is the key. Endless repeating of the message will educate the consumer about potential risks and detrimental impact on the society. They must be given required checks and controls. Counterfeits and illegal products cannot exist if consumers reject them.
- 🔑 What can be made, can be re-made, hence industry needs to innovate on regular intervals and continuously enforce, scan and check their products. There is a need for an integrated supply chain management system.
- 🔑 Rise of the internet is leading to more counterfeits. Out of the estimated 1500 pirated websites that are accessible from India, 70% of it carries advertisements that are inadvertently placed by industry. It becomes imperative for industry to check and place their ads in a responsible manner and create a healthy online advertising eco-system.

-  The issue of illicit trade is large in rural, tier 2 and tier 3 cities. There is a need for awareness programmes at local level. Appropriate use of community radio, literature in regional languages and audio-visual media for mass campaign is required.
-  Consumer engagement with anti-counterfeiting and anti-smuggling activities in the country needs to be spruced up. Designing a well-defined multimedia strategy using various platforms such as Facebook, Twitter, Advertisements in cinema halls, Radio, Hoardings, mass SMS etc is important.
-  Disposal of seized illicit goods is 3 months, while, currently, the national average of disposal is 3.5 years, hence there is a need to adhere the speedy disposal process.
-  There is also the issue of closed groups and hidden links in social media. Counterfeiters stay a step ahead by involving individuals/companies dealing in illicit trading activities to actively join these groups. Cyber security enforcement should track down such sites.
-  Consumer education should be incorporated as a subject in the education curriculum.
-  A mechanism to incentivise consumers to report illicit products could be designed in consultation with the industry.
-  Integrate all products with the smart consumer mobile app created by the union ministry of CA and provide facilities for checking the authenticity of the product through smart phone on the time of purchase.
-  Consumers must be sensitized to take adequate steps to prevent the re-use of products by illegal manufacturers (eg: crush pet bottles after use). Also, encourage consumers to name & shame retailers who sell counterfeits and even boycott them.
-  Trade bodies in association with Ministry of Consumer Affairs need to conduct interaction and sensitizing sessions to enable visibility of the issue. Consumer interaction and participation should be encouraged in such campaign against counterfeit and smuggled goods.



Right





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MOVEMENT AGAINST SMUGGLED & COUNTERFEIT TRADE

Ensuring Brand Security for Sustained Businesses and Employment Generation

# SESSION 3

Leveraging Intellectual Property Rights for Economic Growth and Business Competitiveness

• Illicit trade is no longer an issue which is confined to the geographical borders of any country. It transcends these borders and one need to look at it both globally as well as internally within the country. Illicit trade is a huge complex web and for the law enforcement agencies in order to cope up with this kind of network of pirates, counterfeiters and smugglers requires huge resources to gather the evidence and prosecute them. The intellect, creativity and innovation is what one seeks to protect through the entire IPR regime and even though the laws have domestic application but the manifestation of this crime is global and hence, there is a dire need to deal with this



Mr. Rajiv Aggarwal, IAS

Joint Secretary  
Department of Industrial Policy & Promotion  
Ministry of Commerce and Industry, Government of India

issue globally as one body. It's imperative that we join hands to ensure that we are able to protect the IP and global economy from such unscrupulous, pirates and counterfeiters.

There are instances that prove that the money flowing to the terrorist and anti-social activities are through such crimes. There is a need for voluntary actions by both the industries and the government to collaboratively work and fight such activities. Almost 80 websites got blocked on the basis of non-fulfillment of KYC, so certain actions need to be taken to identify the websites which have copyright infringed material. There is need for voluntary mechanism where the Internet Service Providers, advertising agencies or even the aggregators, search engines may come together and decide on a mechanism to take down infringing websites.

Government of India is ensuring to remove pendency's, reduce the bottle necks in the entire process of IP registration and ensure certainty to people's business on the basis of their IPR. The government should work with industries across sectors, and in not only providing the enabling environment to protect the IPs and IPRs, to enforce them but also to leverage them, commercialize them and take them forward.

Innovation and creativity catalyzed by Intellectual Property has become the key determinant of economic growth and business competitiveness in all the countries. India is well poised to advance further as one of the fastest growing economies based on Intellectual Property driven knowledge based economy. A strong and balanced IP system which contributes to national development takes care of societal concerns on food, health, environment and which is also in conformity with the international norms and is therefore very important for any country particularly India.

Infringement of IPRs poses a direct threat to innovators and creators from reaping the rewards for their creative efforts apart from adversely affecting legitimate business and trading activities, employment and tax revenues. IP violations jeopardize consumer safety, health and welfare.

Organized crimes and terror organizations are known to have links with counterfeiters, smugglers and pirates. India can therefore ill afford to ignore the serious threats that counterfeiting, smuggling and piracy poses to its developmental efforts.

While counterfeiting and piracy are endemic challenges their recent scale and sophistication have exceeded all the boundaries. From initially targeting the

luxury goods and apparel sectors etc, the counterfeiters have now extended their reach to basic household products and utilities such as food and beverages, pharmaceutical products, medical equipment, electrical and electronic appliances, toys and cars with direct impact on health, environment and safety. Life threatening counterfeit drugs has been estimated to account for about 30% of sales in some parts of Africa, Asia and Latin America thereby undermining the integrity of the health system on the global scale.

IP crimes particularly piracy have come to undermine the sustainability of an increasing number of economic and



# Mr. Narendra Sabharwal

*Chairman, FICCI-IP Committee &  
Former Deputy Director General  
WIPO*

commercial sectors. It is estimated that there is loss of billions of dollars, each year in the film and music industry because of piracy. In the field of broadcasting, signal theft and unauthorized transmission of signals over the internet is rampant particularly for movies and sport related events. Now add to this is the threat posed by cybercrimes are national security, economic infrastructure, e-commerce, data protection and individual freedom and the ease of perpetrating these crimes from any jurisdiction within or outside India. Although it is difficult to quantify the trade in illicit goods, various studies particularly by OECD have underscored the enormous impact of counterfeit and pirated products on international trade mentioning figures in excess of US\$ 461 billion per year. In India, unfortunately, very minimum work has been done to assess the magnitude of the challenges posed by counterfeits and piracy to multiple sectors of the economy. Some studies from FICCI, Motion Picture Association and Publisher's Association are available but taken together they do not pose a very confident and inspiring picture and is a little fragmented and not complete.

This situation calls for the development of a national response as well as concerted coordination and cooperation among all stakeholders notably the government, judiciary, law enforcement agencies, private sector, academia and most importantly consumers.

Indeed, all sectors of society need to take part in this and building a IP culture and respect for IP to combat crimes of the 21st century. The national IPR policy prescribed a road map for strengthening and streamlining the enforcement and adjudicatory system in India, in particular, emphasizing the need to initiate "fact finding study in collaboration with stakeholders to assess the extent of counterfeiting and piracy, the reasons behind it as well as the measures to combat it". There is no time to lose in implementing this and other relevant recommendations in the IPR policy. There is a need for a high level centralized coordination mechanism with interagency involvement and commitment by all enforcement agencies which has not been possible so far in the Indian context.





## Ms. Louise Van Greunen

Director

World Intellectual Property Organization, (WIPO), Geneva

In order to address the challenges arising out of illicit trade; cooperation at international level is the key. A similar model can be incorporated at the national level. Though it is easy to say, it is seen that in many instances government departments try and reserve rights to themselves and it is difficult to share information. Benefits of Public-Private collaboration are important in building a respect for IP by placing the public interest at the heart of IP enforcement. It is important to note that for the small businesses to grow and play an important part in the economy, a mechanism is needed to help the get going and commercializing their IP and in order to achieve this, cooperation and sharing are vital. We live in a world where there is cross border trade, cross border dispute, cross border litigation, hence optimization of the IP system for growth and sharing information in the framework of our customs unions are the need of the hour. Regional alliances are also very important agents of growth and champions of an effective IP system. During disputes at cross borders one has to look at private international law, mediation, arbitration, all sort of way to give effective access to the judicial process which would not only be cost effective but also time efficient.

WIPO has capacity building for legislative assistance, education and manuals on awareness generation. What is required is policy dialogue in order to pick up on all the trends and make sure that it is in line with what is needed by industry and finally international cooperation. WIPO has prepared a consumer survey toolkit for member states to use, to test the perceptions in certain areas and to point the awareness campaigns to really address those issues and then test the results.

As the level of international cooperation, we have to put heads together and share information. In countries where they have established a formal strategic approach to enforcement; where there are contact people in all the different government departments and ministries, there is effective results and that is something which WIPO would strongly recommend for India.



## Mr. Mahesh Batra

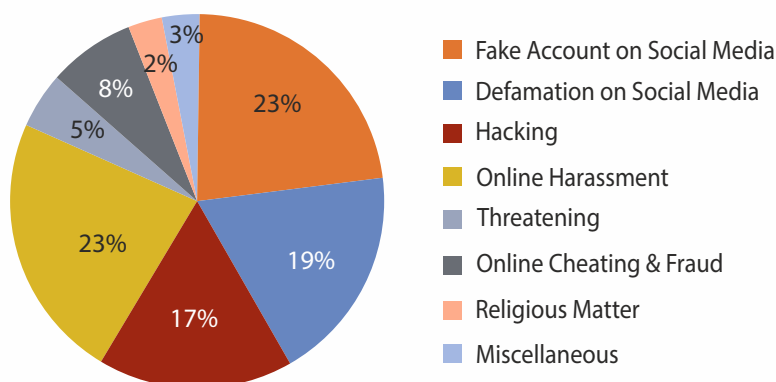
*Additional DCP, Cyber Crime  
Delhi Police*

**C**riminals try to penetrate the system and the law enforcement agencies investigate and prosecute them. There are a lot of cybercrimes happening such as fraud, identity theft, phishing scams, viruses, revenge porn, online hate crime, stalking, fake news, online financial frauds, holiday frauds, hacking, child sexual exploitation, etc.

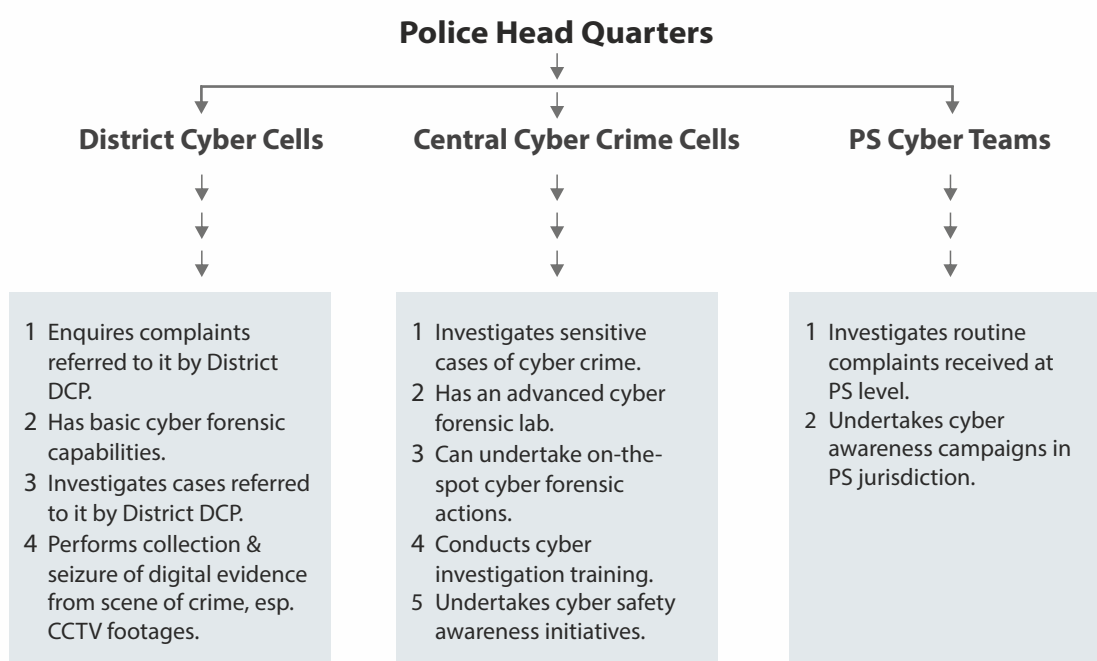
### **What makes cybercrime so challenging...?**

- Remote operability of cyber criminals.
- Speed of cyber-crimes and its ability to harness computer systems.
- The conventional national legal jurisdictions disjoint with the cyber-crime patterns.
- Technology related handicaps of the victims of cyber-crimes as well as investigating agencies.
- The challenges have been compounded by:
  - ❖ Technology companies' advocacy of end-to-end encryption for security purposes.
  - ❖ Non-governmental movement for privacy protection vis-à-vis access to user data for law-enforcement.
  - ❖ Absence of initiatives for better international cooperation in respect of information sharing, coordination of legal action, etc.

## PROPORTION OF COMMON COMPLAINTS



## CYBERCRIME INVESTIGATION STRUCTURE



Cyber criminals are difficult to be tracked down as their network is vast. The conventional national legal jurisdiction is nowhere and every country has their own laws. End-to-end encryption for security purposes is required. Law enforcement agencies are well aware nowadays about illicit transactions. Initiatives are needed for better international cooperation in respect of information sharing, coordination of legal action, etc. There is also a need to devise a broad set of protocols that are acceptable to all, which can be based on the principles of human rights and principles of reciprocity. The protocols should ensure that the information residing outside the jurisdiction of law enforcement agencies is made available to them to ensure delivery of justice.

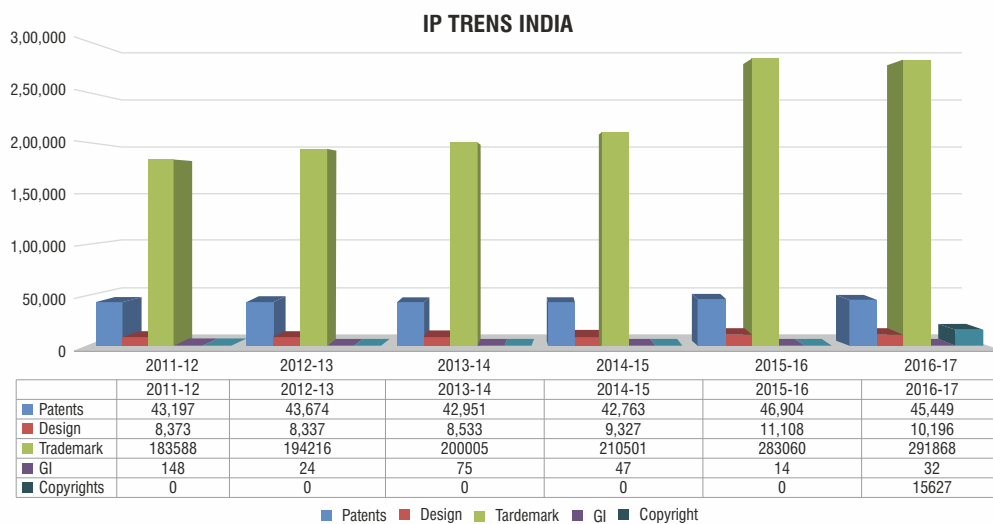
India's growth rate, according to IMF, is 7.4% which is likely to increase to 7.8%, surpassing China. It has the third largest group of scientists and technicians in the world. It is the third most favorable investment destination for foreign investment, according to United Nations Conference on Trade and Development. Our ranking in GII has improved from 81 in 2015 to 57 in 2018. We have a vast pool of educated and skilled workforce. We are moving towards knowledge based economy, this is an indicator which says that the business is getting more aware of trademark right. Indian businesses need to use the patented IPR as a business tool.

