



Border Control

--Special programmes to prevent piracy and counterfeiting

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Counterfeiting is a big problem

- Counterfeiting hits ½ trillion US \$ a year (OECD – 2016)
- All from fashion to medicine and fruit
- Finances terrorism and crime
- Threatens public safety
- Damages Rightholders IP rights and goodwill





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Geographical overview

Countries hit hardest by trade in fake goods

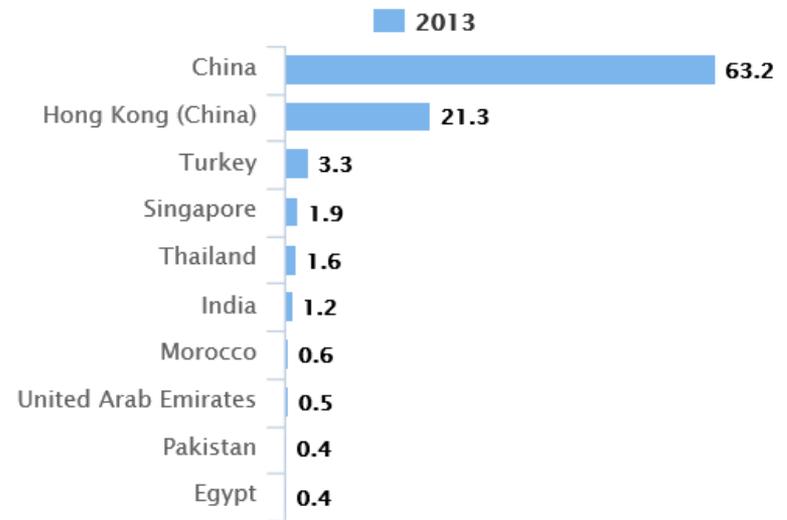
Top countries whose IP rights are infringed, % total value of seizures (2013)



Data source: [Trade in Counterfeit and Pirated Goods: Mapping the Economic Impact](#)

Where most fake goods originate

Top provenance economies of fakes, as % of total seizures (2013)

