

# REPORT ON COMMUNITY CUSTOMS ACTIVITIES ON COUNTERFEIT AND PIRACY

#### **RESULTS AT THE EUROPEAN BORDER - 2007**







#### **Executive summary**

The efforts of customs to protect and enforce Intellectual Property Rights (IPR) at the border are crucial. Figures relating to customs activities on counterfeit and piracy for the year 2007 show that counterfeit is still a growing problem, both in economic terms as well as in terms of the health and safety risks for citizens in the European Union. The results of customs activities in the EU relating to IPR enforcement show that all product sectors are subject to substantial counterfeiting and piracy. This widespread abuse of intellectual property creates health and safety dangers for consumers and damages not only the companies concerned, but also impacts on the European economy.

Although the overall amount of articles seized by customs has decreased compared to last year, there has been an increase in sectors that are potentially dangerous to consumers. The amount of articles like razor blades and moisturizing creams for personal care, medicines, toys, electrical and computer equipment all show an increase and traditional sectors like clothing and luxury goods have also seen an increase again. The overall decrease in articles is solely due to lesser quantities of seized counterfeit cigarettes and CDs/DVDs.

With regard to the number of cases of counterfeit goods seized by customs, there has been a significant increase of 17% compared to last year. Since 2001 the number of cases has been steadily growing. In almost all sectors customs have intervened in more cases than the previous year, with a noticeable boom in the medicines sector, which resulted in an increase of over 50%.

Cooperation between customs and industry is generally improving as more and more application for actions are filed by right holders. With such applications, right holders provide customs with information enabling better targeting of suspect shipments and recognition of counterfeit goods, which is of great importance for effective risk management.

China, responsible for almost 60% of all counterfeit goods seized, continues to be the main source. However, in some categories, such as articles for personal care, other countries such as Georgia and Turkey are the main sources, whilst Switzerland, India and United Arab Emirates top the list for medicines.

The number of seizure actions set against the overall decrease in items seized can be attributed to a growing number of smaller quantity seizures made in mostly air and postal-based transport modes. The continuing effort by customs to detain or suspend the release of counterfeit goods is significant and to be commended. Taking into account the multiple roles attributed to customs, it is important to ensure that IPR enforcement remains a high priority.





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#### 1. Introduction

#### 1.1 Basis for the report

This report contains statistics on action by customs within the EU relating to the fight against counterfeit and piracy. They are established by the European Commission, based on the data transmitted by the EU Member States, in accordance with the Community's relevant customs legislation. Council Regulation (EC) No 1383/2003<sup>1</sup> lays down the basic provisions for customs actions to protect and enforce intellectual property rights and the implementing legislation, Commission Regulation No 1891/2004, provides specifically for the submission by Member States of information on the seizures made.

These statistics contain information about seizures made under customs procedures including data on the description and quantities of the goods, their provenance, the means of transport and the type of intellectual property that have been infringed.

The drawing up of such statistics on a yearly basis provides useful information to support analysis of counterfeiting and piracy in the EU and the development of appropriate countermeasures by customs. Increasingly, it is being recognised that reliable figures are required, in order to be able to better understand the scope and extent of the problem, which has become a global phenomenon. To this end, the Commission is committed to ensuring that relevant statistical data on customs actions in the EU is analysed and shared with customs in a timely manner. In addition, the Commission will continue to pursue the possibility of exchanging such data with customs in third countries, in accordance with relevant customs cooperation provisions that apply.

#### 1.2 Content

The report contains the following:

- A general overview, together with an analysis of trends and general figures for articles and cases, in Chapter 2;
- A more detailed analysis for different items, such as IP rights, transport modes and countries of origin, in Chapter 3;
- A set of annexes containing relevant data in tables and graphics.

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<sup>&</sup>lt;sup>1</sup> OJ L 196, 2.8.2003, p. 7.





#### 2 General overview

#### 2.1 The role of customs in IPR enforcement

The results of customs activities in the EU relating to IPR enforcement show that all product sectors are now subject to substantial counterfeiting and piracy. This widespread abuse of intellectual property creates health and safety dangers for consumers and damages not only the companies concerned, but also impacts on the European economy.

