Chapter 3. Trade in counterfeit goods at first glance

This chapter presents a set of initial snapshots of trade in fakes based on raw customs seizure data.

Overview of seizures of counterfeit goods

In each analysed year (2014, 2015 and 2016), the total number of customs seizures of counterfeit and pirated goods worldwide consistently exceeded 130 000. Overall, the unified database on customs seizures of IP-infringing goods includes almost 465 000 observations. These data provide a wealth of information about provenance economies, industry scope of counterfeit trade and economies of registration of the right holders whose IP rights are infringed.

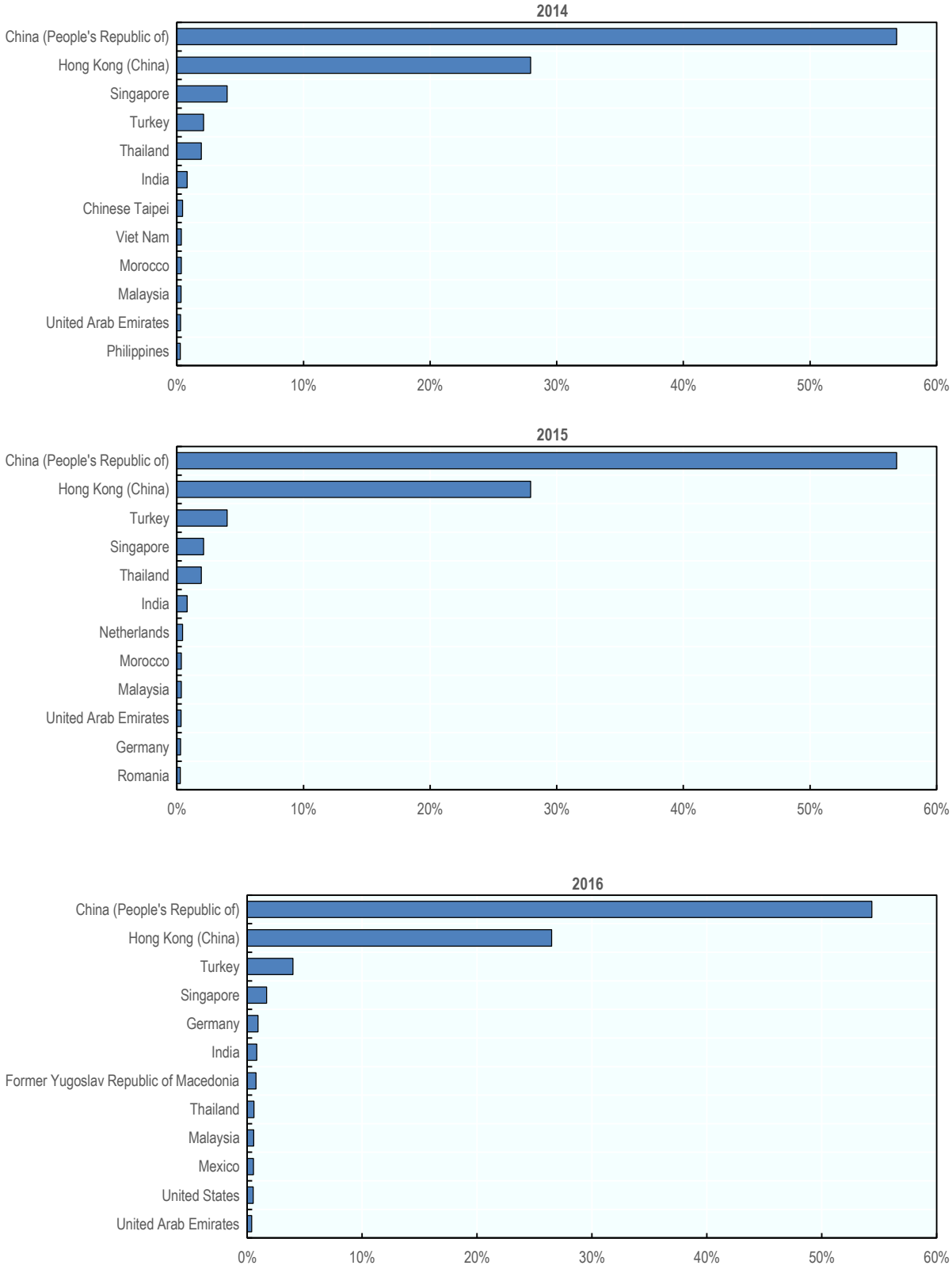
In most cases, the data do not allow distinguishing whether seized goods come from the original point of manufacturing or from a transit point. Therefore, as detailed in the OECD-EUIPO (2016) report, the term "provenance economies" has been used. This term refers to economies where actual production of infringing goods is taking place and economies that function as ports of transit, through which infringing goods pass.

