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Customs: counterfeiters and pirates are increasingly turning to mass-produced goods

Figures just published by the European Commission show that customs seized almost 85 million counterfeit or pirated articles at the EU's external border in 2002 and 50 million in the first half of 2003. These seizures confirm a trend observed in previous years: counterfeiters are no longer confining their activities to luxury goods but increasingly turning their attention to consumer goods (including foods, medicines, mobile phones and batteries). Since these counterfeit products are not subject to safety checks, they represent a danger to the health and safety of consumers. The counterfeiters are also quick to adapt their illegal practices to exploit every opportunity: this goes for the means of transport (2002 saw increased use of the post), the type of brand (SMEs are increasingly falling victim to counterfeiters) and the nature of the product (2002 saw a sharp rise in the seizures of mobile phones and a drop in seizures of CDs).

"The latest figures speak volumes: all everyday consumer products are now potential targets for counterfeiting and pirating," said EU customs commissioner Frits Bolkestein. "We are increasingly finding ourselves seizing everyday products: tea, spinning tops, mobile phones. These products are dangerous because there is no guarantee that they meet safety standards. We must therefore be vigilant, and we are doing everything we can to this end."

Trends and developments in 2002

The key findings in 2002 relate more to the nature of counterfeiting than the number of items seized. The nature of the products concerned is changing, as are the modes of transport. Right holders also seem to be stepping up their action against this form of fraud, as demonstrated by the number of applications for action.

As for the provenance of these goods, most counterfeit goods (66%) seized in 2002 came from Asia (Thailand and China in particular). This was also the case in 2001.

Nature of the products intercepted: the threat to consumer safety

Counterfeiting is no longer confined to luxury goods. The figures for 2002 show that **foodstuffs, cosmetics, toys, medicaments and car parts** all figure prominently among the goods seized. There appears also to have been a significant increase in the numbers of counterfeit cigarettes in 2002. Now consumer safety is under attack from all sides, since these counterfeit products are not checked for conformity with Community safety standards. This is illustrated by the reports of cases in which counterfeit mobile phone batteries have exploded.

Among the most significant trends is the marked increase in **counterfeit mobile phone products**. The statistics show that seizures in 2002 were up almost 503% on 2000 and included many spare parts. This is largely due to the success of the mobile phone. The same period saw seizures of **clothing** double, with accessories (belts, spectacles, bags) accounting for the greatest increase. Seizures of counterfeit **cosmetics and perfumes** rose by over 300% from 2001 to 2002.

In contrast, the numbers of **CDs, DVDs and cassettes** seized were down significantly, from 40 million in 2001 to about 12 million in 2002. This fall can be put down to the scope for downloading off the internet, but also to customs action against the traffic in blank CDs.

Modes of transport used: planes, ships and postal services

Air remains the counterfeiter's favourite mode of transport, accounting for 45% of cases detected in 2002. There was, however, a significant rise in the use of the postal services, up from 11% of cases handled in 2001 to 33% in 2002. Fraud rings are therefore stepping up their use of postal channels: this can be ascribed partly to the success of orders by Internet and partly by the fact that this mode of transport limits the scope for identifying the sender.

Note, however, that the statistics on the mode of transport are based on the number of cases and not on the number of items intercepted. Otherwise shipping would be in first place. Ships can obviously carry enormous quantities of goods. Yet there are comparatively few cases of this mode of transport being used to carry counterfeit goods.

Note also that 74% of procedures in 2002 were initiated against traders, compared with 58% in 2001. This shows a drop in counterfeit goods carried by passengers (down from 42% in 2001 to 26% in 2002).

Growing awareness of right holders: increase in applications for action

Applications for action enable right holders to ask customs to act where goods are suspected to be counterfeit or pirated. Some 1600 applications were lodged in the EU in 2002, almost twice as many as in 2000. This shows how successful the customs authorities have been in their efforts to inform right holders of the part they can play in tackling such fraud. The overall figure is nevertheless marginal when compared with the number of rights registered each year, especially since counterfeiters are increasingly infringing rights held by SMEs. Almost 60% of counterfeit goods seized in 2002 bore brands other than the seven big ones named. This shows that the counterfeiters have moved away from big-name brands towards anything that will sell.

Trends in the first half of 2003

The statistics for the first half of 2003 prompt a number of remarks. First and foremost, there has been an appreciable increase in the number of items seized (to almost 50 million). Secondly, the trend observed in 2002 towards counterfeiting of mass-market goods seems to be continuing. This means that the type of goods counterfeited is changing very quickly, in line with trends on the mass market. For instance, the increase in counterfeit toys is particularly due to the current craze for spinning tops.

The total number of procedures initiated by customs in this sector in the first half of 2003 already equals the total for 2002. And the number of toys intercepted by customs this year is already 56% higher than the total for 2002.

And among the miscellaneous products seized, customs are increasingly seizing "disassembled" goods, i.e. components of a product (for instance labels, bottles, corks) are imported separately and the product then assembled on the spot.

The EU is arming itself against counterfeiting

The Commission is taking a proactive stance on counterfeiting: it is no longer simply reacting to situations but preempting them by introducing instruments allowing measures to be adapted to the changing patterns of fraud.

The new approach is reflected by the new regulation on counterfeit and pirated goods adopted in July ([IP/03/1059](#)). Due to enter into force on 1 July 2004, it will replace Regulation 3295/94. The innovations include the extension of the regulation's scope to cover new property rights (including plant varieties, geographical indications and designations of origin) with a view to increasing consumer protection. It also improves the quality of information to be provided by right holders to customs when applying for action. Lastly, it facilitates SMEs' recourse to the protection of the regulation (in particular by requiring no fees or guarantees.).

A seminar on customs action against counterfeiting and piracy was held in Brussels from 27 to 29 October (see [IP/03/1446](#)). Customs officials from the Member States and the acceding countries agreed to set up a "**strike force**" of frontline customs officials to identify practical solutions to specific operational problems and to help the acceding countries combat this form of trafficking. Secondly, the customs officials agreed to use a **risk-analysis manual** to improve targeting of counterfeit goods. This practical manual is above all intended for frontline officials engaged in the day-to-day struggle against counterfeit and pirated goods. Lastly, agreement was reached by customs and representatives of industry on the establishment of a format enabling them to **exchange precise information rapidly** for the purpose of identifying high-risk goods.

The Commission also presented, in January, a proposal for a Directive on enforcement of intellectual property rights (see [IP/03/144](#)). The proposal is aimed at harmonising national legislation on enforcement and establishing a broad framework for the exchange of information between the competent national authorities. If adopted, the Directive would guarantee equal rights for all right holders in the EU, reinforce measures against offenders and so deter counterfeiters and pirates.

Further information on these measures can be found on the Europa website:

http://europa.eu.int/comm/taxation_customs/customs/counterfeit_piracy/index_en.htm

and

http://europa.eu.int/comm/internal_market/en/indprop/piracy/index.htm