Customs administrations in the EU lead enforcement activities at the external frontier, by suspending and detaining shipments that are suspected of infringing intellectual property rights. Given their role at the border, customs efforts are centred around the control at import and export of physical goods. Computer or internet-based piracy of copyright media, such as music, movies or software is also a significant problem, but because these activities usually have no link to the border, customs is not as involved in fighting this form of IP infringement.

The volume of goods that customs handle is substantial and has been steadily increasing. Although all goods that enter or leave the EU are subject to examinations, customs can only examine a small part and therefore rely on the use of risk management methods with computer-based and manual selection methods.

Computer-based targeting methods to identify commercial shipments with possible IPR infringements have certain strengths and limitations. When used to identify shipments by known or suspected violators, entering via sea, air or road, such methods can be successful. However, computer-based methods have limited usefulness in express consignment and international mail processing environments.

Manual targeting involves skilled officials making real-time decisions based on knowledge, experience and instinct and requires dedicated resources, as well as sufficient time.

Once a shipment has been selected, a physical examination will be the best method to determine if the goods possibly infringe an IPR. Given the fact that the quality of counterfeit and pirated goods has substantially improved and more and more high technical goods are involved, this often becomes a challenging process and input from right holders becomes indispensable. Evolving concealment methods, including the mixing of genuine and counterfeit goods makes detection increasingly difficult.

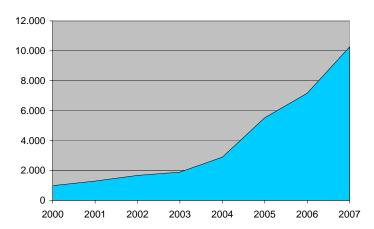
The risk assessment process relies heavily on the information given by right holders in their applications for action. In addition to existing information on counterfeit and pirated goods, which is certainly important, it is also very important for customs to have information on production, transport and physical characteristics concerning the original goods. The Commission, in collaboration with Member States has therefore decided to establish a set of guidelines for right holders and customs for lodging and processing the application for actions. Publication can be expected during the course of 2008.





The growing involvement of industry and right holders can also be measured through the increasing numbers of application for action made in the Member States. Application for actions can be requested on a national or a community basis. Depending on the intellectual property right for which the registration is made, right holder can ask customs from one Member State up to all 27, to take action in cases where there is a suspicion that their products are being counterfeited.

The following figures show the increase in the submission of applications for action from 2000 to 2007 (N.B. since 2004, the Member States of the EU increased to 25 and in 2007 to 27):



Year	Applications
2000	981
2001	1.287
2002	1.671
2003	1.886
2004	2.888
2005	5.525
2006	7.160
2007	10.260

Although co-operation between customs and industry is developing satisfactorily, the Commission considers the further strengthening of cooperation a priority. 80% of customs interventions are based on an application for action; for the other 20% where customs had a suspicion of an IPR infringement, no application for action had been made by the right holder. In such cases customs have to locate the right holder and an application submitted within 3 working days in order for customs to be able to detain or suspend the release of the goods. Given the increase in applications each year, it can be assumed that once a right holder has been approached after an ex-officio action, the application is often maintained.

However, as long as not all right holders have submitted applications for action to customs, some customs actions will continue to be carried out on an ex-officio basis.

The Commission has been promoting further cooperation between customs and right holders, through a number of initiatives. Notably, in recognition of the particular dangers to consumers, a seminar was organised in November 2007 on counterfeit medicines. The event brought together customs experts from the Member States and certain other third countries, as well as representatives from several pharmaceutical companies with a view to exchanging information and establishing better working methods to combat the trade in counterfeit medicines.





Breakdown of registered cases by type of intervention

80,00%

70,00%

60,00%

40,00%

20,00%

10,00%

As the work of customs in fighting counterfeit and piracy is directly related to international trade in goods, there has been an increase in co-operation with third countries in 2007. One initiative concerned cooperation with US Customs and Border Protection, on a successful joint action, 'Operation INFRASTRUCTURE'.

