

# **DUBAI DECLARATION**

## **Fourth Global Congress on Combating Counterfeiting and Piracy Dubai, U.A.E. 3-5 February 2008**

### **OVERVIEW**

The Fourth Global Congress on Combating Counterfeiting and Piracy, hosted by Dubai Customs, was convened by the World Customs Organization (WCO), the International Criminal Police Organization (INTERPOL), and the World Intellectual Property Organization (WIPO) in partnership with the International Chamber of Commerce (ICC) through its Business Action to Stop Counterfeiting and Piracy (BASCAP) initiative, the International Trademark Association (INTA), and the International Security Management Association (ISMA).

Underscoring the importance of counterfeiting and piracy, both globally and across the Gulf region, the Congress was held under the patronage of His Highness Sheikh Mohammed bin Rashid Al Maktoum, Vice President and Prime Minister of the United Arab Emirates and Ruler of Dubai.

The Congress attracted over 1,200 delegates representing 90 countries from around the world. Notably, roughly one-third of the participants represented companies and organizations from Dubai and the GCC region.

Heads of international organizations and government leaders, senior representatives of customs and police, business executives and experts from around the world shared their experiences and identified concrete actions and solutions to more effectively combat counterfeiting and piracy.

The first three Global (Brussels, 2004; Lyon, 2005; Geneva, 2007) raised awareness of the growing problems of counterfeiting and piracy, encouraged the sharing of relevant information among all stakeholders, and identified potential solution and strategies to combat this illegal trade through effective enforcement mechanisms and actions.

The Fourth Global Congress was organized around five themes that consistently have emerged as the key focus areas for concrete actions to combat counterfeiting and piracy. In addition, the Fourth Global Congress also featured special sessions on the challenges facing Free Trade Zones and Transshipment Countries, and Counterfeiting and Piracy over the Internet.

In the course of the presentations and discussions, a number of dynamic suggestions and proposals were made on how the various stakeholders might more effectively combat counterfeiting and piracy. These suggestions and proposals have been prioritized and incorporated into the following Recommendations for Action.

## **FOURTH GLOBAL CONGRESS RECOMMENDATIONS FOR ACTION**

### **I. COOPERATION AND COORDINATION**

Not surprisingly, Congress participants once again reaffirmed that the global problems of counterfeiting and piracy are too great to be solved by individual governments, enforcement authorities, business sectors or companies. While some progress has been made, and there are an increasing number of achievements, the consensus was that more can, and should be done to improve cooperation and coordination among and between government authorities and the private sector.

#### **Key Recommendations:**

1. Customs and Police authorities, and where appropriate, the private sector, should participate more fully in developing and using existing tools to collect and share information including:
  - WCO Customs Enforcement Network (CEN)
  - INTERPOL Database on International Intellectual Property (DIIP) Crime
2. Companies are encouraged to adopt INTERPOL's Minimum Global Standard for the Collection of Information on Counterfeiting and Piracy in order that the information can be readily assimilated into INTERPOL's database and thus improve its operational capabilities against organized criminal networks.
3. The private sector should make better use of cross-industry anti-counterfeiting-related associations to improve cooperation among all stakeholders and with service provider organizations.
4. WCO, WIPO, INTERPOL and private sector stakeholders should convene a forum to identify a process for accelerating the integration of multi-disciplinary IP crime-related training to reduce redundancies, improve efficient use of resources and more fully leverage the collective strength of the organizations represented on the Global Congress Steering Group partnership or which are involved in training activities.
5. Led by members of the Global Congress Steering Group, all organizations involved in the fight against counterfeiting and piracy need to significantly enhance the timely exchange of information. It was noted that more information is needed on the business practices of counterfeiters and pirates and how to exploit their weaknesses.
6. National and international enforcement organizations should take the lead in identifying effective ways for the private sector to create support and determination from policy makers to take the needed actions to stop counterfeit products including, in particular, those that threaten the health and safety of consumers.
7. Dubai Customs is encouraged to follow-through on its offer of support to other Customs administrations in the GCC Countries and Arab world to share experience and knowledge.

## **II. LEGISLATION AND ENFORCEMENT**

Speakers and delegates called on governments to further improve legislation dealing with the enforcement of IP rights, streamline procedures and implement already existing international obligations. They also recommended that a new set of standards be developed at the national and regional levels with the aim of making available more effective civil and criminal remedies and border measures. There was broad acknowledgment that even if good laws are in place, they are often poorly enforced. In order to update national and regional IP protection regimes and to make the enforcement of intellectual property rights more efficient, decision-makers in the public and private sectors need to be made aware of the requirement to allocate additional human and financial resources.

