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Government Responses to COVID-19 Drive a Pandemic in Illicit Trade

Case Study

COVERING 94% OF THE WORLD GDP AND 83% OF THE WORLD POPULATION

Government Responses to COVID-19 Drive a Pandemic in Illicit Trade

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I. Introduction

On March 11, 2020, the World Health Organization (WHO) declared COVID-19 a pandemic.⁵ Following WHO guidance countries quickly implemented quarantines, social distancing measures, and stocked up on personal protective equipment. As the virus spreads across the globe infecting 237 million and resulting in 4.8 million deaths to date, and with unemployment expected to reach a record 200 million in 2022⁶ the end may seem far away for most of the world. Despite vaccines and specialized therapeutics becoming available as early as the fourth quarter of 2020 new variants and poor public health responses keep a full recovery at bay and persistent economic uncertainty.

Among the economic effects of the pandemic has been an unprecedented increase in illicit trade driven by demand surges for medical equipment and pharmaceuticals. In certain areas, poor enforcement of regulatory safety mechanisms, or restrictive market approvals, served as enabling factors for the illicit trade in medical goods. While in other areas lockdown related prohibitions of highly regulated products diverted demand to illicit markets driven by criminal syndicates. Fortunately, successful enforcement operations in key markets have provided lessons on key policy choices that result in the seizure of illicitly traded goods.

This case study will examine government responses to the COVID-19 pandemic that enabled illicit trade in medical and other goods and review effective policy choices that interdicted COVID-19 related illicit trade.

The prevalence of illicit trade clouds economy-wide market access and calls in to doubt trade enforcement commitments, harming the local trade facilitation environment. The 2021 Trade Barrier Index identifies a robust relationship between the components on trade Facilitation: logistics performance, property rights, membership in Regional Trade Agreements, and Digital trade barriers with the Illicit Trade Environment Index (.76) and the Corruption Perception Index (.82). Therefore, focused attention to combat illicit trade will greatly improve trade facilitation and reduce trade barriers, feeding a virtuous cycle of competition, innovation, and prosperity.

5. WHO, "WHO Director-General's Opening Remarks at the Media Briefing on COVID-19 - 11 March 2020."

6. "Prohibition, Illicit Alcohol And Lessons Learned From Lockdown." Tracit.org

II. Poor Policy Responses

To some extent, the initial market scarcity and depleted government stockpiles of strategic medical goods was its own driver of illicit market activity. In the United States, for instance, when the government first recommended, and then as states adopted requirements, to wear facemasks the surge in demand translated to supply bottlenecks and market scarcity at local brick and mortar storefronts. Consumers quickly turned to online markets.... Where unbeknownst to them they ordered fake masks from fake companies and fueled criminal enterprises abroad that set up the scam. If masks were received, they likely were far below standards and contributed to the spread of COVID-19 when consumers wore them in public.

Certain policy choices can deter, detect, and detain such illicit trade before it reaches consumers (see section III). However, some policy responses added demand pressures driving illicit COVID-19 related trade.

1. Prohibitions

During the Covid19 pandemic many countries took extraordinary measures to curtail the spread of the coronavirus and to save lives of people. These measures have famously included lockdowns all around the world and large financial stimulus to keep the economies up and running. A less well known, but nonetheless consequential measure that several governments took were restrictions or outright bans on the sale of alcoholic beverages and tobacco products.

Although the motivation beyond such prohibition/restriction laws were varied depending on country and jurisdiction there are two main reasons with which governments aimed to justify these policies. These two justifications: that they would reduce the number of people admitted to hospitals from excessive alcohol usage and hence free up doctors and nurses to attend Covid19 patients; and that these policies would curb the rise in the use of alcohol and tobacco consumption that most countries experienced during this period. Across the board, these measures resulted in strong unintended consequence of driving more market demand than ever to illicit markets.