Ex-officio

#### 2.2 General trends

Application for action

The figures for 2007 show a substantial increase in the overall amount of cases. This is already the sixth year in a row that the overall number of cases has increased. The total amount for 2007 contains 43.671 cases. In fact all product sectors show an increase in the number of cases, with the exception of cigarettes and CD/DVD/cassettes and may reflect a shift in smuggling techniques towards larger numbers of smaller-sized shipments.

Number of registered cases 1999 - 2007

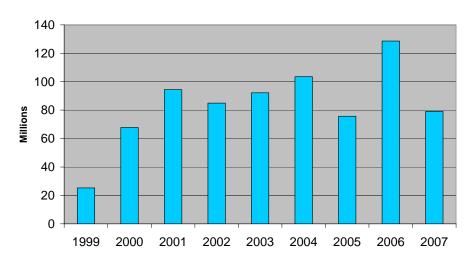
**Number of cases** 4.694 6.253 5.056 7.553 10.709 22.311 26.704 37.334 43.671





This year however, the overall amount of articles seized has decreased to 79 million articles.

#### Number of articles seized



Number of articles							
1999	25.285.838						
2000	67.790.546						
2001	94.421.497						
2002	84.951.039						
2003	92.218.700						
2004	103.546.179						
2005	75.733.068						
2006	128.631.295						
2007	79.076.458						

Compared to previous years, the overall amount of articles has decreased, due to lesser articles seized in 3 sectors namely cigarettes, CD/DVD/cassettes and other products. (The sector 'other products' has decreased because Member States are registering their statistics in a more precise way and less articles end up in this sector.)

With regard to the other sectors, there are significant increases compared to 2006. In particular, cosmetics and personal care products (+264%), toys (+98%), foodstuff (+62%), computer equipment (+62%) and medicines (+51%) show large percentage increases.

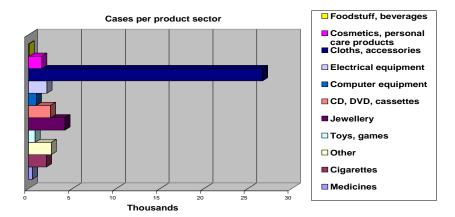
However, there have also been more articles seized than ever before in the more traditional sectors, such as counterfeit clothing, shoes, clothing accessories, jewellery and watches.

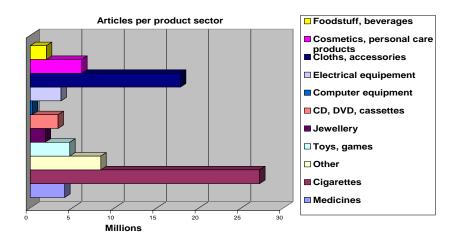
Cigarettes and clothing still remain the main sectors for large seizures of counterfeit goods, despite the increasing focus on controls of goods that poses a danger to the health and safety of consumers.

Although the overall amount of counterfeited goods entering or leaving the EU cannot be ascertained from these figures, or whether the problem of counterfeiting and piracy is growing, the figures do show that IPR enforcement continues to be a priority for customs authorities in the EU.





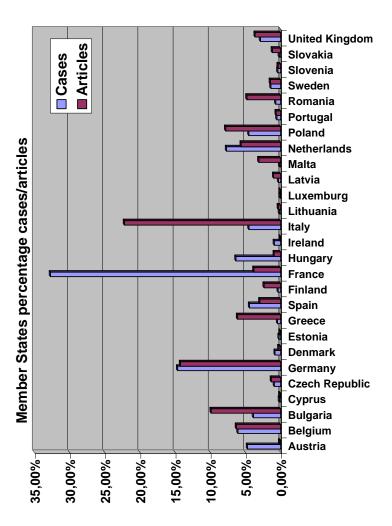




Given the fact that seizures in most product sectors continues to increase, yet counterfeit and pirated goods continue to be freely available within the internal market, one can draw the conclusion that the problem of counterfeiting and piracy is in fact still growing.

10 Member states account for 75% of the overall amount of cases. With regard to articles seized, the top 10 Member States account for almost 85% of the overall amount seized. 7 Member States appear in the top 10 of both tables (cases and articles), representing 74 and 70% respectively, of the overall amounts.