### **Key Recommendations:**

1. All participants should use their influence and resources to encourage national governments to regularly update civil, criminal and border measures legislation taking into account new international and regional standards or to implement recent decisions by the national authorities on more effective intellectual property protection and enforcement.
2. Members of the Global Congress Steering Group partnership should work within their organizations, with each other and with other interested parties to encourage international governmental organizations and national governments to develop a holistic strategy on the negotiation and revision of international conventions and treaties related to counterfeiting and piracy. This will help to ensure that agreements at the international level such as the Palermo Convention (fighting organized crime), and the WHO IMPACT Initiative (preventing the distribution of counterfeit medical products) are complementary. The strategy must also take into account the project work of the G8 and initiatives aiming at higher standards in the field of IP enforcement such as the WCO SECURE Initiative, and preparations for the conclusion of an Anti-Counterfeiting Trade Agreement (ACTA).
3. WIPO, ICC/BASCAP, INTA, national brand protection groups and IPR organizations should continue and increase their efforts to educate government leaders and the public on the value of intellectual property in economic development and the attendant need to introduce and maintain control measures to reduce counterfeiting and piracy. This balance is a crucial pre-condition for controlling the expected sharp rise in counterfeit and pirated goods.
4. Members of the Steering Group and other committed organizations and companies should work with WHO to identify the best ways to encourage implementation of the "Principles for National Legislation against Counterfeit Medical Products," adopted by the International Medical Products Anti-Counterfeiting Taskforce (IMPACT) in December 2007, including the recommended responsibilities of governments, manufacturers, operators in the distribution chain, retailers and other relevant parties. The suggested criminal sanctions should also be implemented.

### **III. CAPACITY BUILDING**

The Congress recognized that a country's effectiveness in protecting IP rights is partially dependent upon its capacity to enforce them. Therefore, in addition to prescriptions for better legislation, stronger enforcement and penalties, speakers also suggested methods for improving knowledge, enhancing training and developing skill capacities.

#### **Key Recommendations:**

1. ICC/BASCAP, INTA and other business organizations should identify ways to share private sector experiences and knowledge in risk management techniques related to counterfeiting and piracy, particularly with most at risk countries.
2. The Global Congress Steering Group should look for opportunities to engage the newly- formed associations of companies involved in the development and use of detection, verification and technology systems to foster an exchange of information on appropriate technologies and systems that are proven to work in the detection and deterrence of counterfeiting and piracy.
3. Through INTERPOL, the WCO and WIPO as well as other organizations directly involved in enforcement, identify opportunities for better coordination of donor efforts and support for training and capacity building for law enforcement officials, focused on building real capabilities region by region and sector by sector.
4. Extend the efforts to combat counterfeiting and piracy to other regions around the world including, in particular, to Africa by organizing an event, under the auspices of the Global Congress Steering Group, in one of the African countries in which counterfeit goods are an emerging problem.

### **IV. AWARENESS RAISING**

Many speakers and delegates addressed the need to increase public and political awareness and understanding of counterfeiting and piracy activities and the associated economic and social harm. They also agreed that as a matter of priority, young consumers should be educated about the dangers and consequences of the counterfeiting and piracy trade. Greater steps in raising awareness can lead to informed consumers that better understand the harm associated with purchasing and consuming counterfeit and pirated goods; likewise, well-informed policymakers are in a better position to make appropriate decisions, implement policies and allocate resources.

#### **Key Recommendations:**

1. The business community must continue to take the lead in raising awareness and educating the public and decision makers on the harms and costs of counterfeiting and piracy, including increased investments to reach broader audiences with more frequent delivery of targeted messaging.
2. The business community should work with IGOs and national governments to collect and exchange communications materials aimed at increasing awareness and education. ICC/BASCAP and WIPO have each initiated a process to collect

current programs and research and are working together to share this information with each other and other relevant organizations.

3. National governments must do more to warn consumers about the harm of counterfeit products, building on successful government and government/business sponsored public education campaigns such as those on seat belt safety as well as prevention of AIDS, drug abuse, and other broad social dangers.
4. The business community should seek to inspire a sense of global collective responsibility and action in order for all economic actors to fight against counterfeiting and piracy. The ICC has agreed to invest in developing messages which move consumers to action, and to develop a globally recognized symbol and other elements that could be used by all interested parties to create a common, global awareness and education effort. . INTA is developing a web site specifically for educating youth about the value of IP and its protection.

## **V. HEALTH AND SAFETY RISKS**

The Congress widely recognized that counterfeiting and piracy harm society in many ways that are not immediately obvious. This is particularly true for counterfeit medicines and over-the-counter drug products and consumer goods that are not tested to the same safety standards as genuine products. These fake products can seriously injure or even kill consumers, and at a minimum, do not deliver the expected and promised health benefits of the real products. In addition to health hazards presented by foods, beauty and health care products, agricultural products, fake auto parts and electrical goods, speakers addressed the growing problem of counterfeit pharmaceuticals and drew particular attention to the fact that persons in need of medication often acted in good faith and were not aware of, and therefore not in a position to assess, the risk.