In 2018, Global Intellectual Property Index (GIPI) India has secured 44th position out of 50 countries which is a jump from 43rd of 45 economies in 2017. The improvement has expected to happen due to better protection for trademarks and copyrights and easier rules to patent computer-related innovations. India scored 12.03 out of 40 and its scores has increased to 30% in comparison to last year's 25% i.e. a significantly 5% jump.

Cut throat competition is where the IPR helps in creating the barrier and making a mark of that business but this also leads in the rise of counterfeit goods and piracy where enhanced IPR awareness enforcement would help in reducing counterfeit and IP piracy. We should have a harmonised international law where basic structure could be accepted by various countries whereas there could be certain portion which would be country specific.



**Mr. Vikrant Rana**  
 Managing Partner  
 S.S Rana & Co





## **Impact of Smuggling, Counterfeiting and Piracy are manifold:**

### **Government**

- Loss of taxes
- Increased public welfare costs including monetary compensation and health care
- Legislative costs

### **Economy**

- Reduced GDP
- Increase in black money
- Increased criminal activity and terrorism
- Reduced employment and deteriorating working conditions
- Degradation of environment
- Reduced expenditure on research and development

### **Original Right Holder**

- Loss of sale and profitability
- Loss of brand value
- Infringement of copyright
- Special advertising campaigns
- Increased packaging costs
- Reputational risk
- Customer patronage

### **Consumers**

- Defrauding of consumers – availability of poor quality goods leads to loss of money
- Health and safety concerns
- Lower consumer confidence in using affected brand

Therefore, there is a need for anti-counterfeiting and anti-smuggling measures such as police raids, customs seizures and mass public awareness campaigns, public welfare costs including monetary compensation especially health care related ones and legislative costs. Effective IP system helps in revenue generation and cost reduction.

Survival is the biggest problem for startups and they haven't explored intellectual property so well in India. In terms of strategical advantage, the startup has when they look at IP as a core business strategy:



Mr. Dhruv Agarwal  
Co-founder and Head of Product  
Shipsy



#### INVESTMENT

Investment- Investors value IP these days. Every startup is building a new technology based on some open source technology to create a tangible asset out of technology, which is a patent, then there is a better chance of investment.



#### DEFENSIVE

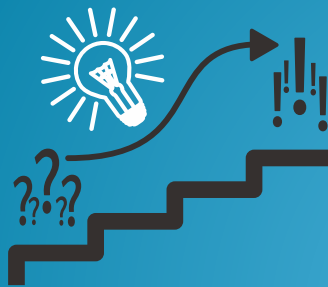
Defense- A lot of startups have shut down when large companies came in and enforced a patent onto them.






#### MONOPOLY

Monopoly- There are a lot of startups who have had a couple of patents and they made a lot of money. This was primarily because of awareness and as IP creates monopoly.

The key considerations to look at IP for a startup is the target market, target industry and analyzing the competitive landscape. All startups are innovative and disruptive. They are bringing new technologies which probably is not there in industry and solving a very specific problem. The IP strategies which are needed before coming out with a product in the market are prototyping, patent application and patent search. There is a need to consider IP as an important part of the business strategy. Also, we need to create a culture in a tangible manner.



# KEY TAKE AWAYS

- 
 Undertake a fact-finding study in collaboration with stakeholders to assess the impact, reasons, and extent of counterfeiting, smuggling and piracy and the required measures to combat it.
- 
 There is a need for voluntary mechanism where the ISPs, advertising agencies or even the aggregators, search engines, come together and decide on a mechanism to take down infringing websites.
- 
 DIPP, Ministry of IT and Telecom can have regular consultative programmes with the stakeholders with respect to the laws and procedures.





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# DAY 2

OPENING SESSION

In the modern economic era, where rapid changes and technological advancements accelerate international trade and lead to fragmentation of the global supply chains, there is the need to maintain a right balance between trade facilitation and law enforcement. Due to this advancement and expansion, it has been witnessed that the geographic scope, capacity and range of illegally traded goods have increased manifold over the years. Illicit trade including counterfeiting and smuggling threaten economies, communities and society as a whole.

In order to discuss this rampant threat of illegal trade, FICCI CASCADE (Committee Against Smuggling and Counterfeiting Activities Destroying the Economy) has been relentlessly organizing various awareness generation and capacity building programmes across the country. Advancing

the conversation that began in 2013, FICCI CASCADE's 5th edition of the International conference: MASCRADE 2018 – Movement Against Smuggled and Counterfeit Trade was organized to look at the economic consequences of mass counterfeiting, smuggling & piracy and the policies needed to deter this activity. MASCRADE aims to curl out an integrated vision of security and public safety, providing an interdisciplinary dialogue attracting industry, law enforcement authorities, major producers of consumer goods, voluntary associations, legal experts and technology providers. It focuses on developing a better enforcement ecosystem and to protect the interest of brand owners in India

Eminent speakers from across the globe deliberated on the global and regional trends in the proliferation of global illicit trade, strengthening co-operation and expanding the scope of international framework, also examining the benefits of a community unified approach and employing technology to fight counterfeiting, smuggling and piracy. Leveraging Intellectual Property Rights is important for economic growth and business competitiveness focusing on how an effective IP enforcement infrastructure facilitates innovation and boosts economic growth. Various steps are needed to establish a robust mechanism to monitor the impact of these ill-gotten goods on the health and safety of people, and the framework needed for monitoring the cross-sectoral and multi-stakeholder losses due to this menace.

Our focus is on planning and re-shaping anti-counterfeiting, anti-smuggling, anti-piracy and brand protection strategies to secure sustainability and highlighting the need for consumer education and awareness programmes.



Mr. P. C. Jha

Advisor, FICCI CASCADE and  
Former Chairman  
Central Board of Indirect Taxes and Customs



The global trends and use of cyber space for economic offenders are ransomware, money laundering, trade in illicit goods, credit card frauds, business email compromise cases and attacks on international bank transfer systems. In the darknet markets, ransomware is available at a cheap price whereby one can start his own franchise and start extorting money through its use. Financial sector is the biggest target in this regard. One of the consequences of this darknet market is that the threshold level for requirement of technical expertise to become a cybercriminal has gone down drastically. One doesn't need expertise to become a cybercriminal, one can easily buy codes which are available at the darknet market.

The second trend is money laundering. With the advent of the cryptocurrencies it has gone up specially with the volatility in this market like bitcoins. It is a preferred route of laundering money these days rather than the traditional routes of money laundering. The next trend is the sale of illicit good and these darknet markets have become a very important place for selling illicit goods.

The four categories in which cyber space enable these trends are:

1. Darknet
2. Social media
3. Encrypted communication like end to end communication which is providing anonymity and creating more problems in terms of attribution in cyber space
4. Cryptocurrencies extensively used for laundering proceeds of crime



Mr. M M Oberoi, IPS

Special Commissioner of Police, Special Cell  
 Delhi Police

There are various issues faced by the law enforcement agencies to combat economic offences in cyber space. Firstly, getting intelligence about these crimes is difficult. Gaps in skills and infrastructures which are required to combat cyberspace needs to be bridged. Secondly, technology issues like encryption technology is causing immense problem for law enforcement agencies and cyber space is one where the technology and information lie outside the domain of law enforcement agencies.

In order to counter this growing menace, we need a collaborative platform for sharing intelligence of economic offences in cyber space from different mechanisms and from across the world to arrive at a meaningful intelligence where multi-jurisdictional and multi-stakeholder cooperation can take place. Forensic facilities in the cyber enforcement regime can be improved like cloud forensics, malware forensic and cryptocurrencies. Capacity building both in terms of skill and infrastructure amongst the law enforcement agencies is important in improving the reporting and investigation mechanism.

Finally, research and innovation is very important, technology is changing every day. There is a need to associate research agencies institutes with the law enforcement agencies to constantly look at the problem areas and device solutions.



Protecting the brand is relevant to all the right holders. The competition has increased with the introduction of ease of doing business and it comes with lot of challenges to the law enforcement agencies and personnel. Responsibility of balancing the trade facilitation with enforcement is something which is universal and challenging. With the development in technology, science and innovation also comes the challenge of degradation in moral value systems and social fabric of the entire world. With such kind of degradation, there are unscrupulous elements who try to take advantage and make fast money with their cunning methods so it becomes a battle between the intellectual property of criminals and law enforcement agencies. They try to use the brand value which the business entity has created over a period of time. They are always one step ahead and we need to catch them.

To protect the safety and security of a brand we need a 3P strategy- prevention, participation and punitive and a 3C approach where the right holders needs to cooperate, collaborate and coordinate. In the infringement of IPRs there are two segments in the society. One when a person knowingly buys product which doesn't affect health, security or safety and the other when a person unknowingly buy a counterfeit product which can affect their health and safety like lifesaving drugs and is a matter of grave concern.

Illicit trade impacts safety, security and economy particularly the tax revenue.



Mr. D. P. Dash, IRS

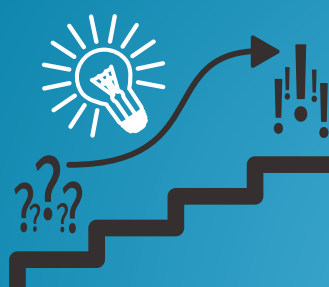
*Director General  
Department of Revenue Intelligence*

In the Indian context it is important because we are trying to create brand India and which could be adversely affected. Some of the products which are illegally manufactured abroad and being smuggled to some African countries also have a make in India tag.

We need to adopt a comprehensive and holistic approach to encounter the problem of corruption both in public as well as private sector parallelly while dealing with counterfeiting and smuggling. During the course of enforcement there are large number of consignments seized by customs and one need to check whether to have compounding type of redressal, penalty type, adjudication type of mechanism or alternate dispute resolution.

In the last two decades, India has witnessed exponential growth in import and export. Indian customs have introduced a Risk Management system, which has achieved 86% of facilitation. Indian customs have also introduced a passenger profiling system for all the International passengers, beneficial owners and controlled delivery.

Industry must cooperate with the customs department in identifying the genuineness of a product. Some money from the CSR and government consumer fund could be allocated for effective enforcement of economic offences. FICCI toolkit on customs can be modified to provide a framework for inter-agency cooperation which should be more practical than theoretical and legal.



# KEY TAKE AWAYS

- 🔑 Having a collaborative platform for sharing intelligence of economic offences in cyber space from different mechanisms is very important from across the world to arrive at a meaningful intelligence where multi-jurisdictional and multi-stakeholder cooperation can take place.
- 🔑 Gaps in skills and infrastructures which are required to combat cyberspace needs to be bridged.
- 🔑 Forensic facilities in the cyber enforcement regime can be improved like cloud forensics, malware forensic and cryptocurrencies.
- 🔑 Capacity building both in terms of skill and infrastructure amongst the law enforcement agencies is important in improving the reporting and investigation mechanism.
- 🔑 Research and innovation- Technology is changing every day, there is a need to constantly look at the problem areas and device solutions.
- 🔑 To protect the safety and security of a brand we need a 3P strategy- Prevention, participation and punitive and a 3C approach where the right holders needs to cooperate, collaborate and coordinate.
- 🔑 We need to have a holistic approach and address the issue of corruption parallelly.
- 🔑 Some money from the CSR and government consumer fund could be allocated for effective enforcement of economic offences.
- 🔑 FICCI toolkit on customs can be modified to provide a framework for inter-agency cooperation which should be more practical than theoretical and legal.





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# SESSION 4

Senior leadership  
discussion: Where we are  
and what needs to be done



## Mr. Deep Chand

*Advisor FICCI CASCADE and  
Former Special Commissioner of Police, New Delhi*

The menace of smuggling, counterfeiting and piracy is posing a serious threat to the industry worldwide threatening the legitimate industries and brands. Loss to the world's trade by such illegal activities has been estimated to the tune of millions and billions and is only increasing every year with the development of technology. Nations and its trade bodies are deliberating on these issues not only to protect the legitimate industry but also health & safety of their consumers. Sale proceeds from smuggling, piracy and counterfeiting are funding criminal activities and terrorist organisation and hence the nation's security is jeopardized.

Online piracy of software, music, book business, digital piracy is becoming the order of the day. Online piracy is a huge business where websites offer pirated digital content and counterfeit goods like illicit movies which download this illegal software. It records more than 50 billion hits per year and robs the creative industries.

WHO framework Convention on Tobacco Control adopted Protocol to Eliminate Illicit Trade in Tobacco Products in 2012 to crack down smuggled tobacco products. It focuses on tracking and tracing system that enable states to follow the movement of tobacco products from the starting point of production to the end points of sale will be key to global efforts to block the illicit tobacco trade.

There is a need to check the fast-growing menace of smuggling, counterfeiting and piracy to protect the legitimate industry, the health and safety of consumers.

**b**efore 2015, online advertising experienced vast under reported brand safety issues.

With little transparency and thought leadership, the online advertising industry lacked the tools and know-how to prevent the problem from spreading. The formation of TAG was the first cross-industry effort to clean up the digital advertising supply chain.

TAG (Trustworthy Accountability Group) was founded in 2015 by major digital advertising trade associations such as ANA, 4As and IAB. It focuses on key digital ad issues such as click fraud, malware, lack of transparency and ad-supported piracy. One of the key things that TAG does is DAAP (Digital Advertising Assurance Provider) Programme, it is a process that audits data providers, and ensures that they are able to provide brand safety solutions. Another aspect of TAG is to publish a pirate mobile app list via data sharing partnerships with MPA. Another key thing that TAG does is measurement and studies on the value of advertising on pirate sites and lastly, TAG creates a consensus of best practices for brands and ad tech.

One of the things that TAG did in 2018 was defining brand safety. Brand safety and brand protection can mean a lot of different things to different people. TAG asked 20 executives in the digital advertising supply chain. Their task was to develop a clearer definition of the term "Brand Safety". Create brand safety from association with criminal activity or advertising that is found adjacent to piracy or illegal business. Secondly, the negative press that is associated with bad ad placement could be very harmful to a brands reputation. The message that a brand wants to convey could be lost. Lastly, the Ad Placement ensures the ads are not placed



Mr. Abraham Farraj

Director, Creative Content Protection  
NBC Universal, New York

beside offending UGC or offending material. This is an important point for advertisers on Youtube and brands that advertise on sites that contain unfiltered UGC.