Provenance economies

Virtually any economy can be the provenance of counterfeit and pirated trade, and the scope of these provenance economies is being broadened. This is supported by a descriptive analysis of the unified dataset of customs seizures identifying 184 provenance economies of counterfeit and pirated products between 2014 and 2016, as compared to 173 for the 2011-13 period.

While the scope of provenance economies is broad, the raw seizures statistics also show that interceptions originate from a relatively concentrated set of provenance economies. In other words, some economies tend to dominate the global trade in counterfeit and pirated goods. The highest number of counterfeit shipments being seized originates from East Asia, with China and Hong Kong (China) at the top of the ranking (see Figure 3.1).

Figure 3.1. Seizures of counterfeit and pirated goods: Top provenance economies, 2014, 2015 and 2016

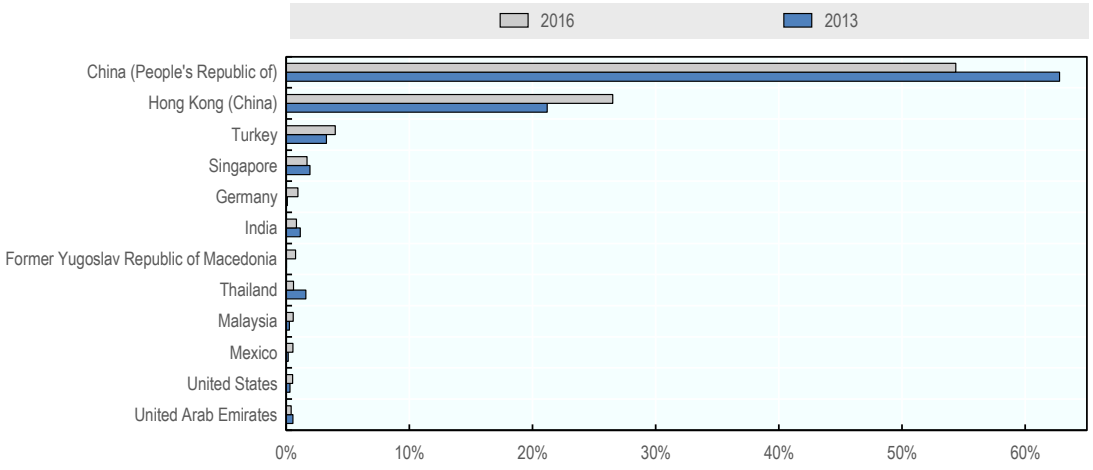


China and Hong-Kong (China) have been dominating global trade in counterfeit goods during the 2014-16 period and as well as during 2011-13. It should be noted, however, that China's share has been progressively decreasing while the one for Hong-Kong (China) has been rising.

The increasing importance of Hong Kong (China) as a transit point is likely to be associated with some general trends in counterfeit trade documented by previous OECD-EUIPO studies. First, trade routes in fake goods are complex and few prominent transit points are intensely misused, including Hong Kong (China). Second, Hong Kong (China) has been also identified as an important economy of source for small parcels that carry counterfeit and pirated goods. With the constant growth of misuse of small parcels in counterfeit trade, this could also contribute to the growing role of Hong Kong (China) in the global trade in fakes (OECD-EUIPO, 2018a; OECD-EUIPO, 2018c).

India, Malaysia, Mexico, Singapore, Thailand, Turkey and the United Arab Emirates remain among the top provenance economies for counterfeit and pirated goods traded worldwide between the two periods.

