

Committee Against Smuggling and Counterfeiting Activities Destroying the Economy (CASCADE)

CHAIR'S MESSAGE

Inside this Issue



NEWS FLASH



RECENT INITIATIVES



ARTICLE



MEDIA COVERAGE



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The world's fastest growing economic activity is unfortunately one that is having a detrimental impact on trade, employment, innovation, security and health of people living across the length and breadth of the world. This activity is called 'Illicit Trade' and its tentacles have spread so far, that over the last ten years, it has grown from \$650 billion

to nearly \$3 trillion. This illegal business operation represents 10% of the global trade and has been termed as crime of the 21st century by the Federal Bureau of Investigation (FBI).

Since 2013, FICCI CASCADE's flagship international conference has been generating awareness and aiming to find tangible solutions to thwart the evil impact of illicit trade. In view of the increasing threat of illicit trade, both in terms of value and magnitude, FICCI CASCADE is of the opinion that there should be a strong will within the government to make this a national priority with the sole objective of eliminating this evil. In order to get superior results, it is important that there is better coordination between the different departments of the government, this will ensure seamless flow of information and the decision taking time frame will be considerably reduced. Emanating from the deliberations of our last international conference MASCRAGE 2018, we presented 'Recommendations to Combat Illicit Trade' to the government. We hope that the required policy measures are taken to address this socio-economic menace. A comprehensive post conference report highlighting the key issues that were discussed and the recommendations made on the subject has been collated and circulated.

With a view to identify opportunities for joint action between enforcement agencies and industry to combat illicit trade, FICCI CASCADE organized Stakeholder Consultations with Delhi Police, Customs and Directorate of Revenue Intelligence (DRI), where the trends of smuggling and counterfeiting were discussed, concerns of the industry were voiced, measures taken by the enforcement agencies to check such activities were shared and collaborative actions required in addressing this issue were deliberated.

Continuing our state level engagement activities, CASCADE organized a seminar on 'Communication, Coordination and Collaboration - Strengthening the fight against counterfeiting and smuggling' in Lucknow. Mr. Brijesh Pathak, Cabinet Minister, Legislative and Justice, Government of Uttar Pradesh, congratulated FICCI CASCADE for the initiative and extended his support. We also had a very engaging interaction with the police officers of the Anti-Terrorist Squad (ATS), UP Police. The objective was to help the participating police officials

understand the relevant laws and procedures in tackling counterfeiters and smugglers. In addition, an Interactive Session on Strategies to Curb Smuggling and Counterfeiting was organized in Goa. This interaction between the FICCI CASCADE Think Tank members and representatives from the Government of Goa was structured with the intent to facilitate a wider exchange and ensure a multifaceted perspective not only to understand the risks of illicit trade but also search for remedial measures.

We also made our presence felt at the 'Stakeholder Consultations on IPR Violations: Effect on Small Scale Industries and Measures to Curb it' organized by the Centre of Excellence, National Academy of Customs (NACIN), Indirect Taxes and Narcotics, Central Board of Indirect Taxes and Customs (CBIC). CASCADE, has over the years worked closely with NACIN and the CBIC in its campaign against counterfeiting and smuggling.

It is important to note that many media reports have stated that the DRI and other enforcement agencies have been able to catch cigarette smugglers and seize goods worth several crores on a near daily basis. While this is highly commendable, it is also important to mention that the enforcement actions can only have limited success, as ultimately it is the right policy framework which will deliver optimal results in this area.

We hope you will find this informative and an interesting read.

ANIL RAJPUT

Chairman, FICCI CASCADE

NEWS FLASH



Times of India

FICCI lauds US's crackdown on counterfeits

New Delhi: US President Donald Trump has signed a memorandum on combating trafficking in counterfeit and pirated goods aimed at stopping sales of counterfeit products, especially via online platforms. The statement mentions that the department of homeland security in conjunction with the commerce department, the attorney general and other agencies will compose a report with recommendations to combat counterfeit goods in the American marketplace within 210 days.

The report will analyze available data, identify factors and describe any market incentives and distortions that may contribute to third-party intermediaries facilitating trafficking in counterfeit and pirated goods. This report will provide a foundation for any recommended administrative, regulatory, legislative or policy changes in this matter.

A recent study by OECD, trade in counterfeit and pirated products represents 3.3% of world trade. 371

Hindustan Times

FICCI CASCADE SEMINAR

'Counterfeit goods big source of income for criminal activities'

By Correspondent



Minister Brijesh Patel at the FICCI event in Lucknow on Friday.

Lucknow: Trade of counterfeit goods is not only depriving the economy and undermining the welfare of citizens, but it is also a source of income for criminal activities, including drug cartels, and is a major source of revenue for the government, according to a report released by FICCI Cascade (Coalition Against Smuggling and Counterfeit Goods) on Friday.

The report, titled 'Counterfeit Goods: A Major Source of Income for Criminal Activities', was released in Lucknow on Friday. It highlights the significant economic and social impact of counterfeit goods, particularly in the context of the global trade war between the US and China.

The report also highlights that the total import from globally distributed counterfeit goods and pirated products is \$1.4 billion in 2018 and is expected to reach \$1.4 billion in 2022, suggesting an approximate increase of 10%.

Key Chand, advisor, FICCI Cascade and former special...

Minister Brijesh Patel at the FICCI event in Lucknow on Friday, said "Counterfeit goods are a major source of income for criminal activities, including drug cartels, and is a major source of revenue for the government, according to a report released by FICCI Cascade (Coalition Against Smuggling and Counterfeit Goods) on Friday."

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Key Chand, advisor, FICCI Cascade and former special...