The effect of advocating brand safety: In 2016 NBCU worked closely with TAG and CreativeFuture to develop a process that alerted marketers if their ads appeared on pirate sites. CreativeFuture is a US creative rights organization that represents 520+ film, television, music, and book publishing groups. Over the course of 2 years, the process flagged and alerted over 70 major US brands that appeared disproportionately often on pirate sites. These alerts included specifics about the misplacements, and information on how the problem can be solved. The objective of this outreach campaign was both to reduce the amount of revenue generated by pirate sites. This outreach campaign yielded an 75% reduction of ad impressions going to pirate sites, and a sustained decrease in the volume of ads on all ad supported pirate sites within 2 years.

Due to the formation of TAG, advertisers can know which partners are serious about brand safety. There is now cross industry communication and support, and a growing awareness on a government and policy level that brand safety is critical. In 2018, it is far more difficult for pirate sites to operate with the same advertising models used in the past. The digital advertising market has a much better understanding of which sites are considered a high risk.

The next frontier for transparency and measurement is mobile apps. As this market has grown significantly, there are more and more technological barriers to transparency and measurement. The industry needs a plan, and method to start measuring and changing this space. Pirate apps are able to use this lapse in transparency to offer unfettered premium advertising in pirate apps.



Illicit trade in many ways is described as the crime of the century and different people have defined it differently but relevant common definition one can use is the production, import/export, purchase, sale but fundamentally possession of goods which fails to comply with all requisite regulatory legislation compliances. It has broadly 2 components: counterfeiting and contrabands. Impact of illicit trade in consumer goods is becoming more and more and some of the facets we need to worry about contrabands and counterfeit products is the continuous improvement of quality of illicit products. Often, they are indistinguishable in counterfeit terms. They have also penetrated into legitimate channels making detection very difficult. Now these products are well embedded into the legitimate supply chain, the criminal elements that control them are a source of great intimidation to scrupulous people who are part of this chain. E-commerce is becoming a source to leverage the anonymity. In an economy where illicit product become endemic, legitimate goods and brand starts declining as they seed space to illicit products. Piracy brought entertainment industry close to bad state and it is how they have embraced new technology. It's a formidable competitor.

Illicit trade causes enormous losses in taxes, revenues to companies, huge gaps in tax revenues to the government. Worldwide, there is 1.2 trillion-dollars economy of these illicit products. Even from an Indian context in key consumer products a loss of almost Rs. 40,000 crores in tax revenue. One of industry heavily affected is cigarettes where the industry estimates almost Rs. 12000-13000 crores tax loss followed by mobile phones and alcohols which are impacted to almost Rs. 6-7 crores per year. The context of threat is enormous from just an economic perspective. There is an issue of security threat. The illicit trade is a source of revenue to some of the most fear terrorist organisation that terrorize us and are becoming menace



Mr. Sandeep Kaul

*Divisional Chief Executive  
India Tobacco Division, ITC Ltd*

to the society. Sometimes there are catastrophic impacts on the health of the society itself. Most long ranging impact of this is on the legitimate players in the industry which is impacted by this onslaught. A lot has happened particularly in the areas of governance, laws making, IT Act, Design Act, Copyright Act, Geographical Indication Act, Trade Marks Act. Regulatory framework, the tax framework and government is completely alive to it and has been enacting laws. They have to be progressively utilised and industry initiatives in these areas need to be multiplied. There is a need to generate awareness, research on the subject, exchanging views on how to enforce IP, workshops and providing knowledge to the industry members.

Looking forward there is a need to adopt policy measures, proactive measures, training using newer equipment's, dedicating resources in law enforcement, creating forensic market, leveraging technology, using overt and covert features, and fundamentally demonstrating zero tolerance and a reasonable taxation framework. We need to move towards stiffer penal action. Ultimately it is about the awareness amongst public about scale of the problem, understanding from regulatory perspective that there are laws that can deal with it and lot of enabling rules have been published and penetration of regressive criminal hostile elements. Regular interface at all levels and regular sharing of intelligence to encourage seizures by the industry to provide support to enforcement agencies can mitigate this problem to certain extent. Consumers must realize that this is a disservice to the nation, if they continue to patronize these goods.

• Illicit trade needs a three-pronged attack: prevention, enforcement and education. Global illicit trade market is about US\$ 461 billion. A lot of issues are there on cyber space and almost everything is sold online, including liquor. The main issue of ecommerce is when the counterfeit goods are supplied to the consumers. Consumers pay for the original product but they land up getting low quality substandard goods. Also, the problem is goods are order in one jurisdiction and supplied in another and then it is difficult to track down as there are many stakeholders involved. Main crimes on cyberspace is through an email. To add some authentication, we need to have an e-mail creation which can be tracked back to some kind of identity like Aadhar card/passport/mobile number that can minimize the cybercrime.

A lot of illicit goods nowadays are openly available in the market as there is no deterrence. Copyright violation is a bailable offence. There has been no large incident/cases/precedence where we have seen large amount of penalties been decided against the copyright violation. We have multiple laws available in India, but enforcement is a problem. Fighting counterfeiting is a long-term problem and needs a long-term vision and every single individual should come together and collaboratively fight this problem. We need to live on a mission that fighting counterfeit is everyone's responsibility and everyone has to fight it collaboratively.



# Mr. Sanjay Kaushik

Managing Director  
 Netrika Consulting India Pvt. Ltd.

Illicit trade is a parallel global economy due to which US \$1.66 trillion of revenue is getting impacted and this is expected to reach a mark of US\$ 3.67 trillion by 2022. In India alone, Rs. 1,00,000 crores of revenue are being impacted due to counterfeiting and smuggling. Counterfeiting impacts 20% of the brand loyalty and brand image and 10% of the revenue. Apart from affecting health and wellbeing of the customer, it also impacts brand equity and the national security.

Today the challenge is online sales. In next 2-3 years online industry is expected to increase 30 times of online sales happening in India. Johnson & Johnson do reactive measures to find counterfeit product in the market to safeguard the interest of our end users and customers. Lot of civil as well as criminal action is taken to remove counterfeit products from the market. Participating in customs seizures and seizure proceedings as right holder and doing cross country investigations for unearthing the global illicit supply chain.

Consumer education program and awareness program are one area which can help us in reducing counterfeit products. We collaborate with various NGO's in awareness campaign and have dedicated a customer care number and email for providing support and consumer education.

Areas where policies and practices need to be strengthened / amended

- Strengthening the KYC process for onboarding any seller on ecommerce platforms
- Further collaboration required between brand owners and ecommerce platforms
- More stringent laws should be enacted and non-bailable offence must be brought under the IPR issues
- Increased cooperation from law enforcement agencies
- Dedicated resources for enforcement at district /state level



Mr. Vishal Dewan

Country Senior Security Manager  
Global Security, India & South Asia, Johnson & Johnson Pvt. Ltd.



Johnson & Johnson works on the principle of Credo. Credo is divided into 4 aspects. First aspect focusses upon individuals who buy products and services like patient and doctor. The second aspect focus upon each employee of the organisation. The third aspect focus on the sustainable corporate environment and last aspect focus on the profitability or shareholding.

With regards to counterfeiting, smuggled and spurious products, the organization educates the consumers and carries several awareness programmes on the issue. Proactive measures are taken by Johnson & Johnson like security features are embedded on the product. Some features are overt and some are covert like laser printing products, track technology, tamper evident seal etc. Tracking the product is a need of an hour, this helps in protecting the health and safety of the individuals. There is also a custom recordation programme where the organization works closely with customs. Most of the brands under J&J are registered with the customs in India and almost all of Asian countries where they are sold. Various IPR training program on brand awareness are conducted and identification of counterfeit products are done for custom officials at various ports in India. There is also a proprietary J&J app which is given to each and every commercial team employee for proactively reporting any incident which is related to counterfeiting, tampering etc. All this helps the organization in generating leads and taking further necessary steps.

Johnson & Johnson also conducts proactive market survey, sample purchase exercise, mystery shopping exercise with various vendors in order to gauge if there is an issue in the products. Other proactive measure includes destruction of the products which are returned to distributors. The products damaged at the transit points are also destroyed within the custody of Johnson & Johnson. Proactive review of internal supply chain is taken for finished goods as well at the start point to see and check if there is any pilferage happening in the supply chain. With regards to keeping a tab on the products sold on various e-commerce sites, a proactive online market monitoring on various sites is done from a B2B and B2C perspective in India. With the cooperation of e-commerce platforms, the organization brings down illicit sellers selling spurious products and help customers get original products.



Mr. Milind Palany

Senior Manager

Global Brand Protection – India & South Asia, Johnson & Johnson Pvt. Ltd.

The two focus areas for the electronic development center is anti-counterfeiting technology and smart packaging. With regards to anti-counterfeiting the center has developed three technology solutions. The first one is a printed NFC tag, where electronic intelligence is put in a tag like NFC based, digital communication based tags. The target of rupees one per tag is being pursued to make it cost efficient.

The second technology is an innovative idea of split circuit. Part of the circuit remains with the product and part of the circuit remains with the reader and when put together, counterfeiters cannot replicate this. The electronic circuit is hidden within the emblem. On making contact one can detect whether it is genuine or fake. This technology is already available and has been transferred to one industry.

The third technology is based on a physically unclonable function, which is a passive tag. It is a unique technology which is developed with offline means, where no communication means are required such as sim card, wireless databases etc. It is based on a random pattern, a 3D random pattern which cannot be made again even by the technology owners.

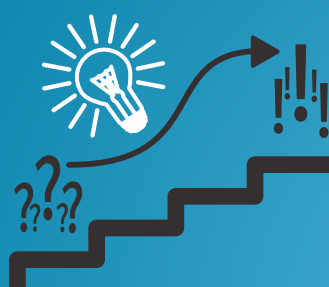
Most of the brands view anti-counterfeiting measures as a cost. Technologies such as these are applicable when consumers have no tools in their hands to check genuine and fake and where no brand has empowered them with required mechanisms. The power to detect genuine or fake must remain in the hands of the consumers. It should be offline and authenticated. Brands are not doing enough to protect the consumers. Brand should believe that consumer is willing to pay a little more for genuine products. Brands should view measures such as using technology for detection and curbing counterfeiting as brand enhancement for their industry.



Mr. Deepak

Professor

National Center for Flexible Electronics, IIT Kharagpur



# KEY TAKE AWAYS

- 🔑 The next frontier for transparency and measurement is mobile apps. As the illicit market has grown significantly, there are more and more technological barriers to transparency and measurement. The industry needs to plan a method to start measuring and changing this space.
- 🔑 There is a need to continuously provide a reasonable taxation framework as it is a well-established fact that often large tax differentials cause flow of smuggled goods in the market.
- 🔑 Companies and brand owners should act in various forms like providing overt and covert features, creating forensic market, track and trace technologies etc.
- 🔑 Industries collaborations with government and frequently updating of the models to be ahead of the curve is important. Managing trademarks and fundamentally demonstrating zero tolerance is imperative to curtail this menace.
- 🔑 Stiffer penal actions and awareness amongst relevant public about the scale of the problem with the understanding from the regulatory preceptive is required as there are laws and a number of enabling rules been published to deal with this growing issue.
- 🔑 Industry must segment themselves, with focusing and speaking to right set of authorities for the right problem and appraising the state level officials and checking the implementation requirement.
- 🔑 Regular interface at all levels by identifying opportunities and sharing intelligence is a key to curb counterfeiting and smuggling.
- 🔑 Strengthening the KYC process for onboarding any seller on ecommerce platforms.
- 🔑 Collaboration is required between brand owners and ecommerce platform players to fight the growing sale of illicit products on the virtual market place.
- 🔑 More stringent actions under Indian penal laws is required with respect to IP infringement. This offence should be made non bailable.

5<sup>th</sup> edition



# MASGRADE 2018

MOVEMENT AGAINST SMUGGLER & COUNTERFEIT TRADE

Ensuring Brand Security for Sustained Businesses and Employment Generation





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# SESSION 5

Fight Against  
Organized Crime in Illicit  
and Counterfeit Trade



SAMRITI GROVER

Ms. Samriti Grover

Senior Anchor  
Times Network

Criminal networks behind trafficking in illicit goods and counterfeiting are complex and pervasive, reaching far beyond national borders. In order to conquer the menace of counterfeiting and smuggling, all stakeholders will have to collectively put their might behind the cause. This will enable us to reach our desired goal of defeating the evil intentions of terrorist and those involved in organized crimes.

Illicit trade creates loss of employment, loss of tax revenue and stakes the health and safety of individuals. It transcends beyond borders. Smuggling in India happens in each and every form and in every product. There is a direct linkage of illicit trade and smuggling to giving an impetus to terrorism and we need to strike a balance. Inadequate penalties and the delay in enforcement is encouraging illicit trade through different sort of refined nexuses. Capacity building and special training for law enforcement agencies is needed with adequate awareness to curb this growing problem.

The breadth and scale of the global legal economy is staggering and it takes about trillions of dollars of revenue. India should take up a national case study to understand the harms and the impact of the illicit trade to the country. Illicit trade is a national security threat from terrorist attacks to criminal syndicates operating in Bollywood to issues from narcotics to human trafficking, they are harming all communities across India. It is important to elevate the issue and needs strong political commitment and stronger will within the government to make this a high national priority. We need to develop a comprehensive security strategy to counter the menace of counterfeiting and smuggling and webs of corruption and criminality. The issue of convergence is very important in which corruption fuels illicit trade and creates greater insecurity and instability like financing terrorism. So, it is important to develop these types of comprehensive strategy and corruption should be central to any national security strategy to fight illicit trade and organised crime. There should be National Intellectual Property Centre or an inter-agency team to facilitate coordination and share expertise. Intelligence information is important to more robustly disrupt and dismantle illicit market in an economy.

A National Intelligence Fusion Centre in India could be formed with representatives from police, custom, law enforcement, intelligence units etc. and it is critical to work across borders, engage and have coordinated efforts to address these cross-border threats.

A lot of these illicit threats will double within 5 years, US\$ 461 billion are lost due to counterfeiting and piracy and is likely to reach to trillion dollars globally within 5 years. It is important to support cyber lab and create forensic capabilities to crack down cyber crime. It is also important to track illicit financial flows to curb the ability to create violence and criminality. We must have dialogues with people to fight the menace of illicit trade.



