

# **Global Agenda Council on Illicit Trade<sup>1</sup>**

A Global Partnership for Transparency in Free Trade

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<sup>1</sup> The views expressed here do not necessarily reflect those of all the Council Members, nor do they represent an institutional position of the World Economic Forum or its Members.

## Context

### **Illicit Trade – A Global and Growing Phenomenon**

Illicit trade – that which causes direct human, social, political, or environmental harm – is a major contributor to discrepancies in wealth between the developing and developed world, fuels devastating conflicts, and has become the principal economic activity of several fragile states, severely undermining their legitimacy. In effect, illicit trade is the conduit that supports destabilizing and dangerous activity in nearly every sphere of the global economy.

From the illegal export of protected commodities to the use of supply lines by terrorist groups and transnational criminal networks, illicit trade hinders the fundamental building blocks of development, democracy, human rights, and rule of law. It supports corrupt practices among government officials and private citizens alike. The value of illicit trade globally rivals the individual GDP of most members of the G8.<sup>2</sup> The many forms of illicit trade are often linked to one another and have also penetrated many legitimate businesses. Illicit trade is intimately intertwined with legitimate trade and has enormous negative costs for the business sector and also for states through loss of tax income and excise duties. However, beyond the economic consequences, the human consequences are palpable. Despite media attention and substantial effort by governments and international organizations, the illicit drug trade, illicit financial transactions, the trade in small arms and the trade in nuclear material have not diminished. But there are many other forms of illicit trade which are less well known or lower on the agenda, and which cause harm on a similar magnitude. These include human trafficking; trade in wildlife, trade in conflict resources and counterfeiting.

The appendix further details some of the various forms of illicit trade and their impact.

### **The Case for Global Urgency to Combat Illicit Trade**

The tenfold expansion of illicit trade over the last 20 years is a clear indication that this phenomenon has been poorly understood and addressed by the international community, and that the global and national prevention and response systems are not effective. The global community has failed to recognize the scope of the problem and commit the necessary resources to stop the damage to societies, economies, peace, and prosperity. Current investment in the identification of prevention activities is heavily plagued by fragmented interests and approaches.

Reversing the growth of illicit trade requires the global community to address the root causes and leverage the important links with other core issues such as corruption, free trade, human rights, environmental protection, rule of law, food security, competition, and building and sustaining democratic institutions - among many others. But while rule of law is a critical foundation on which to build the fight against illicit trade, criminalization and enforcement alone will not curb trades that are primarily motivated by supply and demand. Law enforcement, national governments and international organizations cannot hope to make a serious dent in illicit trade on their own.

Illicit trade is a key cross-cutting issue that could bring together a large number of themes identified under the Global Redesign Initiative. These can be tied to the concept of transparency and the efforts to find a new paradigm to expose and eliminate illicit trade and business practices. Among related Global Redesign Initiative issue areas, the link between combating illicit trade and eliminating corruption is particularly strong and could be further leveraged to address both issue areas in a more comprehensive way.

## Proposal

The essence of the proposal is to develop a global public-private partnership among corporations, governments and civil society that advocates for trust and transparency in free trade in order to eliminate all kinds of illicit trade. The goal of the Global Partnership for Transparency in Free Trade is to promote free trade that is respectful of fundamental human rights. It is increasingly accepted that free trade cannot be a justification for tolerating grave abuses, such as child or forced labour, massive destruction of the environment, or counterfeiting.

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<sup>2</sup> Any estimates about illicit trade must be treated with caution. The nature of the trade makes it exceedingly difficult to provide accurate estimates, although increasing effort has gone into understanding this trade in recent years. This report relies on the work of leading experts and international organizations to present the best current thinking about the magnitude and dollar value of illicit trade.

The proposal aims also at reducing the perceived and actual distance between fair trade and free trade. It intends to boost free trade's capacity to promote civil liberties, justice, development and human security. Finally, it will also provide transparent evidence for advocates of free trade to prove that trade is an effective vector of human development.

