

### 3. Made in Italy? Infringement of Italian IPRs world wide

*This chapter appraises the damage caused by infringement of Italian intellectual property rights in world trade. Having described who suffers in particular from this illicit activity, the discussion goes on to consider the scope and volume of such infringements. The top destination and provenance economies for counterfeit goods that infringe Italian IPR are enumerated. The focus then shifts to the Italian products that are most susceptible to counterfeiting, with a unique quantitative analysis establishing their actual degree of susceptibility. Distinctions are made between primary and secondary markets. Finally, stock is taken of the detrimental effects of IPR infringement on the Italian economy – once again, in terms of lost sales, lost jobs, and lost government revenue.*

### 3.1. Who is affected and how?

Infringement of Italian intellectual property rights (IPRs) in world trade mainly affects:

- Italian right holders (manufacturing industries), and
- the Italian government.

#### 3.1.1. Industry

Legitimate Italian IPR holders can be badly affected by world trade in counterfeit products that infringe their rights. In the short term, such trade reduces sales volumes and hence lowers profits, in turn leading to lower levels of employment in the Italian manufacturing sector. In the long term, Italian companies face significant brand erosion because of unfair competition from counterfeiters that freeride on their IP.

The methodology developed below focuses only on the short-run economic effects on sales volumes and manufacturing employment. The long-term effects cannot be quantified, for two main reasons. First, to do so would generally require data spanning several years, and such data are unavailable. Secondly, existing studies that could help produce an adequate alternative methodology are mostly theoretical and do not provide robust empirical support.

It is also important to note that, as mentioned in the previous chapter, some industries can actually benefit from counterfeiting and piracy. Firstly, counterfeiting can generate economic activity, which can be beneficial for many industry players if the fake goods are produced domestically. Secondly, some intermediaries, such as express and shipping companies, may record higher demand for their services because of counterfeit trade.

This methodology however focuses only on losses incurred by the manufacturing industry due to counterfeiting and piracy, and does not take into account either the positive impact of production of counterfeit products, or potential gains that intermediaries derive from counterfeit trade. The two main reasons for this have been advanced in Section 2.1 of Chapter Two.

#### 3.1.2. Government

For the Italian government, the principal effects of the global trade in counterfeit and pirated products that infringe Italian trademarks and patents are forgone tax revenues. Firstly, lower sales volume and profits made by Italian rights holders directly reduce corporate income taxes. Secondly, some sales of these products made on the domestic market are not likely to be registered, which results in reduced sales and value-added taxes. Finally, manufacturing job losses brought about by counterfeiting reduce payroll taxes, notably social security contributions and personal income taxes.

As presented in Chapter Two, in the longer term, counterfeit trade can also have some broader, more general damaging effects for governments, such as those on trade, innovation and growth, employment, the environment, and criminal activity. However, due to lack of sufficient and consistent cross-economy statistics, quantification of these impacts is not possible at this stage.

To summarise, there are three impact areas of world trade in products that infringe Italian trademarks and patents this study is able to quantify with a relatively high degree of robustness: 1) lower sales, 2) job losses for the Italian manufacturing industry, and 3) lower tax revenues for the Italian Government.

The data and the methodological framework developed to calculate all these effects are presented step by step in Annex A.3. The following subsections present the methodology and its main results.

### 3.2. What are the scope and volume of Italian IP infringements in global trade?

Before calculating the impacts of Italian IP infringements in global trade on the Italian economy, the first step is to evaluate the volume of such infringements. The following paragraphs thus provide some descriptive statistics on the global scope of trade in counterfeit products that infringe Italian trademarks and patents. It then uses the GTRIC methodology presented in details in Step 7 in Annex A.3 and Annex A.5 to estimate the total volume of infringing counterfeit and pirated products traded worldwide.

