

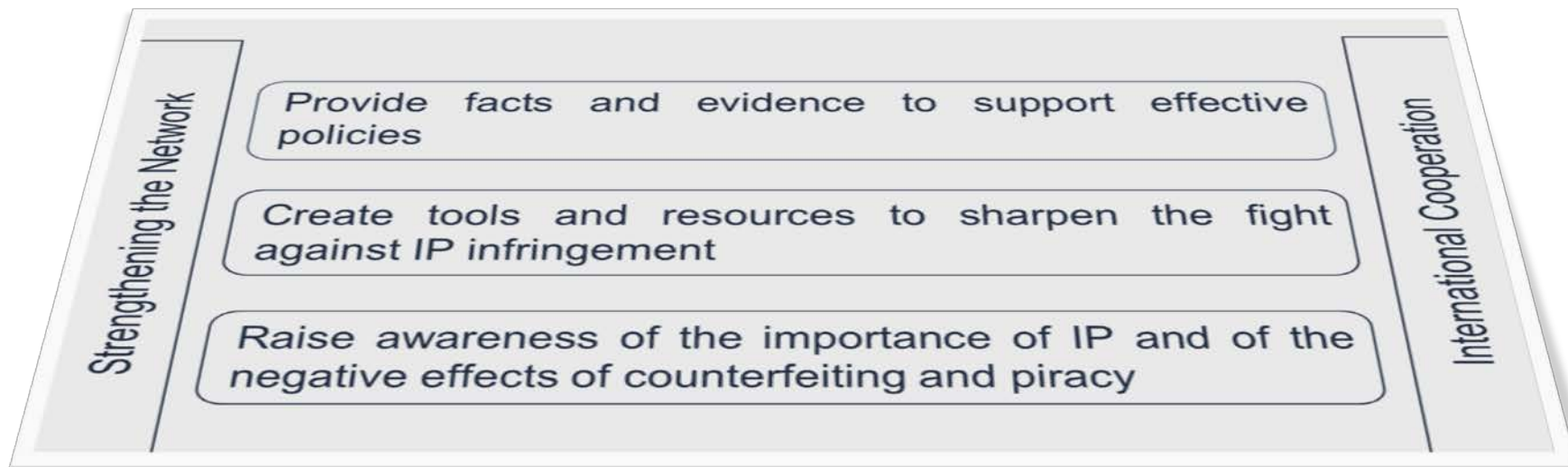
Goods in transit - Perspective of the EU Observatory on Infringements of IP Rights, EUIPO

THE OPERATION OF THE EU LAW
ON THE DETENTION OF COUNTERFEIT GOODS IN TRANSIT

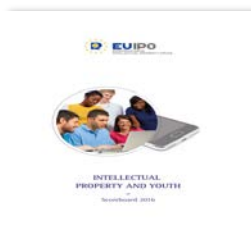
08/03/2017

Fernando Martinez Tejedor
Observatory - EUIPO

OBSERVATORY GOALS 2014 - 2018



GOAL 1 – FACTS AND EVIDENCE

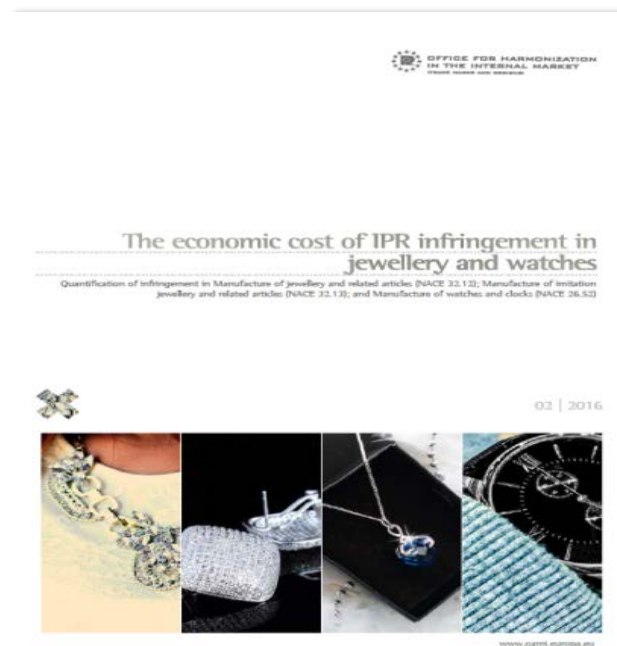
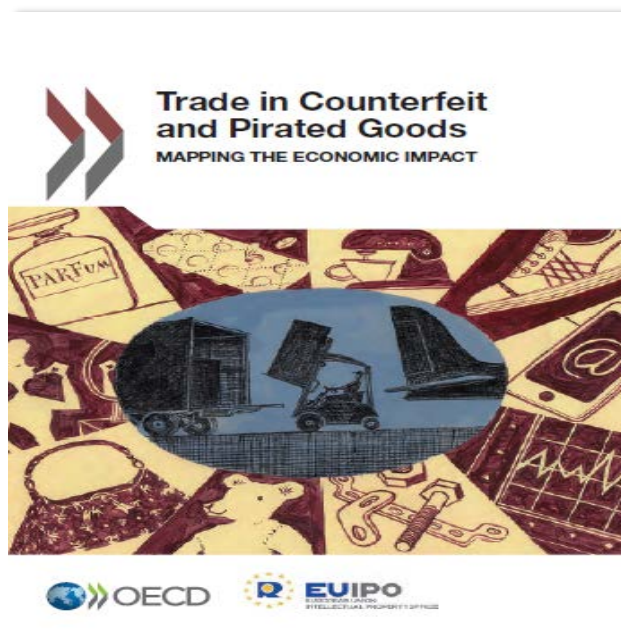


