



European
Commission



Report on EU customs enforcement of intellectual property rights

Results at the EU border - 2011

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Executive summary

DETENTIONS TOTALS	2010	2011
Cases	79.112	91.245
Articles	103.306.928	114.772.812
Domestic retail value	€ 1.110.052.402	€ 1.272.354.795

Countries of provenance.

Overall, China continued to be the main source country from where goods suspected of infringing an IPR entered the EU (73% of the total amount of articles). Like in 2010 for certain product categories, other countries remain the main source, notably Turkey for foodstuffs, Panama for alcoholic beverages, Thailand for non-alcoholic beverages, Hong Kong for mobile phones, their accessories and for computer equipment and Syria for recorded CD/DVD. On EU export Bulgarian customs detained several large shipments of packaging materials.

Product categories.

The top categories of articles detained were medicines which accounted for 24% of the overall amount, followed by packaging materials (21%), cigarettes (18%), clothing (4%), accessories for mobile phones (3%) and labels, tags and stickers (2%).

Small consignments.

The increase in the number of cases related for the second consecutive year to postal traffic and principally concerned shoes, electrical goods, clothing and personal accessories like bags, wallets, etc. In terms of number of articles detained in postal traffic, medicines remained the top category (36%).

Health and safety concerns.

Products for daily use and products that would be potentially dangerous to the health and safety of consumers (i.e suspected trademark infringements concerning food and beverages, body care articles, medicines, electrical household goods and toys) accounted for a total of 28,6% (compared to 14,5% in 2010) of the total amount of detained articles due to the increase in medicines.

Destruction of goods.

In 90% of the cases of detentions by customs, the goods were either destroyed after the holder of the goods and the right-holder agreed on destruction, or the right-holder initiated a court case to establish the IPR infringement. In only 7,5% of the cases, goods were released because they were either original goods (3%) or the right-holder did not react to the notification by customs (4,5%).

Table of contents

Executive summary.....	3
Table of contents.....	5
Introduction.....	6
Cooperation between customs and right-holders.....	8
IPR detentions in number of cases and articles	10
Results of detentions.....	12
Product categories.....	13
Value.....	13
Provenance.....	15
Passenger/Commercial traffic.....	16
Transport.....	17
Intellectual Property Rights	18
Customs procedure.....	19
Annex 1 - Overview of cases and articles per Member State.....	20
Annex 2 - Breakdown of number of registered cases, number of detained articles and the retail value per product sector	22
Annex 3 - Overview per product sector of countries of provenance according to % in articles ..	25
Annex 4 - Overview passenger traffic	28
Annex 5 - Means of transport in relation to number of cases, articles and retail value.....	29
Annex 6 - Overview means of transport.....	30
Annex 7 - Overview postal traffic	31



Introduction

The annual publication of the results of customs actions on IPR enforcement provides an opportunity to take stock of the important work customs administrations are doing at the EU external borders. A robust system of IPR protection is a key component of the EU's strategy for smart and sustainable growth. IPR give an incentive to be creative and innovative and they represent core assets for citizens and companies.

Theft of intellectual property is a serious crime and in 2011, customs authorities again increased the number of detentions to more than 91.000 cases with a total of almost 115 million articles involved. The domestic retail value of these IPR infringing articles represented over 1.2 billion Euros.

This report contains statistical information about the detentions made under customs procedures and includes data on the description, quantities and value of the goods, their provenance, the means of transport and the type of intellectual property right that has been infringed.

The statistics are established by the European Commission, based on the data transmitted by the EU Member States, in accordance with the EU's relevant customs legislation. Council Regulation (EC) No 1383/2003¹ lays down the basic provisions for customs actions to protect and enforce intellectual property rights and the implementing legislation, Commission Regulation No 1891/2004², provides specifically for the submission by Member States of information on the detentions made.

The elaboration of such statistics on a yearly basis provides useful information to support the analysis of IPR infringements affecting the EU market and the development of appropriate counter-measures. Increasingly, it is being recognised that reliable figures are required, in order to allow for a better understanding of the scope and extent of the problem, which has become a global phenomenon.

¹ OJ L 196, 2.8.2003, p. 7.

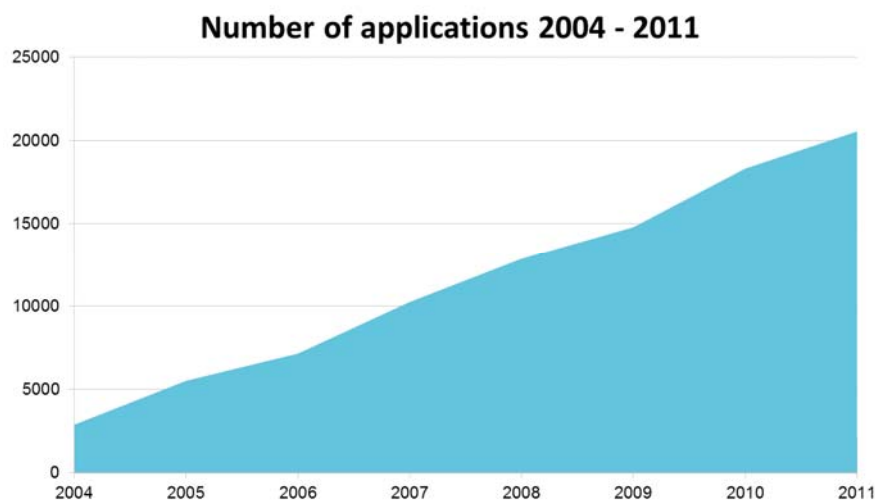
² OJ L 328, 30.10.2004, p. 16.

Cooperation between customs and right-holders

Right-holders may lodge an application for action requesting customs to take action in cases where a suspicion exists that an IPR is infringed. Application for actions can be requested on a national or on a Union basis. For risk assessment to function properly in the field of IPR protection, the importance of close cooperation between customs and right-holders and of the information given by right-holders in their applications for action is recognised. The Commission, in collaboration with the Member States, has established a manual for right-holders for lodging and processing applications for action (see also DG TAXUD's website under right holders defence section at

http://ec.europa.eu/taxation_customs/customs/customs_controls/counterfeit_piracy/right_holders/index_en.htm).

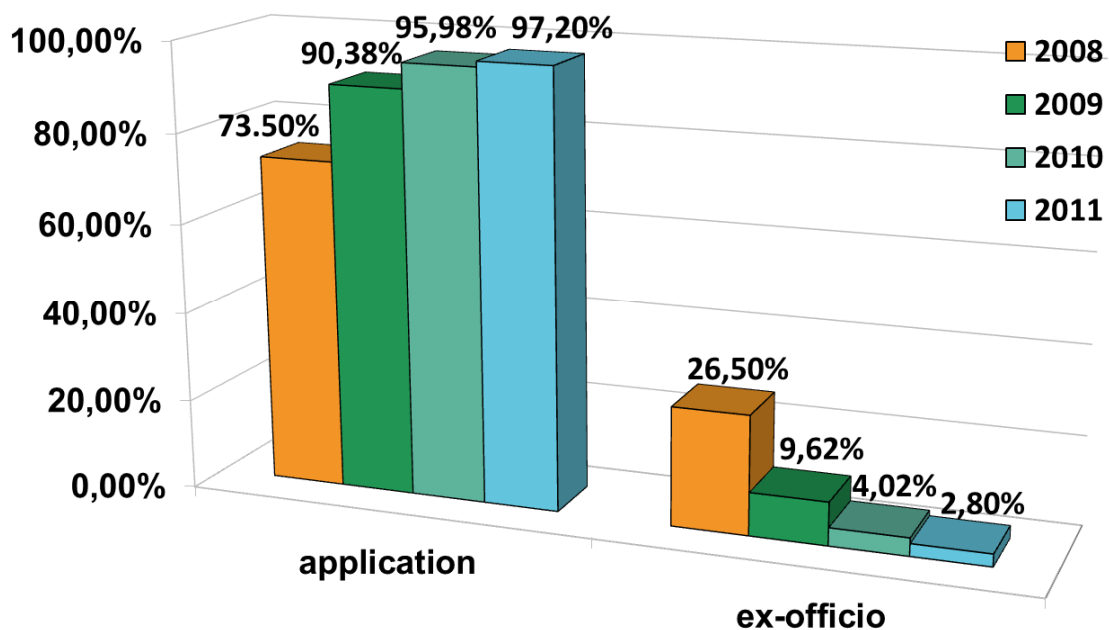
Evidence of the close cooperation between customs and the private sector is shown in the evolution of the numbers of applications for action submitted to customs. Since 2004 the number of applications for action made in the Member States has increased from 2.888 to 20.566 in 2011.



