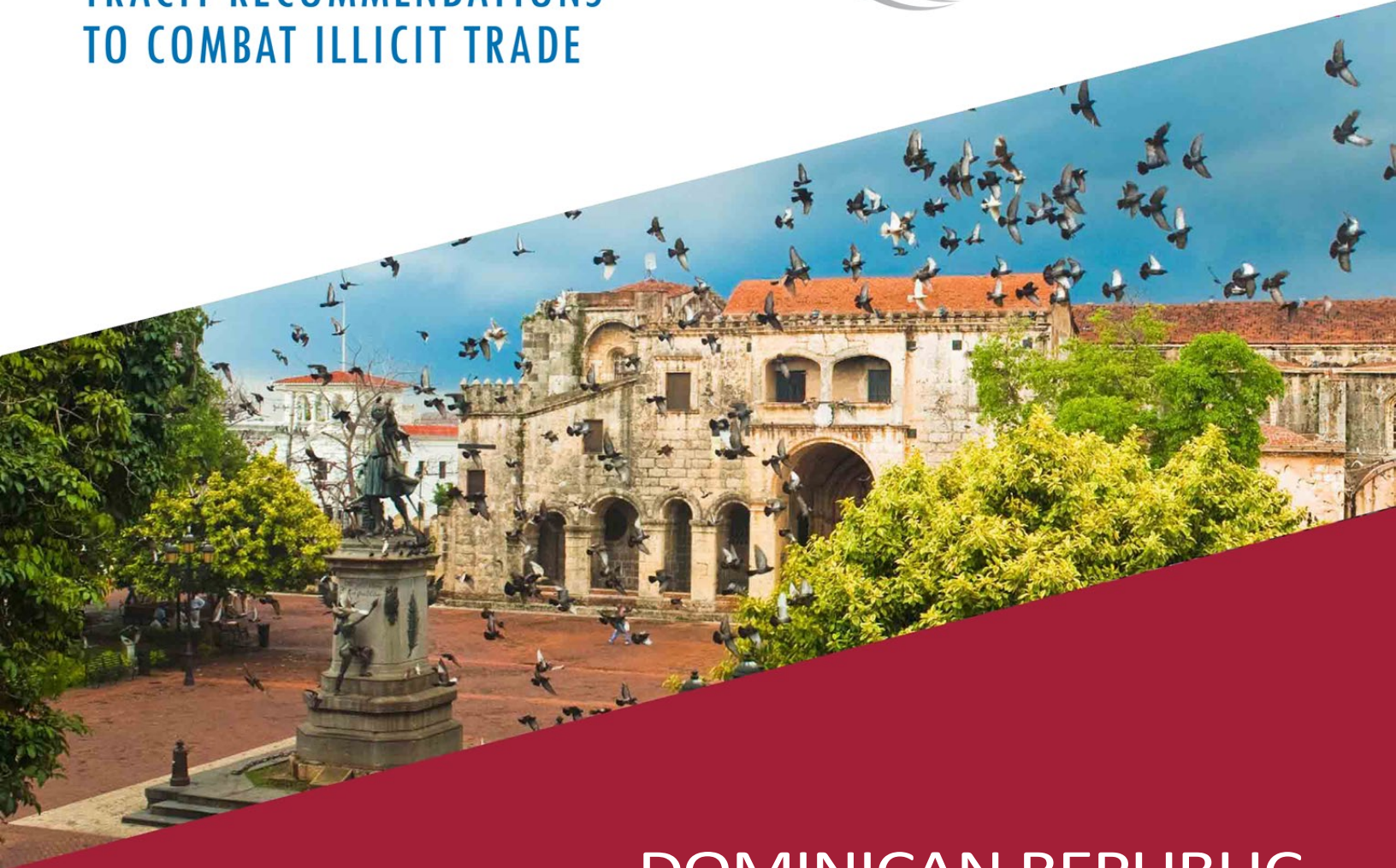


THE GLOBAL ILLICIT TRADE ENVIRONMENT INDEX: TRACIT RECOMMENDATIONS TO COMBAT ILLICIT TRADE



TRANSNATIONAL ALLIANCE
TO COMBAT ILLICIT TRADE

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DOMINICAN REPUBLIC Recommendations

