

# Regulations News

## ASEAN

### ALCOHOLIC DRINK

### Illicit Alcohol and its adverse impact on ASEAN during the pandemic (2020 - 2021)

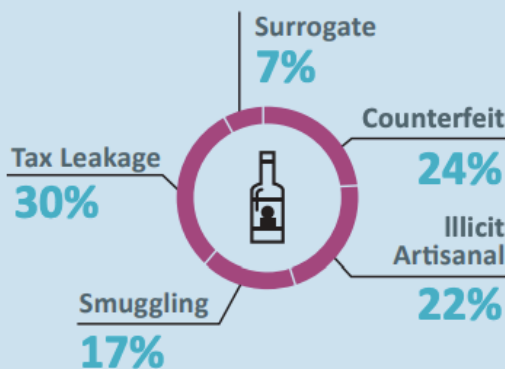
AFBR participated in a virtual Roundtable Discussion held on 9 February by the EU-ASEAN Business Council which discussed on how digital economies and the pandemic led to an increase in illicit goods in ASEAN in 2020.

Separately, we were also given the opportunity to interview Olivia Widen, Associate Director for Corporate Affairs, S&R, Pernod Ricard Asia, to discuss specifically on the impact of Illicit and Counterfeit Alcohol in ASEAN.

According to latest data from the EU-ASEAN Business Council (EU-ABC), it was estimated that illicit trade in general robs the global economy of US\$2.2 trillion with international trade in counterfeit goods contributing some US\$461 billion. In the ASEAN market, the size of the counterfeit goods market amounts to a whopping US\$35.9 billion, and the EU-ABC expects this to get worst, unless strong measures are taken by the various governments.

In a presentation done by Olivia Widen, one out of 4 wine and spirit drink bottles sold globally are believed to be illicit. And the breakdown for illicit consumption varies from counterfeit (24%) to smuggling (17%). For more information, refer to Chart 1.0.

Chart 1.0: Illicit Consumption



Source: Euromonitor, WHO

#### TYPES OF ILLICIT ALCOHOL

##### SMUGGLING

Illicit ethanol imports as raw material and illicit imports of alcohol beverages as finished product.

##### COUNTERFEIT

Illicit alcohol sold as a legal brand (substitute), empty bottles of legitimate products refilled with cheaper alcohol (refill) or industrial production of illicit brands or brand-less illicit alcohol.

##### ILICIT ARTISANAL

Artisanal alcoholic beverages produced for commercial purposes.

##### TAX LEAKAGE

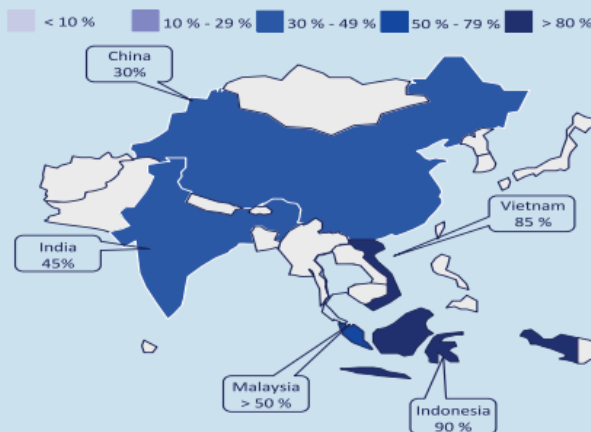
Legal alcohol beverages locally produced, where no excise tax is paid.

##### SURROGATE

Alcohol not produced for human consumption, i.e. pharmacy alcohol, deviated to the alcohol beverage market.

Meanwhile, the economic losses to spirits and wine brands from Europe due to illicit alcohol reached US\$6.2 billion annually, with Euro 2.3 billion (US\$2.75 billion) came from direct lost sales, while the remainder came from losses in employment as well as Euro 2.1 billion (US\$2.5 billion) in loss of government revenue. Specifically, ASEAN is estimated to be the region with the highest consumption of unrecorded (illicit) alcohol by 2025. (See Chart 2.0)

Chart 2.0: Share of Illicit Alcohol



Source: WHO, Global status report on alcohol and health, 2018

The illicit alcohol trade seems to be flourishing in ASEAN as consumers are unaware of the health risks that are associated with drinking illegal or counterfeit wines or spirits. In addition, the low prices of illicit alcohol has attracted consumption, and this is partly due to the high excise taxes as well as the many restrictions imposed on licit (legal) alcoholic beverages by various governments in the region.

ASEAN, with the exception of Singapore, also do not have an effective legal enforcement while the distribution channels are also poorly regulated.

Ultimately, as illicit activities grow, governments will also suffer from lesser tax collections.