Countries that have adopted such measures at least on a regional and temporary basis included: India, South Africa, Russia, Mexico, Columbia, Peru, Namibia, Panama, Sri Lanka, Zimbabwe, French Polynesia and Greenland, to name a few. Out of these countries, India, South Africa, and Panama stand out based on the restrictiveness of their prohibition laws. All three countries enacted nationwide bans of alcohol sales. South Africa's ban on the sale of tobacco and alcohol goods lasted March 26th to August 8th 2020. India and Panama both banned the sale of alcohol products on March 24th 2020 and then India repealed its ban on May 4th 2020 and Panama repealed theirs on May 8th 2020.⁷

The above-mentioned prohibitions and restrictions led many countries to suffer the unintended side effect of increasing illicit trade for two reasons. First and foremost, as history has often proved to us most famously in the prohibition period era from 1920 to 1933 in the United States, bans on alcohol do not stop people from consuming alcohol. The bans just divert legitimate market activity in to the illicit market.

7. UN News, "COVID Crisis to Push Global Unemployment over 200 Million Mark in 2022."

Secondly, there is a compounding effect with COVID related unemployment. Elevated rates of unemployment and increasing demand in the illicit market worked together to expand employment in the illicit market. As an anonymous illicit alcohol trader from Gugulethu, India explained: "Many of our parents and family members have lost their jobs. We are desperate to find a means to generate an income, and this is easy because alcohol will always be in demand. The alcohol ban creates a situation where there is an increase in the demand for alcohol and a lack of supply which means I can sell alcohol at a very high price."⁸

To an adult smoker, cigarettes are an essential good. Using the pandemic and health as a cover to push through a prohibition on a legal product was never going to work, evidenced by an explosion of illicit products in South Africa to meet the legitimate demand that exists. Due to the depleted stocks of legitimate products, tobacco sellers switched to selling illegal cigarettes. In parallel, cigarettes prices almost tripled for any legitimate brands remaining and more than doubled for the illegal cigarettes that were already established in the country. The opportunities for profiteering were significant.

A University of Cape Town study found that up to 90% of smokers in South Africa have subsequently purchased tobacco illegally, leading to dramatic losses in government revenues.⁹ South African Revenue Services (SARS) Commissioner Edward Kieswetter stated that "For the month to date [April, 2020], under-recoveries of excise duties from beer come to R664 million (\$45 million USD), for wine this is R300 million (\$20 million USD), for spirits it is R400 million (\$27 million USD) and for cigarettes just under R300 million. Overall loss of revenue from VAT, excise duties, import duties and Pay As You Earn tax, amounts to over R30 billion (\$2 billion USD) for the past month."¹⁰

The livelihoods of more than 8,000 South Africans involved in tobacco growing, processing and manufacturing—and their 30,000 dependents—are also at risk. This temporary measure has a long term impact on everyone.

Even now, the criminal networks established during the ban are embedded in the fabric of South Africa's society and consumer complicity with purchasing illegal goods has become further engrained.

There is no shortage of evidence indicating that these bans actually led to large increases in illicit trade. For example, just 38 days after India announced prohibition on alcohol customs agents announced they had seized quantities of illicit alcohol almost equal to the amount seized during the whole of 2019.¹¹ Similarly, in Panama City police seized more than 600 boxes of liquors just in the first month of prohibition despite the fact that illicit alcohol trade was basically negligible before alcohol bans.¹² Trade associations have been warning of the harm to prohibitions have caused to the market. For example, in Mexico the President of the National Association of Wholesale Grocers said that restrictions on sales of legal liquor

8. Konco, "Illicit Alcohol Trade Boom as Industry Loses Billions Due to Latest Alcohol Ban."

9. Filby, Zee, and Walbeek, "The Temporary Ban on Tobacco Sales in South Africa."

10. Omarjee, "Ban on Cigarette, Liquor Sales Costing R1.5bn in Lost Tax Revenue – Kieswetter."

11. Sharma, "COVID-19 | Why It Was A Bad Idea To Regulate Sale Of Alcohol During Lockdown."

12. Mercurio, "'Dry Law', a Market Niche for Illegal Alcohol in Various Regions of Latin America - Diario El Mercurio."

during the pandemic promoted an illegal market. "Consumers, not finding legal alcoholic beverages, opted to be satisfied in a different way at a lower price."¹³