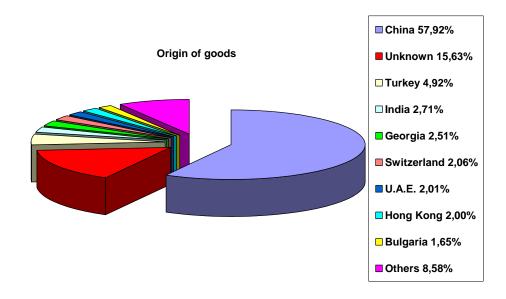




# 3 Facts and figures

#### 3.1 Origin/provenance

As in previous years, China continued to be the main source of counterfeit goods in 2007. Overall, figures show that almost 60 % of the total amount of articles originated in China.

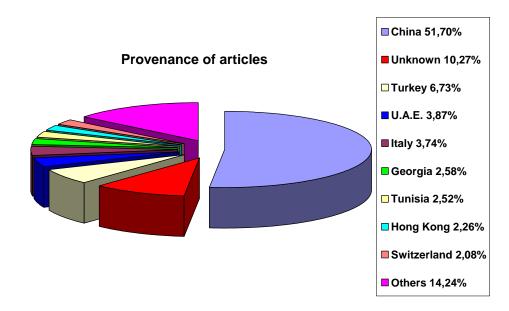


The origin of the goods is established by customs officers during the checks on goods when detaining or suspending the release of the goods. In many cases the country of export will have been hidden by the counterfeiters, using several transport routes and/or free zones in order to mask the true origin. This also explains why the origin of 15% of the articles could not be established.

According to provenance, the figures are similar:







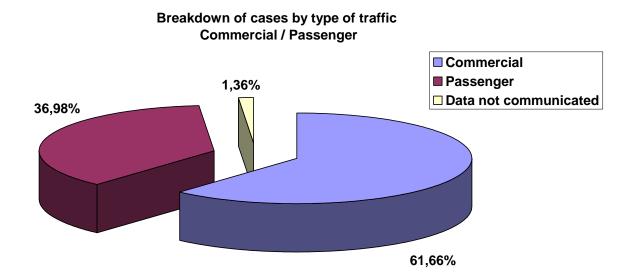
The unknown factor has been reduced by a third as in most cases the provenance of the goods can be established. A notable difference between the two sets, concerns India, which is known to be a country of origin but in many cases, the goods are not shipped directly to the EU. Countries such as the United Arab Emirates and Tunisia are probably used as a transit stop, often with the purpose of hiding the real origin of the goods.

For some product sectors, other countries were found to be the principle source of counterfeit articles. In the category "Foodstuff and beverages", Turkey was the main source followed by China; for the category "Cosmetics and personal care products", Georgia followed by Turkey and China were the main sources and for the category "Medicines", Switzerland followed by India and the United Arab Emirates were the main sources. For a complete overview for all categories see Annex 3.

### 3.2 Passenger/Commercial traffic







The ratio between counterfeit goods found in commercial and passenger traffic is about 62% to 37% with regard to the amount of cases taken by customs. However, with regard to the amount of articles seized, there is a completely different picture (95% commercial - 3% passenger), as passengers in general will not carry a huge amount of goods.

The main source of the goods brought by passenger traffic was China with almost 34% of the overall amount, followed by Turkey with more than 21% and Spain with 12%. Of course in these cases, it was possible to establish where passengers were coming from but it was more difficult to establish the origin of the goods themselves. The type of goods varied from clothing, articles for personal care like soap and toothpaste, cell phones and accessories like batteries.

The majority of articles seized in passenger traffic concerned road transport followed by air transport. However, the majority of the cases initiated in passenger traffic was in air transport followed by road transport. The analysis shows that passengers tried to enter with relatively large quantities of counterfeit articles, especially by road transport.