Based on our interview with Olivia, we have managed to gather in-depth insights on how various countries in ASEAN could tackle the issue of illicit and counterfeit alcohol trade effectively. The following are excerpts of the interview with Olivia Widen:

**ASEAN is identified as the region with the highest % of illicit alcoholic drinks. How could the various governments in this region overcome this major problem?**



Olivia Widen, Associate Director for Corporate Affairs, S&R, Pernod Ricard Asia

Governments and industry leaders need to work more together to introduce regulatory and other measures to tackle the pressing issue of illicit trade. The prevalence of health and economic risks from illicit trade of alcohol cannot be underestimated and there is evidence that all stakeholders – government, consumers and business – are impacted. There is therefore a need to strengthen private-public sector partnerships to effectively tackle illicit trade of alcohol. A multi-pronged approach is required with several mitigating measures that can be taken.

Currently, there is a disparity between consumer preferences and the price of licit alcoholic beverages in many ASEAN markets and governments could do more to review current fiscal and taxation policies. We observe a consistent dynamic in the region between high levels of illicit trade of alcoholic beverages and high taxes on alcohol with unintended consequences to consumers and sellers alike who may be pushed to opt for illicit products.

This in turn leads to tax revenue losses for governments with much of alcohol being unrecorded and therefore, untaxed. For example, according to the WHO and the Journal of Global Health, between 60-70% of alcohol consumption is unrecorded in Vietnam where tax rates for spirits is one of the highest in the region. Unrecorded alcohol is not reflected in official statistics and therefore not subject to the same regulation and taxes in the country. In other words, only 30% of the market is paying its taxes and subject to national safety and quality standards.

Without a robust regulatory framework to disincentivise illegal traders from counterfeiting alcoholic beverages, challenges remain in ensuring these safeguards are effective and do the job of protecting public health. As producers, we fully comply with relevant consumer safety regulations in any market we operate. We see these rules as compliance and safety checks to protect consumers. Illicit alcohol products are not covered by this as they do not adhere to controls and regulations to ensure products are safe for human consumption. Furthermore, we take measures that allow us to trace products throughout the supply chain with the use of lot codes. In numerous countries, tampering, blurring, erasing or removing the traceability information (i.e. "decoding") of products is not illegal.



## GLOBAL

## PET FOOD

**US pet food brand accused of 'anti-Chinese' stance**

Racism has no barrier and it can now be expressed even by food brands.

A US-based pet food company, Sojos, that touts their products as being made from all-natural ingredients with 'Nothing from China' has come under fire for using words on their packaging and website that many consider as racist.

"No soy, fillers, artificial colors or flavors, preservatives and nothing from China," reads the packaging of Sojos' 'Mix-a-Meal' and 'Complete' line of dog food products.

In addition, on Sojos' website under the Frequently Asked Question section, it mentioned that 'majority of the company ingredients are sourced from America. Some are sourced abroad but none of our vitamins or minerals come from China.'

Many consumers were outraged over the insensitive language and have voiced out their comments over Sojos' Instagram account calling out the company for perpetuating harmful racist stereotypes at a time when anti-Asian violence in the US has soared.

However, there are others who defended the company by saying that "pet food from China has a history of being recalled due to safety and contamination issues." In 2014, at least 2 major US pet food retailers said that it would halt the sales of pet food from China, a move that came as authorities investigated thousands of pet illnesses and deaths believed to be linked to Chinese-made jerky treats.

Sojos' pet food are available from major retailers including Walmart and Amazon. In Hong Kong, pet food supplier Whiskers N Paws also sells Sojos' products, but their website shows they only have dog and cat treats - which do not have the race-tinted labels on their packaging.

Regulation to make it mandatory for alcoholic beverages to have a traceability mechanism, or to make tampering with lot codes from alcohol products illegal and make illegal the sale of the aforementioned items is an important measure in the fight against illicit trade. We are pleased to see that the Singapore Food Agency is convening public consultations on the mandatory inclusion of manufacturer applied lot identification on all pre-packaged foods.

Restrictive alcohol control policies or in some cases, policies that prohibit the sale and consumption of alcohol further fuel illicit options. This has been particularly prevalent in the context of the pandemic where COVID-19-related prohibitions on alcoholic beverages have driven growth in illicit trade and triggered serious negative health risks to consumers. Among the key findings of a recent report by the Transnational Alliance to Combat Illicit Trade (TRACIT), criminals and illicit traders rapidly entered these markets to fill gaps left by government-imposed supply shortages, leading to over 1,000 reported deaths globally that were associated with the consumption of illicit beverages.

Finally, regional cooperation, as outlined in the EU-ASEAN Business Council (EU-ABC) Report on 'Tackling Illicit Trade in ASEAN', is also important in this context and there is an opportunity for ASEAN to work together to develop a more coordinated response to tackle illicit trade in areas such as cross-border enforcement cooperation and public awareness for example.

**Pernod Ricard, as one of the world's leading liquor company, has adopted what measures to overcome challenges from illicit trade?**

At Pernod Ricard, we place particular importance to safeguarding consumer health and safety through robust quality controls not only at time of production, but also when our products are sent to a market where we invest resources to implement regular market checks at retail level. This is supplemented by traceability mechanisms (lot codes) that allow us to trace our products. Smugglers routinely remove, modify or blur producers' lot indications placed on imported products to remove themselves from liability and to hide their supply source. Without relevant lot identification codes on the bottle, legitimate operators cannot conduct appropriate batch recalls in case of any food incident. We also comply with relevant national regulation on food safety.