## Explanation/Rationale

### Weaknesses and Gaps in International Cooperation

The tenfold expansion of illicit trade in the last 20 years is a clear indication that the international community has failed to recognize adequately and respond to the challenges, and that the global and national prevention and response systems are not effective. Some of the reasons behind this are:

- **A flexible and dynamic adversary.** Failed and corrupted states, off-shore tax havens, trade barrier reductions and free trade zones offer transnational criminal networks protection and opportunities. Criminals will exploit diverse opportunities for profit, adjusting rapidly to variations in supply and demand, evading the current focus of law enforcement, and increasingly favouring low risk, but equivalently profitable, commodities. These illicit "business opportunities" are supported by modern communication, production and transportation technologies, allowing criminals to capitalize on the differences in legal systems, living standards, income inequalities, banking regulations, and fiscal and taxation systems.
- **A lack of cooperation and coordination.** While law enforcement agencies monitor flows of many illicit commodities and activities, these efforts are often divided among entities that do not coordinate effectively, leaving a large gap in collective efforts to fight illicit practices. And the culture of secrecy inherited from the Cold War that is at the heart of several intelligence agencies responsible to monitor illicit activities, prevents the level of information sharing that would be required for effective coordination. Nation states have difficulty apprehending criminals that operate outside their jurisdiction. Excessive attention and resources are often applied to certain illegal activities, ignoring the larger picture and connections among many forms of illicit activities.
- **Weaknesses in global governance.** The role of international organizations is frequently limited by jurisdiction, as well as the willingness of its members (nations) to share information and collaborate on a global basis. In part, this is due to national pride, as governments are loathe to admit their inability to adhere adequately to international standards. If the UN Security Council and G8 countries won't acknowledge problems, then it will be difficult to press for change on a global scale. Another weakness in global governance is decision-making mainly through governments' consultation in the framework of international treaties without broader stakeholder participation. Even where there is a will to take action, a lack of resources may severely limit the capacity of an organization to implement decisions.
- **Misaligned incentives.** Source and transit countries, which are often in a good position to stop or reduce illicit trades and corruption within their jurisdiction, often lack the incentives or the capacity to do so. Destination states that would benefit significantly from the end of these trades are in many cases reluctant to cooperate by providing intelligence, capacity-building or financial help.
- **A wide grey area between the licit and the illicit.** There is widespread tolerance and acceptance of fuzzy boundaries between illicit and licit trade in the private sector. While corporations are increasingly signing on to ethical principles, there is still reticence to assume responsibility for actions occurring throughout their extended supply chains. Often the illicit trade component happens very early on in the supply chain and at many removes from the corporate entity under whose name the final product appears.
- **Poor understanding of the issue.** Because so much of illicit trade is hidden within the licit, and the profits associated with it are so huge, it is both easy and, in many cases, useful to ignore since there is often no legal responsibility on the part of corporations or governments for illicit trade activities and corrupt practices occurring within, through or into their territories or supply chains.

### Motivations for a Global Partnership

From the above we see that governments, law enforcement, international organizations, civil society organizations, the private sector and consumers all have a role to play and share a common responsibility in fighting illicit trade practices.

Indeed, there are a few successful examples of multi-stakeholder coalitions in specific sectors. These include IMPACT, the International Medical Products Anti-Counterfeiting Taskforce, which enhances cooperation and coordination by regrouping drug regulatory authorities, international organizations, international associations representing patients and consumers, and the various private sector parties involved in the production, distribution and sale of medications. EITI, the Extractive Industry Transparency Initiative, which aims at setting a global standard for transparency in oil, gas and mining, integrates three constituency groups: countries, companies and civil society organizations. Initiatives like the Partnership Against Corruption Initiative (PACI) seek to raise the level of awareness around corruption but lack an implementation arm that channels funding to specific initiatives to level the playing field.

Despite these encouraging examples, there is a gap as regards a platform from which to combat illicit trade with an integrated approach that recognizes the links between the different forms of illicit trade and between these and the core enabling factors such as corruption. The need for a global and comprehensive approach is also linked to the principle of global free trade and universal human rights. Illicit trade and the related corrupt practices are not an unavoidable consequence of globalized free markets. Quite the contrary, they are in contradiction with core WTO principles on international trade:

- predictability through binding and transparency: with stability and predictability, investment is encouraged, jobs are created and consumers can fully enjoy the benefits of competition choice and lower prices
- promoting fair competition: the WTO is a system of rules dedicated to open, fair and undistorted competition
- encouraging development and economic reform: The WTO system contributes to development, while over three quarters of WTO members are developing countries and countries in transition to market economies

Illicit trade on the other hand:

- reduces stability, predictability and transparency, through the different practices, rules and standards that are applied in different jurisdiction
- distorts competition, through maximization of profits that violates human rights and degrades intellectual property and the environment
- favours short-term profit over human development and longer-term growth

The core principle behind the Global Partnership for Transparency in Free Trade (GPTFT) is that human development, a fundamental goal of free trade, is incompatible with illicit trade practices. The implementation of fully transparent trade practices are a key step in the elimination of the hidden crime of illicit trade.

