

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



**COLOMBIA  
Recommendations**



# Policy Recommendations to Combat Illicit Trade

*Inspired by the Global Illicit Trade Environment Index*

## Colombia

### 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 Colombia.

### Priorities for Colombia

- **Develop a comprehensive and effective multilateral, cross-sector response to illicit trade.** Transnational criminals are not bound by national borders. Moreover, illicit traders exploit Colombia’s borders with Ecuador, Panama, Venezuela and Brazil, which are difficult to police comprehensively. As such, Colombia must reach out to its neighbors and call for greater government-to-government cooperation, 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 Organization for Economic Co-operation and Development (OECD), which has a specialized task force to counter illicit trade, or through an expanded initiative of the Pacific Alliance (Alianza del Pacifico) 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 Colombia'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, Colombia 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 and alcohol.

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 Colombia from illicit goods transiting through Free Trade Zones (FTZs).** The FTZ of Colon (Panama) has become a transit hub for contraband, flooding neighbors in Colombia, Ecuador, Dominican Republic and Costa Rica with illicit consumer goods. In addition, it is critical to improve governance and enforcement of security measures in Colombia's Maicao Special Economic Zone, which has become increasingly vulnerable to smuggling.
  - Empower Colombia's National Tax and Customs Office (DIAN), which has authority to operate in all FTZs.
  - Laws are in place which should be enforced by authorities, starting with enforcement of Article 126 of Decree 2147 / 2016, which gives powers to Customs for seizure and confiscation of goods and protection of IPR.
  - Enforce existing legislation on imports payments of goods entering through Special Economic Zones. Enforce Article 19 from the Anti-Contraband Law n°1762, dated July 6, 2015, which typifies penalties for importation without payment of excise tax.
  - Modernize and increase investment in the infrastructure, as well as strengthen the institutions at the Maicao Special Economic Zone. While strong infrastructure is not a guarantee against illicit trade, weak and outdated infrastructure creates vulnerabilities that are easy to exploit and makes inspections more difficult.
  - 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.
- **Further recommendations on managing Free Trade Zones, include:**
  - 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.
- **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.
- **Rationalize tax policies and subsidies** to ensure that they do not incentivize illicit trade, smuggling, adulteration and theft. Economic incentives are key to formalizing a country's long-term strategy, and government statements are important to visualize the positive effect of certain measures such as tax reductions/simplifications. For example, mixed specific and ad valorem excise tax structures plus Value Added Taxes (VAT) for alcohol work in countries where the level of enforcement is appropriate and there are low levels of illicit trade. Colombia should simplify its current structure following OECD standards [Specific + VAT] and reduce the tax burden to decrease the current high incentives for the illicit market. Tax policies also need to account for various demand-related factors including overall consumption, price, income levels and the ensuing affordability of products.
- **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.

- **Intensify public-private coordination.** Private companies actively engage in fighting illicit trade in Colombia. 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 Colombia 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.** Colombia must make more progress against online markets that offer pirated works and counterfeits on their platforms.