Pernod Ricard further invests in innovative technologies that help protect our brands and consumers from illicit traders. Specifically, we have developed and rolled out in China for example, a proprietary QR code - "Puma device" - whereby the consumer can scan the code that appears on a bottle that in turn is linked to a website that allows them to authenticate the product.

A joint industry approach and effort is a key success factor in tackling illicit trade. Pernod Ricard is a member of the Alliance Against Counterfeit Spirits (AACS), which represents the world's major international spirits producing companies. Its purpose is to combat the counterfeiting of distilled spirits and is currently active in more than 20 countries, including in Asia.

Through the AACS, industry is able to combat counterfeiting through the use of a variety of tools which include investigations into the manufacturers of counterfeit spirits, persuading governments to prioritise and allocate resources to tackling counterfeiting activities, encouraging law enforcement to clamp down on violators and supporting them through capacity-building, and working with e-commerce platforms to amplify policing and takedown of online sales of counterfeit products. To-date, AACS on a global scale has trained over 4,000 enforcement officers and conducted over 400 raids.

That said, the degree of sophistication of a counterfeit can vary greatly from one product to another. We therefore also encourage consumers to prevent risks when considering purchase of a Pernod Ricard or any other product by referring to the 4Ps rule (Place – Packaging – Product – Price). "Always buy your product from a reputable store and ensure you are given a valid receipt. If the printing is blurred, labels are not straight or the cap looks odd, you may not have the genuine article. Check the duty stamp required in your country is intact and of good quality. Finally, if the price is too good to be true, probably it is a counterfeit."

**What do you foresee to be the future for liquor (alcoholic drinks) in the next 10 years in the ASEAN region if illicit trade is not being tackled effectively and put under control?**

Globally, the direct impact of illicit trade of alcohol to the industry is around Euros 2.3 billion (US\$2.75 billion) in direct lost sales. The WHO (2018) also estimated that unrecorded alcohol accounted for 25.5% of total worldwide adult alcohol consumption and is projected to increase to 27.7% in 2022. ASEAN is estimated to be the region with the highest consumption of unrecorded alcohol by 2025. If we take a market like Malaysia for example, illicit alcohol (contraband and counterfeit) accounted for about 40% of the total consumption in Malaysia (WHO, 2018).

If illicit trade is not being tackled effectively, these statistics will continue to increase year after year. This will pose greater risks to consumer health, and continued loss of revenues for both local governments and private companies. Indeed, in the absence of sound, non-discriminatory regulatory systems, stronger compliance incentives and effective enforcement that act as deterrents for illicit operators, the cost of doing business in a compliant manner will outweigh the benefits. Consequently, legitimate operators will assess the attractiveness and competitiveness of ASEAN in the long term.

Another worrisome development that we identify is the increasing role of e-commerce in counterfeiting. Over the past 10 years, internet sales have become widely democratised from US\$377 billion in 2010 to over US\$2 trillion in 2020, according to Euromonitor International and have definitively seen further growth in the context of the pandemic when physical stores were closed because of lockdown. However, this global growth in online sales also benefits counterfeit sales. Online sales platforms and social networks have indeed become one of the preferred sales channels for many counterfeiters. The International Chamber of Commerce predicts that global counterfeit trade will reach US\$4 trillion by 2022, primarily fuelled by e-commerce. In the next 10 years, we probably might see the channels where illicit trade of alcohol occurs diversifying onto the online space and consequently adding to the challenge of effectively addressing it.

## INDONESIA

## ALCOHOLIC DRINK

**Indonesia revokes regulation to liberalise investment in the Alcoholic Drinks industry**

In March, Indonesia's President Joko Widodo has revoked a regulation that includes the licensing of investment in the alcoholic beverage industry.

According to several news media, the announcement was made after receiving inputs from MUI, Nahdlatul Ulama, Muhammadiyah as well as other major religious organisations and provincial administrations.

Jokowi said, "I herewith decide to declare that the appendix to the presidential regulation on the opening of new investment in the alcoholic beverage industry is revoked."

Earlier on 2 February, Jokowi had signed the agreement to open up investment in the alcoholic beverage industry in Bali, East Nusa Tenggara, North Sulawesi and Papua, taking into account the local cultures in these areas. In addition, investment in the liquor industry outside these provinces can be made if approval from the Investment Coordinating Board chief is secured based on the respective governor's proposal. This regulation was done in a hurry, without prior public consultations, to create more employment, and it amended Presidential Regulation No.39/2014 that added the liquor industry to the list of sectors closed to foreign investment.

The issue of alcoholic beverages is highly sensitive in Indonesia with a majority muslim population. In addition, the move to allow foreign investments in the alcoholic drink sector will threaten the existence of smaller traditional