#### *3.2.1. What are the top destination and provenance economies for counterfeit goods that infringe Italian IPR?*

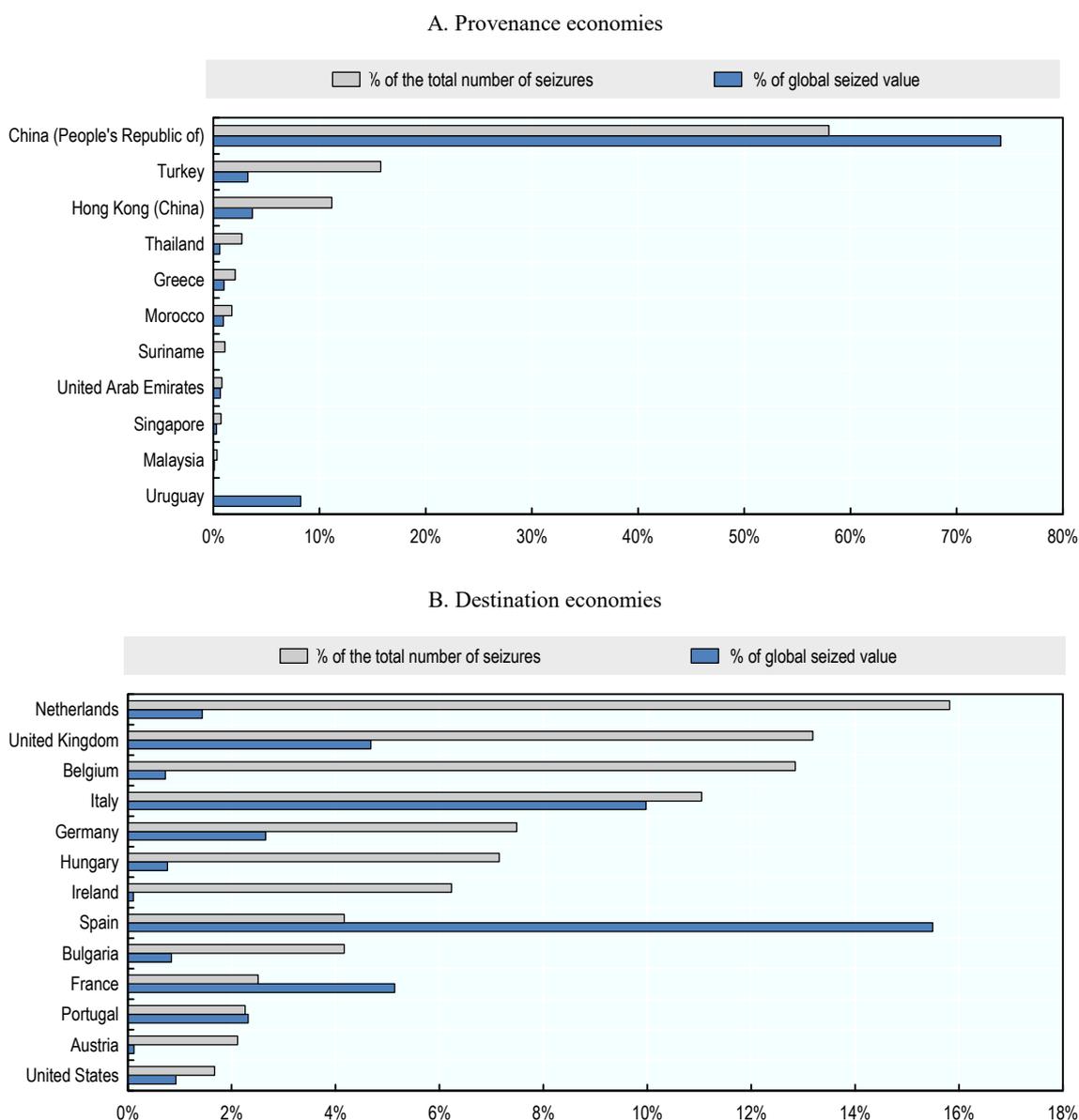
Interestingly, a review of the data on global customs seizures highlights that the member countries of the European Union were the top destinations for counterfeit and pirated products that infringed Italian IPR between 2011 and 2013 (Figure 3.1.B), in terms of both the number of customs seizures and seized value. Italy itself ranked fourth in terms of the seized value of these products, and second in terms of the number of customs seizures.

Asian economies, particularly China, Hong Kong, China and Thailand, were the main provenance of counterfeit and pirated goods that infringed Italian IPR over the same period 2011-13 (see Figure 3.1.A), followed by Turkey, Greece and Morocco.

In order to obtain a meaningful measure of the likelihood of each economy becoming a destination for counterfeit and pirated products whose IP rights are held by Italian residents, these data on customs seizures need to be compared with data on Italian exports of genuine products and data on Italian manufacturing domestic sales. Use is therefore made of the GTRIC-e index (General Trade-Related Index for destination economies), which allows comparison of the customs seizure frequency of counterfeit products that infringed Italian IPR and are sold in a given economy, and the share of this economy in Italian sales (exports plus domestic sales).

