

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



## ECUADOR Recommendations

# Policy Recommendations to Combat Illicit Trade

*Inspired by the Global Illicit Trade Environment Index*

## Ecuador

### Introduction

To amplify the policy response to illicit trade, 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 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 inspired by the thematic categories upon which the *Global Index* was constructed. These recommendations are universal in nature, providing a “checklist” of fundamental measures 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 Ecuador.

### Priorities for Ecuador

- **Develop a comprehensive and effective multilateral, cross-sector response to illicit trade.** Transnational criminals are not bound by national borders. Moreover, illicit traders exploit Ecuador’s borders with Peru and Colombia, which are difficult to police comprehensively. As such, Ecuador 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). Regional cooperation mechanisms should be utilized to the greatest extent to press for

multilateral engagement and to draw from other countries' best practices. These could serve as reference to develop Ecuador's enforcement legislation against illicit trade.

- **Strengthen interagency cooperation at the national level**, particularly coordination with health, economic, security, finance and customs agencies. To oversee the interagency cooperation, Ecuador should consider appointing an "Anti-Illicit Trade Coordinator" with high-level authority within the national government. Objectives would include raising the profile on illicit trade, allocating necessary financial and personnel resources and more aggressively enforcing anti-illicit trade regulations, especially in the areas of Intellectual Property Rights (IPR) violations, untaxed and unregulated parallel (grey) market imports, and illicit trade in pharmaceuticals, tobacco, alcohol, clothing, shoes and electronics.

For example, in Costa Rica the Comisión Mixta de Lucha Contra el Comercio Ilícito was created to plan, guide, coordinate, consolidate and communicate public policies, projects, and interventions against illicit trade.

- **Take strong and proactive measures to protect Ecuador from illicit goods transiting through Free Trade Zones (FTZs)**. The FTZ of Colon (Panama) has become a transit hub for contraband, flooding neighbors in Ecuador, Colombia, Dominican Republic and Costa Rica with illicit consumer goods. In addition, it is important to ensure good governance and enforcement of security measures in Ecuador's Special Economic Development Zones (ZEDEs) to avoid them becoming exploited by traffickers of illicit 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.

- **Strengthen criminal penalties.** Raising standards across the region should be a priority to prohibit illicit traders from exploiting countries and markets with the weakest penal regimes. In addition to court-imposed penalties and fines, consideration should be given to rescinding business licenses from retailers, manufacturers and distributors involved in illegal trade. Incorporate the fight against illicit trade into the government’s strategic priorities to tackle insecurity and corruption.
- **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.
- **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. 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 critical tools for investigating and processing money laundering activities and related crimes in Ecuador, and should be used to their fullest potential.
- **Intensify public-private coordination.** Private companies actively engage in fighting illicit trade in Ecuador. Through partnership with the private sector, the government can better utilize the private sector’s investigative resources, data, and forensic capabilities. Furthermore, ensure proper public-private collaboration within international bodies advocating to tackle illicit markets.
- **Increase the efficiency of customs procedures** to block the inflow of parallel (grey) market products into Ecuador without paying taxes. While the current regulations have the capacity to block such imports—or to impose the proper taxes—there is little to no enforcement of these measures. Under-declaration of goods and corruption also area huge issue with imports of illicit products.
- **Strengthen IPR enforcement.** Ecuador must make more progress against online markets and physical markets, such as La Bahia Market in Guayaquil, that offer pirated works and counterfeits. Improved IPR enforcement efforts should include *ex officio* Customs enforcement action and promoting more effective means of securing *ex parte* seizures.

- **Implement a Customs Recordal System for IPR.** The system should be digitalized so that key information (e.g., IP rights, contact details, authorized shippers, etc.) can be easily accessed by enforcement officers.
- **Introduce effective measures to deter online piracy.** Ensure that that online platform operators and participating intermediaries may face liability for operating services based on promoting access to illegal, illicit or otherwise infringing materials. This should include a system of limited liability for Internet Service Providers (ISPs) under certain core conditions (i.e., establish safe harbor provisions).
- **Collect and share up-to-date statistics on illicit trade.** Sharing reliable information across jurisdictions, and between government and non-governmental entities, is a valuable tool for combatting illicit trade. The availability of precise information about the habits and actors conducting illicit trade is essential to tailoring effective governance responses, developing best practices or developing common strategies such as for improving border control measures, especially in the border with Colombia. Seizure follow-up procedures could be standardized at a national level to promote a harmonized approach to fighting contraband.
- **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.