Illicit trade leads to multiple harmful consequences, as Harvard economist Jeffrey Miron points out: "underground markets have a bunch of characteristics which we tend not to like: they tend to be violent, they tend to have poor quality control, so one gets more accidental poisoning and overdoses." He adds, "you forgo the opportunity to collect tax revenue. And they tend to be imposed and enforced in racially prejudiced ways."¹⁴ These problems materialized, in the wake of the implementation of the above-mentioned sales bans of alcohol and tobacco products. For example, in Mexico the journal El País reported the death of nearly 200 people in 11 Mexican states from suspected illicit alcohol poisoning in a period of just three months. Besides the health effects illicit trade has also side-lined legitimate businesses and transferred power towards criminal gangs. In South Africa for example Heineken has abandoned \$395 million brewery project in the port city of Durban, which would have created 400 jobs. Furthermore, the bans on alcohol also led to large tax revenue losses to governments in the case of India it is estimated that the government lost out on daily US\$ 92 million alcohol tax revenues.¹⁵

Unfortunately, prohibitions weren't the only poor policy choices that contributed to more deaths. Poor regulatory enforcement and added market barriers also contributed to growth of illicit trade, violence, and deaths of innocent civilians caught in the crossfire.

2. Poor Regulatory Enforcement

Illicit trade has also increased in the pharmaceutical sector as a result of poor regulatory enforcement. One of the most poignant examples of this proliferation has occurred in India, which is both one of the world's largest producers of generic pharmaceutical products and one of the largest centers for illicit pharmaceutical trade.

A 2017 report by the World Health Organization indicated that over 10% of the medicines sold in low- and middle-income countries such as India were substandard or counterfeit.¹⁶ This trend continued into the COVID-19 pandemic in 2020 and 2019 in India, where purported doses of Remdesivir and other treatments for the virus have commonly been sold on the black market.¹⁷ A 2020 OECD report named India as one of the major sources for fake medicines during the COVID-19 pandemic, after China.¹⁸

These substandard and counterfeit medicines can have deadly consequences. In May 2021, a large-scale fake Remdesivir operation was shut down by the Indian state of Gujarat's Crime Branch. Prior to arrest, the perpetrators had sold approximately 1,200 fake Remdesivir doses to patients, several of whom died as a

13. SinEmbargo MX, "El Licor Adulterado Ha Matado Mexicanos En Varios Estados, Pero Su Mercado Crece En La Pandemia."

14. BBC, "The Impact of Banning Alcohol during Covid-19."

15. Suderman, "Pennsylvania Has Made It Both Difficult and Dangerous to Buy Liquor."

16. Dr. Pisani, "WHO Global Surveillance and Monitoring System for Substandard and Falsified Products."

17. Ghosal and Mehrotra, "Indians Turn to Black Market, Unproven Drugs as Virus Surges."

18. OECD, "Trade in Fake Medicines at the Time of the COVID-19 Pandemic."

result.¹⁹ Another patient from the city of Baramati died one month earlier after being given fake Remdesivir injections produced in a separate operation.²⁰ Even outside of COVID-19-related treatments, substandard medicines have proved lethal in India: In one example in 2020, a young girl passed away after being given a toxic dose of children's cough syrup.²¹

While Indian law does ban the sale of substandard and falsified medicines, domestic enforcement mechanisms have repeatedly proven to be lackluster. Government guidelines instruct officials to only prosecute such violators "sparingly and judiciously," in an attempt to protect the domestic pharmaceutical industry at the expense of consumers.²² For example, despite pharmaceutical company Digital Vision failing to meet quality standards at least 19 times since 2009, state drug regulators took the company to court only four times, ultimately resulting in minimal punishment for the firm.²³

India also has failed to establish proper infrastructure to be able to regulate pharmaceuticals. As of 2019, India had just 47 drug-testing facilities and six central labs that tested just 8,000 samples per year.²⁴ The ability to test medicines is essential to determine whether the product is safe for consumers, contains the proper amount of active ingredients, and does not contain additional toxic substances. In the country of 1.4 billion people, there existed only 20-30 laboratories that actually had the ability to determine whether a particular drug was counterfeited.²⁵ Indian regulators must shore up their testing ability and more strongly enforce against counterfeits in order to protect the health and safety of their citizens.