IP Contribution

Infringement Quantification

Europeans and IP

INFRINGEMENT QUANTIFICATION



INFRINGEMENT QUANTIFICATION– TRADE IN COUNTERFEIT GOODS

Key results

Worldwide

€338
billion

(USD 461bn)
Trade in fake goods

Corresponds to 2.5%
of global trade

EU

€85
billion

(USD 116bn)
of EU imports

Corresponds to 5%
of total EU imports

Total losses due to counterfeiting (1)

Cosmetics and personal care

- Total sales lost: € 9.5 billion
- Total jobs lost: 80,000
- Government revenues lost: € 1.7 billion



Clothing, accessories and footwear

- Total sales lost: € 43 billion
- Total jobs lost: 520,000
- Government revenues lost: € 8.1 billion



Sports goods

- Total sales lost: € 850 million
- Total jobs lost: 5,800
- Government revenues lost: € 150 million



Games and toys manufacturing

- Total sales lost: € 2.3 billion
- Total jobs lost: 13,200
- Government revenues lost: € 370 million



Total losses due to counterfeiting (2)

Jewellery and watches manufacturing

- Total lost sales: € 3.5 billion
- Total jobs lost: 28,500
- Government revenues lost: € 600 million



Handbags and luggage manufacturing

- Total sales lost: € 3.2 billion
- Total jobs lost: 25,700
- Government revenues lost: € 520 million



Recorded music

- Total sales lost: € 336 million
- Total jobs lost: 2,155
- Government revenues lost: € 63 million



Total losses due to counterfeiting (3)

Wine and spirits sectors

- Total lost sales: € 3 billion
- Total jobs lost: 23,300
- Government revenues lost: € 1.2 billion



Pharmaceutical industry

- Total sales lost: € 17.3 billion
- Total jobs lost: 90,900
- Government revenues lost: € 1.7 billion



Pesticides manufacturing

- Total sales lost : € 2.8 billion
- Total jobs lost : 11,700
- Government revenues lost: € 238 million



INFRINGEMENT QUANTIFICATION - SECTORIAL STUDIES



1st study - Cosmetics and personal care sector



2nd study - Clothing, footwear and accessories sector



3rd study - Sports goods sector



4th study - Toys and games sector



5th study - Jewellery and watches sector



6th study - Handbags and luggage sector



7th study - Recorded music industry



8th study - Spirits and wine sector



9th study - Pharmaceutical sector



10th study - Pesticides sector



11th study - Smartphone sector

Total sales lost in the EU: **€86.1 billion**

Total jobs lost in the EU : **800,000 jobs**

Government revenues lost : **€14.6 billion**

INFRINGEMENT QUANTIFICATION - Recent study on SMARTPHONES!

- ❑ 184 million smartphones were NOT sold by the legitimate industry in 2015, because of counterfeit devices available.
- ❑ 12.9 % of legitimate sales of smartphones were lost worldwide
- ❑ Loss equivalent to EUR 45.3 billion.



