



ICC BASCAP comments on Proposed Amendments to the Singapore Customs Act in 2017

6 June 2017

Public Consultation for Proposed Amendments to the Customs Act in 2017 – Template for Submission of Comments

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Summary of feedback:	ICC BASCAP comments on Proposed Amendments to the Singapore Customs Act in 2017
<p>Details: Business Action to Stop Counterfeiting and Piracy (BASCAP), an initiative of the International Chamber of Commerce (ICC), is pleased to submit the comments below in response to the Ministry of Finance and Singapore Customs’ request for Public Consultation for Proposed Amendments to the Customs Act in 2017.</p> <p>ICC BASCAP is committed to stopping the global problem of trademark counterfeiting and copyright piracy, protecting intellectual property (IP) rights and strengthening IP enforcement. BASCAP members, which include some of the world’s most successful multinational companies, appreciate and recognise the outstanding work of the Singaporean enforcement agencies dealing with counterfeiting and piracy. We commend the Singapore Government for the efforts to amend the Customs Act to improve enforcement and the operational efficiency of the Singaporean Customs. We also commend the Government for strengthening Customs control of FTZs.</p> <p>While we welcome the move to improve enforcement and efficiency of Customs, our members are concerned that the proposed amendments to Section 39 and Section 41 of the Customs Act of 2017 allowing for the discretionary submission of shipping manifests will weaken Singapore’s ability to control the flow of counterfeit goods into Singapore and to prevent the transshipment of counterfeit and pirated goods through Singapore. The negative impact of the trade in counterfeit goods cannot be understated. A recent report from Frontier Economics, commissioned by ICC BASCAP and the International Trademark Association (INTA), indicates that the global economic value of counterfeiting and piracy could reach US \$2.3 trillion by 2022. The report also estimates that counterfeiting and piracy will also lead to the loss of an estimated 5.4 million jobs globally. The value of counterfeit goods in Singapore is estimated at \$269.3 million. Our research report is based on recent findings by the OECD. The OECD reported that Singapore’s ports are the leading transshipment destinations for ships originating in the two jurisdictions that produce 82% of the world’s counterfeit goods exports.</p>	

Weakening controls by allowing for waivers on manifests increases the risks of counterfeiters using Singapore as a convenient transit destination.

No.	No. Amendment to Customs Act ¹	Comments ²
1.	Section 39 (3) and Section 41 (3)	<p>While we appreciate the Government’s move to reduce the barriers to trade by easing compliance, BASCAP members have serious concerns on the implications of the Government’s proposal to exempt parties from the mandatory submission of the manifest data for vessels, airplanes or trains arriving in or departing from Singapore.</p> <p>We understand that the further liberalised trade measures offered in the amendment is intended at intensifying Singapore’s attractiveness as a transshipment and transit hub; however, BASCAP views that the reduced levels of regulatory oversight proposed in the current amendment will increase the opportunities for organized criminal networks to use Singapore as a transit hub for their trade in illegal goods including counterfeit and pirated products.</p> <p>BASCAP believes that submission of manifest data and verification is a vital part for any risk-based assessment by Customs to guard against trade in counterfeit and pirated goods. The move to allow the Director-General of Customs to <i>discretionarily</i> exempt parties from submitting manifest increases vulnerability to a wide range of abuses by criminal actors who are constantly seeking gaps in enforcement mechanisms. In addition, the proposed amendment under Section 39 and Section 41 does not specify the conditions under which the submission of manifest data may be exempted by the Director-General.</p> <p>For those who trade in counterfeit goods, transit and transshipment operations present opportunities to mask the illicit origin of goods. Such illicit transport is effectively accomplished when the status of goods is unclear and Customs is unable to supervise that status. Consequently, BASCAP views that the proposed amendment may enable organised criminal networks to facilitate the manufacture, reassembly, repackaging or relabeling, and distribution of counterfeit goods through transit hubs in Singapore, including FTZs.</p> <p>FTZs are easy targets for re-documenting shipments and hiding the origins, contents, and destinations of illicit goods. The move to eliminate the mandatory provision of manifest data will act as an additional advantage to criminal actors to turn these hubs into both laundering and distribution points for counterfeit goods.</p>

¹ To quote the title of the tax change as well as the relevant Section(s) of the Customs Act. Please refer to the Summary Table for reference

² Illustrations and diagrams could be attached as Annexes.

		<p>The absence of mandatory submission of manifest for goods entering and leaving the country allows criminal activities to facilitate trade in counterfeits and other crimes.</p> <p><i>Conclusion:</i> BASCAP does not support the proposed amendments to Section 39 and Section 41 of the Customs Act. BASCAP recommends mandating the submission of manifest by parties for goods entering and leaving the country and that Customs play a further increased role in free trade zones. BASCAP also encourages the prohibition of transit, in-transit, warehousing and admission in FTZs of goods that violate IP rights regardless of the country of origin, intermediate origin and destination. In this regard, BASCAP also recommends the Singapore Government to introduce a system of maintaining customs records of trademark right holders to increase supervision and enforcement of trademark rights in Singapore.</p> <p>ICC BASCAP supports the Singapore Government's efforts to maintain Singapore's position as one of the world's leading transshipment and transit hubs and we look forward to working further with the Singapore Government in building on the achievements and successes to date.</p>
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