3. Added Market Barriers

Another way governments have inadvertently caused a larger spike in illicit trade during the COVID-19 pandemic was through various added market barriers.

In the United States, slow or roadblocked processes to approve COVID-19-related innovations led to an increase in illicit trade. In particular, the U.S. Food and Drug Administration (FDA) has been slow to approve new COVID-19 testing devices and has not implemented unilateral or mutual recognition agreements with other regulators. At the beginning of the pandemic, the United States faced a large shortage of approved testing devices; months later, U.S. Customs and Border Protection (CBP) continues to seize hundreds of non-FDA approved test kits as they are illegally shipped into the country.²⁶ Most items seized in the illicit market are counterfeit, substandard, and likely harmful. However, some may in fact be legitimate products produced in accredited labs, or manufactured by licensed producers, and are approved in several market jurisdictions health regulators following a stringent risk and science based process. Yet, they lack approval

19. CNBCTV18.com, "90% of COVID-19 Patients Who Got Fake Remdesivir Survived."

20. Express News Service, "Covid-19 Patient Dies after Getting Fake Remdesivir Injections, Culpable Homicide Charges Invoked against Accused."

21. Pulla, "How Weak Drug Laws Are Costing Lives."

22. Ibid.

23. Ibid.

24. www.ETHealthworld.com, "Counterfeit Drugs."

25. Ibid.

26. CPB, "CBP Officers Intercept Non-FDA Approved COVID-19 Test Kits."

from the FDA to access the U.S. market. This drives demand for these products, such as diagnostic tests, to the illicit market.

Many countries engaged in exceedingly uneven regulatory approvals of foreign vaccines and medical equipment that have been proven to be safe and effective in other jurisdictions. As of the date of publishing, the FDA has still refused to approve the AstraZeneca COVID-19 vaccine for use in the United States, despite mounting evidence that it has been effective against the virus around the world. Due to a combination of these regulatory barriers and export restrictions from origin countries, the world has seen a surge of counterfeit vaccine doses proliferated through illicit trade.²⁷

The WHO last year advised against implementing export restrictions for COVID-19-related products, encouraging countries to increase their production capacity instead of implementing new trade barriers.²⁸ Despite the warning, countries have implemented such restrictions on various products throughout the pandemic. As recently as October 2021, for example, India implemented new export restrictions on syringes, to the dismay of local manufacturers.²⁹ These export restrictions on key medical supplies have the potential to increase the illicit trade of those supplies into foreign countries where shortages may still exist.

A 2020 report by the Congressional Research Service also recommended reducing or eliminating tariffs, especially those on medical supplies, as a method of alleviating the harm of the COVID-19 pandemic.³⁰ The Trump Administration removed certain tariffs on medical goods from China at the beginning of the pandemic, yet many tariffs remained that may have disrupted key supply chains necessary for combatting the pandemic.³¹ Higher tariffs increase government revenue and push costs on to consumers, discouraging their participation in formal markets. There is no reason governments should use the opportunity of the pandemic to raise revenue on needed medical supplies.

27. INTERPOL, "INTERPOL Warns of Organized Crime Threat to COVID-19 Vaccines."

28. WHO, "Shortage of Personal Protective Equipment Endangering Health Workers Worldwide."

29. Dasgupta, "India Restricts Syringe Exports as Demand Outstrips Supply amid Covid-19 Vaccination Drive."

30. Congressional Research Service, "COVID-19: An Overview of Trade-Related Measures to Address Access to Medical Goods."

31. Ibid.

III. Effective Responses

Amidst the terrible consequences of several policy decisions and failures that contributed to illicit trade, examples of effective enforcement activities stand out. Robust public awareness campaigns, private-public sector cooperation, the collaboration between government agencies, and utilizing technologies to supply chain integrity have proven effective at mitigating COVID related illicit trade.