Year	Applications
2004	2.888
2005	5.525
2006	7.160
2007	10.260
2008	12.866
2009	14.797
2010	18.330
2011	20.566

EU customs also have the power to act ex-officio if there is a suspicion of an IPR infringement. In such cases, customs have to identify the right-holder and an application must be submitted within 3 working days in order for customs to be able to detain or suspend the release of the goods. In 2011, less than 3% of customs actions were initiated ex-officio.

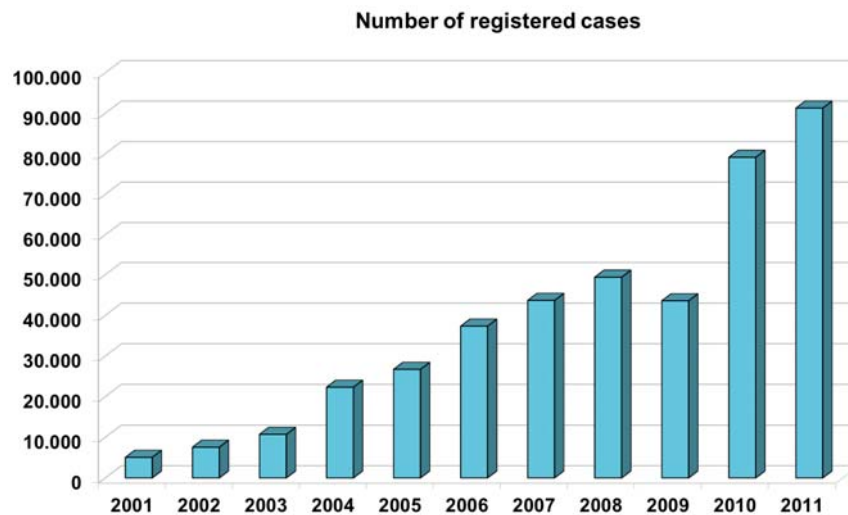
Breakdown of cases by type of intervention



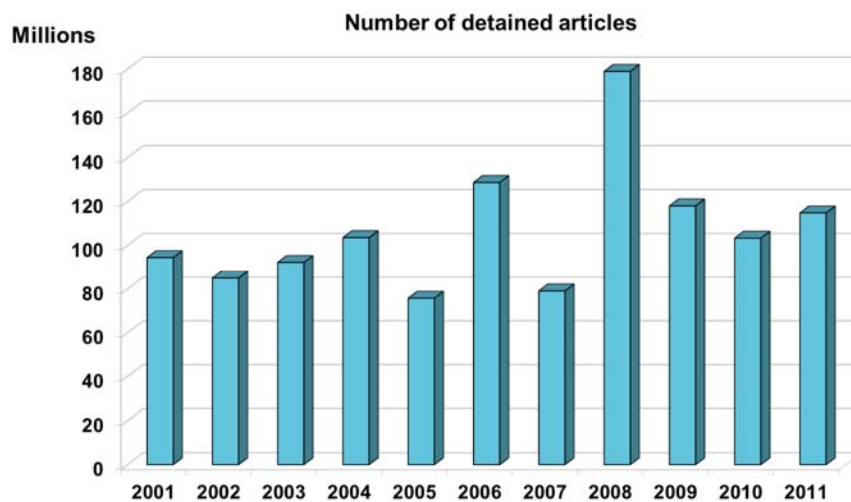
IPR detentions in number of cases and articles

The total number of cases (each case representing an interception by customs) in 2011 reached 91.254, which represents an increase of 15% compared to 2010, and more than 1000% over the past decade.

Each case contains a certain amount of individual articles that can vary from 1 to several million and can contain articles of different categories. In terms of individual articles, the total amount increased by 11% compared to 2010 to almost 115 million articles in 2011.



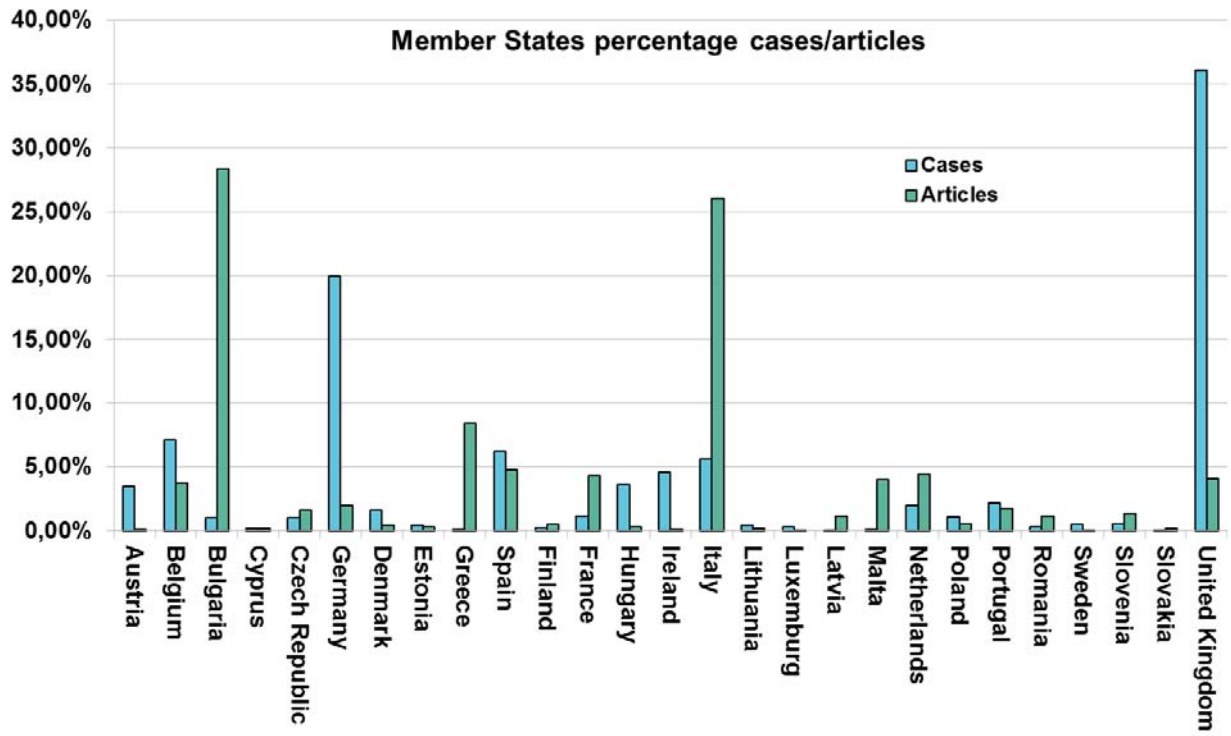
Number of cases	
2001	5.056
2002	7.553
2003	10.709
2004	22.311
2005	26.704
2006	37.334
2007	43.671
2008	49.381
2009	43.572
2010	79.112
2011	91.254



Number of articles	
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
2008	178.908.278
2009	117.959.298
2010	103.306.928
2011	114.772.812

The rise in number of cases mainly results from the increase in detentions in the postal and courier traffic, the latter being directly linked to internet sales. The internet is a virtual market place offering all kinds of goods, many of which are genuine. By simply clicking on the order button, consumers have their goods delivered to the front door.

