



# Training Manual on IP Crime Prosecution

## 8. Prosecutorial discretion

# Who should investigate IP Crime?



- Police, prosecutorial services
- IP, customs, tax inspectors (“police” powers may be limited)
- Right holders: own market surveillance, private investigators



# Decision to prosecute

- Legality versus opportunity principle
- The “public interest”

# Prosecutorial considerations:

## Health and safety

- Does the counterfeit goods present potential health or safety issues?
- Counterfeit medicines
- Food
- Spare parts
  - Vehicle and airplane parts

# Prosecutorial considerations: Scale and size

- Scale of the operation
- Number and “type” of participants
- Scope of activities

# Prosecutorial considerations: The Victim

- Is the victim a member of a vulnerable class?
- Is the purchaser a victim of a fraudulent scheme?