

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



**TRANSNATIONAL ALLIANCE  
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**LATAM  
Recommendations**

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# Policy Recommendations to Combat Illicit Trade

*Inspired by the Global Illicit Trade Environment Index*

## Latin and South America

### 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 for Latin and South America.

### Policy Priorities

- **Develop a comprehensive and effective cross-border response to illicit trade.**

Transnational criminals are not bound by national borders. Contrary to it, they exploit weaknesses in Latin American borders to advance their criminal activities. As such, Latin American countries must reach out to their 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.

This includes improving multi-lateral cooperation to fight illicit trade in key hotspots, such as the triple border area (Argentina, Brazil and Paraguay) and the Northern Triangle of Central America (Guatemala, Honduras and El Salvador). To tackle illicit trade in these key hotspots, it is crucial to dedicate more efforts on enforcement: more resources allocated to this fight, improvement in technology, more awareness campaigns and trainings to law enforcement officials.

- **Pursue law enforcement and customs cooperation through regional governance bodies**, such as through an expanded initiative of the Pacific Alliance (Alianza del Pacífico) or through projects sponsored by Ameripol, the InterAmerican Development Bank (IDB) or the World Customs Organization (WCO). Regional cooperation mechanisms should be utilized to the greatest extent to press for multilateral engagement and to draw from other countries' best practices.
- **Intensify public-private coordination.** The formation of bodies which include private sector representatives can be a valuable partner in the fight against illicit trade. Through partnership with the private sector, governments can better utilize the private sector's investigative resources, data, and forensic capabilities. Good examples include:
  - National Roundtable for Fair Trade (Argentina): a private-public initiative launched in Argentina in 2017 to address the issue of illicit trade jointly by the Ministry of Justice, the Ministry of Security, the Anti-Piracy Association and the Argentina Medium Confederation (known as "CAME").
  - In Costa Rica, the Comisión Mixta de Lucha Contra el Comercio Ilícito was created to plan and coordinate interventions against illicit trade.
  - The Australian government's "Black Economy Standing Taskforce" increased funding for coordinated enforcement, increased penalties, and introduced a new legislative and regulatory package.
- **Take strong and proactive measures to protect the region from illicit goods transiting through Free Trade Zones (FTZs).** FTZs in Colon (Panama), Corozal (Belize), and Maicao (Colombia) have become transit hubs for contraband, flooding neighbors in Ecuador, Colombia, Dominican Republic, Costa Rica and throughout the region with illicit consumer goods.
  - Declare that FTZs are under the jurisdiction of national Customs and provide national Customs with unrestricted rights to enforce laws.
  - Take strong and proactive measures to protect FTZs from illicit traders, including risk profiling of suspect shipments; ex-officio checks on goods stored and services conducted in FTZs; Customs supervision of the FTZ perimeter and entry and exit point; validate identity of and FTZs' economic operators and their clients; implement "Know Your Customer" and "Due Diligence" measures.
  - Designate a competent authority to issue licenses to manufacture, import, export, broker, or ship raw materials and other key inputs necessary for production within manufacturing and packaging facilities in FTZs. Such authority also should be responsible for renewal, suspension, and cancelation of the licenses, in accordance with national law.

- Adopt Annex D of the WCO Revised Kyoto Convention and follow the guidelines addressed therein on explicit Customs jurisdiction over FTZs, rules on origin of goods, and Customs transit and transshipment procedures.
  - Create a formal mechanism to further cooperate with the private sector and international organizations to share information and work on more stringent regulations to prevent illicit trade activities within FTZs.
- **Rationalize Tax policies**, subsidies and tax exemptions that lead to smuggling, adulteration and theft. A key driver of illicit trade is tax and price differentiation, so it is critical that these measures do not incentivize illicit trade. Higher taxes and complicated regulation in countries where there are high levels of illicit such as Brazil, Colombia, Peru, Mexico create more incentives to illicit trade. Chile, for example, has one of the lowest tax burdens in the region has the lowest rate of illicit trade. Specific attention should also be paid to consumer purchasing power before designing any new tax measures and situations where sharp increases in taxes encourage cross-border smuggling.
- **Strengthen criminal penalties**. Raising standards across the region should be a priority to prohibit illicit traders from exploiting the weakest penal regimes. New anti-contraband legislation in the Dominican Republic, for example, contains provisions that significantly raises the level of deterrent penalties for illicit trade in alcohol, pharmaceuticals, tobacco and petroleum fuels.
- **Strengthen IPR enforcement**. Countries in the region 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.

In addition, LATAM countries must make more progress on ensuring that government entities use only licensed software.

- **Tackle pervasive corrupt practices** that continue facilitate illicit trade, notably at the level of customs and law enforcement authorities. Increased automation in customs procedures can be effective in mitigating “opportunities” for corruption. Addressing corruption must be tackled head on if strategies to combat illicit trade are to have any chance for success.

- **Ensure the adoption and full enforcement of anti-money laundering (AML) regulations.** Denying access to entities and mechanisms used to launder proceeds of crime — and thereby depriving criminals and their networks of related profits — is one of the most effective ways to deter illicit trade. This requires a holistic, comprehensive anti-money laundering regime including the ability to trace, freeze, seize and confiscate assets related to illicit financial flows. In Ecuador, the recent enactment of the Law for the Prevention of Money Laundering and the Financing of Crimes, along with the Comprehensive Organic Criminal Code, are examples of critical tools for investigating and processing money laundering activities and should be used to their fullest potential.
- **Ensure that 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 ensure proportionality between the effectiveness of curbing illicit trade, the cost of the remedy and the potential disruption to legitimate business.
- **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.