# Mr. David M. Luna

*President and CEO  
 Luna Global Networks & Convergence Strategies, LLC  
 Washington, DC*



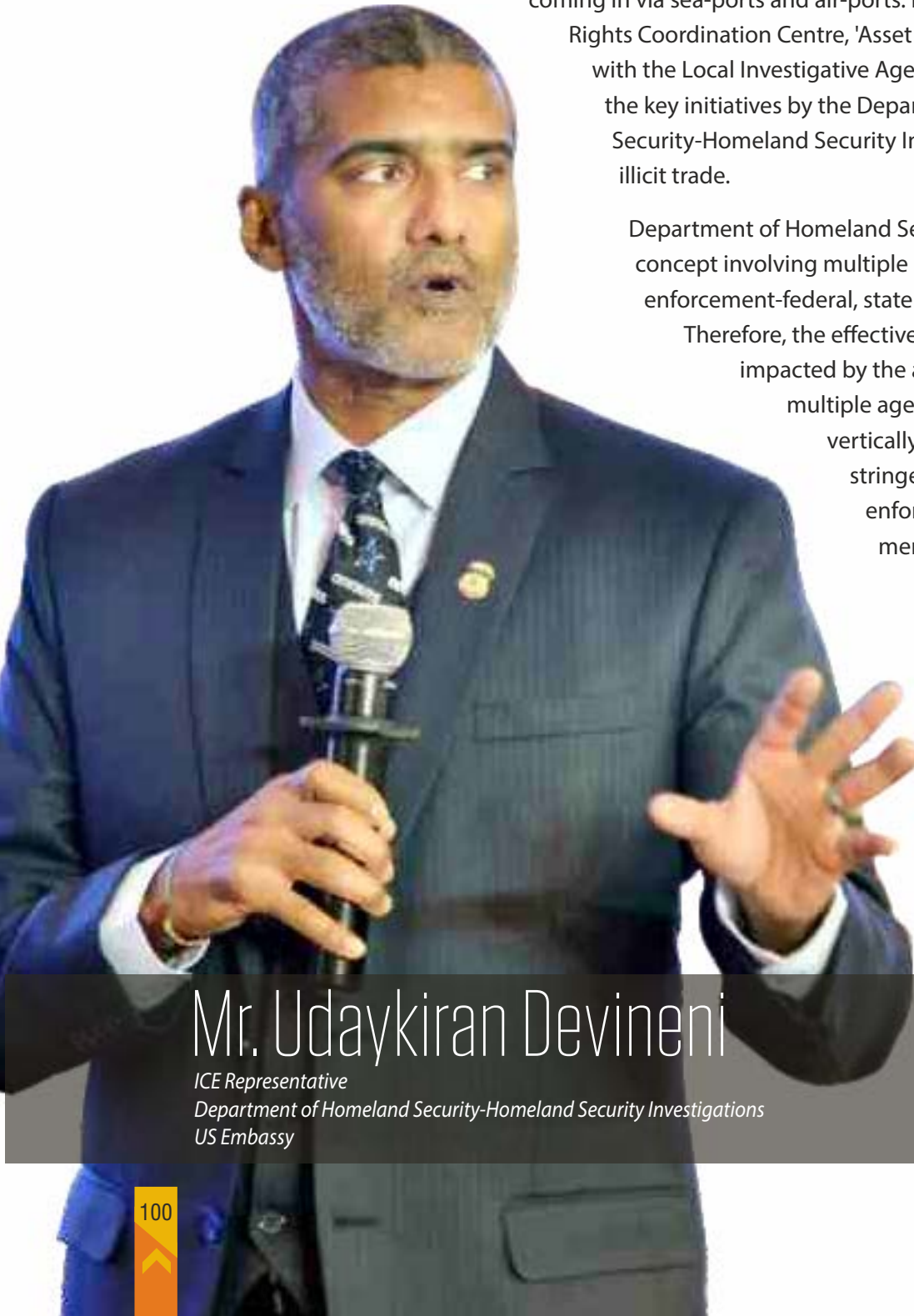
Intellectual property crimes affect commerce, society, governments, economy and also consumers. Organised crimes have criminal networks with system, processes and cooperation. Law enforcement agency, government representative, private sector and brand security specialist must be equally organised to effectively fight these networks and to stem the flow of counterfeiting and smuggling which are presenting public safety threat and an economic & consumer threat.

Intellectual Property Rights is a priority in the United States since counterfeiting is rampant which makes it a prominent issue. The United States have similar land border issues like India and face inherent challenges when it comes to securing those borders with regard to illicit

trade. This protection challenge also spreads across the goods coming in via sea-ports and air-ports. Intellectual Property Rights Coordination Centre, 'Asset Forfeiture', coordination with the Local Investigative Agencies etc. are some of the key initiatives by the Department of Homeland Security-Homeland Security Investigations to curb illicit trade.

Department of Homeland Security work in task force concept involving multiple levels of law enforcement-federal, state police, local police, etc.

Therefore, the effectiveness is directly impacted by the ability to work across multiple agencies horizontally and vertically. There is a need of stringent laws and effective enforcement to counter the menace of illicit trade.



Mr. Udaykiran Devineni

*ICE Representative*

*Department of Homeland Security-Homeland Security Investigations*

*US Embassy*



**T**ransnational organised crime is a worldwide phenomenon, and to fight this INTERPOL has a network of police around the world.

INTERPOL has notices, the most common is red notice, blue notice and purple notice. Red notice seeks criminal that are out there somewhere hiding from the countries. The blue notice seeks information for investigation purposes and purple notices tells the other countries that what is the modus operandi of crime in one certain area. We also have database; most common one is nominal database which is at almost in every airport around the world where the passport is scanned and it take seconds to go in search of the name of that person in the database of INTERPOL. So, I encourage the countries present here to use the databases to find the available information.

INTERPOL have a cyber fusion centre and coordination centre which enables individuals to contact easily. International Intellectual Property Crime Investigation College (IIPCIC) is an online training program free of charge for law enforcement and the private sector and stakeholders can avail these training courses. There are several operations around the world like Operation OPSON, Operation Pangea, and Operation Hiran among others where countries work together against transnational organised crime or illicit trade. Information sharing has key role to play in tackling the menace of counterfeiting and smuggling and for this we need to share information among ourselves. Inter-agency coordination is required nationally as well as internationally.



**Mr. Felix AVELLAN**

*Criminal Intelligence Officer  
 Illicit Goods & Global Health Programme  
 INTERPOL*

Illicit and counterfeit trade is an organised crime, and eats into the vitals of national economies. It not only prevents the domestic industry from flourishing, it denies employment to millions. It is possible to fight the menace but only with effective coordination headed by handpicked officials, strong laws and effective judicial systems to deliver justice in the form of adequate punishment to the offenders and deliver verdicts timely and efficiently.

Counterfeiting and smuggling is a low priority area for the local police therefore there is a need for strong arm of law for curbing this menace. The crime in illicit and counterfeit trade is organised in nature. No illicit and counterfeit trade can continue without organised crime networks backing it. All activities involved in this trade right from production of illicit and counterfeit goods to their movement from place to place like storage, distribution, sale and collection of money are not just one-time activities but they have to be done repeatedly over a considerable period of time. Organised crimes are continuous crime and requires a hierarchical structure headed by a strong and ruthless mastermind. This trade requires specialist support from law enforcement officials at every point of movement of the goods for their safe passage, storage and distribution. Unless people involved in policing the entry points are not compromised, it is very difficult to move such goods.

To fight any organised crime is easier said than done. We do not know who the kingpins are behind counterfeiting and illicit trade. We do not have stringent laws to deal with this problem. The registration of cases and prosecution is a state subject so the states and centre are at variance with each other. The law enforcement officials are there but not in adequate number. The biggest impediment in fighting this menace is the lack of inter-departmental coordination. Mutual trust and working of various agencies jointly towards the achievement of one goal are conspicuous by the absence. When illicit goods are being trafficked, we have several agencies involved and we must work in unison. Cutting edge agencies must have dedicated officers who are willing to own operations and bring various agencies together to go after a common goal.



Mr. Neeraj Kumar

Former Police Commissioner  
New Delhi

Threats posed by illicit trade and counterfeiting to the society, is generally in terms of losses to the industry, revenue loss to the government, adverse impact on public health, loss of jobs, facilitating terrorist activities etc. There is a need for cooperation and action at the national, regional and international levels to counter this menace as well as for creating more awareness among the public about this problem and its adverse fallout.

Illicit trade essentially includes firstly, smuggling of genuine or fake products or contrabands like drugs and weapons etc into a country for sale or use in that country or for further movement to a third country. Secondly, making fake items and contrabands for sale within the country or for smuggling them out to another country. The problem of smuggling and the sale of illicit goods within the country both made locally and smuggled ones are two distinct issues which needs to be tackled differently. Similarly smuggling can take place at the designated places of entry and exit of goods or through other places along the land or maritime borders. These designated places of entry are taken care by customs whose primary job is to prevent smuggling along with trade facilitation. On the other hand, the land and maritime borders are not only very vast and are guided by para military forces like BSF, SSB, ITBP and coast guard and



Mr. Sanjeev Tripathi

*Former RAW Chief*

preventing smuggling is only one of their many responsibilities which may not have a very high priority. Further they may not be very well equipped in terms of training, knowledge of laws particularly IPR issues etc. in this field. Similarly, in the areas of counterfeiting and sale of illicit goods within the country, local police have a big role to play. Again, this not be high priority for them nor they may be trained for this job. Moreover, police is a state subject and different states have their own priorities. All these factors need to be taken into consideration while drawing up a comprehensive strategy to tackle the problem of illicit trade at the ground level.

There is a need for better cooperation among concerned organisation at the international, national and regional levels. There are number of national and multilateral organizations dealing with one or the other aspects of the problem relating to smuggling and counterfeit of illicit goods like OECD, WIPO, INTERPOL etc and they need to work in close cooperation and coordination to comprehensively adjust all aspects of illicit trade. Similarly at the national level there are numbers of agencies dealing with various aspects of this problem. There is not only lack of coordination amongst them, they interact with various international organizations at their own level without other agencies even coming to know about the content of such interactions. To overcome this problem, there is need to set up a multi-agency centre dealing on illicit trade which comprise of officers of various agencies dealing with various aspects of this subject. This will not only ensure better coordination and sharing information among the agencies but will also facilitate proper and timely follow up actions. This multi-agency centre could have regular interaction with industries, as industry is an important stakeholder in combating illicit trade.

Detection, investigation and prosecution are three main areas which require focused attention to counter the menace of illicit trade at the ground level. Therefore, concerned law enforcement agencies need to be fully sensitized and trained to perform these tasks in an efficient manner. Since it involves IPR issues as well as cybercrimes, there is a need of specialized person to undertake such investigation at the same time there is requirement of more deterrent laws.



In 2014, INTERPOL had come out with a report which states that there are two types of networks of organised criminals involved in counterfeiting and smuggling, one localized network of organised criminal with a very formal kind of networks with a smaller number of players. Second, is an internationally operating organised crime rackets much like a drug racket for arms mafia and they work through a chain of agents being a part of an informal network. Another aspect of this kind of organised criminals is they move through a web of complex operations going through different countries. Transshipment is through various countries, and it is very difficult to identify the country from which the consignment is arriving.

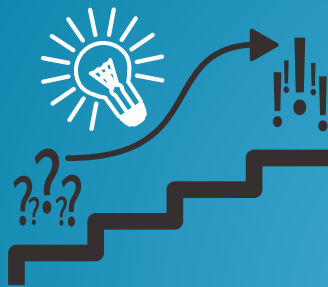
Any brand with global appeal is available at a discounted value, subject to further bargains, and sometimes it makes us wonder about the pricing policies of the original brand manufacturers. It also indicates that the lure of getting a fake at a much lower price is far stronger for the shopper to resist and that indicates why this business of counterfeiting, smuggling and piracy is thriving and eating the innards of our economies. Any hub with a low-cost manufacturing base is an ideal location for the manufacture of counterfeits and fake products and their supply is through both formal and informal networks.

Coming to the endeavor to tackle this kind of crime there is an international coalition against counterfeiting but it's not very effective. CBI has a specialised unit within their economic offences wing to deal with the problem of counterfeiting, fake and spurious trade. We need to make stronger laws and strengthen the existing mechanism to tackle this kind of crime. We need to understand that people involved in illicit trade are using sophisticated technologies, with effective tools. We need to create a mechanism to tackle the crime and provide advanced technology, advanced tools and a global cooperation and an initiative to contain the organised crime. People are buying cheap products which is hurting the economy and goes back to hurt them. India has sufficient laws regarding Intellectual Property Rights like the Copyright Act, 1957, IPR Infringement Act, The Trademark Act and The Patent Act. These kinds of crimes are often considered as victimless crimes where victims are the intellectual right holders and the actual brand holders of the product. A massive awareness campaign is needed to tell that it is not profitable to buy counterfeit and it is illegal to sell and buy them, then only we will be able to make some difference.



Mr. Anil Sinha

Former Director  
 Central Bureau of Investigation



# KEY TAKE AWAYS

- 🔑 India should undertake a national case study to understand the harms and impact of illicit trade in the country and subsequently derive a comprehensive policy at the national level to deal with this problem. To address the issue of organised crime a high level national security strategy should be developed to counter illicit trade and webs of corruption and criminality.
- 🔑 India to have a stronger political commitment and will within the government to make this a high national priority issue which will help in eliminating this menace.
- 🔑 A National Intelligence Fusion Centre in India could be formed with representatives from police, custom, law enforcement, intelligence units etc.
- 🔑 Detection, investigation and prosecution are three main areas which requires focused attention to address the menace of illicit trade at the ground level therefore concerned law enforcement agencies need to be fully sensitized and trained to perform the above three tasks in an efficient manner.
- 🔑 Offences related to counterfeiting and smuggling should be considered as a federal crime. Currently, the registration of cases and prosecution is a state subject.
- 🔑 Inter-departmental coordination- agencies involved in checking illicit goods must work in unison to generate actionable intelligence and then act on them to bust such rackets.

- 🔑 There is a lack of coordination of Indian organizations with international organizations such as WIPO, UNODC, INTERPOL, etc. Setting up a multi-agency centre dealing in combating illicit trade will facilitate information sharing and timely follow ups. This will also ensure coordinated cross border actions.
- 🔑 There is a need for dedicated officers from cutting edge agencies to own operations related to illicit trade and bring various agencies together in achieving the common goal.
- 🔑 Need to know the kin pins behind such activities. Need for a continuous feed and Intelligence information from private sector to disrupt and dismantle illicit markets.
- 🔑 Resource crunch - The number of officers to handle such cases are low. Certain officers in the police must be specially trained to investigate such cases.
- 🔑 There is a need for region wise tailored training of law enforcement officers, regulators, private sectors and stakeholders to discuss issues relating to counterfeiting and smuggling.
- 🔑 More than consumer awareness on the ill impacts of smuggled and counterfeit goods, it is imperative in making consumer aware that it is illegal to buy such products and become a partner in criminal activity.

5<sup>th</sup> edition



# MASCRADe 2018

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Ensuring Brand Security for Sustained Businesses and Employment Generation





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## ROLE OF JUDICIARY

Effective enforcement of law and the changes required in the legal regime, to meet the challenges of future



In recent times, judiciary has been occupying central stage in the affairs of the nation and its people. The three organs i.e. the legislature, executive and the judiciary are expected to maintain the division and balance of power without making an inroad into the turf of the other. Judiciary has the duty to ensure that the legislature and the laws enacted by it are in accordance with our constitution. It has the power to strike down laws which are not in accordance with the constitution or which infringes the fundamental rights. Judiciary plays proactive role and their intervention is important to attain the objective of curbing socio-economic crimes affecting and plaguing the economy.