Table 3.1 lists the top 15 economies most likely to be destinations for counterfeit and pirated products infringing IPR of Italian holders over the period 2011-13 (see Table B.3 in Annex B for a complete list). The range of likely destination economies is very large, ranging from Paraguay, Kuwait, EU (e.g. Spain, Portugal, the United Kingdom, Finland, the Netherlands) to south-eastern European economies (the Former Yugoslav Republic of Macedonia, Montenegro).

**Figure 3.1. Top provenance and destination economies of fake goods infringing Italian IP, 2011-13**



**Table 3.1. Top 15 economies most likely to import products infringing Italian IPR**

GTRIC-e scores, average 2011-2013

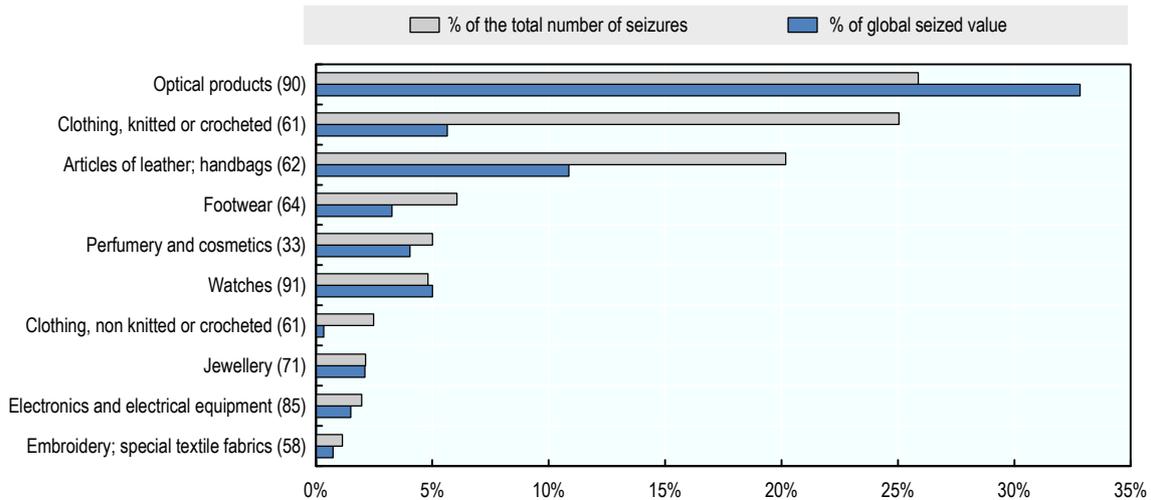
Destination economy	GTRIC-e
Paraguay	1.000
Kuwait	0.983
Czech Republic	0.975
Spain	0.974
Bulgaria	0.952
Portugal	0.945
Togo	0.924
Luxembourg	0.920
Guinea	0.881
United Kingdom	0.871
Former Yugoslav Republic of Macedonia	0.784
Finland	0.778
Hungary	0.768
Netherlands	0.767
Montenegro	0.750

*Notes:* A high GTRIC-e score indicates that an economy is highly prone to be a destination market for counterfeit products infringing Italian trademarks and patents, either in absolute terms or as a share of Italian sales. The results for all destination economies in for years 2011, 2012 and 2013 are reported in Table B.4 in Annex B.

In terms of the economies of origin of counterfeit goods that infringe the IP rights of Italian companies, it should be noted that in many sectors the Internet spawns increasingly efficient distribution channels. It is now the main means for matching infringers and consumers. Counterfeiters tend to use both the “big” platforms and marketplaces (eBay, Amazon, etc.), and the smaller fake websites, which can look genuine and advertise digitally on social media.

### ***3.2.2. Which types of Italian products are most susceptible to counterfeiting?***

The unified dataset on customs seizures of counterfeit and pirated goods can also be used to discern the product categories in which Italian trademarks and patents are the most vulnerable to global counterfeiting and piracy. Over the period 2011-13, these ranged from basic common goods to luxury or intermediary products (see Figure 3.2).

**Figure 3.2. Top categories for fake Italian products, 2011-13**

*Note:* Figures in parenthesis are Harmonized System (HS) codes as defined by the United Nations Trade Statistics (UN Trade Statistics, 2017).