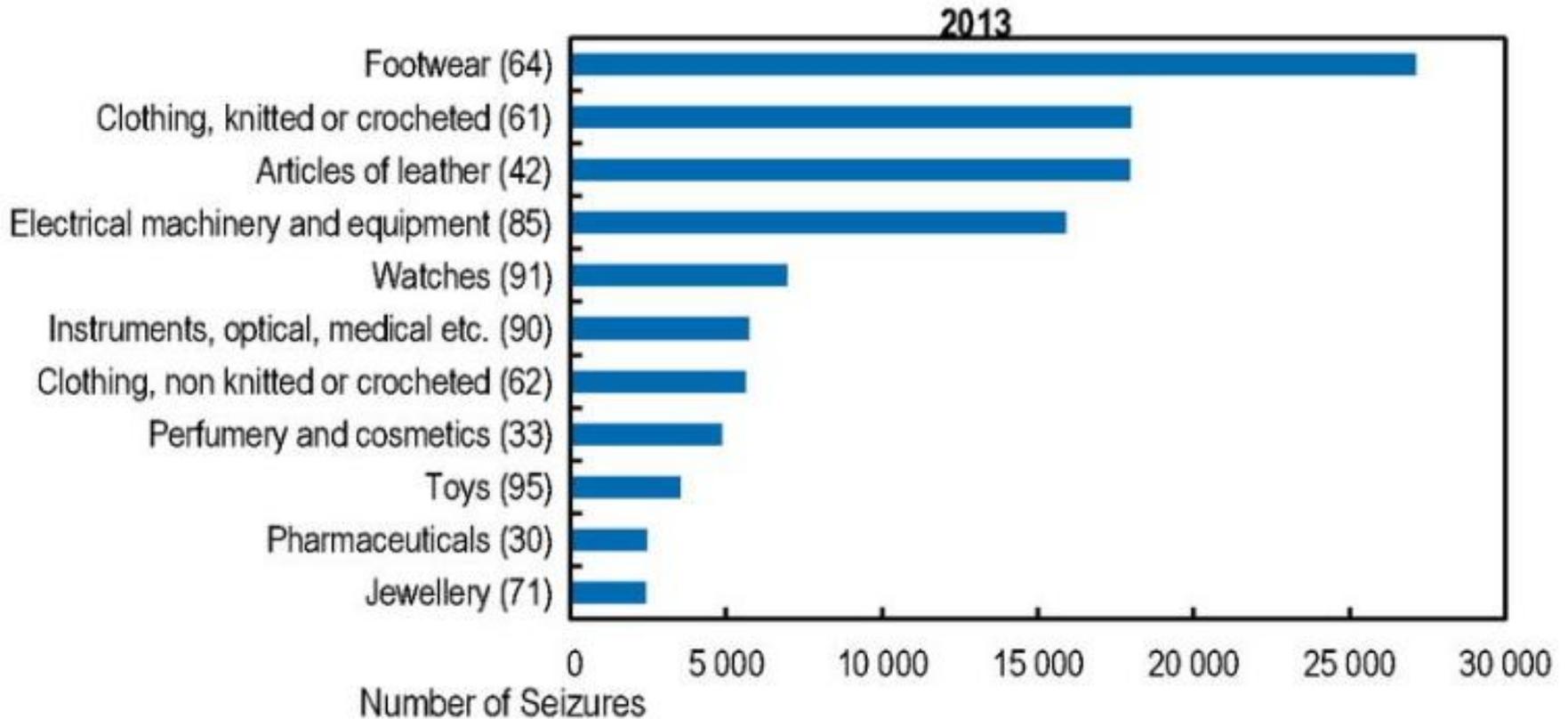


Data source: [Trade in Counterfeit and Pirated Goods: Mapping the Economic Impact](#)

Source OECD/EUIPO 2016 *Trade in Counterfeit and Pirated Goods : Mapping the Economic Impact*



Types of products

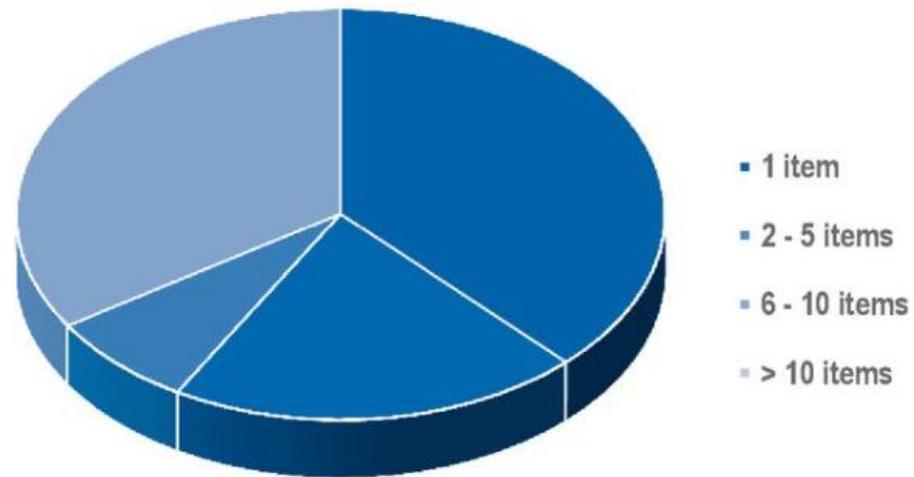


Source OECD/EUIPO 2016 *Trade in Counterfeit and Pirated Goods : Mapping the Economic Impact*



Small consignments

Figure 4.6. Small seizures, up to 10 items seized (2011-2013, average)
As a percentage of total seizures



Source OECD/EUIPO 2016 *Trade in Counterfeit and Pirated Goods : Mapping the Economic Impact*



International treaties

- Paris Convention and Bern Convention
- TRIPS section 3 – provisional measures
 - 162 members – all WTO members
- ACTA
 - 6 ratifications - not in force



TRIPS

- Very extensive regulation
- Not directly applicable in memberstates
 - Many have implemented measures
- Memberstates must implement prompt and effective provisional measures (art. 50)
- Memberstates must establish a bordercontrol system (art. 51)
- The system is defined in art. 51 - 60



Definitions

- For the purposes of this Agreement:
 - (a) “**counterfeit trademark goods**” shall mean any goods, including packaging, bearing without authorization a trademark which is identical to the trademark validly registered in respect of such goods, or which cannot be distinguished in its essential aspects from such a trademark, and which thereby infringes the rights of the owner of the trademark in question under the law of the country of importation;
 - (b) “**pirated copyright goods**” shall mean any goods which are copies made without the consent of the right holder or person duly authorized by the right holder in the country of production and which are made directly or indirectly from an article where the making of that copy would have constituted an infringement of a copyright or a related right under the law of the country of importation.

Footnote to art. 51



EU

- Border control system since 1986
 - Formed the basis for the TRIPS rules
 - Covers only goods entering the Union from outside
 - One single application
 - Some countries have additional national systems
 - May cover all types of IP
 - Very effective in most countries
 - Applies small consignment rule
- Latest revision in force from 1 Jan 2014