AWARENESS THROUGH ART





STAKEHOLDER CONSULTATION

-Developing Strategic Actions Against Smuggling and Counterfeiting-

A Dialogue with Customs and DRI

18 March 2019, New Delhi

With each passing day, the world is becoming more and more interconnected with greater flow of goods, people, capital, information and technology. This provides countries with the opportunity to fast-track economic growth and development through increased international trade. This, on one hand proves to be beneficial to legitimate trade; while on the other hand it also benefits illegal trade, where criminals are making use of more integrated markets to illicitly move goods, people and money across borders. Hence, the new global trade landscape also brings new set of challenges. Customs administrations around the world not only contribute to socio-economic development by facilitating legitimate trade, but also protect national economies and societies against the threats posed by organized criminal syndicates and terrorists.

With a view to identify opportunities for joint action between Customs and industry to combat illicit trade, FICCI CASCADE organized a **Stakeholder Consultation with Customs and Directorate of Revenue Intelligence (DRI)** on 18th March 2019 in FICCI. The principal purpose of the program was to understand the trends of smuggling and counterfeiting, measures taken by the Customs and DRI to thwart such activities and collaborative measures required in addressing this issue.

Mr. D P Dash, Pr. Director General, DRI was the Chief Guest at this consultation. In his address Mr. Dash emphasised on the importance of data while talking about this issue. He said that the quality of data with respect to illicit trade is a matter of concern worldwide and not only in India. The main issue is that data needs to be correct, complete, published on time and also interpreted correctly. Smuggling and counterfeit is a matter of worry with regards to the health and security in a big way and Mr. Dash suggested that we should have different strategic action plans for addressing (i) smuggling, (ii) counterfeiting and (iii) smuggling of counterfeit goods. He also urged the right holders to increase their participation and coordination with Customs.





Mr. O.P. Dadhich, Chief Commissioner of Customs, New Delhi in his address stated that getting information is a challenge as well as the biggest problem for Customs. He further added that tobacco, branded garments, cosmetics and mobile phone accessories are the biggest smuggling items in India.

Mr. Najib Shah, Former Chairman, Central Board of Indirect Taxes and Customs & Member, FICCI CASCADE Think Tank in his address mentioned that Illicit manufactures and non-paying of taxes impact government revenue on a large scale and hence it is imperative that Government must frame policies regarding the subject. Moreover, the problem of counterfeiting and smuggling not only impacts the revenue but also the employment of the country.

Mr. P. C Jha, Former Chairman, Central Board of Indirect Taxes and Customs and Advisor, FICCI CASCADE in his welcome remarks said that the total economic and social costs globally due to Counterfeiting and piracy worldwide stood at Rs. 57.23 lakh crore in 2013 and expected to go up to 119.7 lakh crore by 2022. Mr. Jha mentioned that 65% of the consumers buy counterfeit goods knowingly; hence it is important to change in the mindset of consumers to buy genuine products. Subsequently if consumers were to purchase only against bill- this will reduce the problem by 80%. He further emphasised the need to have stringent penal provisions under Trade Marks Act and Copyright Act to have a deterrent effect.

FICCI CASCADE has been successful in stirring an active debate on the topic nationally through various

awareness programmes and initiatives engaging industry, policy makers, law enforcement officials, voluntary organizations, youth and consumer at large. Among other activities, FICCI CASCADE has been engaging with customs and DRI officials across India in various states highlighting the magnitude of the menace and discussing industry collaborative measures to address this issue. Over the past several years, CASCADE has also felicitated a Best Investigation Officer from the Customs and DRI for their exceptional skills in investigation of counterfeiting and smuggling activities.

This multi stakeholder dialogue apart from understanding the menace caused by illicit goods, also presented an essence of the on ground functioning of industry with customs officials. Some of the key issues deliberated were:

- Ongoing research and data analysis to understand the trends and magnitude of the problem.
- Need for global standards from best practice around the world.
- International cooperation in facilitating exchange of information and intelligence.
- Need for tools and collaborative programs to support customs in the areas of intelligence, capacity building and training.

Leading industries, legal firms, technology providers, consumer organizations and other relevant stakeholders took part in the interactions.

STAKEHOLDER CONSULTATION

-Developing Strategic Actions Against Smuggling and Counterfeiting-

A Dialogue with Delhi Police

28 February 2019, New Delhi



With a view to identify opportunities for joint action between enforcement agencies and industry to combat illicit trade, FICCI CASCADE organized a Stakeholder Consultation with Delhi Police on 28th February 2019 in FICCI. The principal purpose of the program was to share with Delhi Police some of the issues and challenges faced by industry which could help in understanding the real problems faced on ground, and to keep these aspects in mind while taking action against counterfeiters and smugglers.

Mr. Suvashis Chaudhary, IPS, Additional Commissioner of Police, Economic Offences Wing (EOW), Delhi Police was

the chief guest at this consultation. In his address he stated that the problem of counterfeiting and smuggling is growing rapidly. Talking about the scale of the problem, Mr. Chaudhary mentioned that EOW has registered 326 cases in last 9 years. Unfortunately, the EOW is insufficiently resourced to handle the large volumes of such cases. Moreover, mostly, the cases are not taken to its logical end. Unless the criminal is convicted and/or required deterrence is made, this problem will keep growing. He also called for interstate coordination between enforcement agencies, an important area where work needs to be done in order to curb smuggling activities.



Recent Initiatives

The consultation was also addressed by **Mr. Harmohan Chauhan, Assistant Commissioner of Police, District Investigation Unit, Delhi Police**. Mr. Chauhan in his address mentioned that Delhi Police in their endeavor to create mass awareness on the ill effects arising out of counterfeiting and smuggling, has been undertaking several activities to sensitize on this issue and urged industry to come forward and collaborate with the Police on this.

Mr. Deep Chand, IPS, Advisor, FICCI CASCADE and Former Special Commissioner of Police, New Delhi in his welcome remarks stated that it has been estimated that 8%-15% of global GDP is impacted due to illicit trade and criminal activities. With a growing economy, India also faces the challenge of countering illicit trade in smuggled & counterfeit goods. Mr. Chand highlighted the following key concerns of the enforcement machinery in India and requested prioritizing this issue with the Police.