Importantly, branded products produced by Italian small and medium enterprises are often targeted by counterfeiters. These products can come from various sectors, ranging from agriculture to furniture and luxury apparel products.

Although the scale of production of these firms is limited due to their small size they often offer excellent quality products that are highly reputed. Consequently, they become very profitable targets for counterfeiters, as there are high potential returns from trademark infringements.

In addition, SMEs often do not have sufficient resources and capacities to monitor this threat, and to develop effective countermeasures. The consequences for SMEs can therefore be much more severe than for big companies that have experience and capacities to deal with the risks of counterfeiting (Box 3.1).

Although the scope of goods that are sensitive to IP infringement is broad, the degree to which counterfeiting and piracy target Italian trademarks and patents varies significantly across product categories. Seizures statistics reported in Figure 3.2 below indicate that worldwide Italian-related IPR infringements are especially concentrated in a limited number of industries. Relating to both the number of customs seizures and the seized value, these include sunglasses, clothing, articles of leather and handbags, footwear, perfumery and cosmetics and watches.

The GTRIC-p index is then used to compare which product categories are most likely to be vulnerable to counterfeiting and piracy. For each product category, this index compares global customs seizures intensities of fakes infringing Italy-related IPR with the share of this product category in Italian sales (exports plus domestic sales). The result is a general ranking of industries according to their propensity to contain Italian trademarks or patents that are sensitive to counterfeiting and piracy (Table 3.2; see Table B.5 in Annex B for a complete list).

A high GTRIC-p score implies either that a given product category contains high values of Italian trademarks or patents that are sensitive to global counterfeiting and piracy in

absolute terms (e.g. in euros); or, that a large share of the production of goods associated with an Italian trademark or patent registered in this product category is counterfeit or pirated.

### Box 3.1. Italian SMEs are at risk!

An example of a small Italian enterprise that suffered from counterfeiting was provided during an interview by an Italian industry association.

Company X was a family business, designing and producing in-house luxury footwear in small quantities in Italy. Given the high quality of products and attractive design, it enjoyed a strong reputation and high demand for their products. Being a very small, family run company, X followed a traditional model of distribution, offering their collections in a selected number of stationary boutiques only.

At one point, company X decided to explore the possibility of opening an in-house, online store. A short analysis revealed the presence of an enormous number of footwear branded X in the on-line e-commerce environment, including the biggest retail platforms. An overwhelming majority of them were counterfeits.

According to the Italian industry association, company X could simply not counter this phenomenon. As the manager of X noted “we are a small, family-run business. We have no means to monitor the Internet. We have no anti-counterfeiting unit, nor even a legal department. Our strength and expertise is in shoemaking. “

**Table 3.2. The 15 product categories most sensitive to violation of Italian IPR in global trade**

GTRIC-p scores, average 2011-2013

HS category	GTRIC-p
Optical; photographic; medical apparatus (90)	1.000
Watches (91)	1.000
Articles of leather; handbags (42)	1.000
Perfumery and cosmetics (33)	0.995
Clothing and accessories, not knitted or crocheted (62/65)	0.992
Clothing, knitted or crocheted (61)	0.980
Finishing of textiles (58)	0.979
Footwear (64)	0.814
Miscellaneous articles of base metal (83)	0.567
Toys and games (95)	0.438
Jewellery (71)	0.389
Other made-up textile articles (63)	0.337
Knitted or crocheted fabrics (60)	0.280
Electrical machinery and electronics (85)	0.276
Glass and glassware (70)	0.257

*Notes:* A high GTRIC-p score implies either that a given product category contains high values of Italian trademarks or patents that are sensitive to global counterfeiting and piracy in absolute terms (e.g. in euros); or, that a large share of the production of goods associated with an Italian trademark or patent registered in this product category is counterfeit or pirated. Figures in parenthesis are Harmonized System (HS) codes as defined by the United Nations Trade Statistics (UN Trade Statistics, 2017).

In addition to the types of Italian products targeted for counterfeiting, the number of seizures of fake packaging and logos is growing. This confirms qualitative findings about

the domestic assembly of counterfeit and pirated products from imported materials, formulated in structured interviews with Italian enforcement authorities. In terms of overall findings, this calls for conservative interpretation of the final results, as packaging and labels have a significantly lower value than the final products. According to GTRIC methodology, all counterfeit packaging and labels are treated as “packaging”, and represent the value of packaging. The fake logos and stickers are then used in the final phase of assembling the fake item, which happens in Italy.

