

Executive summary

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Illicit trade in medical products is a complex, global problem that poses a serious threat

Measuring illicit trade is challenging but WTO estimates indicate that illicit trade in medical products constitutes between 1.3 per cent and 4.2 per cent of global trade in the sector. Available evidence suggests that such activity may have expanded during the COVID-19 pandemic, with a 5 per cent increase in seizures reported in 2020 compared with 2019.

More generally, illicit trade in medical products presents a number of health, social and economic impacts, complicating the achievement of the United Nations Sustainable Development Goals (SDGs), particularly those relating to poverty and health outcomes.

WTO rules and trade policy activities should be part of a global, multifaceted strategy

Key WTO rules include those that improve customs procedures, promote coherent regulatory frameworks, and protect and enforce intellectual property rights (IPRs). Complemented by the work of WTO councils and committees, such as the Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS), the Trade Facilitation Committee and the Committee on Technical Barriers to Trade, these measures support the fight against illicit trade by promoting transparency and setting the foundation for strengthened border

and regulatory controls. They also aid in curbing discretionary or sub-optimal practices that give rise to inefficiencies and corruption.

The WTO offers a strong framework to help members establish mutually reinforcing layers of oversight

Reforms to strengthen border controls associated with trade facilitation measures go hand in hand with efforts to improve the conformity of medical products with quality, health and safety regulations and the protection and enforcement of IPRs. These rules can be mutually supportive by providing multiple layers of border and regulatory oversight that offer enhanced prospects for the detection of illicitly traded medical goods. In addition, the collection of transparency provisions across WTO agreements promotes cooperation between customs authorities and national regulators and the exchange of information needed to detect and stop illicit trade in medical products.

Developing country and least-developed country (LDC) members need improved capacity

The WTO Secretariat provides technical assistance to support border reforms, the infrastructure that underpins standardization, such as national quality infrastructure (NQI), and

IPR enforcement. Other means are also available. The WTO's Trade Facilitation Agreement has a built-in mechanism of assistance to implement reforms, including those most needed in addressing illicit trade concerns.

Developing country members can also make greater use of existing mechanisms to request advice and technical assistance from other members on matters relevant to illicit trade, such as strengthening NQI or effectively using IPR-related tools, and a dedicated mechanism for NQI capacity building could also be developed.

Greater coordination within and between members, as well as among international organizations, is required

Existing WTO mechanisms can serve to combat illicit trade in medical products by promoting greater interaction between customs authorities and regulators within countries as well as across borders. As national bodies mandated to implement trade facilitation reforms, national committees on trade facilitation (NCTFs) offer great potential for domestic coordination by involving broad stakeholder representation, including all relevant border and regulatory agencies and the private sector.

Some developing members have joined resources to establish regional committees which offer the potential to further integrate sound border practices both domestically and regionally. Improved international cooperation, with the support of international organizations, can also build on WTO rules that require or promote transparency, information exchanges and the designation of contact points, or urge reliance on international standards in harmonizing good governance practices. WTO committees also have untapped potential as a venue for the exchange of information and best practices.

The rise of e-commerce poses challenges and opportunities

WTO rules and activities offer tools for members to adapt to the emergence of the digital economy. Members can optimize the use of reforms, such as implementing risk management systems, which improve the ability of customs to target suspect imports, even small consignments sold through digital platforms, while also addressing border and regulatory concerns related to illicit trade in medical products.

This can be combined with the development of new e-commerce rules, such as those being discussed in the WTO Joint Initiative on Electronic Commerce, and efforts to adopt advanced technologies like blockchain and artificial intelligence (AI) to secure and improve border and regulatory controls.

Supply chain disruptions create uncertainty that can be exploited

WTO rules and activities assist members in managing supply chain disruptions. Strengthening border and regulatory practices also helps members safeguard supply chain integrity by helping them manage disruptions in the trade and distribution of key medical products that have generated illicit trading opportunities during the pandemic.

These measures can be combined with the use of advanced technologies to promote automation and improve data quality so that information can be shared and used to bolster supply chains and combat illicit trade.