### 3.3 Transport

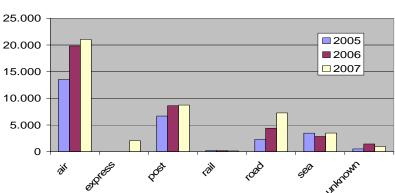
The use of computer or internet-based piracy is not only connected to copyright media, but also to buying goods via the internet. In this respect, such illicit activities do have a link to the work of customs at the border as the goods are shipped to the client by different transport modes. Often air and postal transport is used to bring goods into the EU.





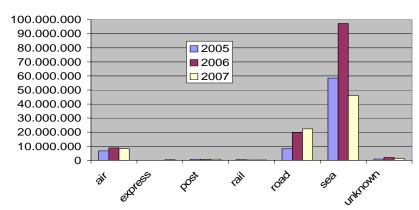
The majority of cases occurred in air, express courier and post transportation. Conversely, most articles seized were transported by sea and road traffic. There were minimal amounts of seizures made in connection with rail transportation, both in terms of cases and quantities.

The analysis shows that the number of cases and articles, especially with regard to road transportation, are increasing in absolute numbers as well as in percentages. In 2007, all transport sectors (except rail) showed an increase in the number of cases. The number of counterfeit articles per case is less than in the past and an explanation for this could be that the counterfeiters are taking less risks and shipping smaller quantities per shipment. Air/express courier and mail transport have a relatively bigger part of the total and these transport modes are known for smaller quantities.



Registered cases by means of transport

The decrease in the overall amount of articles is only connected to sea transport.



Registered articles by means of transport





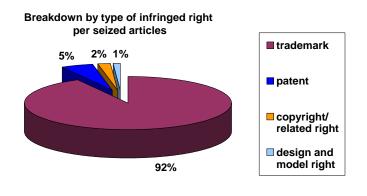
#### 3.4 Intellectual Property Right

In 2007 the majority of articles seized by customs were infringing a Community or national trademark and covered a wide variety across all product sectors.

With regard to patent infringements the main products involved concerned electronic equipment, such as MP3 or DVD players, medicines, sport equipment and shoes containing certain patented techniques (See also annex 4).

With regard to copyright infringements CDs and DVDs were the products most affected, as well as wide variety of products containing protected images such as well known comic figures.

In design and model rights most infringements concerned clothing, clothing accessories, toys and accessories for cell phones.



	Articles
trademark	91,70%
patent	4,96%
copyright/ related	
right	1,89%
design and model	
right	1,21%
Unknown	0,14%
protected designation	
of origin	0,03%
plant variety right	0,03%
protected	
geographical	
indication	0,03%

## 3.5 Customs procedure

In 85% of all cases, customs authorities started their action whilst the goods concerned were under an import procedure. In 10% of the cases, goods were discovered whilst in transit.

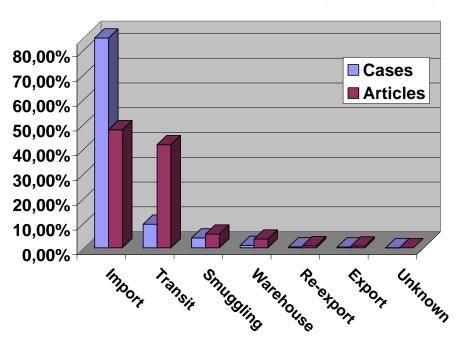
With regard to the amount of seized articles, 48% of these articles were seized whilst under an import procedure and 42% whilst in transit.





Seizures under transit contained bigger quantities per case. 40% of all import cases related to passenger traffic and consequently contained less articles than the transit cases, which were almost exclusively involving commercial traffic.