- The scale of illicit markets is huge and the criminal networks and illicit markets continue to thrive
- Limited resources & are overstretched capacity
- Lack of knowledge/training of Intellectual Property Rights
- Counterfeiting and smuggling is not a priority for enforcers and regulators
- Lack of effective exchange of information and assistance
- Inadequate technical and administrative tools to support agencies in strengthening international, regional & national law enforcement strategies

The linkages of terrorism and illicit trade was also discussed in detail where it was found that Interestingly, during the past few decades, leading intelligence and law-enforcement agencies around the world have found conclusive evidence of the increasing involvement of terrorism organizations in illicit trading activities such as counterfeiting and smuggling to fund terrorist activities. While several outfits are transferring

portions of their proceeds to terrorist organizations, some of these are set up for the sole purpose of financing terrorism. Smuggling of drugs, luxury goods, cigarettes, etc. is a major source of contribution to funding extremist groups. Similarly, illicit trade is used by terrorist organizations to raise funds and launder proceeds from other businesses, and use these to finance terrorism. Investigations by law enforcement agencies the world over have revealed that smuggling of gold, cigarettes, oil, precious gems and stones, music and film DVDs, narcotic drugs, etc., are the major contributors to financing of terrorism.

Mr. Anil Rajput, Chairman, FICCI CASCADE in his closing remarks, invited all the stakeholders to collaboratively work together to fight the menace of smuggling and counterfeiting. Industry collaboration, use of right technology, deterrent rules, and stringent enforcement alone will not be able to solve the problem. What is required is an orchestrated strategy which will require cooperation and innovation from the government, industry, enforcement systems and all relevant stakeholders working closely together in mitigating this challenge.

FICCI CASCADE has been successful in stirring an active debate on the topic nationally through various awareness programmes and initiatives engaging industry, policy makers, law enforcement officials, voluntary organizations, youth and consumer at large. Among other activities, FICCI CASCADE has been organizing capacity building programs for police officers in various states, equipping them to understand the menace and take requisite actions against counterfeiters and smugglers. Over the past several years, CASCADE has also felicitated a Best Investigation Officer from the Economic Offences Wing of Delhi Police for their exceptional skills in investigation of counterfeiting and smuggling activities.

This multi stakeholder dialogue not only deepened the understanding on the menace of illicit goods but also discussed on ground issues while investigating such crimes related to counterfeiting and smuggling both from the perspective of the police and from the industry. Industry, legal firm, technology providers, consumer organizations and other relevant stakeholders took part in the interactions. The discussions in the consultation aimed to develop a better enforcement ecosystem to protect the interest of brand owners in India.

INTERACTIVE SESSION

- Strategies to Curb Smuggling and Counterfeiting -

13 March 2019, Goa



S muggling and counterfeiting which are termed as illicit trade is today the biggest challenge facing our country. It is also the world's largest growing economic menace. Owing to its rather complex nature, its size is hard to determine. However, various estimates suggest that over the last ten years, the magnitude of illicit trade has grown from USD 650 billion to about USD 3 trillion, and this criminal activity represents 10 per cent of the global trade, being rightly termed by the FBI as the 'crime of the 21st century'.

It is evident that the hazards of illicit trade are serious which needs to be dealt with sincere commitment leading to result-oriented effective steps addressing this challenge. In order to brain storm on strategies needed to address the problem, FICCI CASCADE organized an Interactive Session on Strategies to Curb Smuggling and Counterfeiting on 13th March 2019 in Goa. This interaction between FICCI CASCADE Think Tank members and representatives from the Government of Goa was organized with the intent to facilitate a wider exchange and ensure a multifaceted perspective to not

only understand the risks caused by illicit trade activities but also search for remedial measures to contain this concern.

Mr. Anil Rajput, Chairman, FICCI CASCADE, in his opening remarks, stated that with the opening up of the Indian economy in 1991, branded goods made their way into India and there was a clear element of glamour attached to them, which led to a spike in aspirations, especially for the middle-class population. While many products are being 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. The criminal networks behind this operate across national borders in activities that include the manufacture, export, import and distribution of smuggled products. Mr. Rajput also highlighted the fact that smuggled goods result in export of jobs and have a detrimental impact on the employment opportunities of the local habitant and



hence, this issue needs to be stressed upon and highlighted adequately.

Mr. P. C. Jha, FICCI CASCADE and Former Chairman, Central Board of Indirect Taxes and Customs in his address stressed upon the issue of inadequate penal provisions and delayed prosecution/adjudication proceedings which failed to create the desired deterrence with regards to this crime. Moreover, it is also seen that industry do not fully cooperate during investigations and prosecution. More proactive and dedicated actions are needed to be taken by the affected industry, he emphasized.

The discussants from the Government included Mr. Pranab Nanda, Director General of Police, Goa, Mr. K Anpazhakan, Commissioner, GST, Goa, Mr. Satish Pattapu, Joint Director, DRI, Mumbai Zonal Unit and Mr. Nilotpal Mrinal, Commandant, Central Industrial Security Force.

The members from FICCI CASCADE Think Tank included Mr. Hem Kumar Pande, Former Secretary, Ministry of Consumer Affairs, Mr. Anil Sinha, Former Director CBI, Mr. Sanjeev Tripathi, Former Chief of RAW, Mr. Najib Shah, Former Chairman, Central Board of Indirect Taxes and Customs, Mr. Vikram Srivastava, Former DG, CRPF, Ms Kameswari Subramanian, International Expert Customs Law Procedures and Trade Facilitation and Mr Narendra Sabharwal, Former DDG, WIPO, & Chairman FICCI IPR Committee.