Public awareness campaigns were first launched only two weeks after the WHO declared the pandemic by the private sector, such as pharmaceuticals, social media platforms, as well as by international enforcement agencies such as INTERPOL. Many of these informed the public not only that criminal syndicates and terrorist groups known for trafficking narcotics, weapons, and humans were behind the new illicit COVID goods trade, but also on the ever expanding range of items this included. The Illicit COVID goods market contains: unauthorized, substandard, and counterfeit COVID-19 vaccines; personal protective equipment (PPE), oxygen tanks; phony vaccination cards; and fake therapeutics

For example, the World Customs Organization (WCO) released an urgent notice on the introduction of counterfeit PPE into the supply chain.³² The Organization of Economic Cooperation (OECD) issued a report on the global trade in fake pharmaceuticals to recommend increasing penalties on IP violators, enhancing screening of imports and reducing criminal activities linked to illicit trade.³³ In December of 2020, the International Criminal Police Organization (INTERPOL) issued a global alert across its 194 member countries to adequately prepare for criminal syndicates selling COVID-19 vaccines in person and online.³⁴

As vaccines began to roll out, the World Health Organization (WHO) announced a Medical Product Alert N°2/2021 on the circulation of counterfeit Pfizer-BioNTech vaccines in Mexico and throughout the Americas.³⁵ Later, Pfizer confirmed the presence of falsified vaccines in Poland.³⁶ The Pan American Health Organization (PAHO) released a warning of counterfeit vaccines in Latin America, especially in Mexico, Argentina, and Brazil.³⁷ INTERPOL and the United States Homeland Security Investigations (HSI) issued joint statements of counterfeit COVID-19 vaccines and other illicit trade activity in South Africa and China.³⁸

Following public awareness came proactive action with successful collaboration between government agencies and the private sector. In the United States, the Department for Homeland Security launched 'Operation Stolen Promise' (OSP) through the Immigration and Customs Enforcement agency to restrict harmful products from reaching American consumers while holding violators accountable. Operation Stolen Promise 1.0 focused on combatting the illicit trade of Personal Protective Equipment (PPE), Cares Act fraud, consumer fraud, and fraudulent websites with the help of private companies

32. WCO, "COVID-19 Urgent Notice: Counterfeit Medical Supplies and Introduction of Export Controls on Personal Protective Equipment."

33. OECD, "Coronavirus (COVID-19) and the Global Trade in Fake Pharmaceuticals - OECD."

34. INTERPOL, "INTERPOL Warns of Organized Crime Threat to COVID-19 Vaccines."

35. WHO, "Medical Product Alert N°2/2021."

36. BBC News, "Coronavirus: Pfizer confirms fake versions of vaccine in Poland and Mexico."

37. Expansión, "La OPS advierte sobre vacunas falsas anticovid en México, Argentina y Brasil."

38. INTERPOL, "Online Vaccine Scams."

including 3M, Amazon, Citi, Alibaba, Merck, and Pfizer, while OSP 2.0 countered the distribution of falsified and unauthorized vaccines and treatments as well as new emerging threats. Since the start of this initiative, OSP 1.0 has reported 3,131 COVID-19 related seizures with over \$54.7 million in illicit proceeds seized, \$38.1 million in Cares Act fraud seizures, 362 criminal arrests, and 31 convictions.³⁹ For OSP 2.0, there has been \$3.0 million of illicit proceed seized, 43 websites removed relating to vaccine fraud, 15 criminal arrests, and one indictment.⁴⁰

During these operations, notable seizures included the Baltimore branch of ICE HSI confiscating 14,000 unapproved COVID-19 treatment capsules and test kits that originated from China in June of 2020.⁴¹ The US. Department of Justice has accused terrorist groups in the Middle East like ISIS of selling FDA-approved N95 respirator masks on the website facemaskcenter.com to fund their terrorism operations in August of 2020.⁴² CBP officers at the Houston Seaport seized \$350,000 worth of masks in April of 2021.⁴³ In September of 2021, 70 counterfeit vaccination cards from China were seized in Pittsburgh.⁴⁴ Most recently, Chicago CBP seized 41 counterfeit vaccine cards, and illicit Ivermectin pills.⁴⁵