#### Breakdown cases and articles per customs procedure







## **Annexes**

# Annex 1 Overview of cases and articles per Member State

The evolution of the number of procedures and number of intercepted articles in Member States - Period 2005 / 2007								
	Number of procedures				articles			
Member State	2005	2006	2007	2005	2006	2007		
Austria	1.574	1.545	2.061	179.683	166.546	104.608		
Belgium	1.235	1.013	2.644	18.956.750	18.744.113	4.942.716		
Bulgaria			1.691			7.759.756		
Cyprus	204	114	76	187.894	237.810	90.778		
Czech Republic	517	555	394	770.729	985.586	1.040.861		
Germany	4.679	6.974	6.393	15.463.216	17.129.083	11.194.464		
Denmark	466	281	344	212.615	90.634	192.721		
Estonia	270	108	95	210.495	97.698	53.007		
Greece	122	209	191	2.599.692	25.844.516	4.822.319		
Spain	2.017	2.635	1.928	5.520.996	3.388.100	2.320.140		
Finland	132	116	154	1.652.647	426.925	1.846.606		
France	5.634	11.618	14.293	695.240	1.858.433	2.995.331		
Hungary	1.205	979	2.774	1.338.888	1.323.122	718.694		
Ireland	312	455	393	622.120	18.785	30.502		
Italy	2.101	2.174	1.966	11.601.890	18.056.248	17.457.211		
Lithuania	46	79	76	183.998	620.428	261.968		
Luxemburg	35	24	30	121.883	52.105	32.354		
Latvia	108	117	130	159.821	184.557	781.788		
Malta	78	47	59	2.180.634	2.711.435	2.438.021		
Netherlands	2.296	3.677	3.360	5.050.444	6.949.844	4.401.093		
Poland	770	2.129	1.975	2.635.002	2.589.343	6.134.572		
Portugal	433	290	232	544.669	494.834	495.087		
Romania			303			3.766.515		
Sweden	501	663	602	284.032	78.054	1.141.771		
Slovenia	135	89	173	1.976.491	22.416.958	280.630		
Slovakia	42	66	81	30.562	97.733	920.701		
United Kingdom	1.794	1.377	1.253	2.555.896	4.068.406	2.852.244		
Total	26.704	37.334	43.671	75.733.387	128.631.295	79.076.458		





# Annex 2 Breakdown of number of registered cases and number of seized articles per product type

	Number		Number		
Product sector	of cases	% of total	of articles	% of total	2006-2007
1. Foodstuff, beverages	64	0,15%	1.924.896	2,43%	62%
2. Cosmetics, personal	4.504	2.440/	6 4 0 2 4 7 4	7 720/	2640/
care products	1.504	3,44%	6.103.171	7,72%	264%
3. Clothing, accessories	26.670	61,07%	17.783.130	22,49%	24%
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a) Sportswear	3.255	7,45%	1.441.502	1,82%	19%
b) Other clothing (ready to wear)	11.030	25,26%	5.025.682	6,36%	16%
wear)	11.030	23,2070	3.023.082	0,3070	1070
c) Clothing accessories	6.547	14,99%	6.290.642	7,96%	29%
					2970
d) Shoes	5.837	13,37%	5.025.304	6,35%	
4. Electrical equipment	2.097	4,80%	3.648.348	4,61%	22%
		·			
5. Computer equipment	896	2,05%	246.236	0,31%	62%
6. CD, DVD, cassettes	2.502	5,73%	3.298.813	4,17%	-78%
7. Jewellery, watches	4.148	9,50%	1.787.016	2,26%	89%
8. Toys, games	744	1,70%	4.685.037	5,92%	98%
9. Other products	2.583	5,92%	8.357.699	10,57%	-37%
10. Cigarettes	418	0,96%	27.161.056	34,35%	-63%
J		,			
11. Medicines	2.045	4,68%	4.081.056	5,16%	51%
Total	43.671		79.076.458		-39%





# Annex 3 Means of transport in relation with number of cases and articles

Cases	2005		2006		2007	
air	13.541	50,71%	19.830	53,12%	21.041	48,18%
express					2.058	4,71%
post	6.679	25,01%	8.613	23,07%	8.733	20,00%
rail	222	0,83%	190	0,51%	136	0,31%
road	2.286	8,56%	4.400	11,79%	7.265	16,64%
sea	3.467	12,98%	2.858	7,66%	3.483	7,97%
unknown	509	1,91%	1.443	3,87%	955	2,19%