The interactions identified that the action required to address this menace had many elements, starting with greater vigil at the borders. With illicit trade being a worldwide phenomenon, bilateral and multilateral engagements between nations would ensure greater difficulty, if not immobility, of smuggled & counterfeit products from one nation to another. The second stage was strengthening the enforcement agencies and working towards designing better legal system to address this challenge. Punitive action coupled with the right policy framework that dis-incentivizes this entire activity would deter such illegitimate operators from making repeated attempts. Finally, the focus should be on consumers who need to be made aware of the detrimental impact of such spurious goods. Consumer awareness campaigns that explain how to differentiate a fake product from a genuine one, to demanding a copy of the bill from the seller, along with the harmful consequences of buying illegal products vis-a-vis the genuine, needs to explicitly be conveyed.

COMMUNICATION, COORDINATION AND COLLABORATION

-Strengthening the fight against counterfeiting and smuggling-

22 February 2019, Lucknow

Illicit trade costs billions of dollars in tax revenues, diminishing legitimate business revenues, distorting economies, eroding social fabric and fueling organized crime. In order to lower the incidence of such illegal trading activities, we need a coordinated response from all stakeholders, bridge the enforcement gaps which can be exploited by criminal networks, reassess capacities to counter illicit trade, and identify areas which yield greatest public benefit and awareness.

Illicit trade is a major concern worldwide. To address this issue, FICCI CASCADE (Committee Against Smuggling and Counterfeiting Activities Destroying the Economy) organized a seminar on 'Communication, Coordination and Collaboration - Strengthening the fight against counterfeiting and smuggling' on 22 February 2019 in Lucknow. The seminar was organized to provide stakeholders with the tools, information and capacity needed to tackle illicit trade.

Mr. Brijesh Pathak, Cabinet Minister, Legislative and Justice, Government of Uttar Pradesh, the chief guest at the seminar, congratulated FICCI CASCADE for the initiative on curbing illicit trade and extended his support in working collaboratively with the industry body. He further urged that the industry should come out with the set of recommendations for due consideration while designing future policies. The minister emphasized that with adequate and necessary support from the general public, the government will be better equipped to fight

the hazards of smuggling and counterfeiting and in making new laws on the subject.

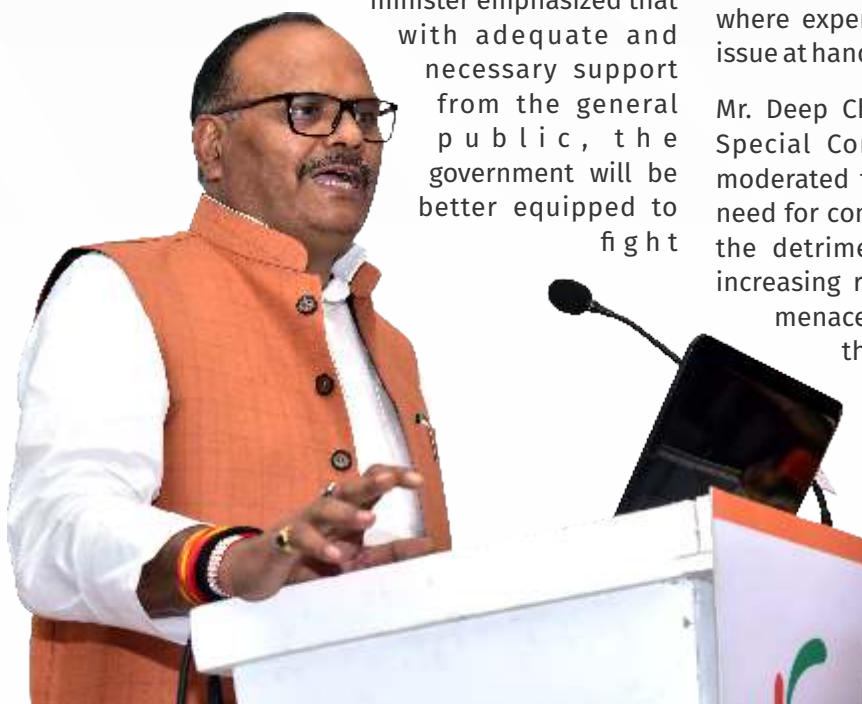
Mr. Amar Tulsian, Managing Director, Shudh Plus and Member, FICCI Uttar Pradesh State Council, in his welcome address, highlighted how counterfeiting and smuggling were adversely impacting industries, consumers, government and the Indian economy as a whole. It was very important that the need for safeguarding the rights of legitimate industry was kept in view to help develop competitiveness in various sectors of the economy, Mr. Tulsian emphasized.

Mr. P. C. Jha, Advisor, FICCI CASCADE and Former Chairman, Central Board of Indirect Taxes and Customs, stated "In the last twenty years, the volume of counterfeiting activities globally has increased 100 times and the size of trade in counterfeited goods is 10% of the legal international trade (around 2% of the world's overall economic output). The problem of illicit trade is much more serious than it is commonly perceived". Mr. Jha also highlighted that in India around 20% of road accidents occurred due to fake auto parts.

The seminar also held panel discussions on 'Organized Crime Surge in India – Role of Enforcement Agencies in Combating Smuggling and Counterfeiting' and 'Role of Government and Industry to Fight Against Smuggled & Fake Products and Ensuring Consumer Protection', where experts from various fields deliberated on the issue at hand.

Mr. Deep Chand, Advisor, FICCI CASCADE and Former Special Commissioner of Police, New Delhi, who moderated the panel discussions, emphasized on the need for consumers being continuously made aware of the detrimental impact of illicit products and the increasing role of enforcement agencies to curb this menace. He said that awareness campaigns explain the consumers on how to differentiate a spurious product from a genuine one and emphasized on demanding a copy of the bill from the seller for every purchase, along with the harmful consequences of buying illegal products vis-a-vis genuine ones.

The problem of counterfeiting and smuggling can be only be solve when



society will recognize it as serious threat to the nation emphasized, Mr. Nilabja Choudhary, IG, PAC, UP Police Lucknow. Mr. A R Naik, Additional Commissioner, Customs (P), stressed on the need to have a multi-disciplinary approach to encounter this challenge. Mr. V K Singh, Additional Director, Directorate of Revenue Intelligence said that society at large, trade & industry and enforcement machinery should work together to fight this major issue.