In addition, there are numerous instances of a fake brand name or logo being registered, in China but also within the EU; these are considered to be lookalikes, and are very similar to those of the brands. For example, the term “Raybane” is used to infringe the IP of Ray-Ban.

### ***3.2.3. What is the value of global trade in counterfeit products that infringe Italian IPRs?***

As explained in the Step 7 in Annex A.3, applying the GTRIC-e and GTRIC-p indices to data on Italian exports and domestic sales allows the absolute values to be gauged for trade in counterfeit and pirated goods infringing the IPR owned by Italian residents. These absolute values are expressed as upper limits of trade counterfeit and pirated goods, in percentage of exports and sales. To calculate these ceiling values, and to translate the results from relative values to absolute ones (e.g. in monetary terms) it is first necessary to establish a “fixed point”. The “fixed point” is the percentage of counterfeit goods in total imports in a selected product category from a given trade partner, for which reliable data are available. The fixed points can be usually established with certain credibility through interviews with enforcement official for the pairs “product category–destination economy” that are the most intense in terms of trade in counterfeit and pirated goods (see OECD/EUIPO (2016) for more discussion).

To verify if values of the “fixed point” determined during the interviews with customs officials and experts result in robust results, some additional checks are carried out. To do so, the empirical application is based on three scenarios, with selected values of 10%, 15% and 20%. Note that all of these scenarios take much more conservative values of fixed points than the actual fixed points applied to imports in OECD/EUIPO (2016).

Table 3.3 below reports the estimated value of global trade in counterfeit products infringing Italian trademarks and patents for years 2011, 2012 and 2013, for these three alternative ceiling values. The best estimates based on the data provided by customs authorities worldwide, and on the GTRIC methodology, indicate that global trade in counterfeit and pirated products infringing Italian trademarks and patents amounted to as much as EUR 35.58 billion in 2013, equivalent to 4.9% of total Italian manufacturing sales (domestic plus exports). This means around 7.7% of global trade in counterfeit and pirated products is related to goods infringing Italian patents or trademarks (EUR 35.6 billion over the EUR 461 billion estimated in the OECD/EUIPO (2016) report).

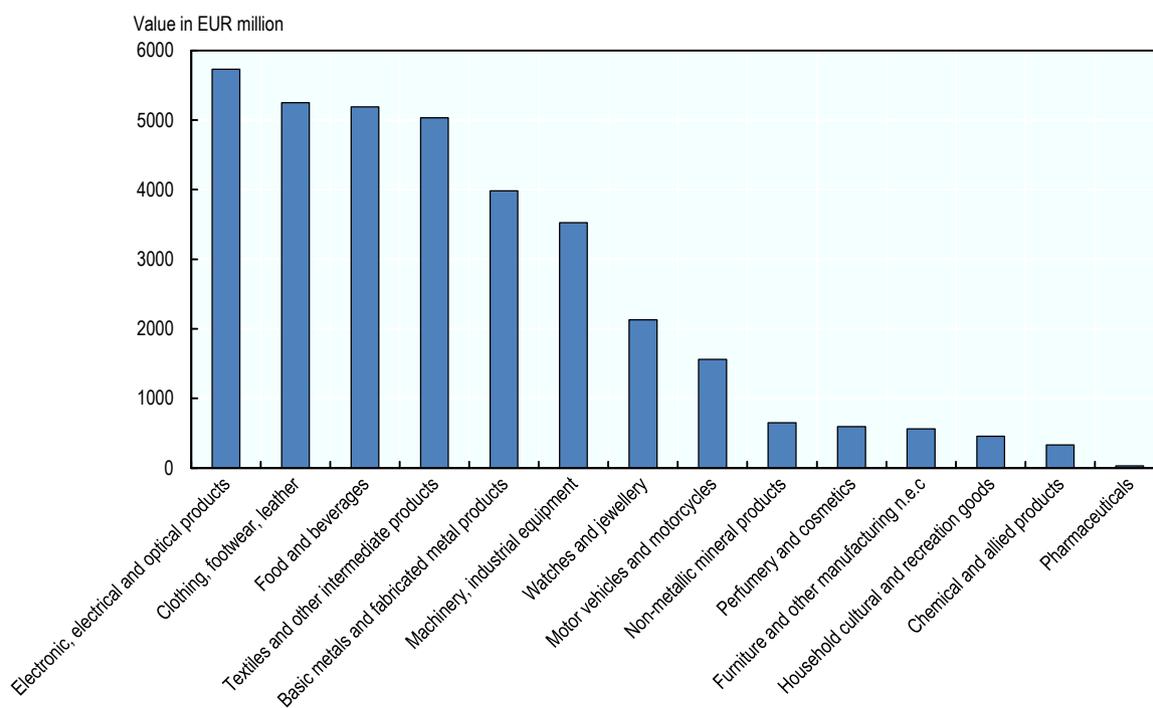
**Table 3.3. Estimated value of global trade in counterfeit products infringing Italian IPR, 2011-13**