Articles	2005	%	2006	%	2007	%
air	6.693.988	8,86%	8.858.603	6,88%	8.234.483	10,41%
express					348.720	0,44%
post	702.542	0,93%	592.602	0,46%	782.473	0,99%
rail	570.606	0,76%	226.451	0,18%	203.521	0,26%
road	8.184.896	10,83%	19.747.695	15,34%	22.363.366	28,28%
sea	58.514.846	77,45%	97.319.450	75,58%	45.997.342	58,17%
unknown	882.216	1,17%	2.022.431	1,57%	1.146.553	1,45%





# Annex 4 Overview per product sector of countries of origin

2007									
Breakdown of number of articles seized expressed as % by provenance and by product type									
1. Foodstuff,	45,92%	37,35%	5,06%	3,10%	1,50%	1,11%	1,04%	0,97%	3,95%
beverages	Turkey	China	Italy	Georgia	Belize	Bulgaria	USA	Vietnam	Others
2. Cosmetics, personal	32,11%	28,68%	15,86%	5,67%	4,34%	3,55%	2,27%	2,01%	5,50%
care products	Georgia	Turkey	China	Singapore	Korea	Unknown	UAE <sup>2</sup>	Algeria	Others
	55,62%	19,44%	9,83%	4,60%	3,21%	0,97%	0,95%	0,71%	4,68%
3a) sportwear	China	Turkey	Unknown	Bulgaria	Algeria	Romania	Poland	Thailand	Others
3b) other clothing	62,58%	10,32%	4,63%	4,51%	2,66%	2,40%	1,79%	1,77%	9,33%
(ready to wear)	China	Turkey	Unknown	Vietnam	Italia	Syria	Bangladesh	UAE	Others
3c) clothing	57,16%	17,54%	11,65%	4,66%	2,55%	1,41%	1,02%	0,65%	3,38%
accessories	China	Italia	Turkey	Unknown	Bulgaria	Hungary	Algeria	Tunisia	Others
	79,67%	7,08%	2,35%	1,81%	1,24%	1,07%	1,00%	0,87%	4,91%
3d) shoes	China	Algeria	Italia	Unknown	Turkey	Russia	Spain	Malaysia	Others
	35,21%	30,73%	12,58%	10,06%	2,57%	2,40%	1,59%	1,17%	3,69%
4. Electrical equipment	Unknown	China	Algeria	Hong Kong	Italia	UAE	Liechtenstein	Turkey	Others
			11,86%						
5. Computer	47,61%	14,15%	Hong	5,41%	4,41%	3,57%	3,06%	1,98%	7,94%
equipment	China	Italia	Kong	San Marino	USA	Algeria	Unknown	Japan	Others
	75,07%	6,53%	3,31%	3,21%	2,65%	2,13%	1,72%	1,26%	4,12%
6. CD, DVD, cassettes	China	Unknown	Poland	Hong Kong	UAE	Italia	Syria	Ukraine	Others
			5,70%						
	52,21%	36,15%	Hong	1,90%	1,04%	0,63%	0,60%	0,28%	1,50%
7. Jewellery	China	Italia	Kong	Unknown	Netherlands	Japan	Thailand	Liechtenstein	Others
_	41,59%	36,19%	7,35%	4,73%	2,39%	1,50%	0,92%	0,61%	2,36%
8. Toys, games	China	Tunisia	Italia	Hong Kong	USA	Unknown	Croatia	Canada	Others
	71,14%	8,79%	6,26%	3,28%	2,35%	2,12%	1,74%	0,78%	3,54%
9. Other	China	Hong Kong	Unknown	Italia	Tunisia	Ukraine	Turkey	Pakistan	Others
	55,05%	18,01%	7,30%	4,78%	2,81%	2,41%	1,57%	1,27%	6,80 %
10. Cigarettes	China	Unknown	UAE	Bulgaria	Turkey	Belgium	Greece	Poland	Others
	39,21%	34,60%	14,70%	3,88%	3,28%	2,66%	0,52%	0,30%	0,84%
11. Medicines	Switzerland	India	UAE	China	Hong Kong	Unknown	Mauritius	USA	Others

<sup>&</sup>lt;sup>2</sup> UAE – United Arab Emirates

#### Annex 5 Overview of infringed IP rights in articles per product category