Globalization and technological evolution and advance have brought with it in equal measure economic crimes. Offences relating to piracy, smuggling and counterfeiting have increased manifold in the global market. The country which is the recipient of imported counterfeit goods loses in term of domestic jobs, growth of legitimate industry, employment and investment opportunities. These are also issues of consumer's health and safety. Counterfeiting and smuggling gives an impetus to illegitimate industry. Counterfeiting is a recognized international menace which damages economies world over including the Indian market. The acceptability of counterfeited products springs from

A portrait of Hon'ble Mr. Justice Manmohan Sarin, a man with glasses, wearing a dark suit and a blue patterned tie. He is looking slightly to the left of the camera. The background is a light, neutral color.

## Hon'ble Mr. Justice Manmohan Sarin

*Former Lokayukta, NCT of Delhi*

*Chief Justice, High Court of Jammu and Kashmir & Judge, High Court of Delhi*

the low cost at which these are available, having at times a brilliant replica of the genuine product, which makes it difficult to even distinguish between the real and fake product.

In any conventional crime, there is a perpetrator of crime and there is a victim. However, in counterfeiting and smuggling there are no per se identified victims. It is the harm that is caused in lost job opportunities and investments and adversely impacting the domestic growth of industry. Hence the burden for curbing the menace has to be shared by the state, government, industry and recognized associations. The quantum of illicit trade, counterfeiting and smuggling on a global basis are staggering. The extent of smuggling in India for the period 2011 to 2015:

- Gold - Rs 15,637 crores to Rs. 41,896 crores
- Machinery and parts - Rs. 26,561 crores to Rs 41,586 crores
- Cigarettes – Rs. 7561 crores to Rs. 8948 crores
- Fabrics, Silk, Yarn – Rs. 5390 crores to Rs. 8038 crores
- Electronic items – Rs. 3353 to Rs. 17516 crores

The systematic cure to the menace of counterfeiting and smuggling ultimately lies in changing the mindset of citizens to shun the use of illicit products. This is a long-term cure but ultimately lasting one. Significantly, the states which are turning a blind eye to counterfeiting and smuggling in view of the immediate benefits would need persuasion by the international community for bringing in effective laws and enforcing them to curb this menace. The role of pro-active judiciary while dealing with these activities cannot be underscored in filling the void due to absence of victims of crimes.



In patent and design matter, no action for infringement of patent is permissible unless the patent and design is registered. No common law remedy is available under both the acts and no criminal litigation is available under the Patent Act as well as the Design Act unlike in trademark and copyright cases. However, the counterfeiting parties are way ahead of the owner of the patents. Life of the patented product is 20 years only and it takes approximately 6 to 7 years to get the product patented. Meanwhile, counterfeiters take advantage of the products and export it into another country. Article 54 to 62 of TRIPS agreement provides that if a person infringes Intellectual Property Rights such as trademark, copyright, patents and designs then even custom department has got the jurisdiction to seize the material if they are counterfeited or smuggled from any other country.

Hon'ble Mr. Justice Manmohan Singh

Judge, Delhi High Court (Retd.) and  
Chairman, Intellectual Property Appellate Board (IPAB)



If a person infringes the patent and goods are being smuggled in India then a civil action can be taken and interim order can be passed against that person. But in the case of trademark and copyright, High Court may pass simple order giving directions to company, custom department and police to seize the counterfeited and smuggled goods. Infringement of Trade Mark and Copyright amounts to cognizable offences and complaint can be filed either before Chief Metropolitan, Magistrate or Police. The court is bound to pass the order for investigation if the complaint is filed. As far as civil action is concerned, it can be filed, both actions can be taken simultaneously too. If the injunction is not passed and local commissioner is not appointed then the matter become infructuous. Justice Manmohan Sarin has given a guideline in a landmark judgment regarding how to pass the order for the appointment of local commissioner or how to pass the order in John Doe case. Earlier the procedure was that court can pass the order to restrain the defendant as well as appoint the local commissioner to go to the premises of defendant to seize the material. John Doe orders have gone to such an extent that even without naming the defendant order can be passed parallel to section 93 of CrPC where they issue general search warrant against the unknown person. Counterfeiters are aware of this and their latest modus operandi is that they are parking the goods in the adjoining countries. In case of trademark and copyright there are not only two parties rather three, they are the plaintiff, defendant and the court. Court is there to protect the interest of the citizen and that is why Anton Pillar orders are being passed and decrees are passed even at the first instance in the commercial court. Courts are taking the action against the counterfeiting parties but, simultaneously the owners should be very vigilant about their rights. If they will not come before the court, infringement will continue.



Mr. S.K. Sharma

Legal Advisor  
National Investigation Agency (NIA)

• Illicit trade in counterfeits and smuggling is a global business and the value of counterfeits and pirated goods is equivalent to 7% of the world's merchandise. The magnitude of the problem is enormous and alarming. It requires stringent measures globally. Illicit trade is everywhere and in every commodity, our market places are flooded with these counterfeits and smuggled goods. These are organised crime, giving rise to other serious crimes including terrorism which are being funded by such crimes and India continues to see rise in illicit trade.

Smuggling in India takes place in form such as mis-declaration, under valuation, end use and the other means. The seizure value of mis-declaration of goods stood at Rs. 1187 crores in 2016. While rate of under valuation of goods stood at Rs. 250 crores. The seizure value from misuse and end use was at Rs. 770 crores and there from other means was at Rs. 2780 crores seeing a rise of 191% from Rs. 953 crores in 2015. Due to complexity and alarming growth of the illicit trade more inter-governmental efforts and public private alliances are needed to identify approach leading to the development of a holistic strategy. The industry is plague by illicit trade in the products like tobacco, alcoholic beverages, computer hardware, auto components, FMCG, packaged foods, items and mobile phones. Based on data of seizures from Directorate of Revenue Intelligence the market of illicit cigarette trading in India rose by Rs. 5775 crores within 2010 and 2015 making it worth Rs. 25000 crores, this was calculated estimating the value of one stick per unit at an average of Rs. 10.5. The report further said that in 2014 FMCG personal goods industry suffered an estimated loss of Rs. 19,243 crores due to grey market. On the other hand, the Indian auto component industry suffered a loss of Rs. 10,501 crores. Now this is the magnitude of the problem which is very alarming. We have to take sufficient and stringent measures to arrest or to contain this problem if we cannot eliminate it. Judicial officers in the beginning of service should be exposed to the newer laws and its nuances of such laws and must be given be adequate training. Special courts could be set up for early disposal of such cases.

**C**ounterfeiting and smuggling has not drawn adequate attention because:

- There is a lack of sensitivity to the violation of Trade Marks Act
- Low priority is given to Intellectual Property related crimes
- There is incomplete understanding of law

Indian intellectual property laws are TRIPS compliant. The role of enforcement agencies is very important and proper enforcement of law is the job of the judiciary. In spite of regular training which is been given, enforceability is becoming a difficulty. One of the reasons being the expediency with which these types of cases should be dealt with is not found. Registration of trade marks takes a long time and in between if there is a violation and those violations cannot be taken care of. If we have undertaken an international

obligation under the TRIPS agreement, one advantage is if the TRIPS obligation undertaken by us under an international law is not coming in conflict with Municipal law the courts are free to implement it and supreme court in number of cases has said that in such obligations undertaken under the international law can be implemented.

Pendency is a big problem in our court which could be dealt by introducing ADR mechanism and civil liabilities. If plea bargaining can be implemented criminal cases can be taken care of. Under the civil law, provision of section 89 can be implemented.

Government should expedite filling vacancies in the judiciary and tribunal so that these types of cases can be attended on a priority basis.



**Mr. P. K. Malhotra**

*Former Secretary  
 Ministry of Law and Justice, Government of India*

Provisions of Indian IPR Laws are of international standard and they are TRIPS compliant. The issue is on enforcing them even when the laws are in place. The entire problem can be focused into one word and that is 'incentive'. What is the incentive to those persons who indulge in counterfeiting, what is the incentive to those who want to buy these products and what is the incentive to those whose rights are infringed thereby and to come forward and stop?

**The basic flavour of incentives is three types-**

**1. Economics**

**2. Social**

**3. Moral**

Many times, due to certain social reasons, it provides the incentive to undertake a particular activity or thing. Sometimes, the sense of morality also persuades us to do a thing. So far as

violators are concerned and particularly in the field of counterfeiting, it is not expected from them to have this kind of morality that they would resist themselves. Moreover, social conditions are such that even when people know, nobody comes forward to report.

Economics is at the root of the study of incentives and most of the activities are influenced by the economics. A person dealing in illegal trade rides on the goodwill of another brand. It gives



**Hon'ble Mr. Justice Arjan Kumar Sikri**

*Judge Supreme Court of India and  
Former Chief Justice, Punjab and Haryana High Court*



him the incentive to ride on this goodwill which is created by the brand in India or internationally. Illicit markets are divided into two sub markets. First is primary market, where consumers are buying the counterfeit products thinking it to be genuine. Other one is secondary market, where consumer knowingly buys an illegal product. The incentive to sell such product is profit driven, that without spending on advertisement, without spending on R&D, the seller still wants to sell the goods. Therefore, we need to disincentivise. For persons selling such goods, there should be enough deterrence that if he is caught then the price which he will have to pay would be much more than the profits which he is earning from this activity. Law should be so deterrent that it discourages counterfeiters to undertake these activities. That is the economics of trade and that has its connection with law.

Consumer needs to be told about the ill effects of illicit goods and that the message that their short-term gain is a long-term suffering. There is evidence that terrorist groups are funded by illicit activities and they generate money not only through money laundering but also through smuggling and counterfeiting. It is affecting the economy and consumers who are buying such products and they become a part of such criminal activity. We need to dissuade consumers from buying these illicit products.

There is a great connection between law and economics when it comes to enforcement of laws. Economic analysis of law has to be undertaken by the judges. The economic impact of the decision has to be kept in mind by the judge while giving judgments. The most important thing in cases of economic offences is that there should be speedy disposal of cases. In criminal cases, courts have to be vigilant and pass speedy orders. In case of civil cases as far as injunctions are concerned courts should give appropriate injunctive reliefs.

Another key understanding should be that, if one makes the venture for the illicit manufacturers expensive, that is when it becomes difficult for such businesses to thrive. The damages should be such that at the end of the day not only the person undertaking illicit trade is out of business but it also deters other people. Courts should resort to the jurisprudence to punitive damages and start granting that, then the economics would be negative for the persons who are the perpetrators of this crime and he may stop such activity eventually.

Another role that the judiciary can play is that experts should be given periodical training in the judicial academy so that they are updated with laws periodically. Chief Justice should see that those judges who have expertise in the field should be posted to deal and decide such cases. When judges can keep this economics in mind and judge a case, only then we can address the issue and take steps which are advancing towards implementation of such laws.

Incentive is the key where solutions are required to address the problem of illicit trade. Economics of trade should come from deterrence for the counterfeiters and increased consumer awareness should be the other solution to this menace.

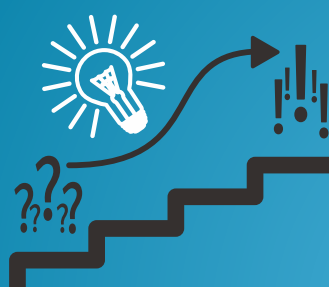
As FICCI CASCADE concluded the 5th edition of MASCRADE, it gets reconfirmed that fakes, counterfeit and smuggled products is one of the biggest challenge faced by the Indian economy which is impacting 'Brand India' globally. Over the last seven years, under the visionary leadership of the chairman CASCADE, this committee is working hand and hand with the industry, consumers, media, legal experts, consumer organizations and policy makers to eradicate the virus of illicit trade through its various initiatives. CASCADE's efforts are also supported by a Think Tank, who have lent their might to this conference and many other ideas for the future. In its journey FICCI CASCADE has been fortunate to have the support of India's policy makers and is particularly delighted by the participation of senior government officials including from Dept. of Industrial Policy and Promotion, Central Board of Indirect Taxes and Customs, Dept. of Law and Justice, Directorate of Revenue Intelligence, Police and other departments who play a significant role in checking the threat of illicit trade in the country.

Like in the past, this year too, the conference saw a host of notable speakers from several international institutions like the WIPO, UNODC, OECD, Interpol, US Dept. of Homeland Security and others where each one of them made a significant contribution to the strategy of dealing with the twin hazard of smuggling and counterfeiting. The participation and ideas by all present during this two-day conference have lent a greater thrust to the movement against smuggling and counterfeiting.



Mr. Arun Chawla

Deputy Secretary General  
FICCI



# KEY TAKE AWAYS

- 🔑 In recent times judiciary has been taking central stage in the affairs of the nation and people. There is no second opinion that judiciary has to have a proactive role and wherever necessary bring in judge made laws to fill in the legislative vacuum, void for socio-economic crimes affecting and plaguing the economy.
- 🔑 Issues such as lack of sensitivity as far as the violation of IP laws and acts with respect to economic offences, low priority for IP related crimes, incomplete understanding of the existing law exist. Moreover, the expediency with which these cases should be dealt is not there. Over and above pendency is a big problem in our courts. Mechanisms such ADR (alternate dispute resolution), civil liabilities and/or plea bargaining could be incorporated.
- 🔑 Prosecuting counsels should be exposed to the nuances of laws and acts related to economic offences. Government counsels to be also exposed to the development of the laws on the subject so that the case can be effectively presented.
- 🔑 Judicial officers should be exposed to IP laws/amendments in the beginning of their career and during the course of their service. Exclusive/ refresher courses could be designed in this regard. In the era of specialization there is a specific need for acquiring specialized knowledge in the subject of IP crimes/violations and the related laws having many nuances.
- 🔑 Government should expedite filling up of vacancies in the judiciary & tribunal, so that cases related to the subject can be attended on a priority basis.
- 🔑 Disincentivise the party who is selling illicit goods - there should be enough deterrence that if he is caught then the price he will have to pay would be much more than the profits he is earning from this activity. Law should be deterrent that it should dissuade him to undertake such activity. Disincentivise consumers by advocating that the short-term gain of buying such products is a long-term suffering.
- 🔑 Economic analysis of law in this area has to be undertaken by judges resulting in speedy disposal of such cases.
- 🔑 Chief Justices have to see that those judges who may have expertise in this field may be posted accordingly to decide/deal with such case.

