



Practices of Trade Secret Protection

CHINESE TAIPEI

APEC IPEG FEB 9th-10th, 2020

PUTRAJAYA, MALAYSIA



Outline

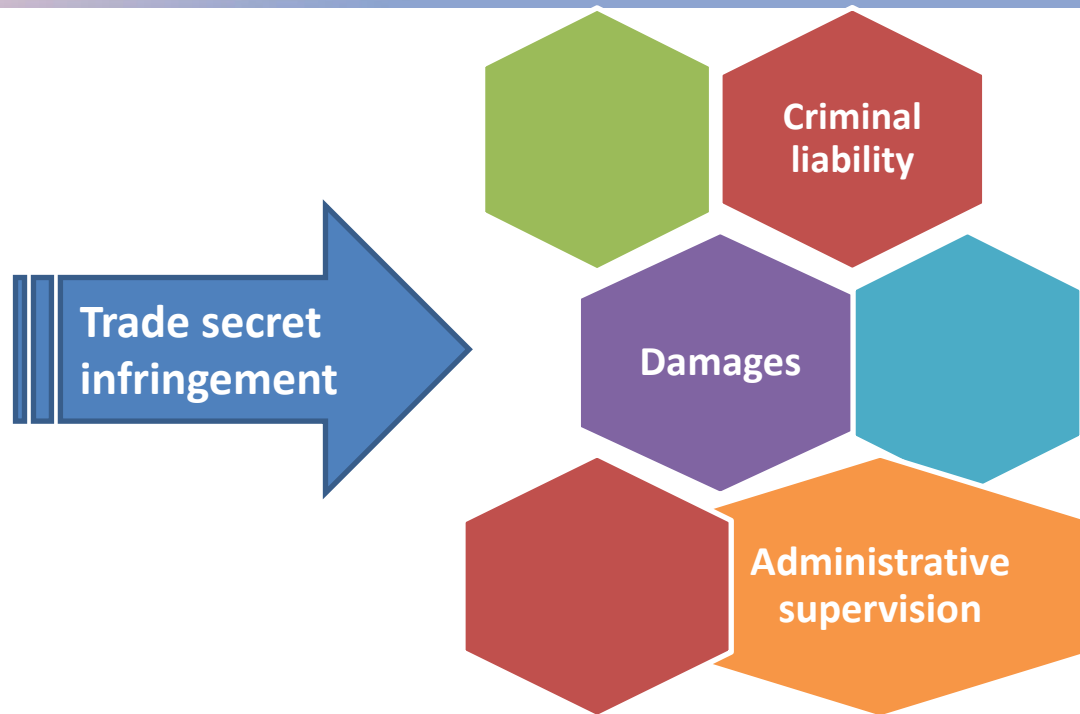
Key areas of trade secret protection

Create an environment for trade secret protection

Summary



Key areas of trade secret protection



**Best choice
of protection?**

- ◆ Imposition of civil and/or criminal liability is ex-post remedy in the aftermath of trade secret infringement.
- ◆ Once a trade secret is leaked or publicized, it cannot be undone and the damage has already been caused.
- ◆ **PREVENTING** trade secrets from being infringed is **THE BEST WAY** for their protection.