The top 10 of Member States account for 91% of the overall amount of cases and 90% of the overall amount of articles. 6 Member States appear in the top 10 of both cases and articles. See Annex 1 for more details.

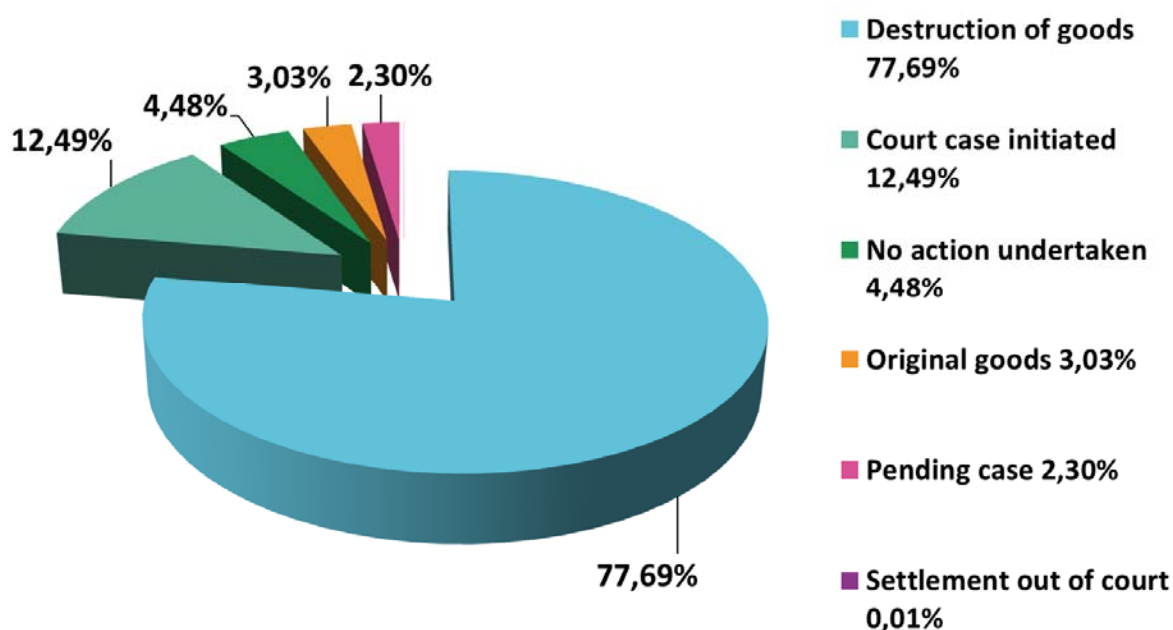


Results of detentions

The following different results were registered:

- goods were destroyed under the simplified procedure after confirmation of the right-holder concerning the infringement and agreement of the holder of the goods;
- a court case was initiated by the right-holder to determine the infringement;
- goods were released as they appeared to be non-infringing original goods;
- the outcome is pending as goods are still under the period of detention;
- goods were released because the right-holder did not react to the notification by customs;
- a settlement was reached between the right-holder and the holder of the goods after which the goods were released;

Breakdown of results by cases

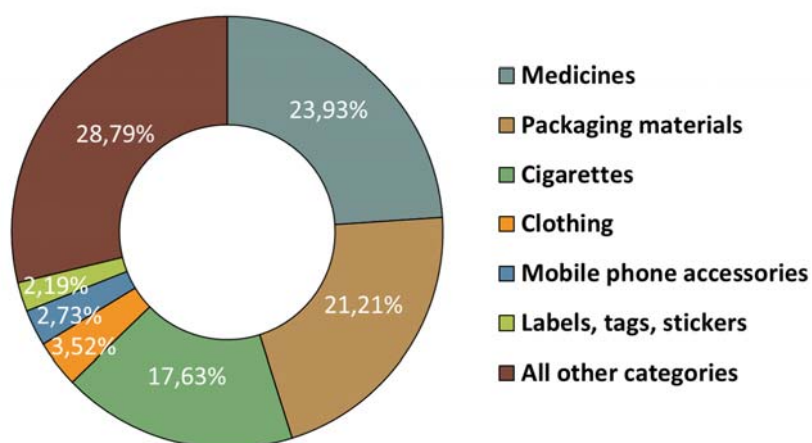


In over 90 % of the detentions, the goods were either destroyed under the simplified procedure or a court case was initiated to determine the infringement. In 7,5 % of the cases, the goods were released because they appeared to be non-infringing original goods or no action was undertaken by the right-holder after receiving the notification by the customs authorities. However, this does not exclude the possibility that these goods could have been subsequently detained on the basis of other legislation.

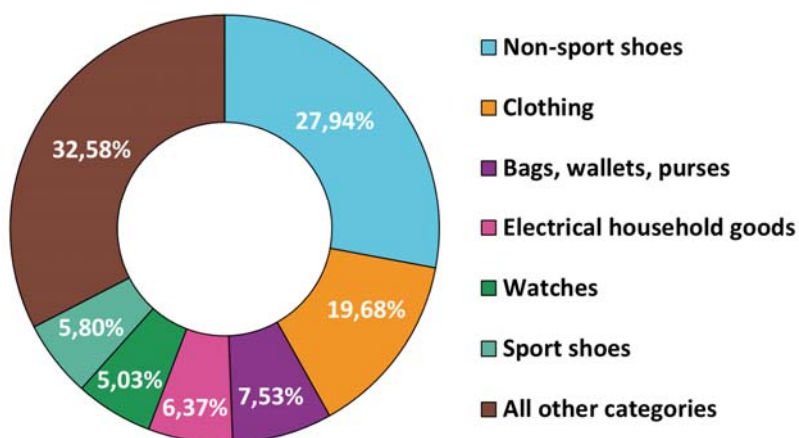
Product categories

In terms of numbers of detained articles, the top 3 categories are medicines, packaging materials and cigarettes. These last two are products often shipped in larger quantities.

Top categories by articles



Top categories by cases



In terms of cases, the top 3 categories are shoes, clothing and bags, wallets and purses. The top 6 are also the kind of products often shipped via post and courier after an order via the internet (See also annex 7).

Value

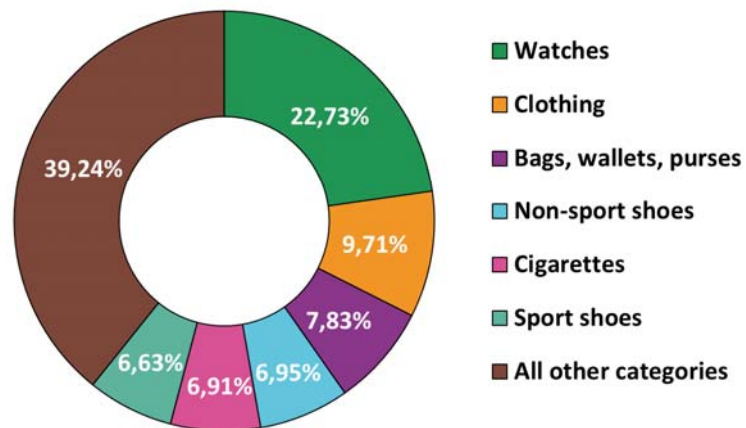
The standard value for reporting by Member States is the domestic retail value (DRV) which is the price at which the goods would have been sold at retail in the internal market of the Member State had they been genuine.

