

**Recommendations from the International Trademark Association  
to the Ministry of Finance and Singapore Customs  
for the Public Consultation on the Proposed Amendments to the Customs Act**

**June 5, 2017**

**Introduction**

The International Trademark Association (INTA) is a global association of trademark owners and professionals dedicated to supporting trademarks and related rights to foster consumer trust, economic growth and innovation. Our membership includes more than 7,000 trademark owners, professionals and academics from more than 190 countries, including 56 members in Singapore. Founded in 1878, INTA is headquartered in New York City, with offices in Brussels, China, Santiago, Chile, Singapore and Washington, D.C., with representatives in Geneva and Mumbai.

INTA is pleased to submit comments on draft amendments to the Singapore Customs Act. INTA commends the Singapore government and Singapore Customs for regularly reviewing laws and regulations with the aim of improving efficiency. INTA is concerned that proposed changes in the Singapore Customs Act to allow for the discretionary submission of shipping manifests will frustrate the ability to monitor, investigate and prevent the transshipment of counterfeit goods.

The negative impact of the trade in counterfeit goods cannot be understated. A recent report from Frontier Economics<sup>1</sup>, commissioned by INTA and the International Chamber of Commerce Business Action to Stop Counterfeiting and Piracy (ICC BASCAP), indicates that the global economic value of counterfeiting and piracy could reach US \$2.3 trillion by 2022. The report also estimates that counterfeiting and piracy will displace economic activity in investment, public fiscal losses and criminal enforcement, of nearly USD 1.9 trillion by 2022. This economic impact will also lead to the loss of an estimated 5.4 million jobs globally. The value of counterfeit goods in Singapore is estimated at \$269.3 million.<sup>2</sup>

INTA's research report is based on recent findings by the OECD, which clearly show the origin of most counterfeit goods is Asia. Singapore's ports are the leading transshipment destinations for ships originating in the two jurisdictions that produce 82% of the world's counterfeit goods exports. The manufacture and sale of counterfeit products is a serious organized crime on a global scale. Allowing counterfeit goods in transit to pass through Singapore encourages the use of Singapore as a convenient transit destination by organized crime. Counterfeiters rely on transit through third countries as a covert way of getting their illegal products to designated markets. Countries must therefore be vigilant about stopping counterfeits in transit, even when the products are destined for a third country beyond their borders. Ensuring national laws allow customs inspectors to seize

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<sup>1</sup> The Economic Impacts of Counterfeiting and Piracy (2017).  
<http://www.inta.org/Communications/Pages/Impact-Studies.aspx>

<sup>2</sup> <http://www.havocscope.com/tag/singapore/>

counterfeit goods in transit is an important tool in the global fight against counterfeiting. Counterfeits should be stopped wherever they are found. Prohibiting this practice hurts local companies whose products are being counterfeited and distributed within the country and abroad, not to mention any goods in transit that are re-imported from their destination countries back into the Singapore market. It is not in any country's best interest to support counterfeiting; allowing illicit goods in transit to pass through Singapore would be supporting the trade of counterfeit goods.

Additionally, The Economist Intelligence Unit recently released the Illicit Trade Environment Index, research on the state of illicit trade in the Asia-Pacific region. Singapore scored 69.8 on the index, ranking 8<sup>th</sup> out of 17 jurisdictions.<sup>3</sup> Factors taken into consideration for this index include customs environment, intellectual property protection and transparency in trade. However, on the transparency in trade factors, Singapore ranks in the bottom half. INTA does recognize that Singapore is a global leader in intellectual property, consistently ranking at the top of various indices – 6<sup>th</sup> on the Global Innovation Index<sup>4</sup> and 8<sup>th</sup> on the GIPC IP Index.<sup>5</sup> However, as the Illicit Trade Environment Index indicates, Singapore can improve its ability to work with industry in combatting the circulation of counterfeit goods in the global market.

The global trade in counterfeit goods undermines the confidence in the global trading system. Singapore's economy relies on the future sustainability of this system. Perception of the benefits of global trade have recently been under siege, as many nations consider trade protectionism. As INTA's research clearly points out, significant economic value, tax revenue and jobs are at stake when counterfeits are allowed to circulate in the global market. As a leading transshipment port, Singapore has a vested interest in maintaining a secure, fair and stable global trading system by preventing the transshipment of counterfeit goods.

