

## THE IMPACT OF COUNTERFEITING AND PIRACY ON SMEs: Challenges and Best Practices

### Enforcement of IPR in Third Countries:

### The EU Answer



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## Outline

- **Enforcement in third countries: The IPR Enforcement Strategy**
  - **Bilateral cooperation**
  - **Multilateral cooperation**
  - **Technical assistance**
  - **Cooperation with the private sector**

## The Problem

- International trade (only) of counterfeits valued at **\$200 billion/year** by the OECD report of 2007
- **79 million articles** seized at EU border in 2007
- More fakes dangerous to health and safety : cosmetics and personal care products (+264%), toys (+98%), foodstuff (+62%) and **medicines** (+51%)
- 58% of all fakes coming from **China**. Switzerland and India the main source of counterfeit pharmaceuticals and Turkey of foodstuffs
- Economical, social, political issue. EU priority for its citizens, competitiveness and leaders

## The Enforcement Strategy

- Adopted in November 2004. Sets guidelines for EU action on the promotion of IPR enforcement around the world
- Strong emphasis on cooperation and dialogue but also warning that EU cannot afford to tolerate continued, systematic and large scale infringements of IPR
- Identification of priorities. Announced in October 2006 focus on: China, Russia, Turkey, Ukraine, Chile, Korea, ASEAN and Mercosur. → Revision in course

## Bilateral Cooperation

- With Key Trading countries
  - Making clear to our partners the importance of IPR enforcement for the EU - Bilateral Dialogues in China, Russia, the Ukraine, Chile and others to discuss specific problems
    - Result oriented discussion of specific problems
    - Participation of competent enforcement authorities
    - Participation of Industry
    - Joint conclusions, to allow progress assessment
- Important role of EU Delegations – IPR experts in Beijing, Moscow and Bangkok. Expanding the network

## Bilateral Cooperation

- With Countries sharing EU concerns

### EU-US Action Strategy

- Customs cooperation and joint actions
  - Coordination between enforcement authorities and Embassies in third countries
  - Coordination of technical assistance
  - Promotion of links between EU and US right-holders
  - Support of private sector (help-desks for SMEs, trade fairs)
- Similar Cooperation with Japan

## Bilateral Cooperation

- Free Trade Agreements

Strengthening of enforcement element in  
IPR chapter of bilateral FTAs

Rules based on EU *acquis*

- 2004 Enforcement Directive
- 2003 Customs Regulation
- Future Directive harmonising criminal sanctions

## Multilateral Cooperation

- **ACTA:** Project for new international treaty against counterfeiting. Focuses on i) cooperation between enforcement authorities; ii) adoption of best practices; iii) improved legislation.
- **WTO:** Debate on enforcement at TRIPs Council. Joint EU, US Japan and Switzerland statements
- **G8:** Adoption by Heads of State of joint measures to tackle counterfeiting and piracy
- **OECD:** Project on economic impact of IPR infringements

## Technical Assistance

- Multi-year IPR programmes in China, ASEAN, Central Europe
- Training programs, seminars, preparation of laws, capacity building
- Increased focus on IPR enforcement

## Cooperation with Private Sector

- Regular consultation of industry to reassess priorities.
- Enforcement Survey: extensive report on the situation in over 40 countries, assessment of positive and negative aspects of IPR enforcement
- Participation of stakeholders in IPR dialogues with third countries to discuss specific concerns
- Creation of simplified and free-to-use mechanism for customs registration
- Support of right-holders (particularly SMEs) investing abroad. Use of IPR Help-desk. SME support programme in Beijing

## Results

- Difficult to assess !
- Legislative improvements adopted
- Some individual cases resolved
- At least increased awareness of the problems across the board - hopefully !
- But if no coercive tools (contra: trade defense instruments), a lot depends on each country's willingness and (sometimes) resources to tackle the problem.