Figure 3.2. Differences in provenance economies in counterfeit and pirated trade, 2013 and 2016



Product categories

The unified dataset can be used to draw quantitative illustrations regarding infringed product categories. The scope of products being counterfeited and pirated is very broad and is being broadened. It ranges from luxury to common products (see Box 3.1). Based on available statistics from 184 economies between 2014 and 2016, customs detected articles in violation of intellectual property rights in 88 of the 96 HS chapters (92% against 80% for the 2011-13 period).

Box 3.1. The widening scope of counterfeiting and piracy

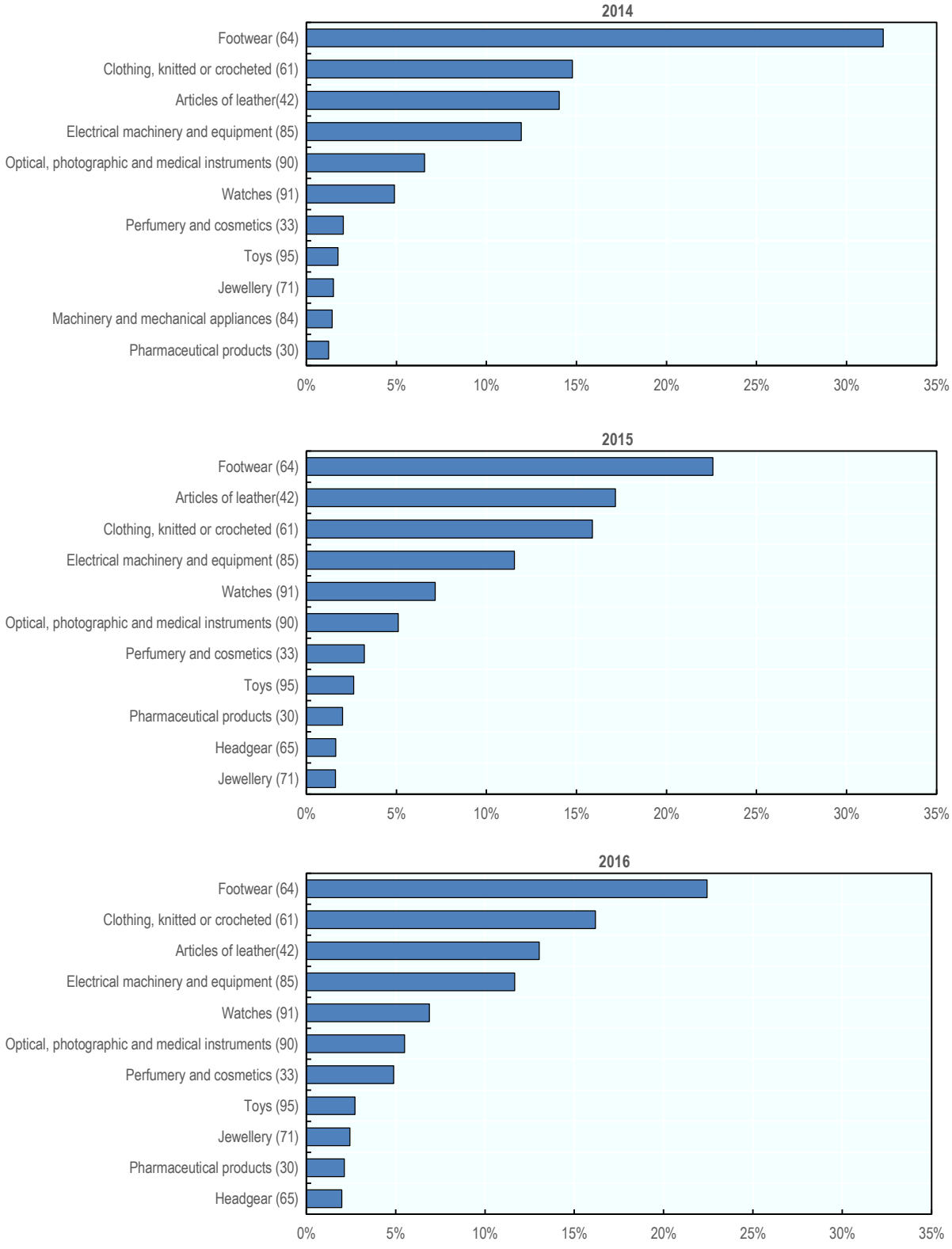
As long as a given product is protected with a trademark, patent, design right or copyright that adds economic value to its right holder, it is likely that this product suffers from counterfeiting and piracy. The scope of counterfeiting and piracy is broad and covers almost all products that are protected by the four IP rights mentioned above. Existing statistics report on seizures of counterfeit (trademark infringing) fresh ginger, potatoes, peaches and, just as for the 2011-13 period, counterfeit fresh strawberries, cinnamon and coconut oil.