Enter

Recommendation



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# RECOMMENDATIONS

# FICCI CASCADE'S Recommendations

*In view of the increasing menace of illicit trade both in terms of value and magnitude, FICCI is of the opinion that there should be strong will within the government to make this a national priority matter which will help in eliminating this menace. Currently, this issue lacks the desired attention from policy makers and lack of coordination amongst the various departments in the government. Therefore, FICCI, voice of Indian industry, would like to make the following recommendations to curb the growing hazard of smuggling and counterfeiting adversely impacting the economic growth of the country.*

## Prime Minister's Office and Cabinet Secretariat

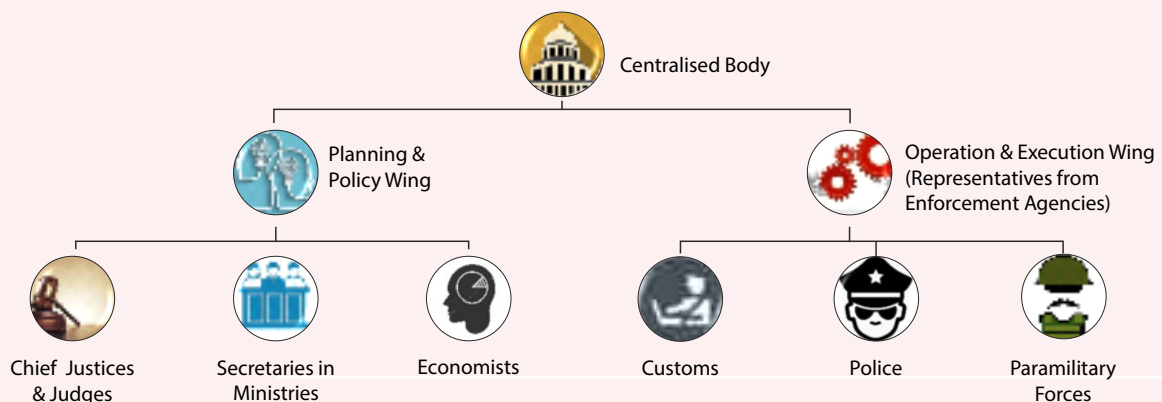
1. In order to improve the inter-ministerial cooperation and coordination in the government to effectively combat the serious problem of illicit trade, FICCI would like to recommend setting up of an umbrella body i.e. a multi-agency centre. We feel this centralized body in the government could be able to ensure proper coordination amongst the concerned Ministries /Departments /Enforcement agencies.

The objective of this multi-agency center will be as follows:

- a. Sharing Intelligence
- b. Enhancing cooperation
- c. Making Policy recommendations
- d. Capacity building
- e. Liaison with national and international bodies

This could be done either by establishing a new set-up or by revamping existing setups such as Central Economic Intelligence Bureau (CEIB) to have an effective organization.

### Proposed Structure for new set-up:



## Ministry of Home Affairs

1. Capacity building in terms of skill, infrastructure and technology amongst the law enforcement agencies is important in improving the detection and investigation mechanism. Since the police officers are fully occupied with the investigation of property offences and crime they have little exposure to crimes related to intellectual property and special provisions contained in the enforcement of the IPR laws. Knowledge of legal provisions related to IPR laws is necessary for efficient investigation and successful prosecution. It is necessary therefore to impart special knowledge to the investigating officers through capacity building under the IPR related cases.

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**Recommendation** - A national and regularized system of capacity building for police officers on the negative impact of economic offences.

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2. The existing police staff's ability to handle the day to day crime and law and order duties is stretched. It is left to only special cells (e.g.: District Investigation Units in Delhi) in each police districts or the Economic Offence Wings at the state level to deal with specialized offences under IPR along with other economic offences and heinous crimes. There are no dedicated officers in these cells to deal with such cases exclusively.

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**Recommendation** - Additional manpower with the desired aptitude to be provided in these cells to focus exclusively on the investigation of these IPR related cases.

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3. It is necessary for the investigating officer (IO) to be able to appreciate both physical and technical (IT) evidence; now very important in the context of IPR related crime. Majority of the IOs do not have computer literacy and are not comfortable with the investigation that involves scrutiny of computers and other technical gadgets/information relating to the criminal activity. Recently, a news item indicated that out of the 160 cases entrusted to the cyber cells of the Delhi police for 2018 only 26 cases saw complete investigations and the rest cases fell flat.

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**Recommendation** - Specialized training on technical knowledge (usage of computers, technical tools, databases etc.) to be imparted to investigating officers in order to be able to appreciate technical evidence and do justice with the investigation.

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4. It is also necessary to give adequate emphasis on the special requirements of the investigation officers depending upon area of operation or region where the offence is committed such as an Industrial belt (manufacturing state), trading belt, film and TV. Each area of business needs different specialization for investigation. The training module for capacity building of police officers must take that into consideration while designing a program for that region.

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**Recommendation** - Develop tailored-made training programmes (specific and generic) which will help the investigating officers to focus on special requirements of the area of operations.

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## Ministry of Finance

1. In the current reward scheme of the Central Board of Indirect Taxes and Customs, monetary rewards are given to informers and enforcement officers for their role in detection and further follow up actions in cases of smuggling. The quantum of reward available for distribution is linked to sale proceeds of smuggled goods. However, in view of the recent instruction, in cases of tobacco products, since such products are not sold but destroyed on conclusion of the case, therefore, no sale proceed amount is available for giving monetary reward. This position needs to be changed as it has become a disincentive in booking offence cases in respect of such goods. A reward scheme could be put in place for tobacco on the same lines like narcotics and psychotropic substances which are also destroyed after seizure. The amount of reward in such cases could depend on a flat rate linked to the quantity of goods seized and the gravity of offence involved. There would also be a need for additional budget provisions for this purpose.
2. We would like to emphasize that a right balance should be maintained while fixing the tax rates by the government between the conflicting needs of collection of revenue and the impact of rates on the prices of the goods. Such goods become more vulnerable to evasion which attract high rates of taxes, since, it provides boost to profitability in evasion. Consequently, in respect of the goods bearing higher incidence of taxes such as tobacco products, alcoholic beverages, luxury items, etc. the size of the grey market (i.e. the goods which have remained unaccounted in the supply chain and on which taxes have not been paid) is also larger. This fact is supported by the study conducted by FICCI CASCADE in respect of seven items such as FMCG personal goods, FMCG packaged foods, computer hardware, mobile phones, alcoholic beverages, tobacco products, and automobiles. This anomaly which was expected should have been removed under a single tax rated GST system as it exists in many countries, continues even now since 33 items have been kept at 28% rate which is substantially higher than the mean rates of 12% and 16%. It has to be realized that wherever, the tax rate is higher, evasion increases, availability of the goods in the grey market becomes larger and illicit trade like, counterfeiting and smuggling get unintended incentive much against the stated objectives of the government. Therefore, we would like to suggest that a proper balance must be maintained while fixing the tax rates taking into account all the related factors as we feel that in this area considerable improvement is still required in the taxation policy of the government.

## Ministry of Human Resource Development

1. India has a young population profile and is set to be the youngest country by 2020. The youth of India being the country's future, it becomes imperative to understand the power of the consumers of tomorrow. With children becoming a key stakeholder for advocating socially responsible behaviour, we believe that it is important to raise their awareness on this issue during their formative years and through them influence the society as a whole. An idea planted in their minds can become an instrument of change for tomorrow. In order to



achieve this, it is imperative that basic knowledge about illicit trade and its harmful effects should be incorporated in the educational curriculum of middle and senior school as a chapter in the text books of social sciences. The points which should be included in this chapter may be as follows

- i. What is illicit trade?
- ii. Causes of illicit trade
- iii. Magnitude of illicit trade
- iv. Adverse effects of fake and spurious goods
- v. Examples of harmful items like food, medicine, electronic goods, cosmetics, toys etc.
- vi. Linkage between sale proceed of illicit trade and job loss, organized crime (terrorism and insurgency), research and development.
- vii. Role of consumers such as asking for bill while making any purchase
- viii. Redressal of consumer grievance available through consumer courts
- ix. Conclusion- Towards building a prosperous nation

## **Ministry of Commerce and Industry - Department for Promotion of Industry and Internal Trade**

1. At present, it is found that the penal provisions provided in the applicable laws such as Copyright Act, 1957 and the Trade Marks Act, 1999 are not adequate; after detection of a crime completion of investigations and penal proceedings takes an unduly long time; consequences of such crimes are not properly appreciated while passing judgments in such cases etc. Under both the Trademarks Act and Copyright Act the punishment provided for the first offence is monetary fine of not less than rupees 50,000/- and not more than rupees 2,00,000/- and imprisonment of not less than 6 months and not more than 3 years; and for subsequent offences monetary fine of rupees 1,00,000/- to 2,00,000/- and imprisonment of 1 year to 3 years. The existing mild penal provisions in the law and the delay taken in inflicting even this inadequate penalty are not able to create the desired deterrence needed to curb the increasing instances of violations.
2. The position about fine and penalty is however different under the Customs Act 1962, which are applicable in respect of the cases of smuggling. In such cases, the monetary fine provided is up to the value of the seized goods or the amount of duty evaded, and imprisonment has an upper limit of 7 years and in certain cases the minimum period of imprisonment is 1 year. Further, in respect of serious cases of smuggling, the provisions of preventive detention is also applicable under the COFEPOSA Act (Conservation Of Foreign Exchange And Prevention Of Smuggling Activities Act 1974) and in deserving cases the period of detention may exceed up to 2 years.

3. We would like to suggest that like the Customs Act, the monetary fine under the Trade Marks Act and Copyright Act may be extended up to the value of the offending goods and the imprisonment of up to 7 years. For example if the value of the offending goods under these laws is Rs.100 the total amount of monetary penalty should be up to Rs.100. It is felt that this will financially disincentivise the tendency to indulge into such crimes.
4. With a view to make the penal provisions more stringent, there is a need to prescribe a minimum period of imprisonment, and for this purpose, it is suggested that the minimum period may be half of the maximum period of imprisonment prescribed in the law.
5. To ensure expeditious completion of adjudication proceedings in such cases, it may be prescribed that adjudication proceedings must be completed within one year after its initiation. With a view to reduce the number of adjudication and prosecution proceedings there is a need to put in place ADR (alternate dispute resolution) mechanism.

### **Ministry of Consumer Affairs, Food and Public Distribution**

1. It is seen that consumer awareness with regards to fake, counterfeit, spurious and smuggled goods is not up to the desired level. The department of consumer affairs has taken several initiatives in protecting the rights of consumers and making them aware about the safeguards available in the law to protect their legitimate interests. However, they have not been able to adequately serve their desired objective in view of the serious challenges posed by unscrupulous traders. Further impetus is needed to the department's campaign "Jago Grahak Jago" by restructuring this campaign with reference to fake, smuggled and spurious products.
2. The problem of illicit trade is not limited only to tier 2 and tier 3 cities but they are equally serious in rural areas also. To overcome this problem appropriate use has to be made of effective communication channels such as radio, television, etc through advertisements, jingles, and advisories. Literature such as fliers, pamphlets, hoardings, banners in regional languages, and other means of public address campaign should also be encouraged.
3. A well-defined multimedia strategy should be designed using various platforms such as Facebook, Twitter, advertisements in cinema halls, Hoardings, mass SMS etc.
4. Finance available under the Consumer Welfare Fund of the government could be allocated for effective consumer awareness about illicit products, training and skill development of enforcement agencies.







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## EVENT @ A GLANCE











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# ARTICLE

# Invisible enemy

The role of illicit trade in compounding the already serious problem of unemployment was highlighted by a recent FICCI conclave

India is at war with an invisible enemy. This adversary is none other than smuggling and counterfeiting, which are together termed as illicit trade. Illicit trade is the world's largest growing industry and its size is estimated to range between \$650 billion and \$3 trillion according to multiple studies. This evil business represents 10 per cent of global trade and has been termed as the crime of the 21st century by the Federal Bureau of Investigation (FBI). Anticipating the threat posed by illicit trade to the government, industry and citizens, the Federation of Indian Chambers of Commerce and Industry took the initiative to dedicate a forum by establishing the Committee Against Smuggling and Counterfeiting Activities Destroying Economy (CASCADE) on the January 18, 2011.

In the Indian context, a report by FICCI CASCADE last year estimated the loss to seven industry sectors at ₹1,05,000 crore, increasing 44 per cent between 2011-12 and 2013-14. The total loss to the government on account of this illicit trade was ₹39,000 crore in 2014 and from these sectors the maximum revenue loss to the exchequer on account of illicit trade is attributed to tobacco products at ₹9,000 crore, mobile phones at ₹6,700 crore and alcoholic beverages at ₹6,300 crore.

FICCI CASCADE is also at the forefront of generating awareness on the hazardous impact of smuggled, contraband and counterfeit products amongst the consumers and citizens, capacity building of law enforcement agencies, research and proposing law reforms, systematic dissemination of enforcement techniques, procedure and strategy through regular workshops for the guidance of its members, sharing the best practices followed globally for combating illicit trade and provide knowledge and support to the industry members.

FICCI CASCADE has a formidable think tank which includes prominent personalities like Najib Shah, Former Chairman, Central Board of Indirect Taxes and Customs, Sanjiv Tripathi, Former Chief, Research and Analysis wing (RAW), Hem Kumar Pande, Former Secretary, Ministry of Consumer Affairs, Ajay Shankar, Former Secretary, Department of Industrial Policy and Promotion, Justice Manmohan Sarin, Former Chief Justice, High Court of Delhi and J&K, Neeraj Kumar, Former Commissioner, Delhi Police, P K Malhotra, Former Secretary, Ministry of Law and Justice, Anil Sinha, Former Director, Central Bureau of Investigation, Narendra Sabharwal, Former Deputy Director General, WIPO, Vikram Srivastava, Former Director General, Central Reserve Police Force (CRPF) and Kameshwari Subramanian, Former Chief Commissioner of Central Excise, Customs and Service Tax, Bengaluru Zone. Under the able guidance of this think tank, FICCI CASCADE has over the years, achieved multiple milestones and created an environment that addresses the various facets of the rather complex subject of illicit trade.

Over the past five years, FICCI CASCADE has upped the ante and joined hands with several institutions of international repute such as WIPO, UNODC, Interpol, OECD, WCO, UKIPO, USPTO, US Department of Homeland Security, JETRO, Australian Border Protection to fight and heighten response on the impact of illicit trade. This led to the emergence of Movement Against Smuggled and Counterfeit Trade (MASCRADE). Since 2013, FICCI CASCADE has been organising international conferences to generate awareness, find tangible solutions and chalk out a sustainable road map to thwart the evil impact of illicit trade.



The following are the International conferences that have been held over the past five years:

- 1 'Trade in Counterfeit, Pirated and Smuggled Goods- A Threat to India's National Security and Economy' (September 2013)
- 2 'Illicit Trade- Threat to National Security and Economy' (January 2016)
- 3 'Illicit Cross Border Trade in Goods- Impact on Economy and Consumers' (December 2016)
- 4 'Protect Your Brand Globally- Fight Counterfeiting , Smuggling and Piracy' (October 2017)





In 2018, the theme of the conference was 'Ensuring Brand Security for Sustained Businesses and employment Generation'. This two-day event was held on November 1-2, and witnessed wideranging participation from policymakers and stakeholders. Issues ranging from funding of terrorism by illicit trade, loss to the exchequer, flagging morale of genuine industry to increasing threat on the safety of consumers were discussed threadbare.