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Policy Recommendations to Combat Illicit Trade

Inspired by the Global Illicit Trade Environment Index

Dominican Republic

Introduction

The Transnational Alliance to Combat Illicit Trade (TRACIT) commissioned the Economist Intelligence Unit (EIU) to produce the *Global Illicit Trade Environment Index*. It evaluates 84 countries on their structural capability to effectively protect against illicit trade, highlighting specific strengths and weaknesses across 25 policy, legal, regulatory, economic, trade, institutional and cultural indicators. The findings are intended to help policy makers: (i) better understand the regulatory environment and economic circumstances that enable illicit trade; (ii) identify areas that merit greater attention; and, (iii) formulate strategies to address the serious threats posed by illicit trade.

To encourage an effective policy response to illicit trade, TRACIT prepared a set of policy recommendations governments can implement to improve their ability to defend against illicit trade. They are published in the TRACIT Report: [Recommendations to Combat Illicit Trade: Inspired by the Global Illicit Trade Environment Index](#). Additionally, we have prepared topical recommendations relevant to the Dominican Republic.

Priorities for Dominican Republic

- **Ensure the full adoption and effective enforcement of the new anti-contraband legislation.**

The Dominican Republic has taken a critical step in the fight against illicit trade by introducing comprehensive new legislation that addresses multiple forms of illicit trade (e.g., contraband, counterfeit, under-declaration, diversion) across multiple sectors (e.g., alcohol, pharmaceuticals, tobacco and petroleum fuels), and contains strong provisions including sanctions for seizure, destruction and closure of premises, and strong pecuniary and criminal penalties.

 - It is equally critical that the government now translate the legislative provisions into strong regulatory controls, which empower, train and provide financial and human resources sufficient for government agencies to effectively ensure full implementation, enforcement and compliance with the new laws.
 - Consideration should also be given to Article 17, which enables regulatory bodies to determine—on a sector by sector basis—if additional requirements for monitoring product supply chains are necessary. This provides flexibility to

allocate resources to segments where track and trace technologies are determined to be cost efficient and effective and, conversely, to scale back allocations where they are not.

- **Strengthen interagency cooperation at the national level.** The new legislation delineates responsibilities to officials from the Ministry of Health, Ministry of Industry and Commerce, Customs authorities, Internal Revenue services among others.
 - To oversee this complex network of interagency cooperation and, primarily to ensure its effective implementation, the Dominican Republic should consider appointing an “Anti-Illicit Trade Coordinator” with high-level authority within the national government. In addition to implementing the provisions of the legislation, the Coordinator would also ensure allocation of necessary financial and personnel resources and manage the enforcement of anti-illicit trade regulations.
- **Intensify public-private coordination.** The proposed *Public and Private Council for prevention of Illicit Trade*, must be adequately empowered to draw from and utilize the private sector’s investigative resources, data, forensic capabilities and market expertise in the fight against illicit trade. Consultation and collaboration with private sector experts are essential to the design and implementation of effective programs to prevent illicit, contraband and counterfeit products. Public-private collaboration should also extend to international governance and business associations working on illicit trade regionally.
 - Examples of formal structures for public-private cooperation in the region include Costa Rica’s Comisión Mixta de Lucha Contra el Comercio Ilícito and Argentina’s National Roundtable for Fair Trade (CAME).
- **Ensure that any measures to fight illicit trade through fiscal marking techniques are carefully scrutinized against cost, and, properly balanced with other policy-making measures.**
 - Fiscal marking programs can represent heavy investment of resources by the government, for both implementation and monitoring. Careful scrutiny should be given to multiple direct (e.g., costs to taxpayers, equipment) and indirect costs (e.g. burdens on industry, logistics-cost increases for imported products with indirect fiscal marking, system differences across jurisdictions and sectors) to ensure proportionality between the effectiveness of curbing illicit trade, the cost of the remedy and the potential disruption to legitimate business
 - A case study from Ecuador’s experience with fiscal marking provides a valuable lesson where costs can outweigh any benefits: The marking program has cost over \$23m in its first two years and in that time there has been an increase in

alcohol receipts of only \$7.6m but a decrease in tobacco receipts of nearly \$14.5m (as of December 2018). Market reports also show that marking systems can drive unwanted increases of illicit products in informal markets.