A partnership between government agencies and international organizations proved to be effective in increasing awareness and interdicting illicit trade. ICE partnered with the International Criminal Police Organization (INTERPOL) to release a public warning in March of 2021 addressing the harm of counterfeit COVID-19 vaccines and related medical products often linked to online scams that steal personal information.⁴⁶ On May 27, 2021, the CBP and the U.S. Chamber of Commerce signed a Memoranda of Understanding (MOU) to prevent the importation of counterfeit and pirated goods.⁴⁷

In the European Union, INTERPOL, the European Anti-Fraud Office (OLAF), and Europol, the law enforcement agency of the EU, joined forces to inform citizens on the illicit sale of vaccines on the internet and in-person. In Operation Pangea XIV led by INTERPOL, 113,020 web links relating to COVID-19 hoax websites were taken down worldwide.⁴⁸ During this operation, in the United Kingdom over \$13 million worth in counterfeit medicines and devices were seized, and in Italy over 500,000 fake masks and 35 manufacturing machines for these products were confiscated.⁴⁹ Operation Qanoon led by INTERPOL in the Middle East and North Africa seized illicit medical products worth more than \$14 million.⁵⁰ In this operation, around 5 million pills and tablets of methamphetamine and Caption, a drug linked to financing ISIS was seized, as well as 9 million fake pills in Iraq.⁵¹

39. ICE, "Operation Stolen Promise."

40. Ibid.

41. ICE, "ICE HSI Baltimore Seizes over 14,000 Unapproved COVID-19 Treatment Capsules, Several Unapproved Test Kits."

42. DOJ, "Global Disruption of Three Terror Finance Cyber-Enabled Campaigns."

43. CBP, "CBP Seizes Counterfeit N95 Masks."

44. CPB, "Pittsburgh CBP Officers Seize Counterfeit COVID-19 Vaccination Cards from China."

45. CPB, "Chicago CBP Seizes 41 More Counterfeit Vaccine Cards & Ivermectin Pills."

46. ICE, "Online Vaccine Scams."

47. CPB, "CBP and US Chamber of Commerce Partner to Combat Counterfeit Goods."

48. INTERPOL, "Thousands of Fake Online Pharmacies Shut down in INTERPOL Operation."

49. Ibid.

50. Ibid.

51. Ibid.

Additionally, the World Customs Organization in Operation STOP, launched in April of 2020, sought to increase monitoring vigilance for imports and exports and to make sure all governments knew of credited medical products with their corresponding HS codes to adequately prepare custom officers in monitoring the supply chain. This action not only ensured counterfeit and non-compliant products were confiscated but sped up trade for individuals to access lifesaving products quicker than ever before by establishing secure communication platforms. As a result of this initiative, over 307 million units of illicit medicines, around 50 million items of PPE, and 3 million liters of antibacterial gel were confiscated from over 51 administrations.⁵²

Overall, cooperation between the private and public sectors, a collaboration between government agencies, and campaigns to alert the public and raise security at ports led to massive mitigation of illicit activity. The hundreds of millions of fake items seized by authorities shed light on the success of robust collaboration and campaigns to train officials to know which products are trusted or linked to illicit activity.

52. WCO Secretariat, "Operation STOP."

IV. Four Keys to Mitigating Illicit Trade

The threat illicit trade poses to the continued spread of the deadly COVID virus and proliferation of variants is incalculable. Trade in illicit medical items, including pharmaceuticals, not only present their own inherent risks but also provide consumers with a false sense of protection making them more likely to contract and spread the virus out in public and indoor spaces. As a security threat, revenue from the illicit trade in these items fuels operations of the criminal syndicates and terrorist play roles in manufacturing and distribution. At the same time, the UN Office on Drugs and Crime⁵³ identifies fast-tracked regulatory approval processes, government research funding, and special government procurement commissions as potential corruption hotspots. Addressing burgeoning illicit trade related to COVID should be a top priority of national governments.