Mr. Tanmay Jaswal, Founder & Director Chkfake Brand Protection Solution Pvt. Ltd while speaking on “Defending Your Brand - Product Authentication as an Element of the Global Brand Protection Strategy” highlighted that counterfeited medicine contributed to an estimated loss of USD 46 billion annually to pharmaceutical companies worldwide.

Mr. Sanjay Gupta, President, U.P. Adarsh Vyapar Mandal, pointed out that counterfeit products were available

across all industries and emphasized on the need for education and support from citizens to combat this evil. Mr. Vijay Acharya, Founder President, Bharat Jyoti-Consumer Forum, affirmed his support to FICCI CASCADE in its nationwide awareness campaign to protect consumers rights in terms of health and safety, and proposed extending this drive to the remotest areas in the state. Mr. Sanjay Abhigyan, Senior Editor, Amar Ujala underlined the role of media in highlighting this critical issue more prominently. Mr. Tikaram Rawat, Designated Officer, Food Safety and Drug Administration, Govt. of UP urged the consumers to be more vigilant towards the issue of counterfeiting and smuggling, observing that if the consumers become growingly aware of the matter and begin looking at it seriously, the problem could be addressed effectively to a large extent.

The event witnessed enthusiastic participation of the stakeholders present in the seminar, including representatives from the government and enforcement agencies, consumer activists, media personnel, industry and legal experts. Over 200 people attended the seminar that saw intense interaction with delegates demonstrating an active interest in the issue. The program concluded with a consensus that to mitigate this global risk, both public and private sector decision makers needed a firmer understanding of the problem, the nature of its economic impact and a clearer comprehension of the conditions that enabled it.

Subsequently, on 23 February 2019, FICCI CASCADE organized a capacity building program on the Prevention of Counterfeiting and Smuggling, specifically for the U.P. police officers at the Anti-Terrorist Squad (ATS) Headquarters, UP Police. The objective was to help the participating police officials understand the relevant laws and procedures in tackling counterfeiters and smugglers. Mr. Deep Chand, while discussing the subject, said that “According to a recent study, the total value of counterfeited and pirated goods, which in the

year 2013 was USD 923 billion, has been forecasted to touch USD 2.81 trillion by 2022”. He also pointed out that the illegal money which was being diverted to organized crimes including human trafficking, smuggling and terrorism, was generated through illicit trade. The training programme was attended by over 50 U.P. police officers and provided a useful platform for the exchange of ideas and experiences in the enforcement of laws and practices while dealing with counterfeited and smuggled products.



Police Officers Training - 23 Feb 2019, Lucknow



ANIL RAJPUT
Chairman, FICCI CASCADE

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 in 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.

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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, ITCLtd and Chairman, FICCI CASCADE. The views expressed here are personal.

The world's fastest growing economic activity is unfortunately one that is having a detrimental impact on trade, employment, innovation, security and health of people living across the length and breadth of the world. This activity is called 'Illicit Trade' and its tentacles have spread so far, that over the last ten years, it has grown from \$650 billion to nearly \$3 trillion. This illegal business operation represents 10% of the global trade and has been termed as crime of the 21st century by the Federal Bureau of Investigation (FBI).

Beyond the numbers, there is another deadly impact of illicit trade, its direct relation to funding terrorist organizations and thereby giving teeth to their sinister plans. Today, the most dreaded terror organizations rely heavily on the proceeds from illicit trade. The Islamic State (ISIS) is into the illicit trade of cigarettes, oil and mobile phones, Hezbollah deals in medicine and drugs, Al-Qaeda in clothing and bags, The Irish Republican Army (IRA) focuses on pirated discs and clothing, while Hamas prefers drugs and food products. In 2017, six out of the eight deadliest terror attacks in the world that claimed the lives of 1500 people were planned, financed and executed by ISIS, Al-Qaeda and Taliban and according to the Global Terrorism Database of the University of Maryland, 2016, these terror outfits are responsible for 70% of the world's terror victims. Illicit trade therefore is the fuel that powers the terror machine. It threatens the peace and stability of regions worldwide, no nation is insulated from its vicious impact, in this context, countries need to join hands and address it as a matter of immediate priority.

With its impact on brand India increasing by the day, FICCI decided to confront this problem head on and decided to dedicate a forum by establishing a Committee Against Smuggling and Counterfeiting Destroying the Economy (CASCADE). This works closely with the industry, consumers, media, legal experts, consumer organizations and government to create awareness about illicit trade and emphasize on the urgent need for collective action. In a first of a kind report released by FICCI CASCADE in 2015, the impact of illicit trade on 7 key sectors in India namely

Countering Illicit Trade

automobile parts, FMCG (personal and packaged goods), alcoholic beverages, tobacco, mobile phones and computer hardware, the estimated loss to the industry was about Rs.105,381 crore and loss of revenue to the government was Rs.39,239 crore.