There are several new product categories in which counterfeits were detected, including, for example: fur skins and artificial fur (43); salt; sulphur; earth and stone; lime and cement (25) and ores, slag and ash (26). Examples of products that were reported to be counterfeited to a much larger scale included guitar, or construction materials, for example. This constantly expanding industry scope of counterfeiting proves that counterfeiters apply very aggressive strategies, dynamically looking for all kinds of profit opportunities.

While the scope of goods sensitive to infringement is broad, several sectorial studies suggest that the intensity of counterfeiting and piracy differs greatly across different types of goods and hence HS categories. This is supported by seizure statistics indicating that interceptions are not uniform and tend to concentrate in a certain subset of product categories.

The most frequently seized counterfeit goods are footwear, followed by clothing, leather goods and machines (including ICT devices). Luxury goods including luxury watches, perfume, high-end leather goods and branded sunglasses can be found in these categories (Figure 3.3).

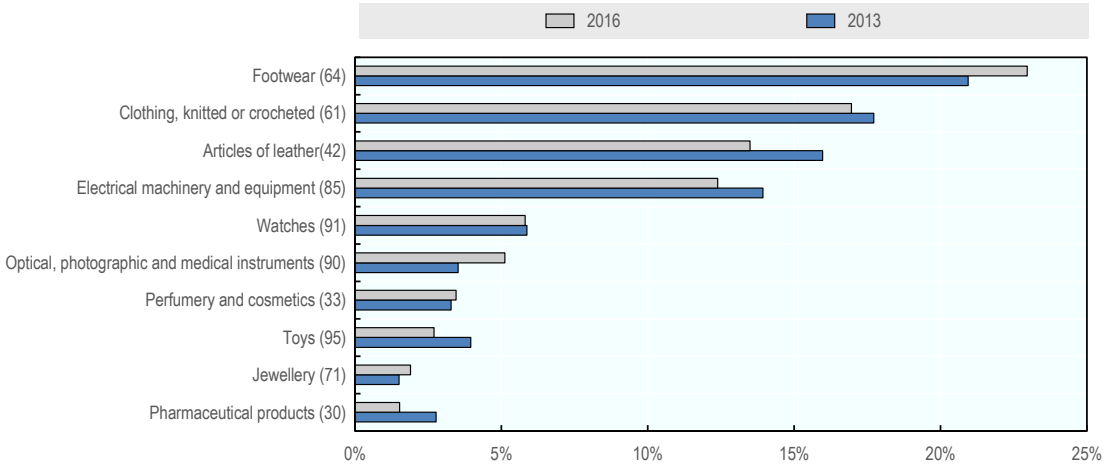
Figure 3.3. Seizures of counterfeit and pirated goods: Top industries by Harmonised System (HS) code, 2014, 2015 and 2016



In terms of the number of seizures, the top 8 product categories most subject to counterfeiting and piracy remain the same in 2014-16 and in 2011-13. Once more, footwear (64), clothing (61), articles of leather (42), electrical machinery and equipment (85), watches (91), sunglasses (90), perfumes and cosmetics (33,) and toys and games (95) were the main product categories subject to counterfeiting (see Figure 3.4).