Counterfeiters do not concern themselves with product development costs, guarantees or advertising. Profit is maximised by the theft and copying of an original idea, often with

cheaper materials. Nevertheless, IPR infringing goods are increasingly sold at a price similar to that of the original goods and effectively substitute them on the market.

For certain product sectors, such as luxury goods, this is not necessarily the case. Nevertheless, for procedural reasons, the same method of valuation is used for all product sectors. Therefore, the data reflected within this section provides a broad figure of values, calculated on the basis of customs detentions. The figures do not measure the impact on the EU's economy, nor the damage caused to right-holders by the trade in IPR infringing goods.

Top categories by value (equivalent DRV)

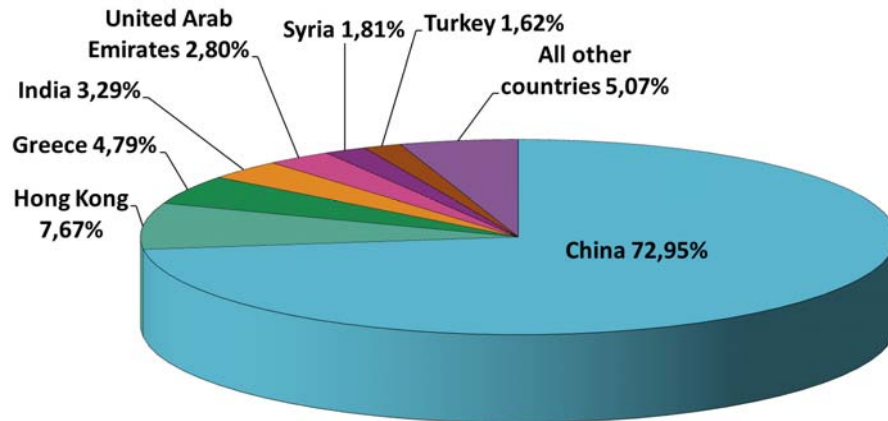


Based upon the domestic retail value, the top categories concern products from the luxury industry (See Annex 2 for a complete overview of all categories).

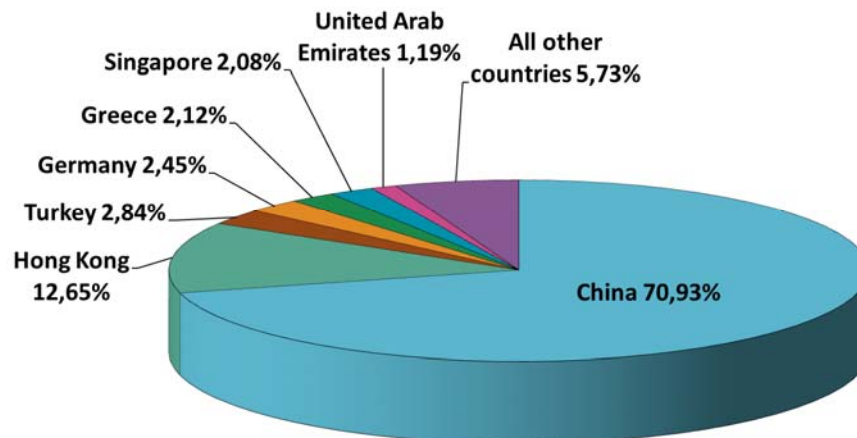
Provenance

China remains the primary country where the suspected IPR infringing goods were coming from at the moment of the detention. As in former years, China, Hong-Kong, India, Turkey and the United Arab Emirates remain in the top 10. Syria appears for the first time this year due to detentions of recorded CD/DVDs.

Countries of provenance by articles



Countries of provenance by value



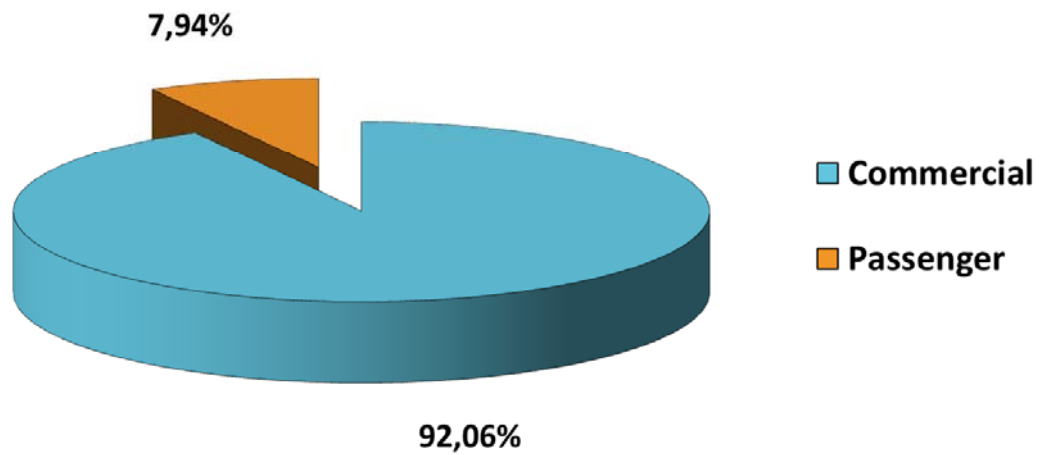
A further breakdown according to categories is given in Annex 3.

Passenger/Commercial traffic

Cases involving passenger traffic relate to goods brought into the EU by passengers in amounts considered to be of a commercial nature, rather than for private use. The ratio between the number of cases of goods suspected of infringing an IP right found in commercial and in passenger traffic is about 92% to 8%. With regard to the amount of articles detained, the picture is different (99% commercial - 1% passenger), as passengers in general will not carry the same amount of goods as are transported in commercial traffic.