Drawing on effective policy responses that facilitate legal trade and enforce existing law will give consumers, businesses, and society a fighting chance.

1. Diminish Demand

Educating the public plays a key role in diminishing demand for illicit products. Government health and enforcement agencies should educate consumers on how to identify legitimate products and authorized distributors in online and physical retail outlets. Awareness campaigns should also focus on creating awareness about the dangers counterfeit, substandard, and mislabeled products pose to the consumer and the potential benefit their economic activity may provide to terrorist groups and criminal syndicates that also traffic guns, humans, wildlife, and narcotics.

Similarly, mutual or unilateral recognition protocols between international health regulatory agencies can ensure products that meet rigorous scientific standards will not be denied access to the legal marketplace simply due to borders.

2. Establish Robust Regulatory Enforcement

Manufacturers of substandard and illicit products must face criminal and steep civil penalties. This relies on the existence of a legal environment that facilitates the ability of authorities to detect, test, trace, recall, and destroy illicit products. Concerning maritime traffic, implementation of guidance such as UNODC's practical guide⁵⁴ for competent national authorities under article 17 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 should empower border authorities.

53. UNODC, "Covid-19 Vaccines And Corruption Risks: Preventing Corruption In The Manufacture, Allocation And Distribution Of Vaccines."

54. Ibid.

Concerning the online environment, The OECD recommends⁵⁵ legislation to ensure domain name registries adopt “know your customer” policies and to empower law enforcement, or trusted third parties, to takedown sites that are proven to market illicit items.

Combating illicit pharmaceutical trade begins with the domestic health regulatory environment. Here the World Health Organization⁵⁶ identifies “lack of good governance” as a major contributing. Interventions must include legislation that ensures the pharmaceutical manufacturers, labs, pharmacies, and distributors are required to meet high safety standards and are held accountable when they fail. This may require technical capacity to be built across judicial, health, and law enforcement sectors.

3. Upgrade and Logistics Capacity

National strategies should adopt whole of supply chain approach that enables any healthcare professional or distributor to report suspected illicit or substandard medical equipment or pharmaceutical. This should include mapping the supply chain of medical goods and employing track and trace systems to build integrity. To facilitate trade, ports of entry should employ risk-based surveillance and include highly-trained personnel to test, screen, and identify counterfeit and substandard products. This may require specialized equipment or designating specific ports to process certain products.

4. Utilize Private Sector Partners

At all points in the medical supply chain and even in the retail network including online markets the private sector should be seen as key players. Regulatory agencies should collaborate with manufacturers to identify illicit markets, share intelligence, and other relevant trade data. Private sector partnerships may include cooperation in investigations of potential criminal activity, as well as transparency concerning government procurement and market approvals. Private sector engagement can enhance the effectiveness of trade enforcement in all parts of the logistics network.

55. OECD, “Illicit Trade in a Time of Crisis.”

56. Dr. Pisani, “WHO Global Surveillance and Monitoring System for Substandard and Falsified Products.”

V. Conclusion

As the COVID pandemic continues it is increasingly clear a final resolution must include a robust international commitment to combat illicit trade. The prevalence of fake vaccines, fake therapeutics, fake masks, fake diagnostic tools, and fake negative tests will continue to exacerbate the pandemic. The nature of the pandemic itself skyrocketed demand for health products, and short of deep national stockpiles of goods, it inevitably drove many unsuspecting consumers to illicit markets. However, in many cases of growing illicit markets related to COVID, it has been given an added boost due to government policies. For instance, government prohibitions on alcohol and tobacco, or the cessation of processing medical imports at ports, each contributed to demand for illicit markets. Robust enforcement of health regulations throughout the supply chain, partnered with private sector assistance, is a proven method to remove many illicit goods and actors from the trade network. This evidenced by successful operations detailed in Section III and mirrored by the Trade Barrier Index. In both the 2019 and 2021 editions of the TBI countries that score well in trade Facilitation, which includes robust support for property rights, logistics, and trade agreements, are also countries where illicit trade and corruption are extremely low. Therefore, efforts to combat illicit trade coincide with trade openness and removing trade barriers that cloud market access.

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