It should be noted that a growing scope of counterfeit products can pose significant threats to the environment or to consumer health and safety. For example, counterfeit chemical products, pesticides or fungicides that do not correspond to safety norms often pose serious environmental hazards. Health and safety risks are often generated by substandard counterfeit pharmaceuticals, toys, chemicals (organic and inorganic), food and drink, batteries, etc. Customs officers seized such potentially dangerous fake goods as contact lenses, dental equipment, tanning products and baby formulas. Importantly, the intensity of trade in fake goods that can lead to environmental or consumer health and safety risks keeps growing in almost all sectors impacted by counterfeiting.

Figure 3.4. Differences in product categories most subject to counterfeiting and piracy, 2013 and 2016



Right holders impacted

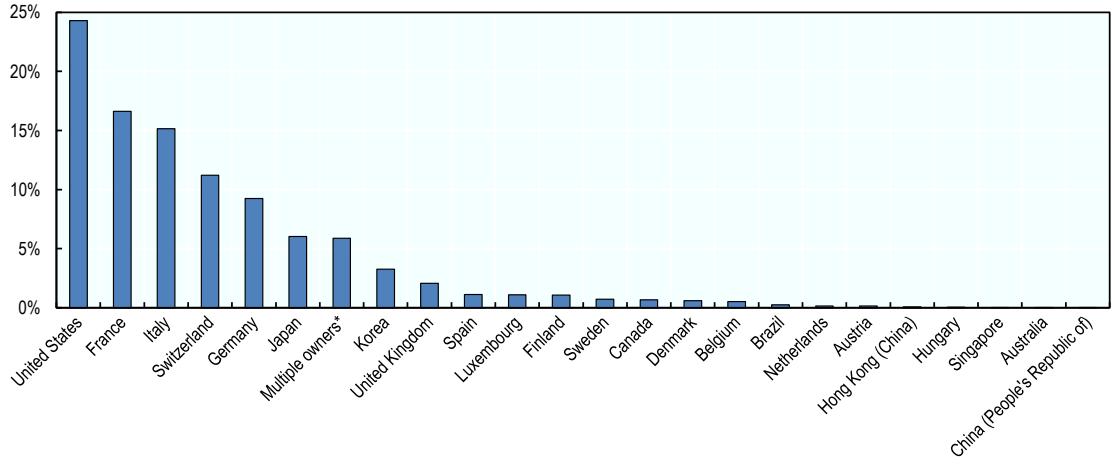
This part of analysis looks at economies in which the right holders whose IP rights are infringed are located. Location refers to the place where the headquarters of a right holder is registered.Almost 24% of the total value of seized products refers to IP rights of holders registered in the United States, followed by France (16.6%), Italy (15.1%), Switzerland (11.2%) and Germany (9.3%) (see Figure 3.5). These are exactly the same top five economies most impacted by counterfeiting and piracy as described in OECD-EUIPO (2016) for the 2011-13 period.

Right holders in China and Hong Kong (China) also frequently have their IP rights infringed. Hong Kong (China) and China indeed ranked 19th and 23rd in the list of economies most impacted by global counterfeiting and piracy respectively (Figure 3.5). This contrasts sharply with China being the top economy of provenance in counterfeit and pirated products. It also indicates a very strong threat of counterfeiting and piracy that

undermines the innovative efforts of Chinese companies relying on knowledge-based capital and using IP rights in their business strategies.

The top six economies of origin of right holders whose IP are infringed remain the same in 2011-13 but it should be noted that the United States' share has significantly increased (+5 percentage points) between the two periods. The case of Korea is another relevant point. This country ranks 9th on the 2014-16 list while it did not appear in the 2011-13 ranking.

Figure 3.5. Seizures of counterfeit and pirated goods: Top economies of origin of right holders whose IP rights are infringed, 2014-16