### **INTA Recommendations**

INTA is concerned with the following proposal:

*To ensure that Singapore Customs remains operationally effective in its day-to-day administration of the Act, the proposed amendments seek to:*

*Allow the Director-General of Customs to exempt parties from the submission of the manifest data for vessels, airplanes or trains arriving in or departing from Singapore. This amendment helps Singapore Customs better manage the compliance requirements on freight companies, and preserves Singapore's attractiveness as a transshipment/ transit hub.*

**INTA recommends that the current Customs Act not be amended to allow for discretionary submission of manifests, and that the current Act's language remain in place. Furthermore, INTA recommends that the ship manifest not simply be collected by**

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<sup>3</sup> The Illicit Trade Environment Index (2016). <http://illicittradeindex.eiu.com/>

<sup>4</sup> Global Innovation Index (2016). <https://www.globalinnovationindex.org/>

<sup>5</sup> GIPC IP Index (2017). <http://www.theglobalipcenter.com/ipindex2017-details/?country=sg>

**Customs, but also be utilized effectively to protect the global supply chain, and foster a secure, fair and effective global logistics network.**

Innovation in government in the future will come from big data analysis. Forgoing the collection of information cuts against trends in industry and government alike. The ability to work more efficiently and be more competitive in the future will rest on burgeoning data analytic techniques.

The Singapore government recognizes this trend, and the Committee on Future Economy has recommended that the Singapore government support efforts to develop capabilities in big data analysis. Working with partner governments, the WCO and industry, Singapore Customs can take the initiative to be a leader in big data analysis to combat the trade in counterfeit goods -- not only to protect global consumers, but also to find innovation and efficiencies to remain a globally competitive port. Such initiatives would also complement Singapore Smart Nation efforts.

In the area of anticounterfeiting, INTA's members have seen some positive actions taking place due to big data analysis – in particular in the area of online counterfeiting. Customs and police have worked with private partners in other jurisdictions with positive results.<sup>6</sup>

**Enact a Customs Recordation System**

INTA supports the enactment of a Customs Recordation System.

A trademark recordation system with Customs is essential to the operation of an IP border protection system. IP holders who record their trademarks under such a system are usually undertaking this because they have a problem with imported counterfeits. Through the recordation system, they commit to supporting seizures at port borders and providing all the information required. A recordation system is extremely valuable in fighting the counterfeit trade in Singapore. Brand owners are committed to sharing information about their products with Customs in exchange for notification of potential counterfeit shipments detected by the authorities at the borders. This free flow of information between the two parties will be beneficial in improving efficiency and preserving resources.

Through this collaboration between industry and the public sector, counterfeit products entering the country can be significantly curtailed and protection of legitimate trade that would benefit the Singapore economy can flourish.

As mentioned above, combining big data analysis with the added information of a Customs Recordation System could create value for government, industry and consumers alike.

**Engage with Industry**

As stated above, INTA has seen that innovation is occurring in big data analysis of the trade in counterfeit goods, resulting in positive outcomes for consumers. Given the increasing complexity

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<sup>6</sup> <http://www.worldipreview.com/contributed-article/working-together-is-the-only-way>

of the trade in counterfeit goods, it is imperative that governments cooperate with industry in the sharing of information when and where possible.

INTA welcomes the opportunity to work with Singapore Customs to engage industry on a regular basis through policy dialogues. INTA regularly holds these events with customs agencies around the world. An annual or semi-annual engagement, with other concerned brand owners, other stakeholders, associations, IGOs and NGOs, with Singapore Customs could be a platform to share best practices, and develop the practical tools necessary to stop the trade in counterfeit goods.

INTA also proposes facilitating the formation of a big data coalition – whereby Singapore customs can work with industry to develop new tools in the fight against counterfeits. The free flow of information and collaboration between industry and the public sector is critical to this coalition. The collection of data will make enforcement more efficient and productive by providing easy reference data to enforcement officials who can best utilize the information.

## **Conclusion**

INTA welcomes the amendments to the Customs Code of Singapore. The Association is pleased to have had the opportunity to submit these comments to the Ministry of Finance and Singapore Customs, and our membership hopes that our recommendations will be considered.

INTA would be pleased to answer any questions that the Ministry or Customs may have and is available to discuss our recommendations in more detail. Please contact either of the following INTA representatives:

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