Observatory 2017 : Enforcement area Working Program

- ✓ **EDB and ACIST**
- ✓ **New sectorial** reports
- ✓ Special focus on **online infringements**
- ✓ Study related to **enforcement of GI**
- ✓ Reinforced **cooperation**
- ✓ **Building Knowledge** and Competences in IP Enforcement
- ✓ **EU IP Prosecutors Network** on Infringements of IP Rights
- ✓ **Virtual** IP Training Centre

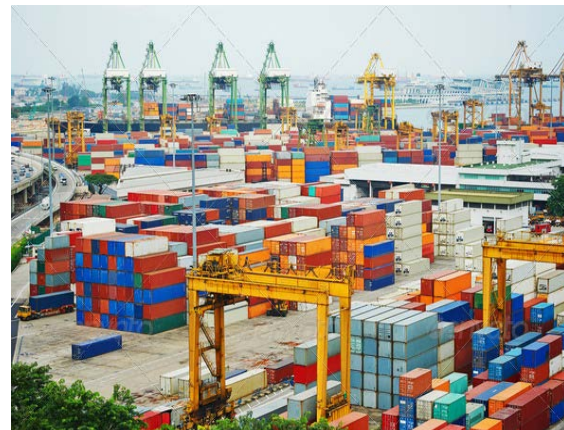
Goods in transit provisions

- 1. Background**
- 2. Legal framework**
- 3. Applicability**



1 - Background

- ✓ Former legal framework
- ✓ Old Commission's guidelines



2 - Legal framework

- ✓ **TM Directive**
- ✓ **EUTM Regulation**
- ✓ **Commission Notice**



3 - Applicability

A. Goods in transit

B. Identical signs and more...

C. What RH's rights at destination?

A) Applicability: In transit?

- ✓ Enter the CT of the EU
- ✓ Destination outside EU
- ✓ Transit situation (not transit procedure)



B) Applicability: Identical signs and more...

- ✓ Signs are identical
- ✓ Signs are perceived identical
- ✓ Main elements not differentiable



C) Applicability: What RH's rights at destination?

- ✓ What to prove
- ✓ Who to prove
- ✓ Where to prove



Some 2015 statistics by the Commission (DG TAXUD)

- Detentions
- Trends
- Origin



Some 2015 statistics by the Commission (DG TAXUD)

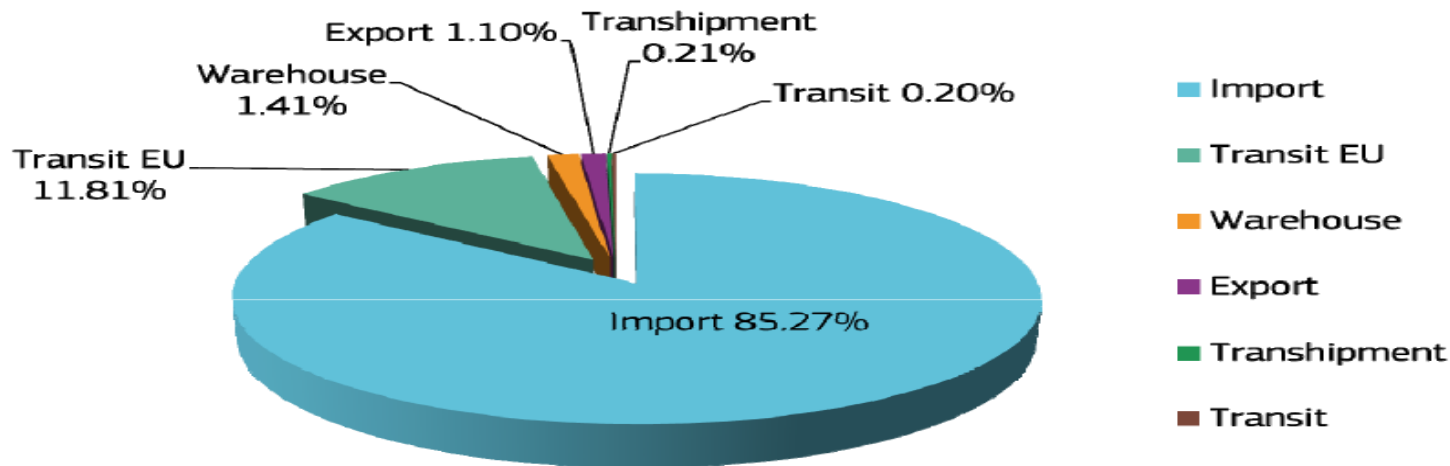


Chart 17- Breakdown of cases by customs procedure

Some 2015 statistics by the Commission (DG TAXUD)