In-addition, this year, an important point was brought in, where the role of illicit trade in compounding the already serious problem of unemployment was highlighted. It is my firm view that not only has smuggling and counterfeiting taken away jobs from the local habitants but have also made a significant addition to the 19 million unemployed people India is likely to have by the end of 2019. Local craftsmen have been gradually rendered unemployed as smuggled goods from neighbouring countries throng the Indian markets.

With eight sessions in all, MASCRade 2018 delved in each and every aspect pertaining to smuggling and counterfeiting.

The following were the topics and recommendations of the sessions:

#### **Inaugural Session**

This looked at the overall picture and highlighted the need for a collective effort to address the problem. The loss of employment because of this scourge was clearly spelt out and the role of constant technological innovation as a powerful deterrent was underscored.

Unleashing the Power of a Global Multilateral Response to Curb Illicit Trade The need to share best practices between different countries was important, the fact that unscrupulous elements often exploit the gap between governance and technology to violate international agreements should be reduced, there was also a strong view that better intelligence methods need to be developed through the training of more specialised enforcement units equipped with state-of-the-art technology. In addition, it was felt that there was an urgent need for integrated actions at the international level in identifying, investigating and prosecuting people involved in illicit trade.

#### **Connecting the Dots: Holistic and Sustainable Approaches to Brand Protection**

It was felt that mere protection of IPRs by the industry is not sufficient, there is a need for the industry to police their products, pursue counterfeiters and illegal trade operators and periodically monitor the sale of goods both by the retailers and online sellers. The industry needs to stay ahead of the curve and



innovate at regular intervals and there is a requirement for an integrated supply chain management system. Since, illicit trade is a huge problem in rural, tier 2 and tier 3 cities, there is a need for awareness programmes at the local level.

**Leveraging Intellectual Property Rights for Economic Growth and Business Competitiveness**

The need for a voluntary mechanism where the Internet Service Provider (ISP), advertising agencies or even the aggregators and search engines come together and decide on a mechanism to take down infringing websites could be an effective tool in dealing with this problem. The DIPP, Ministry of IT and Telecom could hold regular consultative programmes with the stakeholders as far as laws and procedures were concerned.

**Opening Session**

Safety and security of a brand requires a 3P strategy– Prevention, Participation and Punitive along with a 3C approach where the right holders need to Cooperate, Collaborate and Coordinate. It was also recommended that some money from the CSR and government consumer fund could be allocated for effective enforcement of economic offences.

**Senior Leadership Discussion: Where We Are and What Needs To Be Done**

It was felt that the next frontier of transparency and measurement is

mobile applications and as illicit markets have grown significantly, there are more and more technological barriers in transparency and measurement. It was recommended that the industry needs to plan a method to start measuring and changing this space. The industry also needed to segment themselves by focusing and speaking to the right set of authorities for specific problems and appraising state-level officials and checking implementation requirement, strengthening of the KYC process for on-boarding any seller on ecommerce platform was critical. It was recommended that IP infringement be made a non-bailable offence.

**Fight Against Organized Crime in Illicit and Counterfeit Trade: Perspectives from Law Enforcement Agencies**

To address the issue of organised crime a high level national security strategy should be developed along with a National Intelligence Fusion Centre which would include representatives from the police, customs, law enforcement, intelligence units. It was also felt that offences related to counterfeiting and smuggling be considered a national crime.

**Role of the Judiciary**

The judiciary indeed has a proactive role to play in this matter, however, issues such as lack of sensitivity as far as violation of IP laws and acts, low priority for IP related crimes, incomplete understanding of the existing law exist, these are over and above the already serious matter of pendency, therefore, mechanisms such as Alternate Dispute Resolution (ADR), civil liabilities and/ or plea bargaining could be incorporated. It was also recommended that judicial

officials should be exposed to IP laws/amendments in the beginning of their career along with refresher courses.

With such wide ranging recommendations, I have no doubt in my mind that in the times ahead, we will be able to make steady and meaningful headway in understanding, engaging and blunting the impact of illicit trade on the financial, industrial and societal health of our country. It is imperative that we remain focused and assiduously devise strategies that keep us ahead of those indulging in illicit trade. While a lot has been done by the government, industry and citizens at large, implementation of out-of-the-box initiatives is the need of the hour.

*The writer is Sr. Vice President- Corporate Affairs, ITC Ltd and Chairman, FICCI CASCADE. The views expressed here are personal.*

Over the past five years, FICCI CASCADE has joined hands with several international institutions such as WIPO, UNODC, Interpol, OECD, WCO, UKIPO, USPTO, US Department of Homeland Security, JETRO, Australian Border Protection to fight and heighten response on the impact of illicit trade.



5<sup>th</sup> edition  
**MASCRADE 2018**  
MOVEMENT AGAINST SMUGGLED & COUNTERFEIT TRADE  
Ensuring Brand Security for Sustained Businesses and Employment Generation

# MEDIA COVERAGE



**millenniumpost**

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## Illicit products hurting Indian industry, says Ficci arm report

**NEW DELHI:** Illicit products are adversely affecting the Indian industry, risking millions of legitimate jobs and resulting in an estimated loss of Rs 1,05,381 crore in just seven sectors, according to industry body FICCI CASCADE.

Citing latest figures, FICCI CASCADE said illicit trade is also affecting the government revenue and loss to the exchequer in these industries is Rs 39,239 crore.

The trade in illicit goods is highly pervasive across countries and sectors. It is estimated that 8-15 per cent of global GDP is impacted due to illicit trade and criminal activities, FICCI CASCADE said in a statement.

"Illicit products are adversely affecting Indian industry, risking millions of legitimate jobs," it said. Citing a report prepared by it, the industry body said the estimated total loss to the industry in just seven sectors auto components, alcoholic beverages, computer hardware, FMCG packaged goods, FMCG personal goods, tobacco and mobile phones is Rs 1,05,381 crore.

EDITORIAL

## Illicit trade damaging economy, says official



SPECIAL CORRESPONDENT

NEW DELHI, NOVEMBER 10, 2014 04:00 PM  
LONDON, NOVEMBER 10, 2014 04:00 PM

Suresh Chandra, Secretary of the Department of Legal Affairs, said on Thursday that the damaging impact of counterfeiting and smuggling reflected in the loss of industrial growth, the social cost consumers had to pay and the jinx of revenue to the government.

He was speaking at the fifth edition of MASCRADE-2018, organised by the FICCI's Committee Against Smuggling and Counterfeiting Activities Destroying the Economy (CASCADe).

Mr. Chandra said such illegal activities slowed industrial growth, thus affecting producers, and stunted revenue, hurting job growth. Consumers were the ultimate victims of counterfeiting, smuggling and piracy as they paid excessive

## Business Standard

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Fri, 09 Nov-14, Business Standard - Delhi, Size: 44 sq.cm.

## Illicit products adversely affecting Indian industry, says report

Illicit products are adversely affecting the Indian industry, risking millions of legitimate jobs and resulting in an estimated loss of ₹1.05 trillion in just seven sectors, according to industry body FICCI CASCADE. Citing latest figures, FICCI CASCADE – industry chamber FICCI's anti-smuggling and anti-counterfeiting arm – said illicit trade is also affecting the government revenue and loss to the exchequer in these industries is ₹392.39 billion. The trade in illicit goods is highly pervasive across countries and sectors. It is estimated that 8-15 per cent of the global GDP is impacted due to illicit trade and criminal activities, FICCI CASCADE said in a statement. **PTI**

**NEW DELHI:** Suresh Chandra, Secretary, Department of Legal Affairs, Ministry of Law and Justice, Government of India, today said that the damaging impact of counterfeiting and smuggling is manifest in loss of industrial growth, the social cost that consumers have to pay and revenue loss to the government.

Addressing the 5th edition of International conference: 'MASCRADE-2018' organised by FICCI CASCADE (Committee Against Smuggling and Counterfeiting Activities Destroying the Economy), Chandra said that producers were adversely affected as counterfeiting and smuggling slows down the growth of their industry, stunts the revenue potential thereby affecting the employment growth in the country. Secondly, it involves a social cost that consumers have to pay. Consumers are the ultimate victims of counterfeiting, smuggling and piracy through excessive prices paid for substandard products that increase exposure to health and safety risks. There is also a revenue loss to the government which has a direct bearing on spending on welfare measures such as on healthcare, education and public transport. Police and other enforcement infrastructure are also hit by this resource crunch which exacerbates the problem of grey market operations.



### Terror networks rely on illicit trade: FICCI Report

News | November 08, 2014 09:56 AM



In a joint report, FICCI and CII have said that illicit trade is a major threat to the growth of the Indian economy. A study by the two industry bodies has revealed that the illicit trade network is a major threat to the growth of the Indian economy.

Report of the study that is being conducted by the two industry bodies has revealed that the illicit trade network is a major threat to the growth of the Indian economy. The study has also revealed that the illicit trade network is a major threat to the growth of the Indian economy.

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According to a report that has been prepared by FICCI and CII, the illicit trade network is a major threat to the growth of the Indian economy. The study has also revealed that the illicit trade network is a major threat to the growth of the Indian economy.

The report also says that the illicit trade network is a major threat to the growth of the Indian economy. The study has also revealed that the illicit trade network is a major threat to the growth of the Indian economy.

### THE HANS INDIA

PK 20 Nov 14, The Hans India, Hail Size 70, in cm, Circulation Page 3

### TRADE

## Illicit products lead to ₹1,05,381 cr loss

Illicit products are adversely affecting the Indian industry resulting in an estimated loss of ₹1,05,381 crore in seven sectors - auto components, alcoholic beverages, computer hardware, FMCG - packaged goods, FMCG - personal goods, tobacco and mobile phones, according to industry body FICCI CASCADE. Illicit trade causing loss to exchequer in these industries is ₹39,239 crore.

## Fighting Illicit Trade and Corruption: National Security Threats to Countries, Destabilizing Impacts to Markets, and Wicked Harms to Consumers

Executive and Member Organizations: International Chamber of Commerce, Asian Development Bank, Transparency International, World Bank



NEW DELHI, Nov 5, PTI: International Chamber of Commerce (ICC) and Transparency International (TI) have released a report titled 'Fighting Illicit Trade and Corruption: National Security Threats to Countries, Destabilizing Impacts to Markets, and Wicked Harms to Consumers'.

The report says that illicit trade is a major threat to the growth of the Indian economy. The study has also revealed that the illicit trade network is a major threat to the growth of the Indian economy.



## 'Illicit products adversely affecting Indian industry'

New Delhi: Illicit products are adversely affecting the Indian industry, risking millions of legitimate jobs and resulting in an estimated loss of ₹1,05,381 crore in just seven sectors, according to industry body FICCI CASCADE.

Citing latest figures, FICCI CASCADE - industry chamber FICCI's anti-smuggling and anti-counterfeiting arm - said illicit trade is also affecting the government revenue and loss to the exchequer in these industries is ₹39,239 crore.

The trade in illicit goods is highly pervasive across countries and sectors. It is estimated that it is 10 per cent of global GDP is impacted due to illicit trade and criminal activities, FICCI CASCADE said in a statement.

"Illicit products are adversely affecting Indian industry, risking millions of legitimate jobs," the report said. Citing a report prepared by it, the industry body said the estimated "total loss to

the industry is just seven sectors - auto components, alcoholic beverages, computer hardware, FMCG - packaged goods, FMCG - personal goods, tobacco and mobile phones is ₹1,05,381 crore."

High tariff rates, brand consciousness, lack of awareness, difficult enforcement, cheaper alternatives and demand supply gap are among the major reasons for smuggling in India, FICCI CASCADE said.

### DECCAN HERALD

Nov 08, 2014, Deccan Herald, Bangalore, Size: 32 square, Edition: CHITIZ Page: 12

## Illicit products affecting industry, says report

NEW DELHI, PTI: Illicit products are adversely affecting the Indian industry, risking millions of legitimate jobs and resulting in an estimated loss of ₹1,05,381 crore in just seven sectors, according to industry body FICCI CASCADE.

Citing latest figures, FICCI's anti-smuggling and anti-counterfeiting arm FICCI CASCADE, said illicit trade is also affecting the government revenue and loss to the exchequer in these industries is ₹39,239 crore.

The trade in illicit goods is highly pervasive across countries and sectors. It is estimated that 8% to 10% of global GDP is impacted due to illicit trade and criminal activities, FICCI CASCADE said in a statement. "Illicit products are adversely affecting Indian industry, risking millions of legitimate jobs," it said.

Citing a report prepared by it, the industry body said the estimated "total loss to the industry is just seven sectors - auto components, alcoholic beverages, computer hardware, FMCG - packaged goods, FMCG - personal goods, tobacco and mobile phones is ₹1,05,381 crore."

**The Statesman**

**'India, Pakistan must cooperate to fight drugs and crime'**

**Q&A**



The article discusses the need for India and Pakistan to cooperate in fighting drug trafficking and crime. It mentions that the trade in illicit goods is highly pervasive across countries and sectors, impacting 8-15 per cent of global GDP. The FICCI CASCADE report highlights that illicit trade and criminal activities cost the government's revenue and result in a loss of Rs 39,239 crore in just seven sectors.

**The Statesman**

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**Illicit products affecting industry: Report**

NEW DELHI, 11 NOVEMBER

Illicit products are adversely affecting the Indian industry, risking millions of legitimate jobs and resulting in an estimated loss of Rs 1,05,381 crore in just seven sectors, according to industry body FICCI CASCADE.

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The trade in illicit goods is highly pervasive across countries and sectors. It is estimated that 8-15 per cent of global GDP is impacted due to illicit trade and criminal activities, FICCI CASCADE said in a statement.

**'नकली सामान हैं लाखों नौकरियों के लिए खतरा'**

नई दिल्ली: बाजार में नकली उत्पादों की विक्री से स्थानीय उत्पादकों के कारोबार पर प्रतिकूल प्रभाव पड़ रहा है और इससे अंकेले खात प्रकार के उद्योगों को ही 1,05,381 करोड़ रुपये का नुकसान होने का अनुमान है। उद्योग मंडल फिक्की-कास्केड की एक ताजा रिपोर्ट में नकली सामान की समस्या का यह रूप दर्शाने के साथ यह भी कहा गया है कि इससे इन उद्योगों में लाखों लोगों की नौकरी के लिए भी खतरा पैदा हो गया है। उद्योग मंडल फिक्की की तस्करी और नकली सामान के खिलाफ काम करने वाली इकाई फिक्की-कास्केड के ताजा आंकड़ों के अनुसार, अश्वेध कारोबार से सरकार के राजस्व पर भी असर पड़ रहा है और इससे सरकारी खजाने को सालाना 39,239 करोड़ रुपये का नुकसान हो रहा है। विभिन्न देशों और क्षेत्रों में अश्वेध सामान का व्यापार तेजी से बढ़ रहा है।

**TRINITY MIRROR**

Page 7

**Illicit products affect Indian industry: FICCI**

The article in Trinity Mirror discusses the impact of illicit products on the Indian industry. It states that the trade in illicit goods is highly pervasive across countries and sectors, impacting 8-15 per cent of global GDP. The FICCI CASCADE report highlights that illicit trade and criminal activities cost the government's revenue and result in a loss of Rs 39,239 crore in just seven sectors.