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 among others to fight the cause 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 organizing international conferences to generate awareness, find tangible solutions and chalk out a sustainable road map to thwart the evil impact of illicit trade. In view of the increasing menace of illicit trade, both in terms of value and magnitude, FICCI CASCADE is of the opinion that there should be a strong will within the government to make this a national priority with the sole objective of eliminating this evil. In order to get superior results, it is important that there is better coordination between the different departments of the government, this will ensure seamless flow of information and the decision taking time frame will be considerably reduced. Emanating from the deliberations of the international conference, the following recommendations have been forwarded to the government:

- **PMO and Cabinet Secretariat:** Setting up of an umbrella body i.e. a multi-agency centre at the Prime Minister's office and the Cabinet Secretariat. Its objective will be to share intelligence, enhance cooperation, make policy recommendations, capacity building and liaison with national and international bodies. This could be done by establishing a new set-up or revamping existing set-ups such as Central Economic Intelligence Bureau (CEIB) to have an effective organization. This proposed set-up would have a centralized body at the helm, with two Wings. A Planning and Policy Wing with Chief Justices and Judges, Secretaries in Ministries and Economists as members, the second would be an Operation and Execution Wing which would include representatives from the enforcement agencies.
 - **Ministry of Home Affairs:** Imparting special knowledge to the investigating officers through capacity building under the IPR related cases is important and it is therefore recommended that a national and regularized system of capacity building for police officers on the negative impact of economic offences, needs to be in place. There is also lack of manpower in the special cells of the police force and it is recommended that additional manpower with the desired aptitude be provided to these cells, with the sole purpose of investigating IPR related cases. The investigating officers should have specialized training on technical issues so that they are able to understand the technical evidence and do justice with the investigation. Developing tailor made training programmes is another priority, these will help the investigating officers to focus on special requirements of the area of operations.
 - **Ministry of Finance:** In the current reward scheme of the CBIC, monetary rewards are given to informers and enforcement officers for their role in detection and follow up actions, however, the quantum of reward available for distribution is linked to the sale proceeds of smuggled goods. In addition, a recent instruction pertaining to cases of tobacco products, where they are not to be sold but destroyed on completion of the case and therefore no sale proceed amount is available for giving the monetary reward. It is suggested that like in the case of narcotics, where the government has a scheme for reward, a similar scheme may be extended to tobacco products as well.
- The government has to strike the right balance while fixing the tax rates, it needs to be understood that wherever the tax rate is higher, evasion of such goods

increases and the availability of such products becomes higher in the illicit market, this goes against the objectives of the government, it is therefore recommended that a proper balance must be maintained in the taxation policy while fixing tax rates that takes into account all the related factors.

- **Ministry of Human Resource Development:** India is the youngest nation in the world, children are becoming key stakeholders for advocating socially responsible behaviour, it is important to raise their awareness on the issue of illicit trade, we recommend that the causes, ill-effects and magnitude of illicit trade be incorporated in the educational curriculum of the middle and senior school as a chapter in the social sciences text books.
- **Ministry of Commerce and Industry-** Department for Promotion of Industry and Internal Trade: At present, the penal provisions provided in the applicable laws such as Copyright Act, 1957 and the Trade Marks Act, 1999 are not adequate, we recommend that like in 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 along with imprisonment of up to 7 years. This will go a long way in disincentivising people from participating in illicit trade.
- **Ministry of Consumer Affairs:** Consumer awareness with regard to illicit trade leaves a lot to be desired, while some work has been done, it is recommended that a well-defined multimedia strategy be designed using various platforms like Twitter, Facebook, Advertisements in cinema halls, mass SMS and so on. In-addition the finances available under the Consumer Welfare Fund of the government could be allocated for effective consumer awareness on illicit trade.

In conclusion, its critical to understand that it's not just the financial losses that result from illicit trade, but also the intangible losses which have far reaching implications for the society in terms of law and order and change in mind-set towards crime, this cannot be quantified but has deep rooted implications on the development of civic society and has adverse, far reaching, long term impact on the nation. I'm confident that the government will take effective measures in the years to come which will enable a healthy environment and create a policy set-up that discourages the growth of illicit trade in the country.

Anil Rajput, Chairman, FICCI CASCADE

FICCI CASCADE's Recommendations to Government of India

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:



Recommendations

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.

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

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.

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

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.

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.

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.

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.

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.

POST CONFERENCE REPORT



5th Edition MASCRADe 2018

MOVEMENT AGAINST SMUGGLERS & COUNTERFEIT TRADE
Ensuring Brand Security for Sustained Businesses and Employment Generation

KEY DELIBERATIONS

Hon'ble Mr. Justice Arjan Kumar Sikri
Judge Supreme Court of India and Former Chief Justice, Punjab and Haryana High Court

Provisions of Indian IP Laws are of international standard and they are TRIPS compliant. The issue is on enforcing them 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 violation is 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

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 products is profit drivers that without spending on advertisement, without spending on R&D, the seller still wants to sell the goods. Therefore, we need to disincentivize. 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 laws 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 relief.

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 appointed 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.

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/imitate)
- 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 counterfeiters. 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.

Mr. Najib Shah
Former Chairman, Central Board of Indirect Taxes and Customs

Trade is a matter of great concern. There is a universal agreement that illicit trade is bad and the problem is homogeneous 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 competition through multiple customs rationalization.

Ms. Louise Van Greunen
Director, World Intellectual Property Organisation (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 9 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 shift appreciation for the value of intellectual property as a tool for development.

In international legal framework on IP enforcement Article 9 of the Paris Convention for the Protection of Industrial Property and Article 12.14 of the Berne Convention for the Protection of Literary and Artistic Works 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 consensus 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.

Mr. Peter Van Dorp
Regional Director, Sweetwater Development Ltd., Hong Kong

Smuggling, counterfeiting and parallel exports in India has increased over a period of time. We need 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 united 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 us as 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. Rajiv Aggarwal, IAS
Joint Director, Department of Industrial Policy & Promotion, Ministry of Commerce and Industry, Government of India

Illicit trade is no longer an issue which is confined to the geographical borders of any country. It transcends these borders and one needs 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 issue globally as one body's IP by intellectual property 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 infringing 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, reduce the bottle necks in the entire process of registration and ensure certainty to people's business on the basis of their IPR. The government should work with industries across sectors, and not only providing the enabling environment to protect their IP and IPRs, to enforce them but also to leverage them, commercialize them and take them forward.