#### **GPTFT Goals**

- To strengthen cooperation and coordination between governments, private sector, civil society and other stakeholders in combating illicit trade
- To improve understanding and raise awareness of illicit trade and its real human and financial costs through research and advocacy
- To support governments and the private sector in combating illicit trade through advisory services on new technologies, policy formulation and resource mobilization

#### **Proposed Organization Structure of the GPTFT**

The Global Partnership for Transparency in Free Trade will be an independent international entity initially underwritten by global business interests and endorsed by the World Economic Forum and, eventually, other leading organizations. GPTFT and its donors would welcome a broad coalition of interests and projects involving governments, other international organizations, civil society organizations, the private sector, and consumers.

Bringing these diverse stakeholder groups together to effect real change requires the formation of a new entity that would be initially driven by private sector funding and would seek to make real global impact – not only in combating illicit trade but also in linking with other relevant initiatives, such as combating corruption.

The GPTFT will need to be flexible, responsive, and unencumbered by overly bureaucratic institutional structures while respecting transparency in all of its processes. It will be composed of a board

representing different interests that have a stake in combating illicit trade including corporations, civil society, international organizations and governments. A modest secretariat will be advisable in order to ensure continuity and momentum.

While initial funding would be sought from corporations with a direct interest in combating one or more forms of illicit trade, formal status as a non-profit entity would need to be established in order to make GPTFT eligible to apply for grants from governments and international organizations as well as receive funding from the corporate sector.

As a possible evolution or “spinoff” of the proposed initial structure after the initial phase, the council is also considering the establishment of a Foundation for Transparency in Free Trade and Business. This foundation would have higher budgets and more effective ways to fund major initiatives. It would seek to make real global impact, not only in combating illicit trade but also in linking with other relevant initiatives, such as combating corruption.

### **Initial Activities**

The following activities will be implemented by GPTFT according to availability of funding.

- Establishment of a centre of excellence for policy and research that will serve as an incubator for new ideas to link private and public interests to improve corruption-free business practices, legitimate trade and legitimate revenue sources
- Publication of periodic regional and country reviews on major illicit trades, and propose policies and targets for progressive reduction of illicit trades
- Technical assistance to governments of developing countries in establishing and implementing measures to combat illicit trade
- Participation in a variety of fora (WTO, UN, regional organizations etc...) to raise awareness and advocate for policy development and implementation
- Establishment of a roster of experts in the fields of *inter alia* law enforcement, new technologies, banking, customs and excise to provide advisory services to governments and corporations
- Development of innovative approaches to combating illicit trade such as the use of informative labelling and mobile commerce to raise consumer awareness and involvement, micro-credit opportunities and title of land property as incentives to producers involved in illicit productions
- Advocacy for policies and practices that stimulate a deterring effect on illicit trade, such as lowering import taxes and tariff, fiscal incentives for transparent trade practices

### **Next Steps**

- Establish a skeleton secretariat (possibly just one person initially) to refine the proposal, draft a 12-month workplan, and begin engaging with corporate, civil society and governmental entities to establish a provisional Board
- Find an existing organization to host the secretariat
- By the end of the first year, write and publish a report on illicit trade demonstrating the scope of the trade and its costs. Develop a media dissemination plan for the report which should serve as an initial advocacy tool for both GPTFT and the issue of illicit trade
- Set a target of at least 20 institutions to join GPTFT by the end of the first year. This should include at least 8 partners from the corporate sector, 6 from civil society, 2 international organizations and 4 government agencies, at least one of which should be from a developing country
- By the end of the first year, draft statutes for GPTFT, register as a non-profit organization (probably in Switzerland) and have the initial 20 Partners nominate a Board – principally from among themselves – for the second year
- During the course of the first year, place illicit trade as an agenda item on at least four major global or regional economic, trade or political meetings