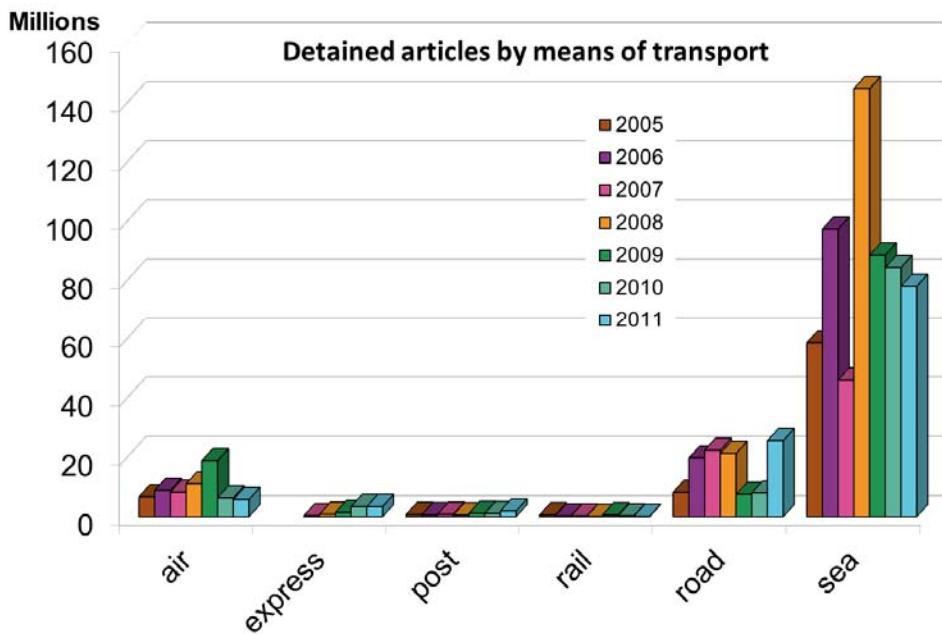
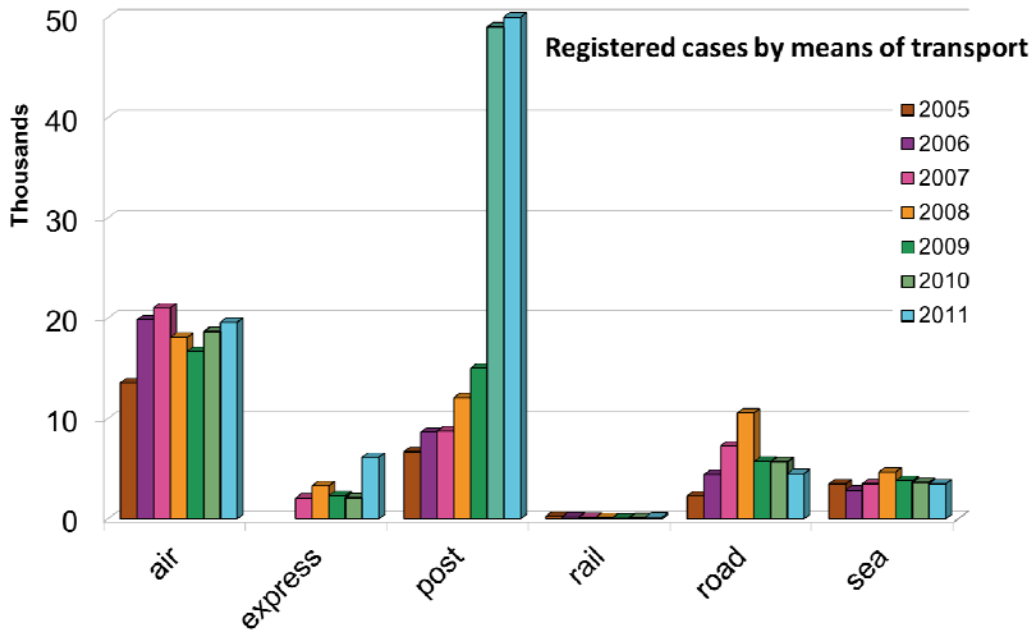
In Annex 4 an overview is given of the main categories of products carried by passengers. Furthermore, overviews of the countries of provenance of the passengers are given in relation to articles, cases and value.

Breakdown of cases by type of traffic Commercial / Passenger



Transport

The increase in the number of cases totally results from detentions in air, express and postal transport, whereas the number of cases in sea and road transport decreased. The increase of detained articles in road transport was in fact due to some large detentions upon export. A further breakdown can be found in Annexes 5 and 6.



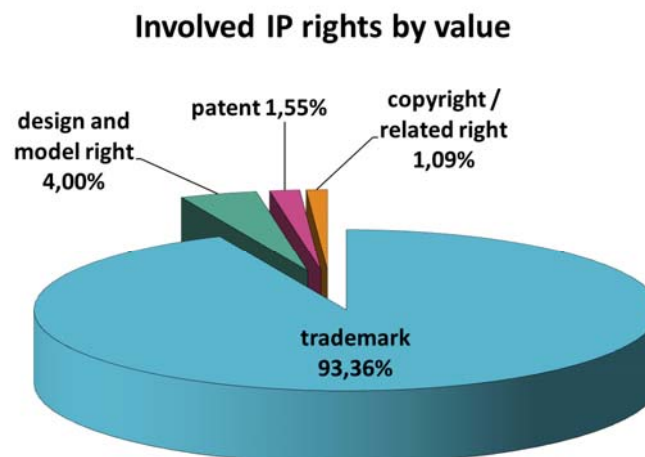
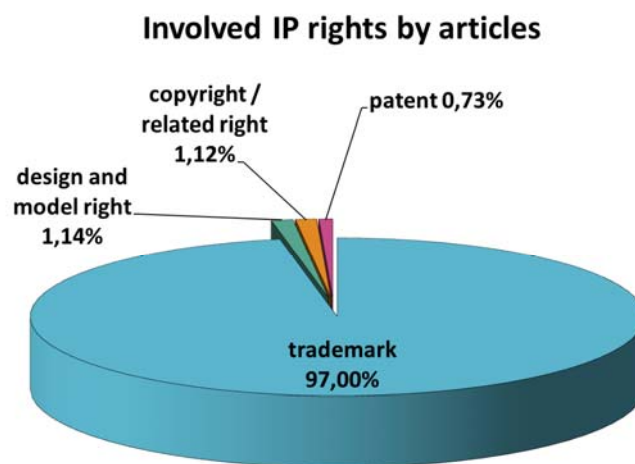
Intellectual Property Rights

In 2011 the majority of articles detained by customs were suspected of infringing a Community or national trademark and covered a wide variety of goods across all product sectors.

As regards design and model rights, a wide variety of products were concerned with an emphasis on shoes, medicines and toys.

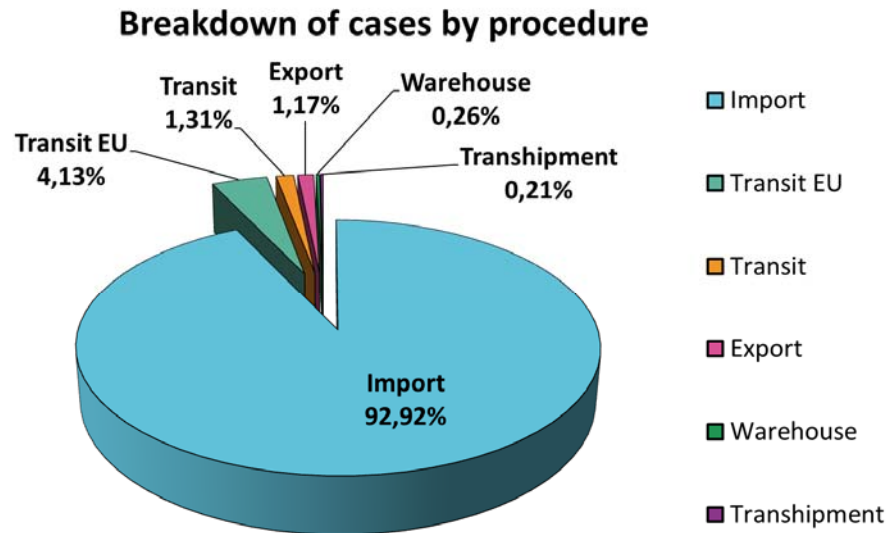
With regard to copyright infringements, CD/DVDs were the most affected products.

With regard to suspicion of patent infringements, the main categories of products detained were audio/video apparatus, medicines, unrecorded CD/DVDs and mobile phones.



Customs procedure

In 93% of all cases, customs action was started whilst the goods concerned were under an import procedure. In 4% of the cases, goods were discovered whilst being in transit with destination the EU and only in 1% in transit and in 1% in export procedures with a destination outside the EU.