# अवैध और नकली उत्पाद से उद्योगों को बड़ी चपत

**विद्यार्थी-व्यापक ने डिजिटल में सरकार के राजस्व को घाटी बुकबाजार**

दिल्ली, 10 नवंबर (आईएनएस) - अवैध और नकली उत्पादों से उद्योगों को बड़ी चपत है। सरकार के राजस्व को घाटी बुकबाजार के माध्यम से डिजिटल में ले जाने से उद्योगों को बड़ी चपत है। सरकार के राजस्व को घाटी बुकबाजार के माध्यम से डिजिटल में ले जाने से उद्योगों को बड़ी चपत है।



# बाजार में नकली सामान से भारतीय उद्योग परेशान

नई दिल्ली, (आईएनएस) - बाजार में नकली सामानों की वजह से भारतीय उद्योगों को भारी नुकसान हो रहा है। भारतीय उद्योगों को भारी नुकसान हो रहा है। भारतीय उद्योगों को भारी नुकसान हो रहा है।

**रफ्तार से नकली सामानों के लिए सरकार और उद्योगों को मिलकर काम करना होगा।**



# 2022 तक अवैध कारोबार से वैश्विक अर्थव्यवस्था को होगा 12 पीएसडी का नुकसान



नई दिल्ली, 10 नवंबर (आईएनएस) - वैश्विक अर्थव्यवस्था को 2022 तक अवैध कारोबार से 12 पीएसडी का नुकसान होगा। वैश्विक अर्थव्यवस्था को 2022 तक अवैध कारोबार से 12 पीएसडी का नुकसान होगा।

# Contraband, fake goods causing a loss of ₹1 lakh crore to industry: Report

नई दिल्ली, 10 नवंबर (आईएनएस) - अवैध सामानों और नकली सामानों की वजह से उद्योगों को भारी नुकसान हो रहा है। उद्योगों को भारी नुकसान हो रहा है। उद्योगों को भारी नुकसान हो रहा है।



# 'तस्करी जैसे अवैध कारोबार से देश की अर्थव्यवस्था प्रभावित'

नई दिल्ली, 10 नवंबर (आईएनएस) - अवैध कारोबार से देश की अर्थव्यवस्था पर हानिकारक प्रभाव पड़ता है। अवैध कारोबार से देश की अर्थव्यवस्था पर हानिकारक प्रभाव पड़ता है। अवैध कारोबार से देश की अर्थव्यवस्था पर हानिकारक प्रभाव पड़ता है।

सम्मेलन के पाठकों संस्करण का उद्घाटन करते हुए चंडा ने कहा, "जालसाजी और तस्करी का तीन तरह से हानिकारक प्रभाव"

# HOME PAGE





5<sup>th</sup> edition



# MASCRADA 2018

MOVEMENT AGAINST SMUGGLED & COUNTERFEIT TRADE

Ensuring Brand Security for Sustained Businesses and Employment Generation

WEBSITE LINK

5<sup>th</sup> edition



# MASCRADE 2018

Movement Against Smuggles & Counterfeit Trade

Ensuring Brand Security for Sustained Businesses and Employment Generation

5<sup>th</sup> EDITION  
INTERNATIONAL CONFERENCE  
**MASCRADE 2018**

01-02  
NOVEMBER, 2018

SHANGRI-LA'S - EXOS HOTEL,  
NEW DELHI, INDIA

MASCRADE 2018  
MOVEMENT AGAINST SMUGGLES & COUNTERFEIT TRADE  
ENSURING BRAND SECURITY FOR SUSTAINED BUSINESSES AND EMPLOYMENT GENERATION



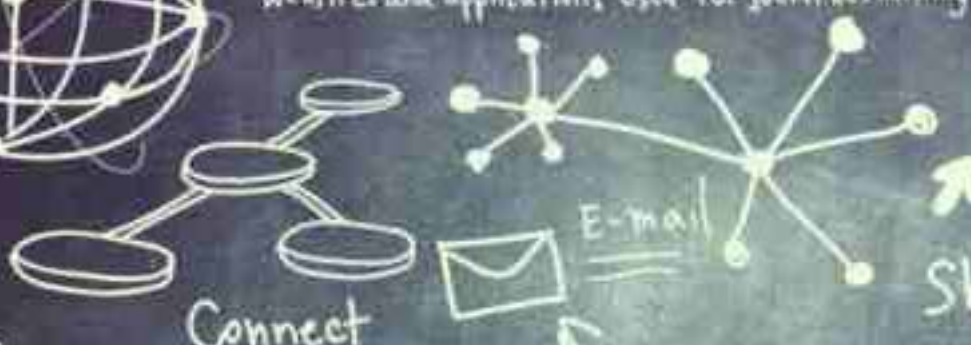


lia

the social interaction among  
they create, share or  
ation and ideas in virtual  
network.



so-cial me-di-a  
noun [treated as sign. or pl.]  
websites and applications used for social networking.



Website

Text

Friends



Internet

SOCIAL  
MEDIA



CLOUD  
COMPUTING



Computer

connected to the Internet  
contains one or more pages on  
Wide Web



ADD FRIENDS

+



COMMUNITY





5<sup>th</sup> edition

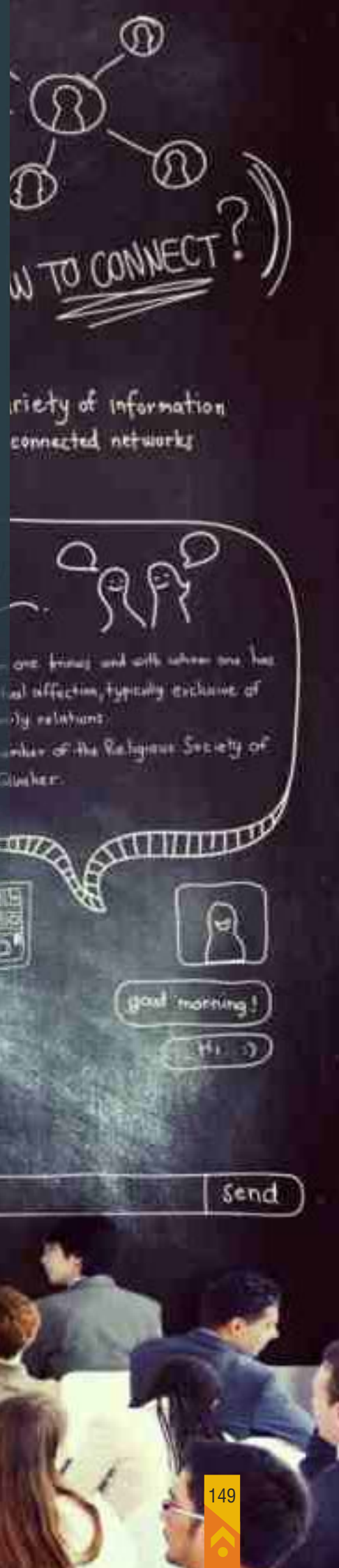


**MASCRADE 2018**

MOVEMENT AGAINST SMUGGLED & COUNTERFEIT TRADE

Ensuring Brand Security for Sustained Businesses and Employment Generation

# SOCIAL MEDIA



friend

- ① a person whom one knows and with whom one has a bond of mutual affection, typically exclusive of level or family relations.
- ② (Friend) a member of the Religious Society of Friends; a Quaker.

## World Wide Web

The world wide web is a system of interlinked hypertext documents that are accessed via the Internet. With a web browser, one can view web pages that may contain text, images, videos, and other multimedia and navigate between them via hyper

This screenshot shows the Facebook profile of FICCI CASCADE (@FicciCascade). The page features a navigation menu on the left with options: Home, About, Photos, Videos, Live videos, Events, Posts, Community, and Info and ads. A green 'Create a Post' button is visible at the bottom of the menu. The main content area displays a video post with the title '#MASCRADE2018'. The video thumbnail shows a speaker at a podium on a stage with a large screen in the background displaying the event's logo and the text 'Ensuring Brand Security for Sustained Business and Employment Generation'. Below the main video are two smaller video thumbnails. At the bottom of the post area, there is a 'See all' link and a 'Posts' section header.

This screenshot shows the same Facebook profile of FICCI CASCADE. The main content area displays a text post from 10 November 2018. The text of the post reads: "The menace of illicit trade is impacting almost 8% to 15% of global trade. Watch the key highlights and invigorating discussions of biggest 'Movement Against Smuggled and Counterfeit Trade' only on TimesNow at 6:30 PM. Repeat: Tomorrow, 7:30 PM. #MASCRADE2018". Below the text is a video thumbnail showing a panel discussion with several men seated at a table on a stage. A large play button is overlaid on the video. At the bottom of the video thumbnail, the text "GROWING MENACE OF ILICIT TRADE" is displayed. Below the video, there is a "32 Views" indicator and a "Posts" section header.

facebook



Like Share Suggest Edits

Like Comment

FICCI CASCADE updated their cover photo.  
12 November 2018

FICCI CASCADE  
@FicciCascade

- Home
- About
- Photos
- Videos
- Live videos
- Events
- Posts
- Community
- Info and ads

Like Comment

Like Share Suggest Edits

FICCI CASCADE  
2 November 2018

"Systematic cure to menace of counterfeiting and smuggling lies in the change of mentality" -Mr. Justice Manmohan Singh Former Lokayukta, NCT of Delhi, Chief Justice, High Court of J & K and Judge, High Court of Delhi.  
#NADSCGRADE2018 #BeACascade  
Federation of Indian Chambers of Commerce & Industry (FICCI)

FICCI CASCADE  
@FicciCascade

- Home
- About
- Photos
- Videos
- Live videos
- Events
- Posts
- Community
- Info and ads





The menace of counterfeiting, piracy and smuggling possess a serious threat to the global economy.  
 -Mr. Deep Chand, Advisor, FICCI CASCADE and Former Special Commissioner of Police, New Delhi  
 #MASCRADE2018 #BeACascader  
 Federation of Indian Chambers of Commerce & Industry (FICCI) Delhi Police



facebook



# twitter

**MASCRADE 2018**



**Cefi Talk On  
Holistic Approaches On  
Brand Protection**

**Mr. Peter Von Drop**  
Regional Director  
Special Development  
Hugoboss

11-12 November 2018  
Singapore Convention Centre, New South

**MASCRADE 2018**



What trade is a big problem for us, being, I encourage everyone speak to your agency or nation about it and try to create more and more awareness about this problem.

**Mr. Felix AVELLAN**  
General Director of ITC, Costa Rica  
Global Supply Management (GSM) Team

FICCI

**FICCI CASCADE** @ficcicascade · 27 Nov 2018  
Photo: @ficcicascade

The issue of counterfeiting and piracy is a very big threat to the global economy and FICCI CASCADE is taking under this in working with its members from 14 countries in the region. Regional and ITC will also be working in strengthening strategies. #MASCRADE2018



**Mr. Divyesh Sethia**  
President, ITC  
Large Market Strategy

**MASCRADE 2018**



**FICCI CASCADE**

Let's Discuss  
Multilateral Response  
to Curb IPRIT

**Mr. Sergey Krut'kov**  
Regional Representative,  
South Asia  
United Nations Office on  
Drugs and Crime (UNODC)

Member Agent  
Smuggling and Counterfeit Goods

11-12 November 2018 Singapore Convention Centre, New South

**FICCI CASCADE** @ficcicascade · 14 Nov 2018  
Photo: @ficcicascade

The initiative that FICCI CASCADE has taken in 2018, is very well timed by UNODC. The problem of counterfeiting and piracy is a global issue and we need to fight for our country. Mr. Felix Avellan, General Intelligence Officer



**Mr. Felix AVELLAN**  
General Intelligence Officer  
INTERPOL

**MASCRADE 2018**



**FICCI CASCADE**

Let's Discuss  
Multilateral Response  
to Curb IPRIT

**Ms. Louise Van Grooten**  
Director  
World Intellectual Property  
Organization (WIPO)

Member Agent  
Smuggling and Counterfeit Goods

11-12 November 2018 Singapore Convention Centre, New South




“When we talk about IP or IPR, there is no doubt about it that small businesses are mostly facing the major problems.”

— Mr. Anshu Aggarwal, IPR, Joint Secretary, IPR, Ministry of Intellectual Property, Government of India

#MASCRADE2018




“India has passed 27 trade & Tariff related treaties. Lot of schemes have been initiated by the Government. We need legislation like (S) - Protection and Enforcement (S) and (S) - (S) to have better brand security. It is the challenge of a brand owner to ensure that the brand is not misused in case of IPR related matters.”

— Mr. Suresh Chhabra, Member, Department of Legal Affairs, Ministry of Law and Justice

#MASCRADE2018




“Terrorism and counterfeiting are increasingly linked. Counterfeiting is the new terrorism.”

— Mr. A. K. Sharma, Member, Department of Legal Affairs, Ministry of Law and Justice

MASCRADE 2018




“Transnational organized crime is a global phenomenon and should be removed on the global level.”

— Mr. Surges Kapoor, Regional Representative, South Asia, United Nations Office on Drugs and Crime

#MASCRADE2018




“Intellectual Property and Investments are key jobs and hence to have trade with China, the most developed economies about which we have little data and data.”

— Mr. Anand Bhat, Member, Department of Legal Affairs, Ministry of Law and Justice

#MASCRADE2018




“The solution for counterfeiters is very good and and the there is very little with right rewards. It is one of the most serious concern. Counterfeit goods cost 400-500 billion in 2017.”

— Mr. Anand Bhat, Member, Department of Legal Affairs, Ministry of Law and Justice

#MASCRADE2018



**MASCRADE 2018**

With most of today's business deals, who says? lots of challenges to law and enforcement agencies just the biggest challenge for us is to produce the big brands.

**Mr. D.P. Dash**  
Mr. Justice (Retired)  
Honourable of Supreme Court of India




**FICCI**

**Hon'ble Mr. Justice Dr. J.S. Khehar**  
Hon'ble Justice (Retired)  
Honourable of Supreme Court of India

**MASCRADE 2018** | 01-02 November, 2018  
Shree Ganga Convention Centre, New Delhi



**FICCI**

**MASCRADE 2018**

**Leveraging Intellectual Property Rights for Economic Growth and Business Competitiveness**

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01-02 November, 2018  
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The poster features the Government of India logo at the top left and the FICCI CASCADE logo at the top right. The central text reads "Watch the telecast" followed by the 5<sup>th</sup> edition MASCRade 2018 logo and tagline. Below this is the TIMES NOW logo. The telecast schedule is listed as November 17, 2018 (Saturday) at 6:30 pm and November 18, 2018 (Sunday) at 7:30 pm. The hashtag #MASCRADE2018 is located at the bottom right. The background of the poster is white with a colorful wave graphic at the bottom.

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