## Appendix

### Forms of Illicit Trade and Their Social, Economic, Political and Environmental Impacts<sup>3</sup>

- **Human trafficking:** It is estimated that at least 2.4 million persons are trafficked at any given point in time. The annual profits generated from “modern slavery” are as high as \$US 32 billion.<sup>4</sup> Victims are trafficked for sexual exploitation, labour exploitation, or for a mixture of both.<sup>5</sup> **Human Smuggling<sup>6</sup>** – which generates annual revenues of approximately \$US 10 billion per year<sup>7</sup>—and **trafficking in body parts** are other major illicit activities.
- **Drug trafficking:** The illicit trade in drugs is estimated at \$US 400 billion a year; within that, the market for illicit opiates is worth \$US 65 billion, the one for cocaine \$US 71 billion.<sup>8</sup> Drug money is used as a lubricant for corruption, and a source of terrorist financing: in turn, corrupt officials and terrorists make drug production and trafficking easier.<sup>9</sup>
- **Illegal logging** is an important contributor to global warming. In addition, the World Bank estimates that illegal logging reduces government revenues by about \$US 5 billion a year. “As illegal logging is very profitable to a few in the short run, it often coexists with corruption, undermining the rule of law and good governance.”<sup>10</sup>
- **Environmental crimes** includes **pollution crimes**, “the handling, transport, trading, possessing and disposal of hazardous wastes or resources in contravention of national and international laws,”<sup>11</sup> and **illegal trade in natural resources**, such as timber, seafood, live wild animals and plants and the diverse range of other wildlife products needed or prized by humans – such as **caviar, timber, or ivory**. This market is estimated to be worth at least \$US 5 billion and potentially in excess of \$US 20 billion annually.<sup>12</sup> If one included the profits kept for personal enrichment by corrupt officials or used to finance conflicts, the figures would be far higher.
- **Trafficking in weapons:** Illicit trade in small arms and light weapons (SA/LW), which is conservatively estimated to reach \$US 1 billion a year remains significant despite progress on transparency and control measures.<sup>13</sup> More than 200,000 people are victims of gun homicides annually.<sup>14</sup> While it is impossible to attribute a specific portion of the tens of thousands of casualties of war and armed conflict each year to illicit arms, the nature of those conflicts suggest the proportion is high; moreover, as much as 90% of those casualties are civilians.
- **Trafficking in chemical, biological, radiological, and nuclear materials:** Between 1993 and 2008, the IAEA registered 1,562 confirmed incidents of illicit nuclear trafficking. Of these, approximately 65% of incidents of lost or stolen material involve material that has never been recovered.<sup>15</sup>
- **Trafficking in art:** This market takes advantage of poverty-stricken countries where people are willing to sell their heritage to survive and legal loopholes in developed countries where the illicit antiquities are mainly bought.<sup>16</sup> Although it is not possible to put a figure on this type of crime, international art theft has been estimated to be valued at between \$US 2 billion and \$US 6 billion per year.<sup>17</sup>

<sup>3</sup> Any estimates about illicit trade must be treated with caution. The nature of the trade makes it exceedingly difficult to provide accurate estimates, although increasing effort has gone into understanding this trade in recent years. This report relies on the work of leading experts and international organizations to present the best current thinking about the magnitude and dollar value of illicit trade.

<sup>4</sup> ILO Action against Trafficking in Human Beings - 2008 [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_090356.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_090356.pdf).

<sup>5</sup> U.S. Department of State-Trafficking in Persons Report 2008.

<sup>6</sup> The Migrants Protocol supplementing the United Nations Convention against Transnational Organized Crime, art.3, defines the smuggling of migrants as the “procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.”

<sup>7</sup> Amnesty International, Refugee Campaign Fact Sheet, *People Smuggling*, March 2009.

<sup>8</sup> UNODC, *World Drug Report 2009*

<sup>9</sup> World Drug Report 2008 [http://www.unodc.org/documents/wdr/WDR\\_2008/WDR\\_2008\\_eng\\_web.pdf](http://www.unodc.org/documents/wdr/WDR_2008/WDR_2008_eng_web.pdf).

<sup>10</sup> Ruhong Li, J. Buongiorno, J.A. Turner, S. Zhu, J. Prestemon (2008). Long-term effects of eliminating illegal logging on the world forest industries, trade, and inventory. *Forest Policy and Economics* (10): 480-490.

<sup>11</sup> Interpol website <http://www.interpol.int/Public/EnvironmentalCrime/Pollution/Default.asp>.

<sup>12</sup> CRS Report for Congress - “International Illegal Trade in Wildlife: Threats and U.S. Policy” - Updated in August 22, 2008 - <http://www.ncseonline.org/nle/crsreports/08-Sept/RL34395.pdf>.