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 2010 / 2011						
Member State	Number of procedures			Number of intercepted articles		
	2010	2011	%	2010	2011	%
Austria	2.803	3.201	14%	292.606	97.957	-67%
Belgium	4.978	6.486	30%	1.776.855	4.297.806	142%
Bulgaria	1.501	914	-39%	4.444.533	32.593.339	633%
Cyprus	84	158	88%	88.985	170.914	92%
Czech Republic	749	950	27%	1.451.993	1.861.910	28%
Germany	22.146	18.205	-18%	2.378.815	2.277.714	-4%
Denmark	1.164	1.445	24%	100.501	518.006	415%
Estonia	382	400	5%	617.538	355.382	-42%
Greece	176	117	-34%	22.353.823	9.665.763	-57%
Spain	3.169	5.675	79%	12.391.430	5.490.037	-56%
Finland	167	201	20%	382.481	549.832	44%
France	748	1.070	43%	6.514.801	4.923.690	-24%
Hungary	3.779	3.298	-13%	551.751	335.112	-39%
Ireland	1.277	4.165	226%	66.853	146.472	119%
Italy	5.137	5.135	0%	15.900.422	29.908.415	88%
Lithuania	198	394	99%	757.990	192.715	-75%
Luxemburg	176	261	48%	44.606	59.953	34%
Latvia	66	62	-6%	120.935	1.338.225	1007%
Malta	111	131	18%	2.650.692	4.568.054	72%
Netherlands	3.225	1.802	-44%	9.625.526	5.086.932	-47%
Poland	1.162	986	-15%	590.806	615.621	4%
Portugal	2.485	1.990	-20%	9.276.661	1.961.746	-79%
Romania	171	273	60%	3.303.353	1.339.058	-59%
Sweden	684	482	-30%	75.596	68.926	-9%
Slovenia	438	497	13%	1.589.227	1.520.522	-4%
Slovakia	11	51	364%	17.966	175.257	875%
United Kingdom	22.125	32.905	49%	5.940.183	4.653.454	-22%
Total	79.112	91.254	15%	103.306.928	114.772.812	11%

Annex 2 - Breakdown of number of registered cases, number of detained articles and the retail value per product sector

Product sector		Number of cases	Number of articles *	Retail value original goods
Foodstuffs, alcoholic and other beverages:				
1a	Foodstuffs	32	1.053.393	€ 1.450.702,00
1b	alcoholic beverages	8	74.689	€ 955.580,00
1c	other beverages	2	4.371	€ 7.185,00
Body care items:				
2a	perfumes and cosmetics	1.791	748.905	€ 30.817.606,00
2b	other body care items (razor blade, shampoo, deodorant, toothbrush, soap, etc)	589	1.834.821	€ 7.002.199,00
Clothing and accessories:				
3a	clothing (ready to wear)	12.708	4.036.781	€ 123.540.677,00
3b	clothing accessories (belt, tie, shawl, cap, gloves, etc)	2.391	787.457	€ 41.075.332,00
Shoes including parts and accessories:				
4a	sport shoes	5.293	1.147.767	€ 84.365.172,00
4b	other shoes	25.493	2.115.568	€ 88.365.987,00
Personal accessories:				
5a	sunglasses and other eye-glasses	2.313	239.728	€ 22.049.640,00
5b	bags including wallets, purses, cigarette cases and other similar goods carried in the pocket/bag	6.872	968.196	€ 99.602.012,00
5c	watches	5.336	452.725	€ 289.237.218,00
5d	jewellery and other accessories	1.783	890.132	€ 58.593.073,00

Product sector		Number of cases	Number of articles *	Retail value original goods
Mobile phones including parts and technical accessories:				
6a	mobile phones	2.184	140.265	€ 51.129.070,00
6b	parts and technical accessories for mobile phones	1.923	3.134.535	€ 72.643.435,00
Electrical / electronic and computer equipment:				
7a	audio/video apparatus including technical accessories and parts	3.581	358.371	€ 19.598.860,00
7b	memory cards, memory sticks	1.750	166.652	€ 3.452.975,00
7c	ink cartridges and toners	75	351.510	€ 2.027.078,00
7d	computer equipment (hardware) including technical accessories and parts	506	480.225	€ 13.925.890,00
7e	other equipment including technical accessories and parts (household machines, shaver, hair straighter, etc)	5.810	228.288	€ 7.961.447,00
CD, DVD, cassette, game cartridges:				
8a	recorded (music, film, software, game software)	1.082	493.228	€ 6.539.344,00
8b	unrecorded	71	749.689	€ 256.876,00
Toys, games (including electronic game consoles) and sporting articles:				
9a	toys	872	2.127.300	€ 16.141.078,00
9b	games (including electronic game consoles)	2.585	269.348	€ 20.495.100,00
9c	sporting articles (including leisure articles)	692	113.772	€ 3.582.816,00
Tobacco products:				
10a	cigarettes **	67	20.234.352	€ 87.963.597,00
10b	other tobacco products (cigars, cigarette paper, etc)	43	75.579	€ 1.039.607,00

Product sector		Number of cases	Number of articles *	Retail value original goods
Medical products:				
11	medicines and other products (condoms)	2.494	27.460.538	€ 27.638.540,00
Other:				
12a	machines and tools	104	79.032	€ 5.776.302,00
12b	vehicles including accessories and parts	517	428.725	€ 27.145.816,00
12c	office stationery	278	2.269.158	€ 3.094.370,00
12d	lighters	91	136.114	€ 1.086.874,00
12e	labels, tags, stickers	431	2.515.950	€ 2.130.749,00
12f	textiles (towel, linen, carpet, mattress, etc)	266	251.376	€ 7.833.349,00
12g	packaging materials	630	24.343.992	€ 10.865.224,00
12h	other	592	14.010.280	€ 32.964.016,00
Total		91.254	114.772.812	€ 1.272.354.795,00

* The number of articles is counted as numbers of individual pieces unless otherwise specified. In case of articles traded in pairs like shoes, socks, gloves, etc one pair is counted as one article.

** The category 10a (cigarettes) is registered in packets of 20 pieces.

Annex 3 - Overview per product sector of countries of provenance according to % in articles