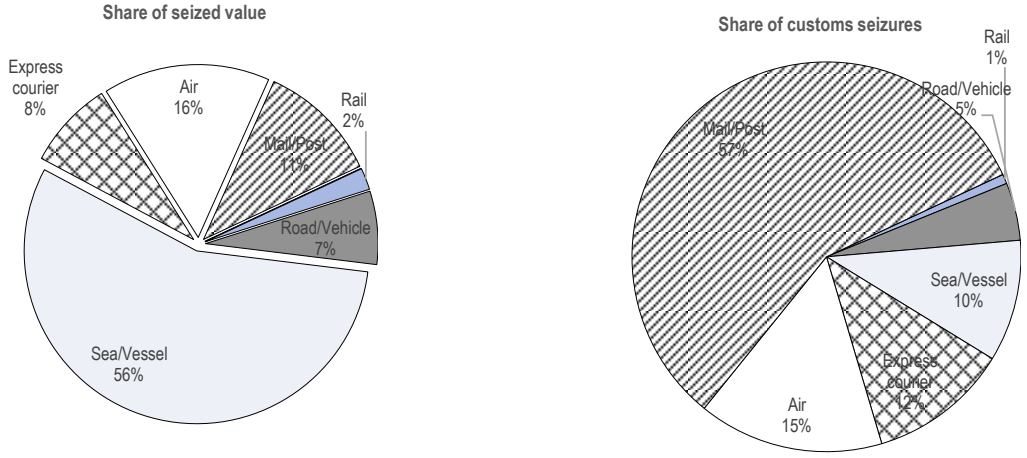
Note: The term "multiple" refers to seizures of IP-infringing products, for which right holders are registered in multiple economies. Data are based on the value of global customs seizures of counterfeit and pirated products from 2014 to 2016. Note that further refinement of the database on customs seizures since November 2018 has led to slight changes in the ranking of the top economies of origin of right holders whose IP rights are infringed as compared to the figure presented in OECD (2018).

Conveyance methods and size of seizures

A review of data highlighted that postal parcels are the most popular way of shipping counterfeit and pirated product (Figure 3.6). Between 2014 and 2016, an average of almost 57% of seizures worldwide concerned postal shipments and 12% express courier. Air transport and sea transport followed, with slightly more than 15% and 10% of seizures respectively. Finally, seizures concerning vehicle transport amounted to about 5%. Other conveyance modes of counterfeit product, such as products carried by pedestrians or by rail, reported negligible shares.

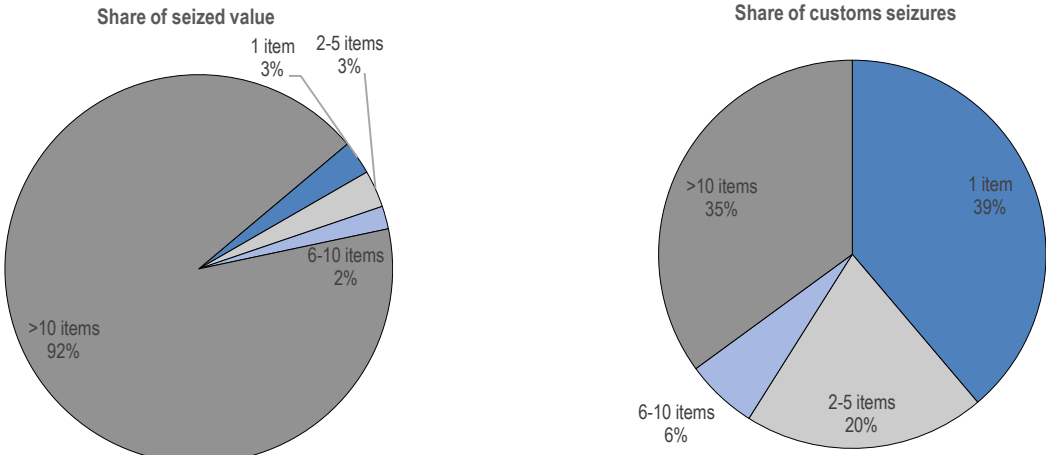
Together, small parcels carried either by postal or express services account for 69% of customs seizures of IP-infringing products for the 2014-16 period, against 63% for the 2011-13 period.

Figure 3.6. Conveyance methods for counterfeit and pirated products, 2014-16



The sizes of seized shipments tend to be smaller: shipments with fewer than 10 items accounted for about 85% of the total number of shipments on average, against 43% for the 2011-13 period (Figure 3.7). This corresponds to the finding that, in terms of the number of seizures, small parcels usually containing few items remain the most popular conveyance method of counterfeit and pirated products.