### **Key Recommendations:**

1. Develop national working groups, comprised of law enforcement, health ministries and the private sector, to develop strategies and programs to combat counterfeit drug, food and beverage and other consumer products such as auto parts, toys and electrical components containing dangerous or sub-standard, unsafe components. This effort should include national public awareness programs to educate and warn consumers about the potential dangers of counterfeits, including the risks of purchasing medicines and food from unapproved sources. As appropriate, this initiative should be promoted and supported by the members of the Global Congress Steering Group, working with the WHO, consumer groups, standards organizations and others involved in consumer safety.
2. Have the Global Congress Steering Group seek opportunities to engage the WHO in the Global Congress process to build synergies with the new IMPACT initiatives and other WHO programs related to counterfeit drugs.
3. Use the Global Congress events to share information on advances in the development and use of covert and overt markers and other detection and verification technologies, and other techniques and standards being created to

protect the health care products supply chain against the introduction of counterfeit goods.

4. Encourage the private sector to register trademarks with Customs, and provide the appropriate follow-up training, education and support of Customs officials to enable them to fight the trade in counterfeit goods including, in particular, those which may cause health and safety risks
5. Build more effective partnerships between law enforcement agencies and the private sector with a particular focus on intelligence sharing, awareness and product identification training and sample sharing.

## **VI. FREE TRADE ZONES AND TRANSSHIPMENT COUNTRIES**

The Congress recognized the legitimacy and benefits of Free Trade Zones and the use of countries for transshipment purposes, but noted there is abuse by counterfeiters and organized criminal networks facilitating the movement of counterfeit and pirated goods into third countries. Speakers and delegates encouraged countries to develop and/or apply required legislation, appropriately enforce the legislation, develop risk assessment procedures and criminally punish traffickers of counterfeit and pirated goods.

### **Key Recommendations:**

1. Encourage national governments to enact new, or more effectively apply, legislation prohibiting transshipment and transit of counterfeit and pirated goods at least in cases in which intellectual property rights are infringed in the country of importation and/or the country of final destination.
2. Permit and encourage Customs administrations to control shipments into and out of Free Trade Zones and transshipment countries.
3. Assure that Customs officials and local law enforcement conduct regular and targeted risk assessment operations to profile and cause disruption to movement of counterfeit and pirated goods.
4. Encourage national governments to punish trafficking of counterfeit and pirated goods through free trade zones with effective deterrent sanctions including fines and incarceration.

## **VII. SALE OF COUNTERFEIT AND PIRATED PRODUCTS OVER THE INTERNET**

Participants overwhelmingly recognized the importance and urgency of finding concrete and practical solutions to this challenge. Congress speakers emphasized that the internet is not “the Wild West” and there is an urgent need to implement concrete practical solutions to eliminate or at least significantly disrupt counterfeiting and piracy transacted over the internet. This was considered a collective responsibility, requiring action by intermediaries and government authorities to enforce IP rights.

### **Key Recommendations:**

1. Intermediaries (e.g., registrars, internet access providers, web hosts, search engines and online advertising providers, trade boards, auction sites, online payment providers and credit card companies, courier and shipping companies) should undertake immediate actions to prevent and deter counterfeiters and pirates from accessing their services for the purposes of illicit trade and distribution. These measures should include, in particular: reasonable pre-contractual due diligence (e.g. client's identity verification, legitimacy of business conducted); providing a mechanism for receipt of notices from rights owners and prompt responses thereto, filtering of illegal digital content by Internet Service Providers (ISPs), refusing to host sites with counterfeit and pirated content, removing such sites from search results, supporting efforts for increased transparency of data
2. Governments should: (a) Partner with IP owners, ISPs and control authorities to develop methodologies and measures/sanctions to prevent and disrupt illegal activities; (b) Strengthen legal frameworks to protect IPRs in an online environment; (c) Increase the resources to law enforcement agencies that are engaged in the battle against Internet piracy and counterfeiting; (d) Establish efficient mechanisms for international cooperation between law enforcement agencies in response to widespread multi-territories fraud schemes.
3. Following the recent government initiatives in France (Olivennes report), the UK and South Korea, cooperation and coordination at the international, regional and national levels should be strengthened in order to explore possibilities of controlling access to, and the availability of, counterfeited or pirated material, and techniques for filtering illegal content.
4. Support the further development of INTERPOL's IPR program 'Dedicated Internet Anti-Piracy Capability' by encouraging meaningful partnerships with governments, piracy affected industries and all other stakeholders to maximize opportunities to intervene in the internet piracy related activities of transnational organized criminals.
5. Encourage and support the Universal Postal Union's (UPU) efforts to implement measures to prevent shipments of counterfeit and pirated products through postal traffic, such as including counterfeit products in the List of UPU Prohibited Articles; developing electronic information to carry out risk-assessment of counterfeit products; raising awareness of postal employees about counterfeit products; and informing postal users about the consequences of sending counterfeit products through the mail. It was noted that these efforts would require external expert help of right holders and appropriate legislation in some cases.