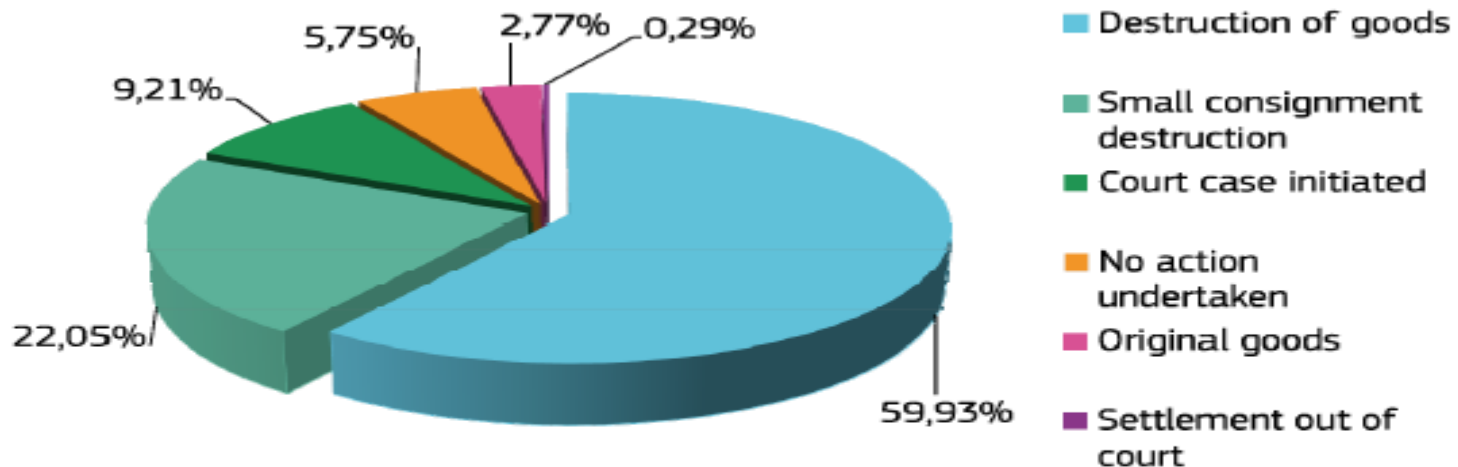


Chart 6 – Breakdown of result by procedure

Some 2015 statistics by the Commission (DG TAXUD)

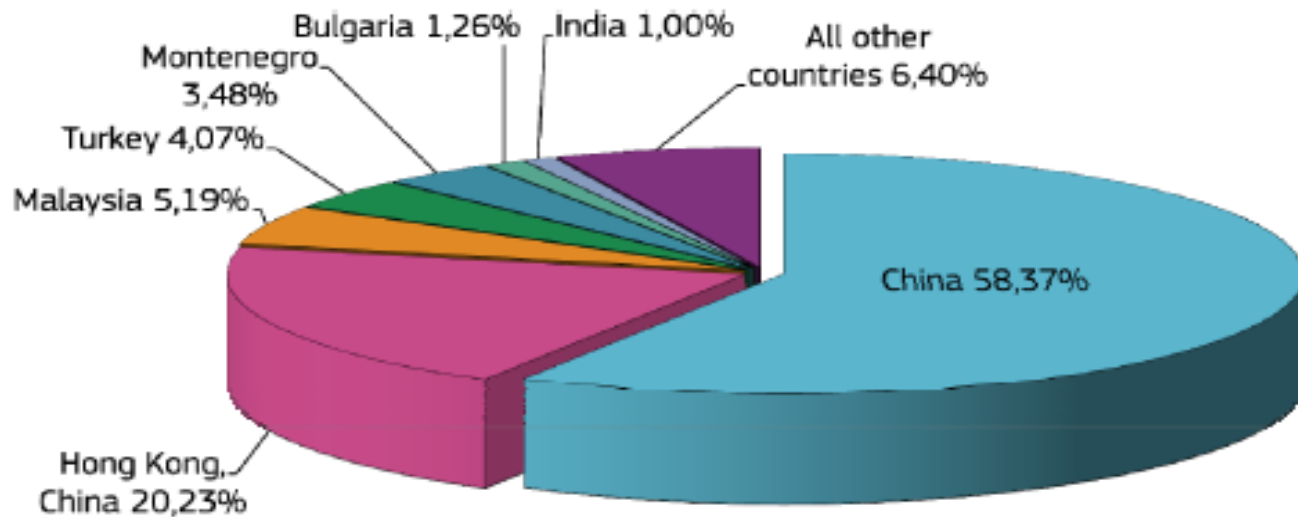


Chart 11 - Country of provenance by value

...Sic (in) transit gloria mundi?

Thanks !!!!