- Fiscal marking can act as a barrier to trade on imported products, with costs accruing to importers that must mark their products at ports before products are nationalized. Consideration should be given to this potential trade barrier and the negative impact on importers of legitimate products, which is directly proportionate to the amounts of imported bottles (in case of alcohol products) or cases (for tobacco products).
- Regulators therefore must be careful to ensure that fiscal marking systems do not create more problems than they solve. Flexibility by the government and working closely and collaboratively with industry—both local producers and importers—can deliver intelligence-sharing, technical support, cooperation with law enforcement and customs, identification of practices that have worked in other countries, and can better ensure that the system is as cost effective as possible.
- **Enforce criminal penalties and also apply these to fake fiscal markings.** The Dominican Republic’s new legislative proposals significantly raises the level of deterrent penalties. It is critical that these provisions are swiftly translated into clear regulations and enforced through judicial and administrative systems.
 - In addition, it is important that the government imposes sanctions for using fake fiscal markings or stamps. In some countries, the falsification, alteration or counterfeiting of the fiscal marking can result in deterrent fines (i.e., a fine of not more than 300% of the duties and taxes evaded) or terms of incarceration (i.e., a term of imprisonment of not more than five years).
- **Broaden the scope of the legislation.** Currently, the new legislation concentrates on illicit trade in pharmaceuticals, tobacco, alcohol and petroleum fuels. The scope of the legislation needs to be expanded to include counterfeiting of consumer goods, clothing, shoes and electronics, and to address illicit trade in natural resources.
 - A holistic approach is crucial for success: All sectors should be involved, the points of view and experiences of local producers and importers should be incorporated, and learnings from international experiences should be considered.
- **Strengthen IPR enforcement.** Dominican Republic must make more progress against illicit online and physical markets that offer counterfeits and pirated works. Improved IPR enforcement efforts should include *ex officio* Customs enforcement action and promoting more effective means of securing *ex parte* seizures.

- Efforts to stop counterfeiting at the street level must be renewed and resourcing to law enforcement officials must be increased.
- More effective measures to deter online piracy must also be considered, such as ensuring that online platform operators and participating intermediaries face liability for operating services based on promoting access to illegal, illicit or otherwise infringing materials.
- **Develop a comprehensive and effective multilateral, cross-sector response to illicit trade.** Transnational criminals are not bound by national borders. Dominican Republic must reach out to its neighbors and call for greater government-to-government cooperation across borders, especially in the areas of Customs, law enforcement and information exchange on exports and high-risk products vulnerable to tax arbitrage and smuggling.
 - Pursue law enforcement and customs cooperation within Latin America, both bilaterally and within available multilateral mechanisms such as through the expanded initiative of the Pacific Alliance (Alianza del Pacífico) or through projects sponsored by the InterAmerican Development Bank (IDB) or the World Customs Organization (WCO).
 - Take strong and proactive measures to protect Dominican Republic from illicit goods transiting through Free Trade Zones (FTZs). The FTZ of Colon (Panama) has become a transit hub for contraband, flooding Latin America with illicit consumer goods.
- **Tackle pervasive corrupt practices** that continue to facilitate illicit trade, notably at the level of customs, law enforcement authorities and the judiciary. Increased automation in customs procedures can be effective in mitigating “opportunities” for corruption. Also, greater transparency in public procurement can limit corrupt practices and protect legitimate companies from financial loss and associated scandal. Addressing corruption must be tackled head on if strategies to combat illicit trade are to have any chance for success.
- **Improve public awareness and education on the threat of illicit trade.** Local and regional education campaigns and community-level awareness activities are essential to help shift public perception and understanding that contraband is not a minor issue but a national security problem, with links to organized crime.