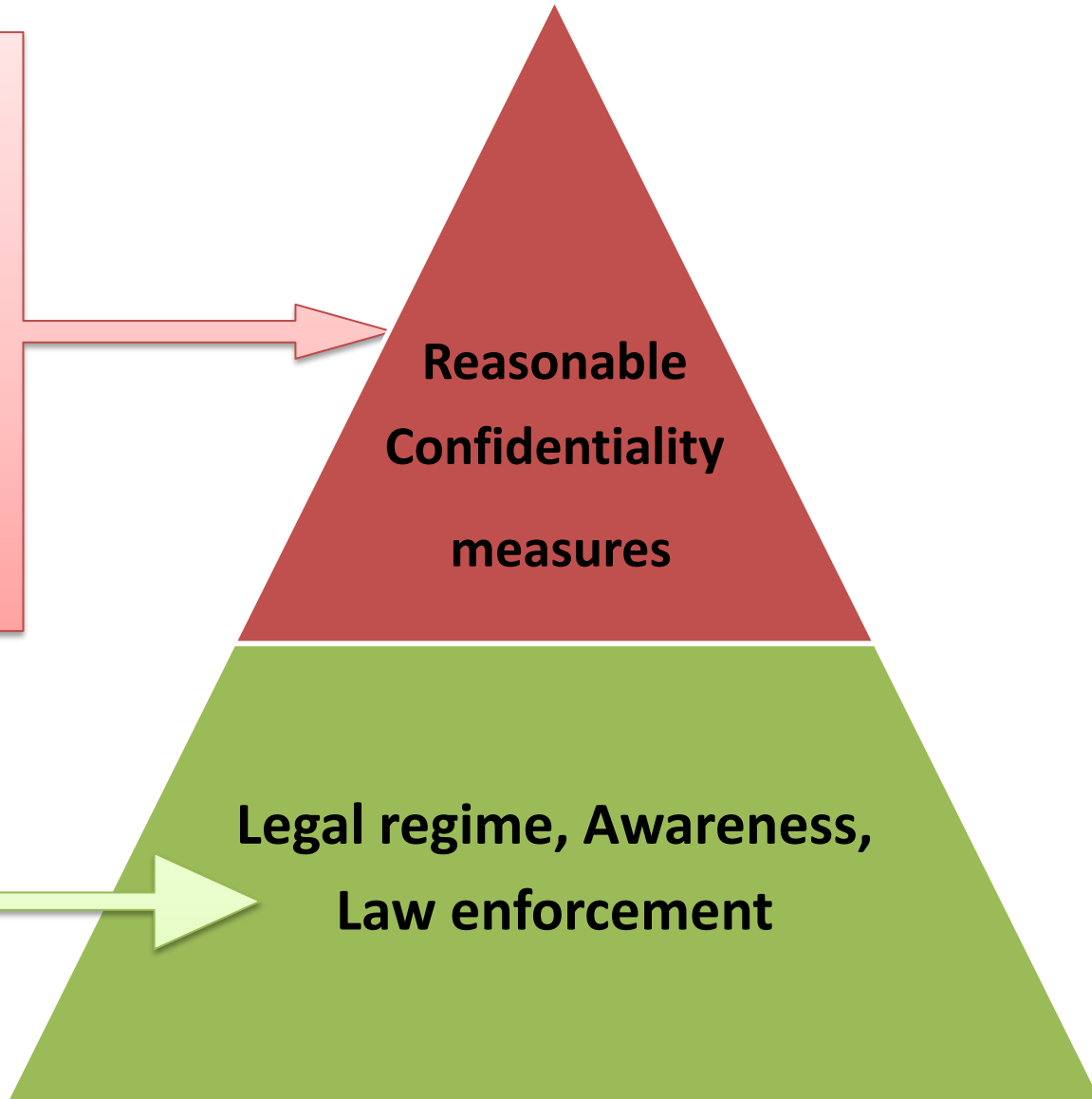
Create an environment for trade secret protection

➤ **Corporations must do their best to implement protective measures**

Set up reasonable protective measures, such as levels of confidentiality, division of authorization, personnel training, and regulation of hardware

➤ **The government should build an optimal environment for protection**

Comprehensive legal regime, awareness, and law enforcement





Create an environment for trade secret protection

Legal regime

- **Trade Secret Act**
- Witness Protection Act
- Communication Security and Surveillance Act
- Intellectual Property Case Adjudication Act

Confidentiality Order for Investigation was introduced to the Trade Secret Act in Dec. 2019

Objectives: Encourage provision of evidence, facilitate investigation, reveal truths, and avoid trade secrets from being let out repeatedly during the investigation

Content:

1. **A prosecutor** may, **if she/he deems it necessary**, issue a confidentiality order ex officio during the investigation
2. A person subject to a confidentiality order shall not use the investigation information for purposes other than the investigation, or disclose such information to any person not subject to a confidentiality order
3. Procedures to **cancel** or **change** a confidentiality order is also stipulated
4. When a case is forwarded to the court, it would be processed under a confidentiality preservation order, **in continuation of** a confidentiality order for investigation
5. A person violating a confidentiality order shall be liable to imprisonment for a period not exceeding **three years**, and/or a fine not exceeding **NT\$1 million**



Create an environment for trade secret protection

Awareness

1. The seminar on SMEs' implementing reasonable confidentiality measures is held every year.
2. The “SOP of reasonable confidentiality measures for SMEs” is published (NEW)
3. The “handbook on trade secrets protection” is compiled (NEW)
4. The compilation of trade secret **adjudications** (NEW)
5. Promotional short film “Setting up reasonable confidentiality measures” was shot and placed on **networking media** like Facebook and YouTube to increase visibility (NEW)



<https://youtu.be/sGL-7VCfCjs>

Law enforcement

1. The Guideline for Handling Major Trade Secret Cases in the Prosecuting Authority was promulgated by the Ministry of Justice
2. The special project on optimizing trade secret investigation was instituted by the Ministry of Justice Investigation Bureau
3. International symposium on investigation practices
4. Scheduled visits by judicial personnel to various businesses
5. Courses specializing on judicial personnel handling investigation of trade secret infringement cases and adjudication of lawsuits (NEW)





Summary

- The key to protecting trade secrets is preventing infringement from being committed
- Through exchange between businesses, experiences in protecting trade secrets can be shared
- The government and businesses must work together to create a culture of trade secret protection



**Thank you for your
attention**