Mr. Narendra Sabharwal
Chairman, IPR Cell, Government of India, Former Deputy Director General, WIPO

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 IPR system which complements 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 violators 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, pharmaceuticals 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

MEDIA COVERAGE



नकली सामानों से आम लोगों की सेहत को खतरा

फिक्की कैसकेड व व्यापार मंडल की ओर से आयोजित सेमिनार में विशेषज्ञों ने किया अगाई

अमर उद्योग श्रृंखला

लखनऊ। बाजार में हर तरह की नकली सामानों की बिक्री बढ़ रही है। यह नकली सामानों से आम लोगों की सेहत को खतरा डाल रहा है और ऐसे ही नकली सामानों से स्वास्थ्य को खतरा डाल रहा है। नकली सामानों से स्वास्थ्य को खतरा डाल रहा है। नकली सामानों से स्वास्थ्य को खतरा डाल रहा है।

विशेषज्ञों ने नकली सामानों से स्वास्थ्य को खतरा डाल रहा है। नकली सामानों से स्वास्थ्य को खतरा डाल रहा है। नकली सामानों से स्वास्थ्य को खतरा डाल रहा है।

सेमिनार में अमरीकन एम्बेसी में आयोजित कार्यक्रम

नकली सामानों से स्वास्थ्य को खतरा

FICCI lauds US Government's crackdown on counterfeits

PNS ■ NEW DELHI

US President, Donald Trump has signed a memorandum on Combating Trafficking in Counterfeit and Pirated Goods which is aimed at stopping the sales of counterfeit products especially via online platforms. The statement mentioned that the Department of Homeland Security in conjunction with the Commerce Department, the attorney general and other

ketplace within 210 days. The report will analyze the available data, identify the factors and describe any market incentives and distortions that may contribute to third party intermediaries facilitating trafficking in counterfeit and pirated goods. This report will also provide a foundation for any recommended administrative, regulatory, legislative or policy changes in this matter. As per the recent study issued by OECD, trade in

'जागरूकता से ही रुकेगी जालसाजी'

जास, लखनऊ : अर्थव्यवस्था को नष्ट कर रही जालसाजी और तस्करी जैसी गतिविधियों के खिलाफ लड़ाई को मजबूत करने के लिए संवाद, सहयोग और गठजोड़ पर सेमिनार का आयोजन किया गया। फिक्की कास्केड की ओर से गोमती नगर स्थित होटल में आयोजित कार्यक्रम में जालसाजी और तस्करी के खतरों के प्रति जागरूकता बढ़ाने के महत्व और भारत के आर्थिक विकास के लिए प्रभाव प्रवर्तन की जरूरत पर विमर्श हुआ। मुख्य अतिथि एवं विधि व न्याय मंत्री ब्रजेश पाठक ने जोर दिया कि उद्योग जगत इस संबंध में अपनी सिफारिशें दे। भविष्य में नीतियां बनाते समय इन्हें संज्ञान में लिया जाएगा।

Engineering the Fight against Counterfeiting and Smuggling

22 February 2019

जाली और पायरेटेड सामग्री के खिलाफ अमेरिकी प्रशासन सख्त

नई दिल्ली। भारतीय वाणिज्य एवं उद्योग महासंघ (फिक्की) ने अमेरिकी प्रशासन के उस कदम की सराहना की है जिसमें ऑनलाइन प्लेटफॉर्म पर हाल में जाली व पायरेटेड वस्तुओं की बड़े पैमाने पर हो रही बिक्री/तस्करी पर अंकुश लगाने के लिए राष्ट्रपति डोनाल्ड ट्रंप ने एक मेमोरेंडम पर हस्ताक्षर किया है। वहां 210 दिन के भीतर एक रिपोर्ट तैयार करेगा, जिसमें अमेरिकी मार्केट में जाली वस्तुओं के कारोबार से लड़ने के तरीकों पर विचार किया जाएगा। एक अध्ययन के मुताबिक, वैश्विक कारोबार में जाली वस्तुओं की बिक्री प्रतिशत

जालसाजी व तस्करी के खिलाफ बनेंगी नीतियां, चलेगा अभियान

की जरूरत विमर्श हुआ कार्यक्रम मुख्य अतिथि एवं उद्योग प्रशासन के विधि एवं न्याय मंत्री ब्रजेश पाठक ने जोर दिया कि उद्योग जगत इस संबंध में अपनी सिफारिशें दे। भविष्य में नीतियां बनाते समय इन्हें संज्ञान में लिया जाएगा। फिक्की स्टेट काउंसिल सदस्य एवं उद्योग के एग्जीक्यूटिव्स को प्रेरित किया।

दिल्ली न्यूज नेटवर्क

लखनऊ। फिक्की कास्केड (अर्थव्यवस्था को नष्ट कर रही जालसाजी और तस्करी जैसी गतिविधियों के खिलाफ लड़ाई) ने शुरुआत के लिए जालसाजी एवं तस्करी के खिलाफ लड़ाई को मजबूत करने के लिए संवाद, सहयोग एवं गठजोड़ विषय पर सेमिनार का आयोजन किया। सेमिनार में जालसाजी और तस्करी के खतरों के प्रति

Media Coverage



INTERNATIONAL NEWS

1. Leicester man jailed after gang caught with 1.2 million illegal cigarettes.

13, January 2019 | Leicester Mercury

A man from Leicester caught red-handed in a car park has been jailed for his role in a huge cigarette smuggling plot.

Atlaf Umarji was a member of a gang which was arrested with more than 1.2 million non-duty paid cigarettes outside a Little Chef in the Stoke area in January 2014.

The operation, led by HM Revenue and Customs (HMRC) investigators, resulted in the seizure of a haul of 777 branded cigarettes, worth more than £600,000 in unpaid duty.

Umarji, of Gwendolen Road, attempted to escape in a van and was filmed throwing cigarettes out of the window as he drove away, HMRC said.

The 50-year-old and his accomplices - Paul Taft, Surinder Heer and Mark Taylor - appeared at Stoke Crown Court last week and pleaded guilty to fraudulent evasion of excise duty.

