

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



UNITED ARAB EMIRATES Recommendations



Policy Recommendations to Combat Illicit Trade

Inspired by the Global Illicit Trade Environment Index

United Arab Emirates

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 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 the United Arab Emirates (UAE).

- **Strengthen interagency cooperation at the national level and between Emirates.** In UAE, each of the emirates has a separate Customs agency (e.g., Dubai Customs). There is therefore significant opportunity for the UAE Federal Customs Authority (FCA) to:
 - Unify the rules and procedures among the Customs agencies. For example, while the customs authorities of some emirates can accommodate complaints for trademark enforcement without needing a court order, others require a confirmed court order before they will stop a container and examine its contents;
 - Promote uniform risk management practices to ensure that all customs authorities have access to shared information and state-of-the-art techniques;
 - Ensure that health, economic and security objectives are incorporated into Customs regulations to fight illicit trade;
 - Raise public awareness of the economic and safety consequences of illicit trade;

- Improve resource allocations and more aggressively enforce anti-illicit trade regulations, especially in the areas of Intellectual Property Rights (IPR) violations and untaxed and unregulated parallel (grey) market imports.
- **Strengthen the cooperation between Customs and other enforcement agencies** such as the Police and the Economic Development Departments, which conduct enforcement actions within the territory. In this regard, the latter do not necessarily seize documents when they carry out raids which could be extremely helpful to understand the origin of the products as well as the importation routes and intermediaries involved. Consideration should be given to documenting and maintaining lists of repeat infringers.
- **Improve Customs oversight of and enforcement in Free Trade Zones (FTZs).** In UAE, each of the 45 free zones are governed by an independent Free Zone Authority (FZA). It should therefore be a priority for FCA *to ensure that all FTZs* —particularly Jabal Ali FTZ (JAFZA), by far the largest FTZ in the region—are under the strict jurisdiction of national Customs laws and subject to the same stringent Customs controls that exist in mainland Customs zones.

Some of the most important powers for FCA to authorize Customs to exercise in FTZs include unrestricted rights to:

- Enter and observe day-to-day operations;
 - Audit records of companies in the zone;
 - Validate goods status and conformance with tariff and non-tariff measures under the national Customs mandate;
 - Perform ex-officio checks on goods stored and services conducted in zones;
 - Seize and confiscate goods infringing IPR laws and/or laws against smuggling and other forms of illicit trade;
 - Conduct risk profiling of suspect shipments;
 - Supervise the zone perimeter and entry and exit points.
- **Require more robust information on FTZ operators and require licenses for key operations in FTZs.**
 - In many FTZs, the establishment of legal companies requires very little information, which facilitates the establishment of ghost or shell companies.
 - FCA should require basic information on the economic operators allowed to operate in FTZs, including legal and beneficial ownership information and ownership structure, so as to deter and prevent the misuse of corporate vehicles.

- 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 zones. Such authority also should be responsible for renewal, suspension, and cancelation of the licenses in accordance with national law.
- **Rationalize tax policies and subsidies** to ensure that they do not incentivize illicit trade, smuggling, adulteration and theft. For example, excessive tax levels can reduce affordability of legitimate products and drive demand for illicit substitutes. Organized crime groups (OCGs) also may practice “tax arbitrage” to gain profits by smuggling products from relatively lower to higher taxed markets. Differences in tax burden, government subsidies and varying levels of domestic availability of goods in the region are important drivers of illicit trade – especially into and through FTZs.

For example, in Jordan, imported distilled spirits are subject to an import duty of 180-200%. This import duty is halved to 90-100% for products intended for the Aqaba Special Economic Zone. Preferential duty does not apply to products that are ultimately sold in the domestic market, outside of the FTZ. However, there is significant leakage from the FTZ to the domestic market, undermining the business activities of the legitimate suppliers in the domestic market and eroding government revenue. The fundamental reason why the FTZ is being used to foster illicit activity is the astronomical duty levied on legitimate products.

Therefore, UAE should examine where high levels of overall tax and tariff burden incentivize illicit trade through FTZs.

- **Ensure the adoption and full enforcement of anti-money laundering (AML) regulations, including in FTZs.** 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. Recent steps by UAE to bring its anti-money laundering and counter-terror financing (AML/CFT) rules in line with the requirements and recommendations of the Financial Action Task Force (FATF) are important measures to tackle financial crime. It is imperative that FTZ operators be supervised and subject to the same FATF sanctions for failing to comply with AML regulations as any other body performing similar functions in the territory of the State.
- **Promote accession to and full implementation of the WHO Protocol to Eliminate Illicit Trade in Tobacco Products.** One of the Protocol’s features, which sets it apart from all other illicit trade related conventions, is that it specifically devotes an article (art.12) to “Free Zones and International Transit” by requiring that Parties “implement effective controls on all manufacturing of and transactions in tobacco and tobacco products in free

zones.” Among such measures are the establishment of a licensing system, due diligence measures and the establishment of track and trace systems.

- **Strengthen cooperation with neighboring countries** to address informal cross-border trade, smuggling and alignment of tax and subsidy policies. For example, it would be important to strengthen controls in main border checkpoints (such as the Al Batha checkpoint at the border with Saudi Arabia), which is recognized as a main terrestrial route used by traffickers to import/export illicit products between the UAE and Saudi Arabia.

Additionally, continued cooperation with the INTERPOL National Central Bureau for the UAE is an important mechanism for addressing illicit trade. Other regional cooperation mechanisms including bilateral and multilateral trade negotiations also should be utilized, along with projects sponsored by international organizations such the World Customs Organization (WCO) or regional policy forums like the Gulf Cooperation Council (GCC). These efforts can serve as a reference to further develop UAE’s legislation and regulatory enforcement measures against illicit trade.

- **Demonstrate regional leadership in tackling corrupt practices that facilitate illicit trade**, notably at the level of customs, law enforcement authorities and the judiciary. Addressing corruption must be tackled head on if strategies to combat illicit trade are to have any chance for success. While the region has seen increases in perceived levels of corruption, UAE has maintained its position as the *cleanest country* in the Middle East thanks to a zero-tolerance policy on corruption, enhanced legislation and empowering government agencies to stamp out corruption in the public sector. With these achievements in place, it is incumbent on UAE to lead other countries in the region to improve transparency, share best practices and introduce valuable anticorruption measures that reduce illicit trade.
- **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 of the negative impacts of illicit trade.