Year	2011		2012		2013	
Unit	Value in EUR bn	Share of sales	Value in EUR bn	Share of sales	Value in EUR bn	Share of sales
Ceiling value 20%	24.22	3.31%	34.98	4.42%	35.58	4.87%
Ceiling value 15%	18.16	2.49%	26.23	3.32%	26.69	3.37%
Ceiling value 10%	12.44	1.70%	17.49	2.21%	17.79	2.39%

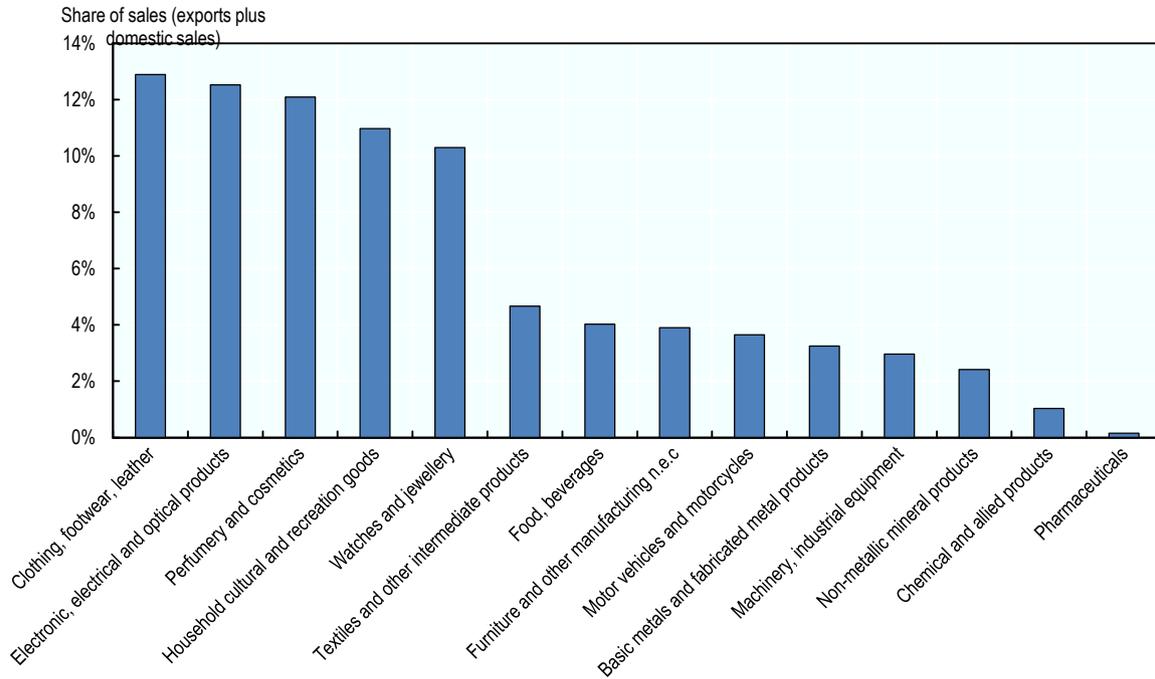
Figure 3.3 breaks down this amount by product category. In absolute terms (i.e. in millions of euros), Italian trademarks and patents related to electronic and electrical equipment, optical products, scientific instruments, machinery and equipment; clothing, footwear and leather, and food products were particularly targeted by counterfeiters and pirates in global trade. In relative terms, articles of leather and handbags, apparel, and perfumery and cosmetics were the most often faked type of products worldwide, with fakes making up more than 11% of all goods within each category.