Figure 3.7. Seizures by size, 2014-16



Additional observations

Primary-secondary markets

The WCO and DG TAXUD databases report on infringed trademarks and can thus be used to draw some quantitative illustrations about the market segments being targeted by counterfeit products.

In principle, there are two market segments that counterfeiters target: primary markets and secondary markets. In primary markets, prices are expected to be close to those of legitimate products, whereas larger price dispersions are expected in secondary markets. Consumers that knowingly purchase an IP-infringing product may expect to pay a lower price for it than for a genuine product.

Several submarkets can be observed, especially for products that are intensely targeted by counterfeiters (and hence for which large data samples are available). These submarkets correspond to primary and secondary submarkets and are characterised with different price ranges of IP-infringing products.

The distinction between primary and secondary markets described is critical. Every sale of a fake item on a primary market clearly represents a direct loss for industries. In secondary markets, however, only a share of consumers would have deliberately substituted their purchases of counterfeit products for legitimate ones. This is because in secondary markets consumers know what they are buying is fake and they decide to proceed with the purchase for a number of possible reasons (see Box 3.2).

Box 3.2. Why do people buy fakes knowingly?

There are numerous reasons identified in the scientific literature for why people buy fakes. First, if the genuine product is hard to get hold of, this might greatly increase the perception of its value. Furthermore, the willingness of consumers to purchase a counterfeit product seems to increase if they can rate its quality before purchase and appears to decrease if they cannot. The situation surrounding the purchase also determines purchase intentions. The situational mood explains why some people are more prone to buy counterfeits even if that is illegal or they experience post-purchase dissatisfaction with a low-quality product. Recent psychological research illustrates a number of other motivations, such as the "thrill of the hunt" for what is fake, being part of a "secret society" and genuine interest. Buyers of counterfeit products also try to legitimise and justify their behaviour.

Specific brands among the diverse selection of infringed trademarks, seem to be more intensely targeted by counterfeiters. The relatively high frequency of certain trademarks allows this report to perform some statistical checks on the type of markets that may be targeted by an IP-infringing brand – product pairs. The methodology used to calculate the share of primary and secondary markets is presented in Annex A.1, while Table 3.1 below identifies the secondary and, consequently, primary markets for some selected industries.

This shows that 58.5% of counterfeit and pirated products traded worldwide in 2016 were sold to consumers who actually knew they were buying fake products, with the remaining share purchased unwittingly. The share of fakes destined for secondary markets varies significantly by sector, with relatively low values for products directly threatening consumer health and safety (e.g. 31.3% for pharmaceuticals) and high value for luxury products (e.g. 65.4% for fake watches).

Table 3.1. Estimated share of secondary markets for selected counterfeit and pirated products traded worldwide, 2014-16

Product category (HS code)	Share secondary markets (%)
Pharmaceutical products (30)	31.3
Perfumery and cosmetics (33)	65.5
Articles of leather (42)	56.3
Clothing, knitted or crocheted (61)	55.9
Footwear (64)	57.8
Jewellery (71)	61.0
Electrical machinery and equipment (85)	60.4
Optical, photographic and medical instruments (90)	58.1
Watches (91)	65.4
Toys (95)	58.4
Total HS categories	58.5

Labels and packaging

The descriptive analysis of the seizures database shows a large number of seized IP-infringing packaging and labels. For the 2014-16 period, the unified dataset includes 5 023 cases of customs seizures of counterfeit labels (around 1% of the total number of customs seizures) associated with a total reported value of almost USD 64 million (1.1% of the global seized value). For the same period, 3 179 cases of customs seizures of fake packaging are reported (0.6%) associated with a reported value of USD 38 billion (0.7%).

This confirms findings about the domestic assembly of counterfeit and pirated products from imported materials, formulated in a study by OHIM-Europol (2015). This finding merits further attention, as packaging and labels have a significantly lower value than the final products.

All counterfeit packaging and labels will not be taken into account in the following GTRIC methodology.[1] The results could vary significantly depending on the approach taken towards the product classification of these categories and hence are difficult to fully confirm. This calls for a more detailed analysis of trademark infringing packages and labels.

Notes

[1] In the OECD-EUIPO (2016) report, all counterfeit packaging and labels were treated as "packaging" and represent the value of packaging.

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