<https://www.leicestermercury.co.uk/news/leicester-news/leicester-man-jailed-after-gang-2420428>

2. China Breaks Counterfeit Goods Ring Worth 100 Million Yuan.

March 21, 2019 | BOF

Chinese police have arrested 32 members of a group they said made and sold up to 100 million yuan (\$14.9 million) worth of counterfeit luxury goods from brands such as Louis Vuitton and Loewe, state news agency Xinhua said. The case highlights the challenge faced by brands in China, whose products, such as cosmetics, and even automobiles, run the risk of being copied. Police in the commercial capital of Shanghai also closed two assembly lines used to make the counterfeits and seized more than 4,000 bags, clothes and accessories, each of which they said cost the group 200 yuan to make. Authorities launched the investigation last year, following a tip that knock-off luxury handbags were being sold on Chinese mobile messaging app WeChat, which is operated by Tencent Holdings.

<https://www.businessoffashion.com/articles/news-analysis/china-breaks-counterfeiting-ring-that-sold-100-million-yuan-of-branded-goods>

3. Destroying illicit goods cost Revenue more than €170,000.

March 18, 2019 | The Times

The Revenue Commissioners has spent more than €170,000 shredding illegal cigarettes, destroying fake branded goods and getting rid of illicit alcohol over the past three years. The costs are part of more than €2.8 million spent managing illegal goods that were seized during operations between 2016 and 2018. Figures reveal how an average of €875,000 is spent by Revenue each year keeping the State Warehouse running. The warehouse is used to store illegal cigarettes and alcohol, along with other items, with €2.625 million spent on employee salaries, collection and transport of seized goods, security, cleaning and other costs. Illegal alcohol is disposed of when a sufficient amount is available, usually between 15 and 20,000 litres, according to the Revenue Commissioners.

<https://www.thetimes.co.uk/article/destroying-illicit-goods-cost-revenue-more-than-170-000-v9hnmrdfk>

NATIONAL NEWS

1. Gold Worth Rs. 6.8 Crore Smuggled Into India From Dubai, Sri Lanka Seized.

16, January 2019 | NDTV

The Directorate of Revenue Intelligence (DRI) has arrested four people for allegedly trying to smuggle gold valuing about Rs. 6.88 crore into the country from Dubai and Sri Lanka, according to an official statement issued today.

All the four accused -the kingpin, his aide and close relative, and two carriers -- have been remanded in judicial custody, it said.

Acting on inputs, the DRI officials on Tuesday seized 20.6 kg gold, valued at Rs.6,88 crore, kept hidden by the syndicate at a residential premises in the city, the statement issued by the agency said.

A BMW car used to deliver the smuggled gold and Rs. 21 lakh were also seized, it said.

"Interrogation of the apprehended persons revealed that the Chennai-based kingpin, a resident of Choolaimedu, used to organise operatives who would work in the domestic sector to various airports, collect gold bars from transit passengers at the respective airports and carry them back to Chennai in the domestic sector and hand them over to the kingpin and his aides," the DRI said.

<https://www.ndtv.com/india-news/rs-6-8-crore-worth-gold-smuggled-into-india-from-dubai-sri-lanka-seized-1978468>

2. Smuggled cigarettes seized in city.

21, January 2019 | Times of India

GUWAHATI: City police have seized nine cartons of foreign-made cigarettes worth several lakhs while the consignment was being allegedly smuggled to Delhi. The seizure was made in Boragaon area here. Three persons, including one person from New Delhi and another person from Tripura, were nabbed for allegedly trying to smuggle the consignment. Sources said the cigarettes had been brought from Myanmar.

"Acting on a tip-off, the sleuths nabbed the trio with the illegal items in the city while they were on their way from an interstate bus terminus to Kamakhya railway station, from where they were supposed to smuggle the cigarettes to New Delhi," said city police sources. The nabbed persons have been identified as Srimanta Das of Guwahati, Anurag Chandil of Delhi and Chaibon Das of Tripura.

"As these cigarettes are not duty-paid and many brands have price tags in foreign languages, traders make quite a profit," sources added.

<https://timesofindia.indiatimes.com/city/guwhati/smuggled-cigarettes-seized-in-city/articleshow/67621399.cms>

3. Quantum jump in gold seizure at airports

April 3, 2019 | The Hindu

Spurt in seizure of cigarettes and foreign currency too. The State witnessed an unprecedented gold rush through all its international airports in the just-concluded financial year going by the statistics drawn up by the Customs Department. The number of cases for gold smuggling went up from 242 in 2017-18 to 1,102, an increase of 455%. The quantity of gold seized also made a quantum jump from 103.57 kg to 417.49 kg, registering a staggering increase of 404%.

<https://www.thehindu.com/news/national/kerala/quantum-jump-in-gold-seizure-at-airports/article26726708.ece>



6th edition

**MASCRADA 2019**MOVEMENT AGAINST **SMUGGLING & COUNTERFEIT TRADE****Containing Counterfeiting, Smuggling and Piracy: A Winning Strategy****26-27, September 2019, The Hyatt Regency, New Delhi**

**Capacity Building Programme
for Police Officers
on
Prevention of Counterfeiting,
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**Seminar on
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-Strengthening the Fight Against
Counterfeiting And Smuggling-
June 2019, Kolkata



In the recent past India's economic growth story has attracted world's attention bringing new challenges for the domestic economy. One of the challenges currently faced is the growing illicit trade in counterfeits, pass offs and smuggled goods. These activities are also threatening brands not only in every region of the country but across the globe. Contraband and counterfeit products hurt the integrity of the brand, further diluting the brand owner's reputation. This not only results in erosion of sales of the legitimate product but further [CASCADE]s onto affect the consumers in the form of health and safety hazards. With the above insight the Federation of Indian Chambers of Commerce and Industry (FICCI) took the initiative to dedicate a forum by establishing the Committee Against Smuggling and Counterfeiting Activities Destroying the Economy - CASCADE on 18th January, 2011.

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