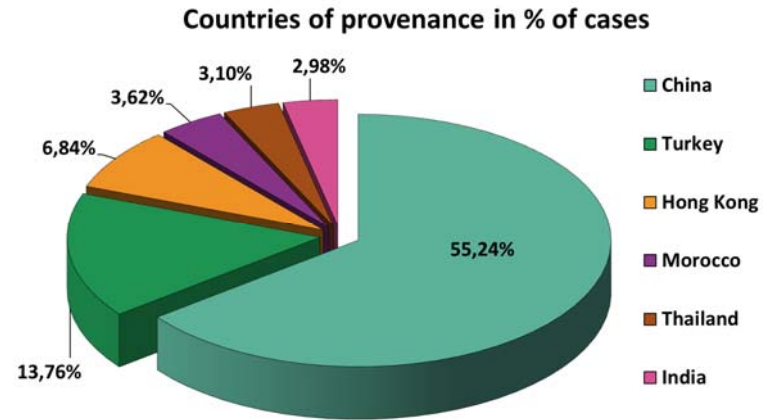
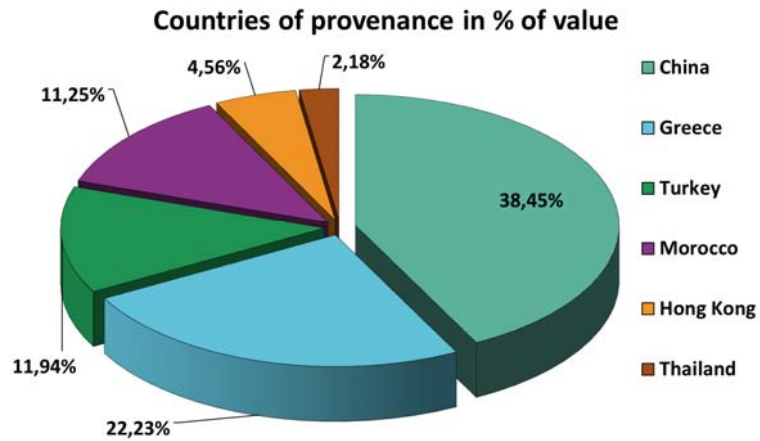
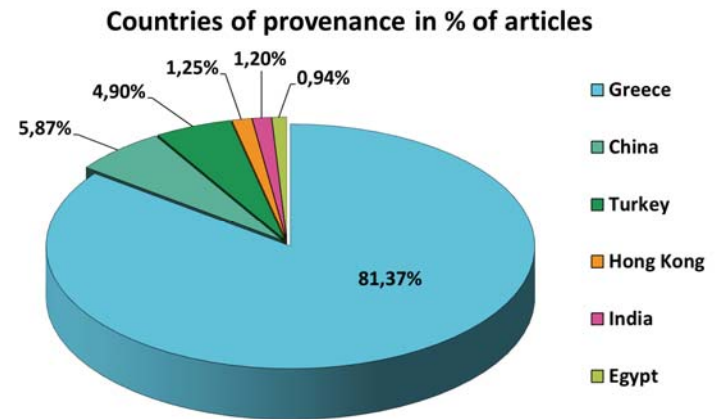
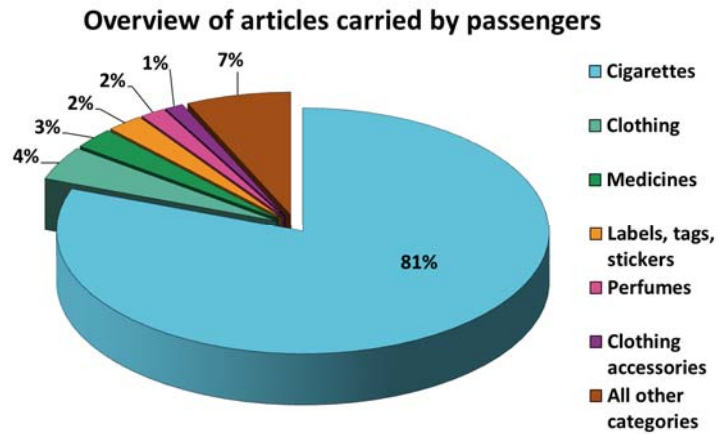
Product sector		Number of articles in % according to country of provenance		
Foodstuffs, alcoholic and other beverages:				
1a	Foodstuffs	Turkey 68,58%	Tunisia 28,37%	United Arab Emirates 2,51%
1b	alcoholic beverages	Panama 52,58%	Belgium 47,21%	Ukraine 0,21%
1c	other beverages	Thailand 73,67%	Haiti 26,33%	-
Body care items:				
2a	perfumes and cosmetics	China 43,98%	Turkey 34,42%	United Arab Emirates 13,86%
2b	other body care items (razor blade, shampoo, deodorant, toothbrush, soap, etc)	China 65,06%	United Arab Emirates 17,09%	Hong Kong 15,83%
Clothing and accessories:				
3a	clothing (ready to wear)	China 81,18%	Turkey 5,89%	Singapore 3,15%
3b	clothing accessories (belt, tie, shawl, cap, gloves, etc)	China 86,22%	Taiwan 6,37%	Greece 3,93%
Shoes including parts and accessories:				
4a	sport shoes	China 83,16%	Malaysia 4,29%	Latvia 4,25%
4b	other shoes	China 81,65%	Hong Kong 9,13%	Finland 2,94%
Personal accessories:				
5a	sunglasses and other eye-glasses	China 82,65%	Hong Kong 10,47%	Greece 4,84%
5b	bags including wallets, purses, cigarette cases and other similar goods carried in the pocket/bag	China 91,97%	Hong Kong 2,38%	Greece 2,24%
5c	Watches	China 54,49%	Hong Kong 44,01%	Morocco 0,42%
5d	jewellery and other accessories	China 89,00%	Hong Kong 8,65%	Thailand 1,00%

Product sector		Number of articles in % according to country of provenance		
Mobile phones including parts and technical accessories:				
6a	mobile phones	Hong Kong 46,11%	Germany 30,50%	China 18,54%

6b	parts and technical accessories for mobile phones	Hong Kong 57,07%	China 41,57%	United Arab Emirates 0,67%
	Electrical / electronic and computer equipment:			
7a	audio/video apparatus including technical accessories and parts	China 76,73%	Hong Kong 17,92%	Malaysia 3,05%
7b	memory cards, memory sticks	China 50,07%	Hong Kong 29,81%	Egypt 18,49%
7c	ink cartridges and toners	China 88,54%	Hong Kong 9,03%	Malaysia 1,72%
7d	computer equipment (hardware) including technical accessories and parts	Hong Kong 47,36%	Tunisia 39,63%	China 12,73%
7e	other equipment including technical accessories and parts (household machines, shaver, hair straighter, etc)	China 82,67%	Hong Kong 16,67%	United Arab Emirates 0,57%
	CD, DVD, cassette, game cartridges:			
8a	recorded (music, film, software, game software)	Syria 88,51%	China 5,47%	Hong Kong 4,22%
8b	Unrecorded	China 99,96%	Turkey 0,04%	-
	Toys, games (including electronic game consoles) and sporting articles:			
9a	Toys	China 87,91%	Hong Kong 10,09%	Singapore 0,64%
9b	games (including electronic game consoles)	China 85,61%	Hong Kong 12,67%	Taiwan 0,87%
9c	sporting articles (including leisure articles)	China 96,83%	Hong Kong 1,42%	Malaysia 1,33%

Product sector		Number of articles in % according to country of provenance		
	Tobacco products:			
10a	Cigarettes	China 76,36%	Greece 12,76%	United Arab Emirates 5,26%
10b	other tobacco products (cigars, cigarette paper, etc)	China 72,08%	Hong Kong 16,23%	United Arab Emirates 11,42%
	Medical products:			
11	medicines and other products (condoms)	China 68,20%	India 28,22%	Hong Kong 1,50%
	Other:			
12a	machines and tools	China 93,92%	Romania 3,59%	Hong Kong 2,34%
12b	vehicles including accessories and parts	China 60,72%	United Arab Emirates 24,62%	Hong Kong 7,38%
12c	office stationery	China 99,51%	Hong Kong 0,40%	Netherlands Antilles 0,07%
12d	Lighters	China 95,54%	Turkey 2,81%	Hong Kong 1,39%
12e	labels, tags, stickers	China 65,78%	Turkey 10,62%	Hong Kong 10,05%
12f	textiles (towel, linen, carpet, mattress, etc)	China 93,78%	Hong Kong 1,75%	Pakistan 1,02%
12g	packaging materials	China 67,55%	Hong Kong 24,29%	Ukraine 2,97%
12h	Other	China 72,72%	Syria 20,90%	Hong Kong 3,91%

