

Report of Discussion of “Small Group Brainstorming Meeting on the implementation of takeback procedures in Asia”

7 September 2016
Semarang, Indonesia

1. Objectives and the structure of the small group

The small group brainstorming meeting was held on 5th September to discuss the takeback issues as the initial step in order to:

- **Share a clear understanding of the common difficulties** for the implementation of takeback procedures in Asia.
- **Learn good practices from the actual takeback cases** of each country.
- **Identify key elements necessary** for the successful implementation of takeback procedures.
- **Exchange views on necessary measures** to address takeback issues.
- **Develop a draft road map (or a work plan)** for the development of a framework under the Asian Network to harmonize the takeback procedures.

2. Objectives and the structure of the small group

- Participants

- Facilitator: the BRS Secretariat
- Countries/region;
 - ✓ Hong Kong SAR, China
 - ✓ Indonesia
 - ✓ Japan
 - ✓ Malaysia
 - ✓ Philippines
 - ✓ Singapore
 - ✓ Thailand
 - ✓ Vietnam
- Resource Persons: BCRC-SEA, IDE-JETRO, EXRI

Discussion points

- Common difficulties for the implementation of the take back procedures
 - Difficulties to prevent illegal traffic
 - Inadequate legal frameworks at the national/domestic level
 - ✓ lack of, fragmented, or possibly conflicting frameworks
 - ✓ for BC implementation (minimal requirements) / for BC enforcement (eg. operationnalization of take back, responsibility for costs of take back)
 - Communication and cooperation:
 - ✓ International level (eg. unresponsive CAs, lack of awareness of respective legal frameworks)
 - ✓ National level (eg. between Customs and CAs)
 - Legal uncertainties (eg. export to third Parties? non-Parties?)
 - Perception issues
 - and luck

Discussion points

- Good practices for successful implementation of the take back procedures
 - Guided by BC objectives (ESM and punishing conduct contravening BC)
 - Clear and complete institutional and legal frameworks (review and adjust as needed / entities involved, procedures to be followed, take back “impracticable”, responsibility for costs)
 - Knowledge of other Parties’ institutional and legal frameworks
 - Working level international cooperation: communication among CAs, intelligence sharing, platform to exchange information and foster cooperation (Asian Network)
 - Use available avenues in case of communication difficulties / disagreement (Secretariat, diplomatic channels, ICC)
 - Cooperation at the national level: eg. interagency task teams
 - Early detection and reaction
 - Investigation / prosecution by all Parties concerned
 - Speedy action v. robust action (CAs concerned involved, collection of evidence)
 - Monitoring of take back until confirmation of ESM disposal

Discussion points

- Possible future activity under the Asian Network?
 - Valuable platform to exchange information and foster cooperation
 - Link to activities at the global level
 - Taking into account specificities in the region
 - Test and complement as needed ICC guidance?

THANK YOU!