**Figure 3.3. Top product categories subject to infringements of Italian IPR in global trade, 2013**

A. In terms of value



**Figure 3.3. Top product categories subject to infringements of Italian IPR in global trade, 2013 (continued)**  
 B. In terms of share within the product category



### 3.3. Primary and secondary markets for counterfeit Italian products

The next step consists of comparing the share of Italian IPR-infringing fakes that are sold on primary markets worldwide with those that are sold on secondary markets. This is done using the methodology described in Step 8 (Annex A.3).

Table 3.4 identifies these markets by product category. The results indicate that between 2011 and 2013, 53.6% of Italian IPR-infringing fakes traded worldwide were offered on secondary markets, i.e. they were openly sold as fakes to consumers. This share varies between product categories, ranging from 14% for foodstuff and beverages and tobacco to 68% for watches and jewellery.

**Table 3.4. Share of secondary markets for counterfeit products infringing IPR, 2011-13**

Sector	Share of the secondary market
Food, beverages and tobacco	14.35%
Chemical and allied products	15.33%
Pharmaceutical and medicinal chemical products	28.57%
Perfumery and cosmetics	62.61%
Textiles and other intermediate products (e.g. plastics; rubbers; paper; wood)	56.10%
Clothing, footwear, leather and related products	60.02%
Watches and jewellery	68.35%
Non-metallic mineral products (e.g. glass and glass products, ceramic products)	50.00%
Basic metals and fabricated metal products (except machinery and equipment)	27.14%
Electronic and electrical equipment, optical products, scientific instruments	60.03%
Machinery, industrial equipment; computers and peripheral equipment	46.94%
Motor vehicles and motorcycles	65.29%
Household cultural and recreation goods	43.26%
Furniture, lighting equipment, carpets and other manufacturing n.e.c	37.59%
<b>Total</b>	<b>53.62%</b>

It is reported that the Internet has become the main means of matching the infringers and consumers. In this context, some geographical differences merit attention. For example, in some developing countries (e.g. Colombia, Malaysia or Thailand), counterfeit goods that infringed IP of Italian companies tend to be distributed through legitimate channels, and consumers can be deceived by finding them in equally legitimate, “traditional” stores. However, the traditional way of distribution tends to diminish with the increasing availability of counterfeits on the Internet.

In the context of sales of counterfeit goods that infringe Italian IP, it should be stressed that many of these pose very serious health and safety risks for consumers. For example, with respect to counterfeit sunglasses or lenses, some external tests were performed that revealed in particular the three following nonconformities:

- Some fake lenses can affect the ability to recognise colours. This implies that they are not suitable for driving, since the driver will be unable to recognise traffic lights.
- There are also problems with the ability of fake lenses to resist impacts. Fake sunglasses also did not test resistant to impact, and were susceptible to serious corrosion of the frame.
- Fake sunglasses that are not sufficiently resistant can generate allergies for the frame owners and harm the skin.

Counterfeit car components produced originally by Italian manufacturers are another example of fakes that pose serious safety threats to consumers. For example, the high-end car brake producer Brembo reported it had been suffering from counterfeiting, and in many instances fakes could be found on primary markets, appearing the same as the originals Brembo (2015). Most analysed fake brakes were made from poor quality materials that would not pass any quality control, were poorly assembled, and had much lower overall quality levels. Consequently, it is likely that such fake brakes would not function the way original brakes would do, and consequently pose very serious safety risks for users.

It should be highlighted that these health and safety damages cannot be simply quantified, and hence they fall outside the scope of this report.

### 3.4. The effect of counterfeiting on sales by Italian IPR owners

What value of sales were never realised by Italian right owners due to counterfeiting of their products? This is calculated following the methodology described in Step 9 (Annex A.3).

The total volume of forgone sales by Italian companies due to infringement of their IP rights in 2013 for scenario 1 amounted to EUR 25.1 billion, or 3.1% of their total sales in that year (domestic plus exports). The manufacturing industries for electronics, electrical equipment, and optical and scientific products; and for foodstuff and beverages incurred the highest losses (respectively, EUR 4.6 billion and EUR 4.2 billion of forgone sales in 2013). In terms of shares of sales, the highest losses were recorded by the manufacturing industries for clothing, footwear and leather products; and perfumery and cosmetics, which lost over 8.8% and 8.5% of their sales, respectively