Annex 4 - Overview passenger traffic



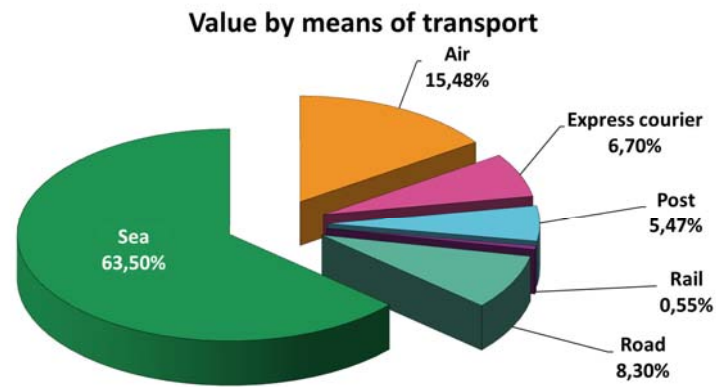
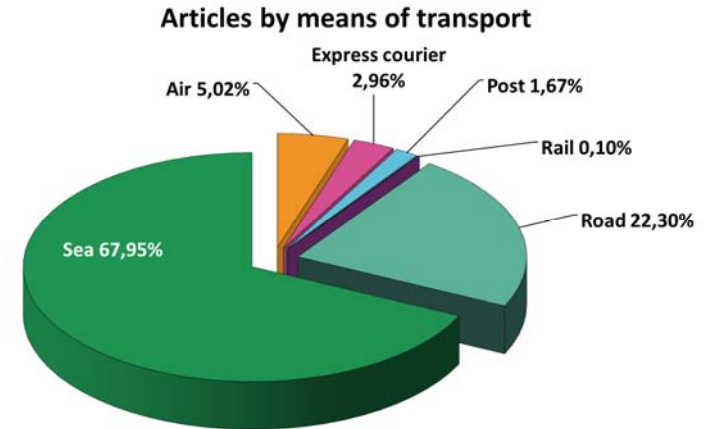
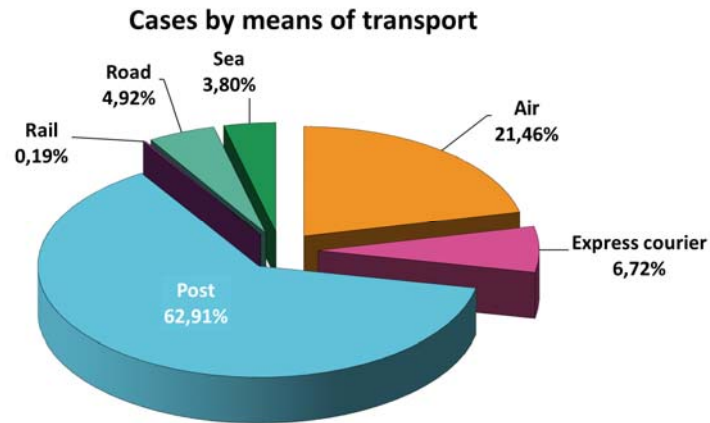
Annex 5 - Means of transport in relation to number of cases, articles and retail value

Cases	2006	%	2007	%	2008	%	2009	%	2010	%	2011	%
air	19.830	53,12	21.041	48,18	18.072	36,60	16.698	38,32	18.645	23,5	19.580	21,46
express			2.058	4,71	3.279	6,64	2.308	5,30	2.101	2,66	6.135	6,72
post	8.613	23,07	8.733	20,00	12.068	24,44	15.003	34,43	48.997	61,93	57.404	62,91
rail	190	0,51	136	0,31	102	0,21	57	0,13	85	0,11	173	0,19
road	4.400	11,79	7.265	16,64	10.541	21,35	5.714	13,11	5.681	7,18	4.494	4,92
sea	2.858	7,66	3.483	7,97	4.655	9,43	3.793	8,70	3.602	4,55	3.469	3,80

Articles	2006	%	2007	%	2008	%	2009	%	2010	%	2011	%
air	8.858.603	6,88	8.234.483	10,41	11.063.148	6,18	18.822.077	15,96	6.312.931	6,11	5.763.876	5,02
express			348.720	0,44	818.929	0,46	1.397.349	1,18	3.409.512	3,30	3.392.942	2,96
post	592.602	0,46	782.473	0,99	507.482	0,28	1.124.627	0,95	1.035.443	1,00	1.911.079	1,67
rail	226.451	0,18	203.521	0,26	83.381	0,05	558.424	0,47	272.285	0,26	111.613	0,10
road	19.747.695	15,34	22.363.366	28,28	21.239.500	11,87	7.493.971	6,35	7.945.411	7,69	25.596.728	22,30
sea	97.319.450	75,58	45.997.342	58,17	144.747.762	80,91	88.562.850	75,08	84.331.346	81,63	77.996.574	67,95

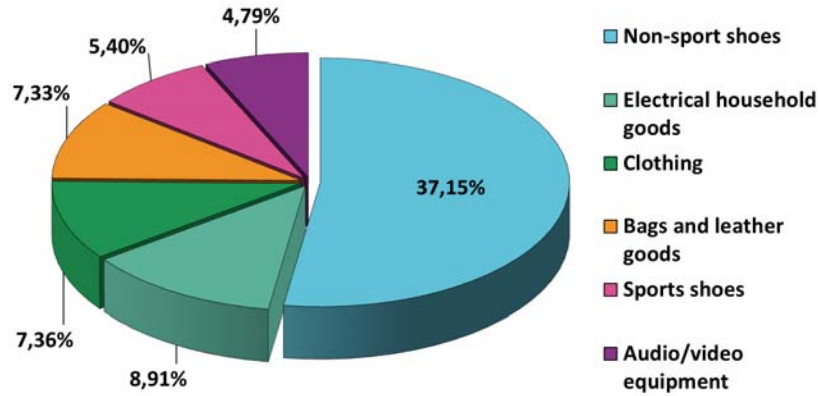
Value €	2010	%	2011	%
air	€ 203.850.984	18,36	€ 196.922.961	15,48
express	€ 26.950.564	2,43	€ 85.186.803	6,70
post	€ 36.568.575	3,29	€ 69.591.721	5,47
rail	€ 3.234.980	0,29	€ 7.036.922	0,55
road	€ 109.102.317	9,83	€ 105.569.899	8,30
sea	€ 730.012.433	65,76	€ 808.046.488	63,50

Annex 6 - Overview means of transport

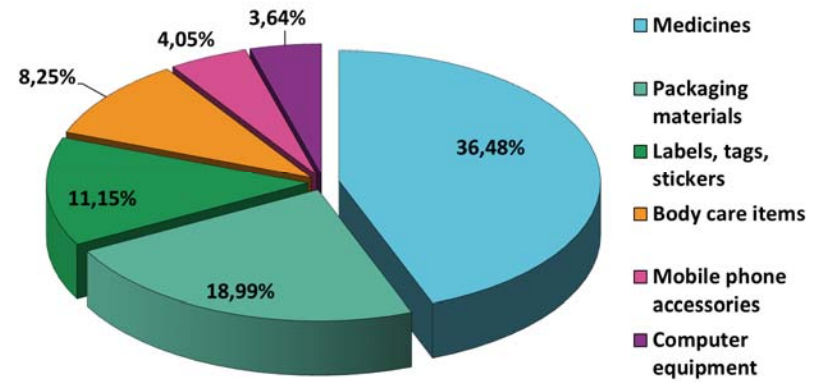


Annex 7 - Overview postal traffic

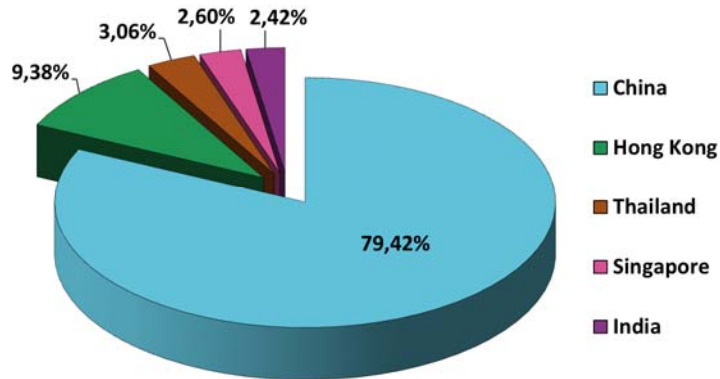
Number of cases in % in postal traffic



Number of articles in % in postal traffic



Top 5 countries of provenance in % cases



Top 5 countries of provenance in % articles