<sup>13</sup> *Small Arms Survey 2001*.

<sup>14</sup> IANSA, “Gun violence: A global epidemic,” based on Small Arms Survey data.

<sup>15</sup> IAEA, Illicit Trafficking Database fact sheet, 2009 <http://www-ns.iaea.org/downloads/security/itdb-fact-sheet-2009.pdf>.

<sup>16</sup> Crime Facts Info, Australian Institute of Criminology, November 26, 2002, No.38.

<sup>17</sup> Australian Institute of Criminology, Art Crime, No.170, 2000.

- **Counterfeiting of goods:** international trade in counterfeit and pirated products could have been up to \$US 200 billion in 2005. This total does not include domestically produced and consumed counterfeit and pirated products and the significant volume of pirated digital products being distributed via the Internet.<sup>18</sup> In our information-based economy, profit incentives from counterfeiting will grow as intellectual property will take an increasing proportion of the price of a product for the foreseeable future.
- **Counterfeit medicines:** Sales alone are estimated to reach \$US 75 billion globally in 2010, an increase of more than 90% from 2005.<sup>19</sup> In several developing countries, the risk of buying a counterfeit and potentially lethal medicine is as high as 50% and even more in some cases. According to recent estimates 700,000 people, a large proportion of them children, die each year because of counterfeit and therefore ineffective medicines.
- **Cigarette smuggling** has been developed by organized crime groups as a global criminal business and generates huge profits for the transnational crime organizations involved, which may be also linked with international terrorism organizations.<sup>20</sup>
- **Money laundering** activity in one year amounts to 2-5% of global GDP, or 800 billion – 2 trillion in current US dollars globally.<sup>21</sup> Transnational criminal groups and terrorist organizations employ money-laundering techniques to hide their profits.
- **Cybercrime** has already emerged as a proven weapon in the arsenal of transnational criminal organizations and it is expected to play a bigger role in years to come. An unregulated and fast developing cyber network is quickly becoming one of the key "implements" to support illicit trade, whether for criminal or terrorist purposes. In Africa, for example, the cyber infrastructure is growing (through support of major infrastructure projects), but without the accompanying regulatory framework and rule of law in place to actually police who is using the system.

#### **Alternative Approach: The Foundation for Transparency in Free Trade and Business**

The Foundation for Transparency in Free Trade and Business (FTFTB) will be an independent international entity, dedicated to promoting free trade that is respectful of human rights and promoting corruption free business practices to level the playing field on a global basis.

The core principle behind the Foundation Partnership for Transparency in Free Trade and Business is that economic development and human security is incompatible with illicit trade and corrupt business practices.

Initially, the Foundation would be underwritten by global business interests and endorsed by the World Economic Forum and, eventually, other leading organizations.

More specifically, initial funding would be sought from corporations with a direct interest in combating illicit trade and corruption, in particular those making investments for past corrupt practices. Formal status as a Foundation would allow FTFTB to be eligible to apply for grants from governments and international organizations as well as receive funding from the corporate sector.

FTFTB and its donors would welcome a broad coalition of interests and projects involving governments, other international organizations, civil society organizations, the private sector, and consumers.

Bringing these diverse stakeholder groups together to effect real change requires the formation of a new entity that would be initially driven by private sector funding and would seek to make real global impact – not only in combating illicit trade but also in linking with other relevant initiatives, especially those that are part of the GRI, such as combating corruption.

The FTFTB will need to be flexible, responsive, and unencumbered by overly bureaucratic institutional structures while respecting transparency in all of its processes. It will be composed of a board representing different interests that have a stake in combating illicit trade including corporations, civil society, international organizations and governments.

<sup>18</sup> OECD, "The Economic Impact of Counterfeiting and Piracy"-2007.

<sup>19</sup> WHO, [http://www.who.int/medicines/services/counterfeit/impact/ImpactF\\_S/en/](http://www.who.int/medicines/services/counterfeit/impact/ImpactF_S/en/).

<sup>20</sup> World Customs Organization, *Customs and tobacco report 2008*.

<sup>21</sup> UNODC, <http://www.unodc.org/unodc/en/money-laundering/globalization.html>.

In addition to the activities mentioned previously, the FTFTB would propose the assessment of best practices in creating corrupt-free business environments. It could fund major initiatives to level the playing field when it comes to business practices in countries with high levels of corruption.