**Table 3.5. Estimated lost sales for Italian domestic manufacturing industries, 2013**

Sector	Value in EUR mn	Share of sales
Food, beverages and tobacco	4160.97	3.3%
Chemical and allied products	246.82	0.7%
Pharmaceuticals	20.94	0.1%
Perfumery and cosmetics	468.62	8.5%
Textiles and other intermediate products (e.g. plastics; rubbers; paper; wood)	3196.46	2.8%
Clothing, footwear, leather and related products	3534.91	8.8%
Watches and jewellery	1255.37	6.9%
Non-metallic mineral products (e.g. glass and glass products, ceramic products)	400.74	1.4%
Basic metals and fabricated metal products (except machinery and equipment)	2948.71	2.2%
Electronic and electrical equipment, optical products, scientific instruments	4646.64	8.0%
Machinery, industrial equipment; computers and peripheral equipment	2626.64	1.9%
Motor vehicles and motorcycles	920.89	2.0%
Household cultural and recreation goods	318.54	7.6%
Furniture and other manufacturing n.e.c	344.77	1.2%
<b>Total manufacturing sector</b>	<b>25091.02</b>	<b>3.1%</b>

### 3.5. The effect of counterfeiting on jobs in the Italian manufacturing industry

Lower sales of genuine Italian patented and trademarked products translate into fewer jobs in the Italian manufacturing sectors affected. In order to estimate the amount of jobs lost due to infringement of Italian trademarks and patents in global trade, the basic econometric model presented in Annex A.3 was used. This drew on estimates of the transmission rates (elasticities) between lost sales and lost jobs (Table A.4 in Annex A.3).

Table 3.6 displays the total number of job losses in various branches of the Italian manufacturing industry. Overall, the total number lost due to infringement of Italian trademarks or patents in global trade amounted to more than 64 300, equivalent to 2.4% of the total number of employees in the Italian manufacturing sector.

**Table 3.6. Estimated lost jobs in Italian manufacturing industries, 2013**

Sector	Number of employees	Share of employees
Food, beverages and tobacco	8510	2.0%
Chemical and allied products	328	0.4%
Pharmaceutical and medicinal chemical products	38	0.1%
Perfumery and cosmetics	673	4.4%
Textiles and other intermediate products	11228	1.8%
Clothing, footwear, leather and related products	17407	5.1%
Watches and jewellery	1091	3.3%
Non-metallic mineral products	1916	0.9%
Basic metals and fabricated metal products	7589	1.1%
Electronic, electrical, and optical products, scientific instruments	7176	4.0%
Machinery, industrial equipment; computers and peripheral equipment	5210	0.8%
Motor vehicles and motorcycles	1516	0.9%
Household cultural and recreation goods	429	4.0%
Furniture and other manufacturing n.e.c	1204	0.5%
<b>Total manufacturing sector</b>	<b>64316</b>	<b>2.4%</b>

*Note:* Employees are measured in full time equivalent units according to Eurostat (2018)<sup>1</sup> definition.

### 3.6. The effect of Italian IPR infringement on government revenues

Lower sales and lower profits for Italian rights holders mean they pay lower corporate income tax to the government. In addition, fewer employees mean lower personal income tax revenues and lower social security contributions. Finally, lost sales on the Italian domestic markets mean lower value-added taxes on consumption. In 2013 this forgone tax revenue amounted to EUR 5.9 billion (Table 3.8), equivalent to 1.9% of total Italian public revenues collected on these three taxes.

**Table 3.7. Public revenue losses due to Italian IPR infringements in global trade, 2013**

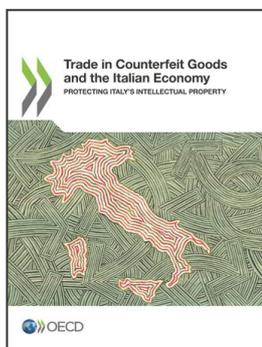
Tax type	Value in EUR mn	Share
PIT and SSC	2616.9	1.5%
Corporate taxes	1730.9	4.2%
Value added taxes	1508.6	1.6%
<b>Total</b>	<b>5856.4</b>	<b>1.9%</b>

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## Notes

- <sup>1</sup> Eurostat (2018) defines employees as those persons who work for an employer and who have a contract of employment and receive compensation in the form of wages, salaries, fees, gratuities, piecework pay or remuneration in kind. A worker from an employment agency is considered to be an employee of that temporary employment agency and not of the unit (customer) in which they work.



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